

Item 4.**Development Application: 140-148 Parramatta Road, Camperdown - D/2019/1410**

File No.: D/2019/1410

Summary

Date of Submission:	10 December 2019 Amended Plans received on 17 June 2020 and 28 July 2020
Applicant:	Mark Mezrani
Architect/Designer:	PBD Architects
Developer:	DMPS
Owner:	GMark Pty Ltd
Cost of Works:	\$6,363,463.00
Zoning:	The site is zoned B4 Mixed Use. The proposed development is defined as mixed use development and includes retail premises and residential accommodation. The proposed use is permissible with consent.
Proposal Summary:	<p>The subject development application seeks consent for demolition of existing commercial buildings and construction of new 6-storey mixed use development comprising:</p> <ul style="list-style-type: none">- excavation to extend the existing basement car parking level to create a combined basement with the existing serviced apartment building, with vehicular access from Isabella Street;- removal of 3 trees at the rear of 146-148 Parramatta Road;- 2 retail premises at ground level (355sqm);- 30 residential apartments on levels 1 – 5;

- communal open space on Level 1 and the roof terrace; and
- use and fit out of Retail tenancy 1 as a take away liquor retail store ('Camperdown Cellars'), with associated business identification signage.

The application is referred to the Local Planning Panel for determination as the proposal is subject to the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.

The application was notified and advertised for a period of 21 days between 9 January 2020 and 31 January 2020. No submissions were received.

The proposed development results in a localised departure from the 22m building height development standard by 2.3m (or a 10.4% variation). The elements exceeding the building height development standard include the lift overrun, a canopy shade structure associated with the roof top terrace and fire stair.

A request to vary the Clause 4.3 Height of buildings development standard has been submitted in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012. The statement demonstrates that compliance with the standard is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the land use zone and height of buildings development standards and the proposed departure to the building height is supported in this instance.

Following a preliminary assessment of the application, including consideration by the Design Advisory Panel - Residential Subcommittee, the applicant was requested to amend the application to address a number of issues relating to acoustic privacy, natural cross ventilation, design of communal open space, parking and loading facilities, impact on street trees and waste management.

The proposal was amended in June and July 2020 to address the matters raised above.

Subject to recommended conditions, the development application is generally consistent with the relevant planning controls and is recommended for approval.

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

Development Controls:

- (i) State Environmental Planning Policy No. 55 - Remediation of Land
- (ii) State Environmental Planning Policy No. 64 - Advertising Signage
- (iii) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
- (iv) NSW Apartment Design Guideline 2015
- (v) State Environmental Planning Policy (Building Sustainability: BASIX) 2004
- (vi) State Environmental Planning Policy (Infrastructure) 2007
- (vii) State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- (viii) State Environmental Planning Policy (Vegetation in Urban Areas) 2017
- (ix) Sydney Local Environmental Plan 2012
- (x) Sydney Development Control Plan 2012
- (xi) City of Sydney Development Contributions Plan 2015

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Height of Buildings

Recommendation

It is resolved that consent be granted to Development Application No. D/2019/1410 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development complies with the objectives of the B4 mixed use zone pursuant to the Sydney Local Environmental Plan 2012.
- (B) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney LEP 2012, that compliance with the Height of Buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney Local Environmental Plan; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B4 - Mixed Use zone and the Height of Buildings development standard.
- (C) The development complies with the permitted Floor Space Ratio pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (D) The development demonstrates design excellence, appropriately responds to the site context and is consistent with the desired future character of the area as per Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (E) The development, subject to conditions, generally meets the objectives of the Apartment Design Guide and is consistent with the design quality principles in State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.
- (F) The development is consistent with the objectives of the Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. A site visit was carried out by staff on 17 February 2020
2. The site is identified as Nos. 140 - 144, 146 and 148 Parramatta Road, Camperdown and is comprised of eight lots, being Lots A and B Deposited Plan 440884, Lots 1, 2 and 9 Section 3 Deposited Plan 111196, Lots 101 and 102 Deposited Plan 456788 and Lot 1 Deposited Plan 78765.
3. The site is irregular in shape and has a total site area of 1,764.5sqm. The site is on the northern side of Parramatta Road at the intersection with Layton Street. The site has a 32m frontage to Parramatta Road, 57.92m frontage to Layton Street and a 25.5m frontage to Isabella Street.
4. Existing on the northern part of the site of 140-144 Parramatta Road (fronting Isabella and Layton Streets) is a 4 storey building (with basement) used as serviced apartments (known as the 'Atlas Serviced Apartments'). This building is to be retained in the proposal. Vehicular access to this site is off Isabella Street. On the southern part of 140-144 Parramatta Road (fronting Parramatta Road), is a 2 storey commercial building currently occupied by a liquor retail shop known as 'Camperdown Cellars'. At 146 and 148 Parramatta Road, are 2x 2 storey commercial terrace buildings.
5. The surrounding land uses are a mixture of residential and commercial developments:
 - (a) To the south on the opposite side of Parramatta Road is a recently constructed 6 storey residential apartment building at 87 Parramatta Road and a number of 2 storey commercial buildings (refer to Figure 7).
 - (b) To the east on the opposite side of Layton Street, is a 2 storey pub known as 'Camperdown Hotel'. Further east along Parramatta Road is a 6 storey residential apartment development at 5 Purkis Street (refer to Figure 8).
 - (c) To the north, on the opposite side of Isabella Street, are 2 storey commercial buildings and 3 single storey terrace dwellings (refer to Figures 9 and 10).
6. The site is not a heritage item and is not located within a heritage conservation area.
7. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area. Structures to be demolished identified in red solid. Existing serviced apartments (to remain) identified in red dash.



Figure 2: View from the intersection of Parramatta Road and Layton Street, with the existing buildings to be demolished



Figure 3: Site viewed from corner of Parramatta Road and Layton Street, looking west



Figure 4: Site as viewed from Layton Street, with existing Camperdown Cellars building to be demolished and the Atlas Serviced Apartments to be retained



Figure 5: Northern part of subject site, known as 'Atlas serviced apartments' viewed from Layton Street (to be retained)



Figure 6: Existing basement carpark entry as viewed from Isabella Street



Figure 7: View directly south of the site towards recently constructed residential apartment building at 87 Parramatta Road



Figure 8: Development along Parramatta Road to the east of the site, illustrating the Camperdown Hotel and the residential apartment building known as 5 Purkis Street



Figure 9: Development along Layton Street the north of the site, illustrating 2 storey commercial buildings

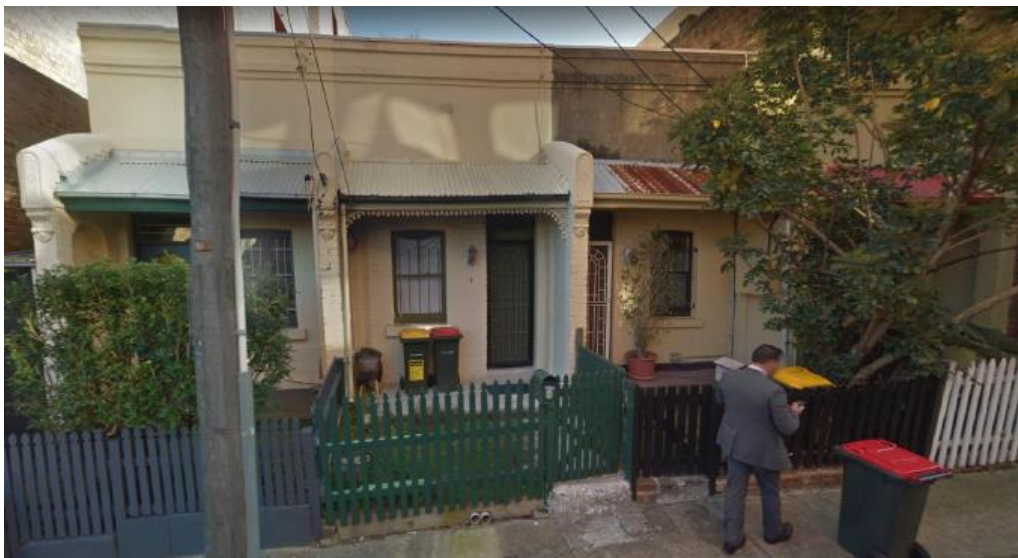


Figure 10: Development along Isabella Street to the north, illustrating single dwellings



Figure 11: Looking north within the rear yard of No 146 Parramatta Road, towards the serviced apartments



Figure 12: Terrace space atop the 'Camperdown Cellars' building, viewed from the rear yard of No. 146 Parramatta Road



Figure 13: Looking south towards Parramatta Road, viewed from the third level of the 'Atlas' serviced apartment building



Figure 14: Looking east from the 'Atlas' serviced apartment building

Proposal

8. The development application seeks consent for the construction of a mixed-use development on the sites at 140-144, 146 and 148 Parramatta Road, Camperdown. The application proposes the following:
 - (a) demolition of existing commercial buildings, known throughout this report as the 'Camperdown Cellars' building (on the southern part of the site at 140-144 Parramatta Road) and Nos. 146-148 Parramatta Road.
 - (b) the removal of three trees from the rear yard of 146-148 Parramatta Road.
 - (c) retention of the existing 'Atlas Serviced Apartments' building on the northern part of the site at 140-144 Parramatta Road (at the intersection of Isabella Street and Layton Street).
 - (d) excavation of the southern part of the site to accommodate the extension of the existing serviced apartment building basement level carpark (accessed via Isabella Street).
 - (e) construction of a 6 storey mixed use building, comprising two retail tenancies at ground floor (409sqm of gross floor area), 30 residential apartment dwellings on levels 1-5, communal open space on level 1 and at the roof top level and basement car parking
9. In detail, the proposed development accommodates the following on each level:
 - (a) Basement Level**
 - (i) Extension of existing basement level accessed from Isabella Street
 - (ii) 16 residential car parking spaces; 1 motorcycle parking space; and 41 bicycle parking spaces
 - (iii) 1 dedicated loading bay
 - (iv) 30 storage units for residential apartments
 - (v) Residential waste room.
 - (b) Ground Floor:**
 - (i) One 355sqm retail tenancy fronting Parramatta Road, proposed for fitout and use of a liquor retail shop (Camperdown Cellars)
 - (ii) One 54sqm retail tenancy fronting Layton Street (no specific fitout is proposed as part of the subject application)
 - (iii) Under awning signage is sought on the Parramatta Road and Layton Street frontage in association with 'Camperdown Cellars'.
 - (iv) Servicing, loading and storage rooms
 - (v) Separate residential and retail waste rooms
 - (vi) Entry lobby to residential apartments.

(c) Levels 1 - 5

- (i) 30 residential apartments (1 x 3 bedroom unit, 18 x 2 bedroom units and 11 x 1 bedroom units)
- (ii) Communal open space area on Level 1.

(d) Level 6

- (i) Rooftop terrace for use as communal open space, including a shade canopy, seating areas and barbeque facilities;
- (ii) Mechanical ventilation units and air conditioning condensers, within an acoustically treated screening element.

10. A photomontage of the proposed development is provided at Figure 15, below, and selected drawings of the proposed development are provided below at Figures 16 to 24. A full set of architectural plans is provided at Attachment B.



Figure 15: Photomontage as viewed from the intersection of Parramatta Road and Layton Street (looking west)



Figure 16: South elevation (Parramatta Road)



Figure 17: East elevation (Layton Street)



Figure 18: North elevation



Figure 19: West elevation

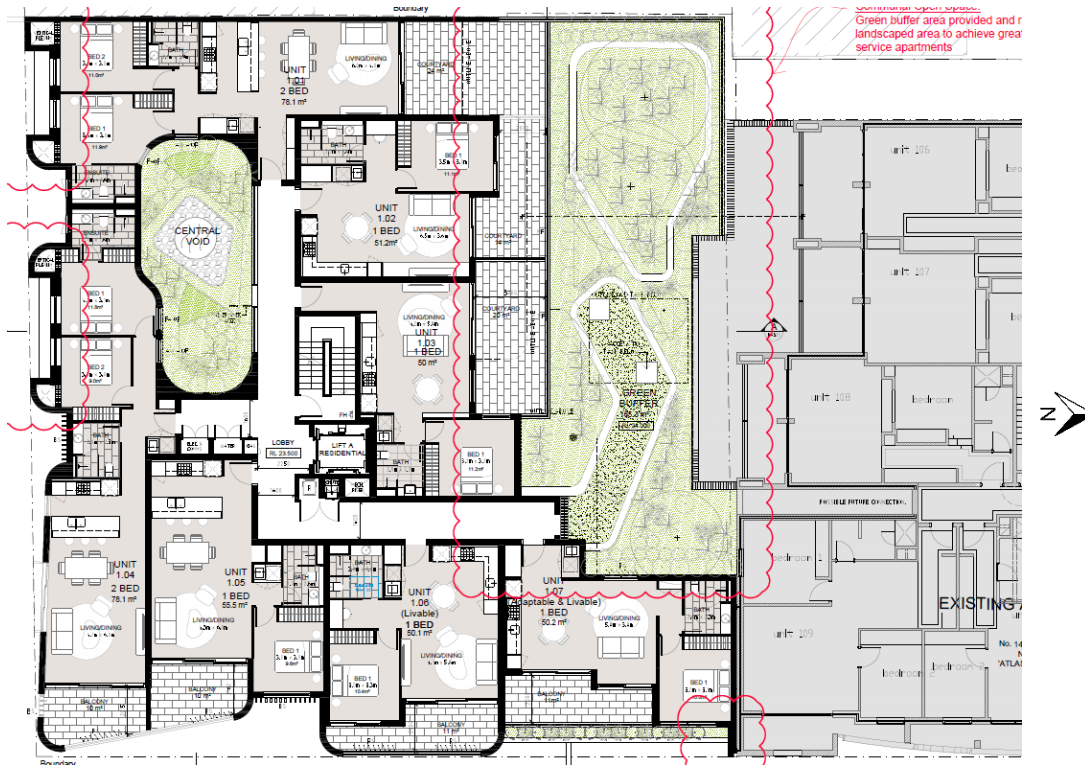


Figure 22: Level 1 plan

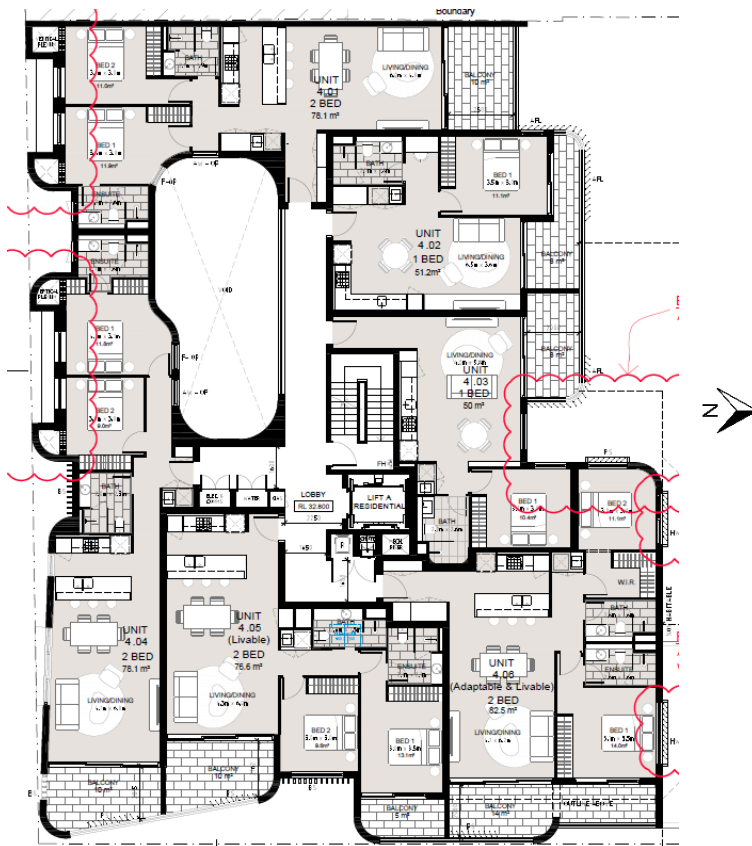


Figure 23: Levels 2-5 plan

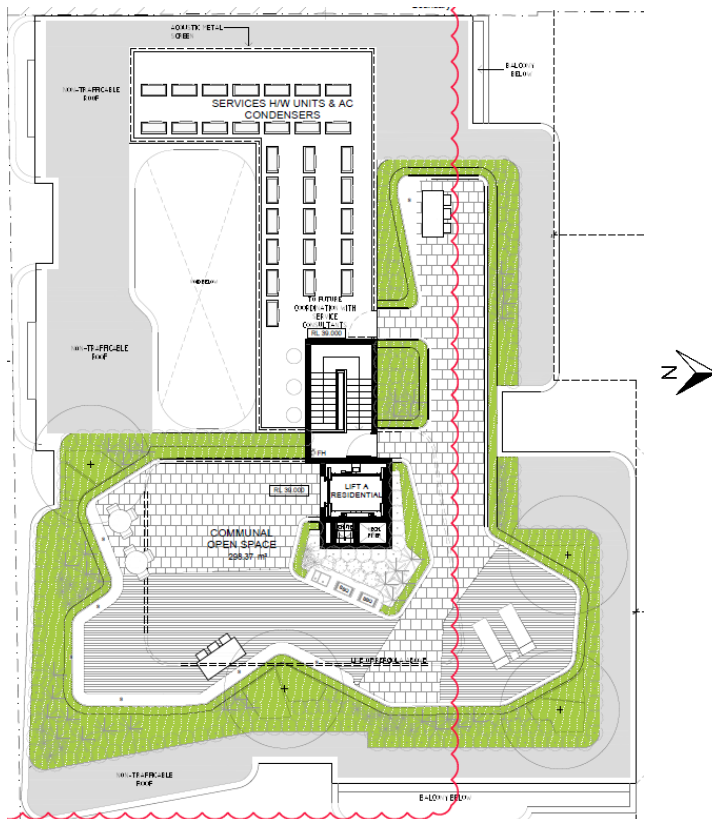


Figure 24: Roof plan

History Relevant to the Development Application

Site history:

11. Development Application 0273/99 was approved on 11 August 1999 for the demolition of an existing warehouse building and construction of a 2 storey commercial building and 4 storey residential apartment building and basement car parking on the site at 140-144 Parramatta Road. This is the existing built form occupied by Camperdown Cellars and the Atlas Serviced Apartments. The consent included communal open space within the first floor of the 'Camperdown Cellars' building, to be used by the residential apartment building.
12. Subdivision Application SP/02/01340 was approved on 15 September 2003 for the stratum subdivision of the site and building to separate the retail, commercial and residential components of the development.

The serviced apartment consent (northern part of the site):

13. On 7 May 2015, an Order was served by Council to cease the unauthorised use of the 4 storey building at 140-144 Parramatta Road as serviced apartments.
14. Development Application D/2015/1275 was lodged on 4 September 2015 in response to the order noted above. The application sought to change the use of 29 of the 39 residential units within the existing 4 storey residential apartment building to serviced apartments. The application was refused on 22 October 2015.

15. The application was appealed to the Land and Environment Court, however, the scope of the application was amended to change the use of all 39 residential units to serviced apartments.
16. The application was approved by the Land and Environment Court on 11 November 2016. A condition of consent allows the use to revert back to permanent residential accommodation (and to rely on Development Consent No. 0273/00, dated 2 February 2001). The condition specifies that only one use is permitted at any one time.

Existing consent for the southern part of the site:

17. Development Application D/2016/642 was approved on 12 December 2016 for demolition of existing commercial structures and construction of a 6 storey mixed-use building accommodating 21 residential apartments, 2 ground floor commercial tenancies, basement carpark and landscaping.
18. The application was granted deferred commencement approval, requiring inconsistencies with the Court approved serviced apartment use development consent D/2015/1275 to be rectified prior to the consent being activated.
19. The development consent was subsequently amended on 1 May 2017 under modification application D/2016/642/A. This application modified the consent to remove the requirement for a deferred commencement and moved the deferred commencement conditions to be within the main consent conditions (i.e. to be satisfied prior to the issue of a Construction Certificate). It was noted that the modification retained the original intent of the condition.
20. Construction in accordance with this consent has not started and the consent will lapse in December 2021.
21. Elevation drawings of the development approved under development consent D/2016/642 are provided below at Figures 25 to 26.



Figure 25: South (Parramatta Road) elevation approved under D/2016/642

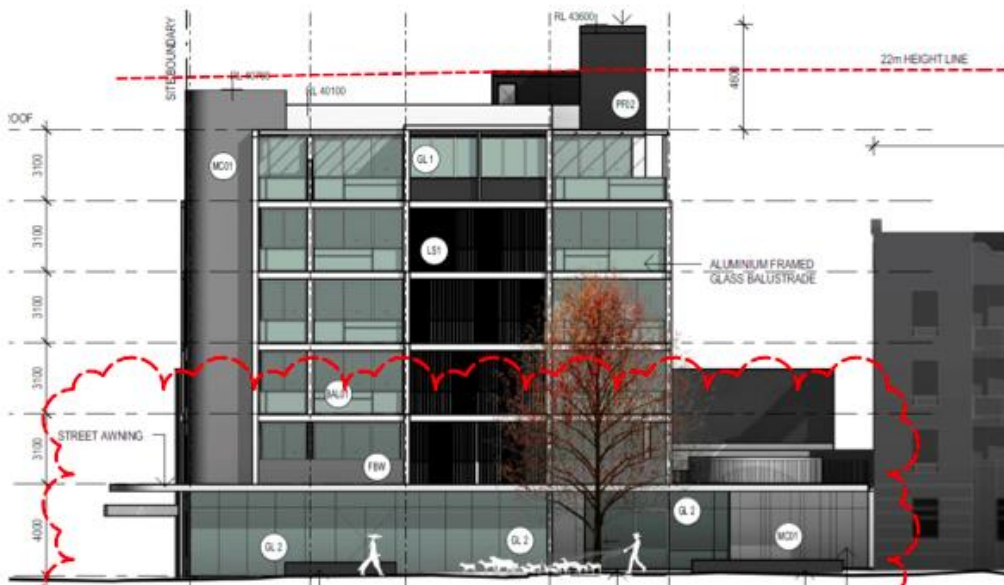


Figure 26: East elevation (Layton Street) approved under D/2016/642

22. A pre-development application meeting (PDA/2019/151) on the subject application proposal was held on 26 July 2020. Council staff raised a number of concerns including non-compliant height and floor space, non-compliances with the ADG and SEPP 65, and the shared use of the basement and waste facilities.

Amendments to the proposal

23. On 10 December 2019, the subject application was submitted to Council.
24. On 3 March 2020, the application was considered by the Design Advisory Panel (Residential Sub-committee). Minutes were provided to Council staff on 15 April 2020. Refer to further discussion detailed later in this report.
25. In correspondence dated 17 April 2020, Council staff requested design amendments to address the following:
 - (a) how acoustic privacy for the residential apartments can be achieved whilst maintaining adequate natural ventilation. Additional acoustic modelling was requested;
 - (b) the design and shared nature of the level 1 communal open space with the serviced apartment use;
 - (c) potential visual and acoustic privacy impacts associated with the design of the internal lightwell/void;
 - (d) further information regarding access/shared basement and the design and functionality of the basement for parking and loading; and
 - (e) provision of an arboricultural assessment report to detail impacts on the existing street trees to ensure their preservation.
26. On 17 June 2020, the applicant provided an amended proposal responding to Council concerns. Most notably, the development removed the balconies facing Parramatta Road and included the provision of fresh air plenums to noise affected units. Acoustic modelling and air flow modelling was provided to support the alternative design. The development was also amended to address parking, loading, waste and privacy concerns.
27. On 28 July 2020, the applicant provided detailed solar access information demonstrating compliance with the ADG and additional loading and servicing information.

Economic/Social/Environmental Impacts

28. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
 - (a) Environmental Planning Instruments and DCPs.

State Environmental Planning Policy No 55—Remediation of Land

29. 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.
30. A Detailed Site Investigation was submitted with the development application. The site has previously been used for light retail and commercial purposes with no evidence of any prior industrial uses that would have resulted in potential contamination.

31. Council's Health Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.
32. Further groundwater sampling is required post demolition. A condition is recommended that will require the applicant to submit a Site Validation report to Council confirming the sampling results.

State Environmental Planning Policy No 64—Advertising and Signage

33. The application proposes three (3) under awning business identification signs for one of the ground floor retail tenancies (Retail tenancy 01) that is intended to be occupied as a take way liquor retail premises, known as 'Camperdown Cellars'. Each of the signs are proposed as double sided illuminated light boxes, with dimensions of 300mm x 1500mm x 120mm.
34. A site plan illustrating the proposed sign locations is provided in Figure 27 and an example of the proposed signage is provided in Figures 28 and 29 below.

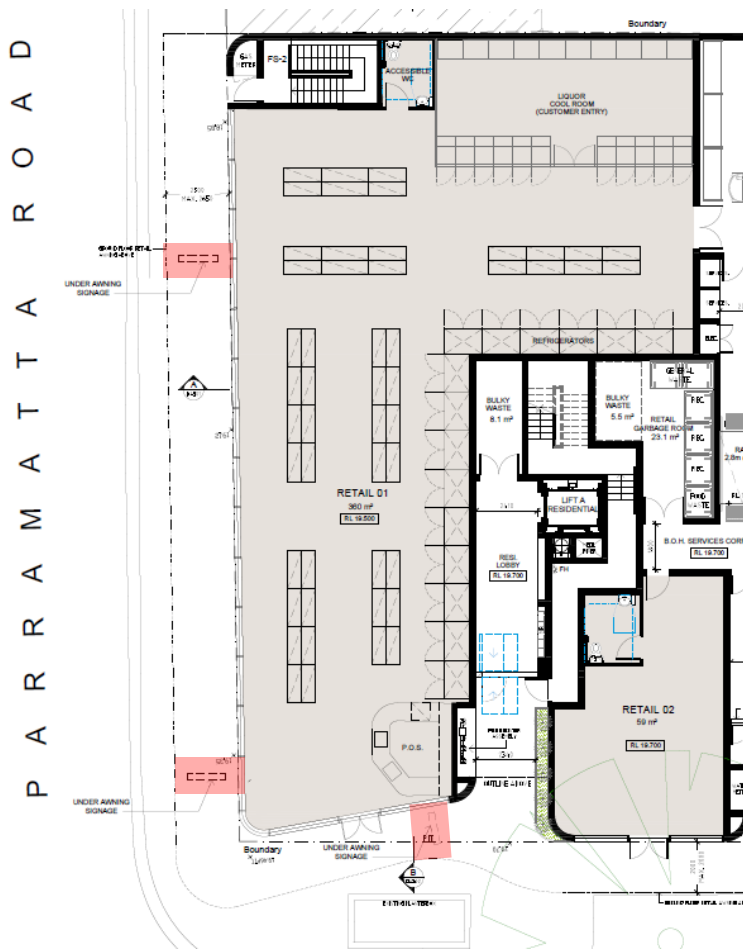


Figure 27: Proposed sign locations (notated in red)

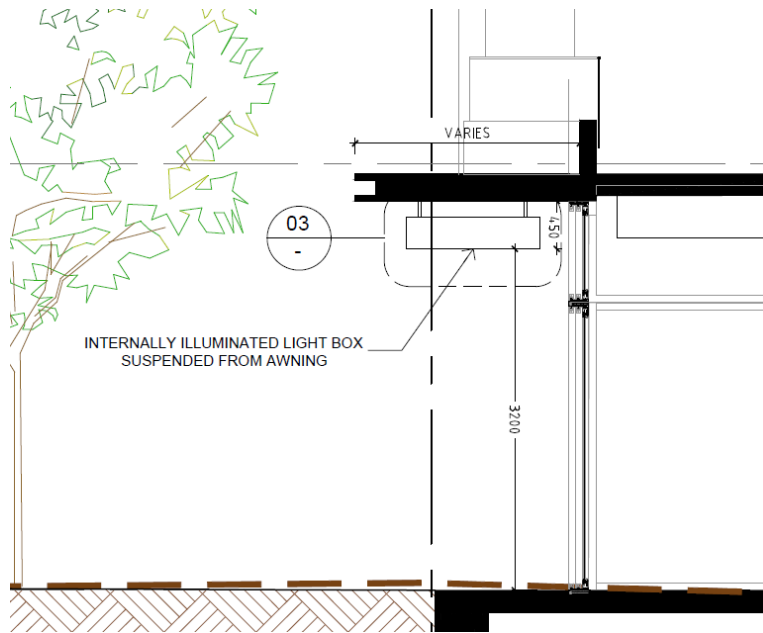


Figure 28: proposed under awning lightbox



Figure 29: intended sign details

35. SEPP 64 was gazetted on 16 March 2001 and aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.
36. Clause 8 of SEPP64 states the following:

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

 - (a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and
 - (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.
37. The proposed signs are generally consistent with the objectives of this Policy. The three signs are minor in nature, will not contribute adverse visual clutter, and is of appropriate scale for the proposed building and its surrounding context. The three under awning signs are recommended for approval.

38. It is acknowledged that the signs are only proposed for the Camperdown Cellars tenancy (Retail 1) and no signs are proposed for Retail 2 or building identification. It is recommended that a condition be imposed requiring that a signage strategy, including the three under awning signs, be prepared and submitted to Council for approval prior to the issue of any Construction Certificate.

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

39. 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, being:

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

The proposal is permissible in the B4 - Mixed use zone and is consistent with the objectives of the zone. The proposed retail and residential uses are appropriate within the current context and the emerging future character of the locality. The development will contribute to activating Parramatta Road and Layton Street, which are designated as active street frontages.

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

The building is generally consistent with the built form controls and is similar in bulk and scale to recently constructed development along Parramatta Road.

It is noted that the proposed height of the building exceeds the 22m height control identified in the Sydney LEP 2012. The breach in height relates to the lift overrun and shade canopy, which are setback from the street and will not be highly visible from the public domain. The proposed roof form remains under 22m in height. The proposed building height is considered to be acceptable, and is discussed in the Issues section of this report.

(c) **Principle 3: Density**

The density is commensurate with the density anticipated by the planning controls. The proposal results in an FSR of 3:1 which is consistent with the permitted FSR in accordance with the Sydney Local Environmental Plan 2012. The proposed density responds well to existing infrastructure given its proximity to established public transport.

(d) **Principle 4: Sustainability**

The proposal is compliant with BASIX requirements and an appropriate condition is recommended to ensure that the development complies with the commitments contained on its BASIX certificate.

The proposal is largely compliant with solar access and ventilation requirements.

(e) **Principle 5: Landscape**

The existing and proposed development results in a 100% site coverage, consistent with the prevailing character of development within the area. The proposal includes landscaped communal spaces on level 1 and the rooftop area. Despite a departure with the deep soil requirements, the proposal still provides opportunities for soft landscaping, which is considered acceptable in the context of the existing development. Whilst the landscaping has been proposed in a general nature, refined details are required to be provided prior to construction, through a condition of consent.

Two new street trees are also recommended to be planted on the Parramatta Road frontage. This will replace lost urban ecology due to the full site cover whilst improving the amenity of the Parramatta Road streetscape. A condition of consent is recommended in this regard.

(f) **Principle 6: Amenity**

The proposal incorporates apartment planning that can deliver a reasonable level of amenity for future occupants. Floor plans are configured to maximise solar access and ventilation and provide compliant apartment and room sizes.

The development appropriately responds to the noisy street frontage to Parramatta Road, with performance based passive natural ventilation solutions incorporated into the design.

Common open spaces are provided at both first floor level and on the rooftop, and have been designed to offer varying passive outdoor experiences throughout their layout, planting, materials and furniture.

Compliance with amenity controls regarding the relevant provision of the ADG is detailed in the table below.

(g) **Principle 7: Safety**

The safety and security of the public domain is enhanced by increased site activity and the causal surveillance of surrounding streets from the ground floor commercial tenancies.

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

The application provides a range of dwelling types and sizes and is considered to be generally consistent with the expected future housing needs of the local community.

(i) **Principle 9: Aesthetics**

The proposed built form presents a high quality of architectural design, using a variety of architectural elements and materials to provide visual interest. The solid to void ratio provides a more defensive facade to Parramatta Road, which is appropriate considering the high traffic levels. The proposed alternative measures of ventilation to the apartments facing Parramatta Road (fresh air plenums) have been integrated within the facade design and do not detract from the overall appearance.

The less trafficked Layton Street provides for a more open facade articulation, with balconies and larger glazed areas. Residential access is provided from the quieter Layton Street, creating an entry forecourt and lobby with good visual connections with the public domain and clear identity, distinctly separate from the adjacent retail use.

The proposed materials are complimentary to the existing locality, appropriately respond to the Parramatta Road environment and are compatible with the desired future character.

- 40. 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

2F Building Separation 3F Visual Privacy	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 <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 • 9m between non-habitable rooms 	<p>No (considered acceptable)</p>	<p>The proposal generally complies with the recommended building separation distances to the serviced apartment building. Where separation distances are not achieved, the proposal incorporates design features to ameliorate visual privacy concerns for future occupants and users of the serviced apartments.</p> <p>This matter is discussed further in the Issues section.</p>

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	The development includes 167.7sqm of communal open space on level 1 and 301.7sqm of communal open space on the roof, resulting in a total communal open space area of 464.3sqm. With a total site area of 1764.5sqm, the communal open space area equates to 26% of the site.
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	The communal open space area on the roof terrace receives direct sunlight for a minimum of two hours between 9am and 3pm on 21 June.

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m.	No (assessed as acceptable)	<p>The development results in a 100% site coverage, which is consistent with the existing serviced apartment development on the site and the existing development consent under D/2016/642, as well as other recent developments along Parramatta Road that do not have deep soil but are reliant on roof tops for communal open space.</p> <p>The proposal does not provide any deep soil landscaping. Despite this non-compliance, the proposal will provide extensive soft landscaping within the communal open space on the first floor and rooftop, which is considered acceptable in the context of the existing development.</p>

4A Solar and Daylight Access	Compliance	Comment
<p>70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.</p> <p>Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.</p>	Yes	<p>The proposed development is well oriented with north-easterly aspects and as such the units will generally receive good solar access, with 73% of units receiving a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open space balconies.</p>

4B Natural Ventilation	Compliance	Comment
<p>Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.</p>	Yes	<p>Due to the location of the site on Parramatta Road, 10 apartments are not able to achieve natural cross ventilation, as windows cannot be relied upon for natural ventilation due to road traffic noise. However, these apartments are to be provided with passive plenums that deliver a performance based natural ventilation solution. With the incorporation of the plenums, 60% of apartments achieve cross ventilation. Without the plenum design and assumption that the windows facing Parramatta Road remain closed, 27% of apartments achieved cross ventilation.</p>

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

4C Ceiling Heights	Compliance	Comment
<p>Habitable rooms: 2.7m</p>	Yes	<p>All habitable rooms achieve a minimum of 2.7m floor to ceiling height.</p>
<p>Non-habitable rooms: 2.4m</p>	Yes	<p>All non-habitable rooms achieve of minimum of 2.4m floor to ceiling height.</p>

4C Ceiling Heights	Compliance	Comment
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Yes	The ground floor retail provides for a 3.8m floor to ceiling. Whilst the first floor residential provides a minimum floor to ceiling heights of 2.7m, the development still allows sufficient height for future flexibility of use and is acceptable in this instance.

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> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Yes	All units achieve the minimum required unit sizes.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	All habitable rooms are to have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. All windows in the habitable rooms are generally visible from any point in the room.
<p>Habitable room depths are to be no more than 2.5 x the ceiling height.</p> <p>8m maximum depth for open plan layouts.</p>	Yes	The units are to have open plan layouts and generally do not exceed 8m depths.

4D Apartment Size and Layout	Compliance	Comment
<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	All bedrooms achieve the minimum required size and dimensions.
<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 <p>4m minimum width for cross over and cross through apartments.</p>	Yes	All living/dining rooms achieve the minimum required width dimension.

4E Private Open Space and Balconies	Compliance	Comment
<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>Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m² and a minimum depth of 3m.</p>	Yes	The proposal achieves the minimum required private open space to all apartments.

4F Common Circulation and Spaces	Compliance	Comment
<p>The maximum number of apartments off a circulation core on a single level is eight (8).</p>	Yes	A maximum of 7 units share the circulation core on Level 1. 6 units share the circulation on Levels 2-4 and 5 units on Level 5.

4F Common Circulation and Spaces	Compliance	Comment
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	No living room or bedroom windows open directly onto common circulation spaces. Further discussion is provided on visual and acoustic privacy through the internal light well/void from the common lobbies have been addressed in the Issues section.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Daylight and natural ventilation is provided via the internal lightwell/ void to the common circulation area.

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	<p>Each unit accommodates storage facilities within the units as well as storage units in the basement car park.</p> <p>The storage provisions achieve the minimum required cubic metres with 50% of the storage located within the unit.</p>

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	The proposal will minimise the impacts of external noise and pollution through the provision of acoustic measures as detailed in the submitted acoustic report. The proposal mitigates noise transmission through the careful design of apartment walls, balcony placement and treatments to the façade to mitigate noise pollution.

4J Noise and Pollution	Compliance	Comment
		<p>Through the incorporation of plenums, apartments fronting Parramatta Road are capable of achieving cross ventilation while also meeting an acceptable level of acoustic privacy.</p> <p>See discussion under the heading Issues.</p>

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

41. The subject application seeks consent for the fit-out of Retail 1 as a liquor shop for Camperdown Cellars, however there is no specified fit out or operational details for the Retail 2 tenancy. The SEPP provides that a number of first uses can be approved under a complying development certificate ('CDC').
42. A future use of this nature is consistent with the character of this section of Parramatta Road which is largely retail premises. In this instance, it is recommended that a condition be imposed that grants consent to standard hours of operation for both retail tenancies between 7.00am and 10.00pm, Monday to Sunday. Refer to further discussion in the DCP compliance table.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

44. 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 will be carried out within 5m of an exposed overhead electricity power line
45. In accordance with the Clause, the application was referred to Energy Australia for a period of 21 days and no objection was raised.

Clause 101

46. The application is subject to Clause 101 of the SEPP as the site has a frontage to Parramatta Road, which is a classified road. The application is considered to satisfy Clause 101 of the Infrastructure SEPP subject to conditions of consent, as it does not provide vehicular access to the site from the classified road and acoustic conditions have been included within the recommended Conditions of Consent.

Clause 102

47. The application is subject to Clause 102 of the SEPP as the average daily traffic volume of Parramatta Road is more than 40,000 vehicles. The application is considered to satisfy Clause 102 of the Infrastructure SEPP subject to conditions of consent and compliance with the submitted Environmental Noise Impact Assessment prepared by White Noise Acoustics, reference 19054_030919_Noise Impact Assessment_BW_R2, dated 19 May 2020.

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

48. The BASIX Certificate has been submitted with the development application and amended to suit the modified design.
49. 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.

State Environmental Planning Policy (Vegetation in Urban Areas) 2017

50. The aims of the SEPP have been considered in the assessment of the application. The aims of the Policy are:
- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
 - (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation
51. The application seeks consent for the removal of three trees within the rear yard of 146 and 148 Parramatta Road, including two small Hackberry Trees and one citrus tree. Given the small size and species of the trees, Council's Tree Management Officer has consented to the removal of the trees.
52. There are two street trees along the Layton Street frontage, including one semi-mature Lacebark and one mature Hackberry Tree. Council's Tree Management officer has reviewed the proposal and concludes that the trees are likely to remain viable after the development. Appropriate conditions have been included in the consent including specific tree protection measures.

Sydney Local Environmental Plan 2012

53. The site is located within the B4 – Mixed Use zone. The proposed uses are defined as 'residential accommodation' and 'retail premises', both of which are permissible with consent.
54. 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	No	A maximum height of 22m is permitted. A height of 24.3m is proposed. See discussion under the heading Issues.

Development Control	Compliance	Comment
4.4 Floor Space Ratio	Yes	<p>A maximum FSR of 3:1 is permitted.</p> <p>The total site area (including the northern portion of the site housing the serviced apartments) is 1,764.5sqm.</p> <p>The existing serviced apartment building has a gross floor area of 2,484.4sqm.</p> <p>The gross floor area of the proposed mixed-use building is 2,809.1sqm</p> <p>The proposed GFA for the collective site is 5,293.5sqm, resulting in a FSR of 3:1.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the building height development standard prescribed under Clause 4.6.</p> <p>See discussion under the heading Issues.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.21 Design excellence	Yes	<p>The proposal exhibits design excellence as required by Clause 6.21(4) of Sydney LEP 2012.</p> <p>The proposal presents a high standard of architectural design and the overall materiality, articulation and architectural expression of the development is generally in keeping with the relevant planning controls and reflecting the desired future character of the area.</p> <p>The proposal will have a positive contribution to the public domain through the protection of street trees and provision of active frontages.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
		The development is well designed to overcome environmental impacts, including achieving compliance with the ADG for cross ventilation in a noise affected environment. The development will achieve good solar access and visual privacy to future occupants of the site and neighbouring properties.

Part 7 Local Provisions - General	Compliance	Comment
Division 1 Car parking ancillary to other development 7.5 Residential flat buildings 7.7 Retail premises	Yes	The site is located within Category B in the Land Use and Transport Integration Map. In accordance with this Clause, the development is permitted maximum of 32 parking spaces as follows: 7 retail parking spaces 20 resident parking spaces and 5 visitor parking spaces The proposed development includes the provision of 16 parking spaces as follows: 0 retail parking spaces 16 residential parking spaces 0 visitor parking spaces
7.14 Acid Sulphate Soils	Yes	The site is identified on the Acid Sulfate Soils Map as containing Class 5 Acid Sulfate Soils. If there are works that are below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum, then an Acid Sulfate Soils Management Plan is required.

Part 7 Local Provisions - General	Compliance	Comment
		The proposed development does not achieve this threshold and therefore no additional reporting is required as part of the application or as a condition.
7.15 Flood planning	Yes	<p>The site is identified by Council as being flood prone. Council's Water Asset Engineer has confirmed that the ground level is to have a minimum flood planning level of 300mm above the invert of the adjacent road gutter. A condition is recommended in this regard.</p> <p>Based on the proposed RL's of the ground level and the existing RL's of the kerb invert, the ground level may need to be raised approximately 100mm at the south east corner of the site. Should amendments be required, it will not have a significant impact on the overall height of the development.</p>
7.17 Development in areas subject to airport noise	Yes	The site is located within ANEF Contour 15 and therefore is not subject to the provisions of this Clause.
7.19 Demolition must not result in long term adverse visual impact	Yes	The proposed development includes demolition of existing buildings on the sites at 140-144 and 146-148 Parramatta Road. The subject application also includes the detailed design redevelopment of these sites as part of the application, and as such, is consistent with the provisions of this clause.
7.20 Development requiring or authorising preparation of a development control plan	Yes	The site area is less than 5,000sqm and the development has a height less than 25 metres. As such, the development does not meet the thresholds under this clause to require the preparation of a site specific DCP (or concept DA).

Sydney Development Control Plan 2012

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

2. Locality Statements – Camperdown

The subject site is located in the Camperdown locality. The proposed is considered to be in keeping with the unique character of the area and design principles in that it encourages an active ground floor frontage to Parramatta Road and Layton Street and is consistent with the desired future character as a high density mixed-use neighbourhood.

3. General Provisions	Compliance	Comment
3.2 Defining the Public Domain 3.2.3 Active frontages 3.2.4 Footpath awnings	Yes	<p>Both the Parramatta Road and Layton Street frontages of the site are identified as being active street frontage areas in the DCP. The proposal will enhance the public domain by providing two ground floor retail tenancies directly accessible from both Parramatta Road and Layton Street and the residential lobby onto Layton Street, satisfying the active frontage requirement of the site.</p> <p>The site is nominated as a continuous awning on the footpath awning and colonnades map. The proposed awning is consistent with the requirements of the site, enhancing pedestrian amenity and weather protection. The new awning is compatible with the scale of the building with appropriate proportions. The awning provides a 3.2m clearance above footpath level for pedestrians and a 1.8m setback from the kerb to accommodate vehicles and future street trees.</p>
3.5 Urban Ecology	Yes	<p>The application seeks consent for the removal of three trees within the rear yard of 146-148 Parramatta Road, including two Hackberry Trees and one citrus tree. Given the size and species of the trees, they are not protected by Council's controls and are supported for removal.</p>

3. General Provisions	Compliance	Comment
		<p>In accordance with Section 3.5.2 (2), new developments are to provide at least 15% canopy coverage of a site within 10 years from the completion of development. As the site does not achieve 15% canopy coverage, Council's Tree Management unit has recommended the planting of two new street trees within the Parramatta Road new frontage. Given the proposal is for total demolition and reconstruction of the building with total site coverage and no deep soil planting, it is not unreasonable that additional street trees be provided. It is noted that the proposed new awning is appropriately setback 1.8m from the kerb to allow sufficient room for tree growth. A condition is recommended requiring the two new trees to be illustrated in the public domain plan prior to the issuing of a Construction Certificate.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	Conditions are recommended requiring separate approval for strata or stratum subdivision of the building.
3.9 Heritage	Yes	<p>The site does not contain any heritage items and is not located within a heritage conservation area. However, the buildings proposed for demolition are older than 50 years and as such is subject to this Section.</p> <p>No. 146-148 Parramatta Road has been significantly altered in the past. The building currently occupied by Camperdown Cellars has already been approved for its demolition under development consent D/2016/642.</p>

3. General Provisions	Compliance	Comment
		<p>A Heritage Impact Statement (HIS) has been prepared and submitted in support of the demolition of 146-148 Parramatta Road by Heritage 21 dated September 2019. The HIS concludes that demolition of 146-148 Parramatta Road may impact on the group of five building which have similar façade architectural detailing. However, it is noted that the site is not is not heritage listed or located within a heritage conservation area.</p> <p>Council's Heritage Specialist has reviewed the report, agrees with the conclusions and supports the proposed demolition. The existing buildings in themselves are not considered to have sufficient significance to require retention or to be heritage listed.</p>
3.11 Transport and Parking	Yes	Refer to discussion in the Issues section.
3.11.3 Bike parking and associated facilities	Yes	<p>In accordance with Section 3.11.3 of the Sydney DCP 2012, the development is to provide the following bike parking spaces:</p> <p>Residential Use:</p> <p>Residents - 1 per dwelling</p> <p>Visitors - 1 per 10 dwellings</p> <p>Retail Use:</p> <p>Employees - 1 per 250 sqm area</p> <p>Customers - 2 plus 1 per 100sqm over 100sqm GFA</p> <p>The development requires 30 residential, 3 visitor, 1 employee and 5 customer bike parking spaces.</p>

3. General Provisions	Compliance	Comment
		<p>The application proposes 41 bike parking spaces within the basement car park. Whilst the location is acceptable for the residential spaces, the basement is not intended to be accessed by retail customers. The basement level is accessed via the residential lift (through the residential lobby) and will likely be inaccessible to non-occupants of the site.</p> <p>It is recommended that the retail bike parking spaces be provided at ground level for ease of use and promote sustainable transport. There is sufficient space along the Layton Street frontage to accommodate bike parking spaces within the site. A condition to this effect has been included in the recommended conditions.</p>
3.11.7 Motorbike parking	Yes	<p>In accordance with Section 3.11.7 of the Sydney DCP 2012, the development is to provide one motorcycle parking space for every 12 car parking spaces.</p> <p>The development proposes 1 motorcycle parking space and complies with the requirement as 12 car parking spaces are proposed. The motorcycle space is appropriately located so that parked motorcycles are not vulnerable to being stuck behind a manoeuvring vehicle.</p>
3.11.9 Accessible Parking	Yes	<p>Out of the 16 proposed residential parking spaces, 5 are accessible. This is consistent with the 5 adaptable residential units.</p>
3.12 Accessible Design	Yes	<p>The proposal includes 5 adaptable units which equates to 15% of the total dwellings.</p> <p>A condition is recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.</p>

3. General Provisions	Compliance	Comment
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	<p>The application includes a residential waste storage area in the basement and an additional holding room on ground level. A separate retail storage room is located on ground level. Adequate waste and bulky waste storage is to be provided.</p> <p>A waste chute is to be provided on each level and is appropriately positioned away from habitable rooms. The Guidelines for Waste Management in New Developments at section 3.2 states that a chute system is used in a building less than nine storeys, a waste chute plus space for recycling bins in chute rooms must be provided in case of chute break down. While there is some space in front of the chutes, there is not enough space for a 240L bin. It is considered that in the event that the chute break down. Residents can take the rubbish down to the holding rooms in the basement.</p> <p>Waste collection has been addressed further in the Issues section.</p>
3.15 Late Night Trading Management	Yes	<p>The application proposes the following commercial operating hours for Retail 1 (liquor retail shop):</p> <p>Monday to Thursday: 10.00am - 9.00pm</p> <p>Friday and Saturday: 10.00am - 10.00pm</p> <p>Sunday: 10.00am - 8.00pm</p>

3. General Provisions	Compliance	Comment
		<p>The site is located within an "all other areas" zone in accordance with the late night trading area classifications of this section of the DCP. Retail 1 has been proposed as a liquor retail shop and as such is identified as Category B - low impact premises.</p> <p>Low impact premises within "all other areas" are permitted operating hours on a permanent basis from 7.00am - 10.00pm.</p> <p>It is recommended that both tenancies are approved for the full base hours permitted in the SDCP2012 and CDC provisions (being 7.00am to 10.00pm, Monday to Sunday). A condition is recommended in this regard.</p>
<p>3.16 Signage and Advertising</p> <p>3.16.1 Signage Strategy</p>	Yes	<p>The site is located within the Broadway and Parramatta road signage precinct. The proposed under awning signage is complementary to the precinct's role as a mixed use arterial road. The location below the awning, with no dynamic or flashing content, is desirable for the site. The three signs will result in minimal clutter and are for business identification purposes only. A condition is recommended restricting the sign to be illuminated only during approved operating hours.</p> <p>A signage strategy has not been submitted with the development, contrary to requirements of Section 3.16.1 of the DCP. A condition is recommended requiring a signage strategy, illustrating the three approved under awning signs and any signs for Retail 2 and building identification signage, to be submitted prior to a Construction Certificate.</p>

4. Development Types 4.2 Residential flat, commercial and mixed-use developments	Compliance	Comment
4.2.1 Building height	Yes	<p>The building height in storeys control applicable to the site is six storeys. The proposed development is six storeys.</p> <p>The site is not subject to a street frontage height control.</p>
4.2.2 Building setbacks	Yes	<p>The proposal has nil setbacks to the Layton Street and Parramatta Road frontages which is consistent with the existing building and surrounding development and will maintain adequate amenity to nearby properties.</p>
4.2.3 Amenity	Yes	<p>The proposal will result in an acceptable level of amenity, as detailed above in the ADG compliance table and the Issues section below.</p> <p>The proposed development will not cause unreasonable overshadowing to neighbouring properties. Views from the sun diagrams between 9am and 3pm at midwinter have been provided with the application. The diagrams illustrate that the building's shadows will fall upon the properties adjoining the site to the west in the morning between 9am and 11am. As the sun moves throughout the day, the properties to the west will be unaffected between 12noon and 3pm. Similarly, the properties to the south of the site, opposite Parramatta Road, are unaffected by the development in the morning sun but experience shadowing from 11am - 3pm. It is noted the shadows will fall on the ground floor areas, which are occupied by commercial uses. The development complies with the solar access provisions contained in Section 4.2.3.1.</p>

4. Development Types 4.2 Residential flat, commercial and mixed-use developments	Compliance	Comment
4.2.3.12 Flexible housing and dwelling mix	No (assessed as acceptable)	<p>The following dwelling mix is desired:</p> <p>Studio - 10% (0% proposed)</p> <p>1 Bed - 10-30% (37% proposed)</p> <p>2 Bed - 40-75% (60% proposed)</p> <p>3 Bed - 10-100% (3% proposed)</p> <p>The DCP allows studios and 1 bedroom units to make up to 40% of the mix of dwellings. Although 0% of the units are studios, given that 37% of the units are 1 bed units, the proposal generally reflects the desired dwelling mix.</p> <p>Whilst only 1x 3 bedroom unit has been proposed in the development, the configuration has been appropriately planned given the context and site constraints, and is acceptable in this instance.</p>
4.2.5 Types of development	Yes	<p>The site is located adjacent to Parramatta Road, which is a classified road and as such the development is required to incorporate noise mitigation measures to protect the amenity of the future residents.</p> <p>The application was accompanied by an Acoustic Report, which contain a number of recommendations to ensure appropriate noise attenuation measures are included in the development. Appropriate conditions are recommended to ensure those measures are incorporated into the development.</p>
4.2.6 Waste and Recycling Management	Yes	Each dwelling has adequate space to manage waste. Garbage chutes along with additional space for bins and storage of bulky goods are provided and accessible on each level.

4. Development Types 4.2 Residential flat, commercial and mixed-use developments	Compliance	Comment
4.2.7 Heating and Cooling Infrastructure	Yes	Heating and cooling infrastructure is proposed on the roof of the building and enclosed by an acoustically treated metal structure to minimise impacts on residents and surrounding properties. This element is set back from street frontages and will not be visible from the public domain.
4.2.8 Letterboxes	Yes	Letterboxes are provided in the residential lobby in a secure location.
4.2.9 Non-residential development in the B4 Mixed Uses Zone		<p>The development includes two commercial retail tenancies fronting Parramatta Road and Layton Street. The proposed retail space will activate the public domain and satisfy the active frontages provision in the DCP that apply to the site.</p> <p>Supporting facilities for the uses are appropriately integrated into the design of the building. The operation of these tenancies, including waste management and loading and servicing operations, is not expected to create unexpected impacts on the surrounding area.</p>

Issues

Clause 4.6 request to vary a development standard

56. The site is subject to a maximum height of buildings control of 22m. The proposed development has a maximum height of 24.3m.
57. The elements which exceed the 22m height control include the lift overrun, a canopy structure used for shading/weather protection over the communal open space, and the fire stair.
58. The building roof form remains under the 22m height control.
59. The extent of the variation to the LEP building height control is illustrating at Figures 29 and 30 below.



Figure 30: Section plan illustrating 22m height plane (in red)



Figure 31: Perspective view illustrating elements above the 22m height control

60. 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.

61. A copy of the applicant's written request is provided at Attachment C.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

62. The applicant seeks to justify the contravention of the height 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 breach is minor in nature and only relates to elements that will not be visible from the public domain.
 - (ii) The proposal is consistent with the objectives of the B4 - Mixed use zone and the Height of Buildings development standard and as such is in the public interest.
 - (iii) The proposed building height is considered compatible and consistent with the desired future character for the Camperdown area.
 - (iv) The proposed development will not impact on views from any adjoining property.
 - (v) The height exceedance is similar to an existing Council approved development consent (D/2016/642) granted for a mixed-use building with a maximum building height of 24.5m
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The contravention of the development standard does not give rise to any adverse environmental impacts. The elements in breach will not cause any adverse additional overshadowing or loss of privacy to any property.
 - (ii) The development is consistent with the 6 storey height in storeys control for the site.
 - (iii) The communal open space at the Level 1 podium is incapable of receiving adequate sunlight required as per the ADG. The provision of a communal open space on the roof therefore provides exceptional amenity to the residents providing an alternative area of communal open space receiving full sun at mid-winter.
 - (iv) The elements which exceed the height control are setback from the parapet and not be visible from the public domain.

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

63. 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)?

64. The applicant has correctly addressed that the development meets the objectives of Clause 4.3, notwithstanding non-compliance with the numerical standard.
65. The applicant refers to the breach of the control being in relation to the lift overrun, the canopy structure, and the fire stairs. These elements will not add unreasonable bulk and scale of the building when viewed from the public domain and surrounding buildings. The canopy structure will provide additional shading and weather protection, enhancing the useability of the rooftop communal open space.
66. The height is appropriate for the sites context, resulting in an acceptable built form within the streetscape.
67. It is noted that approved residential apartment development on the site D/2016/642 was granted consent for a height variation in a similar manner, as well as recent developments along Parramatta Road including 87 Parramatta Road and 5 Purkis Street (refer to Figures 7 and 8).

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

68. The statement provides environmental planning grounds specific to the circumstances to justify the extent of the non-compliance with the Height of buildings development standard.
69. It is agreed that the area of non-compliance is relatively minor as it is confined to elements which will have minimal views from the streetscape and will not impact adversely impact on surrounding impacts.
70. It is noted that the development is consistent with the 6 storey height in storeys control in accordance with Section 4.2.1 of the Sydney DCP 2012.

Is the development in the public interest?

71. With regard to varying development standards, the public interest is deemed as being protected where a development meets the objectives of the zone and the development standard sought to be varied.
72. The relevant objectives of the Height of buildings development standard are:
- (a) To ensure the height of development is appropriate to the condition of the site and its context.
 - (b) To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas.
 - (c) To promote the sharing of views.
73. The building height is considered appropriate for the context of the site and the height exceedance will not impact on any significant views or result in any adverse amenity impacts to surrounding development.

74. The objectives of the B4 Mixed Use zone are:
- (a) To provide a mixture of compatible land uses.
 - (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
 - (c) To ensure uses support the viability of centres.
75. The mixed-use development proposes a diverse range of housing sizes and types in an accessible area close to public transport, increasing employment opportunities while integrated compatible new retail spaces / services.
76. The proposal is in the public interest because it is consistent with both the objectives of the height development standard and the objectives of the B4 Mixed Use zone.

Conclusion

77. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 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 height development standard and the B4 - Mixed Use zone.

Design Advisory Panel (Residential Sub-Committee) Recommendations

78. The application was presented to the Design Advisory Panel (Residential Sub-Committee) on 3 March 2020. On 15 April 2020, the panel noted and recommended the following:
- (a) The proposal generally incorporates good design approaches for this difficult site.
 - (b) The main design issue is the achievement of ventilation and acoustic separation from Parramatta Road. Additional information on an architecturally integrated solution is required.
 - (c) The Panel questions the usefulness of (particularly secondary) balconies on Parramatta Road. The solid-to-void ratio could be more defensive to Parramatta Road.
 - (d) Consider additional acoustic modelling to determine how noisy Layton Street is.
 - (e) Upper level windows on the east and south-west need weather protection.
 - (f) The façade design at the connection with the neighbouring site should be amended so that there is continuity of the facades rather than a small re-entrant corner.
 - (g) The communal open space on level 1 is constrained by the units that directly address it.
 - (h) Consider screened highlight windows to blank wall adjacent to the serviced apartments to improve this façade whilst adequately addressing privacy.

- (i) ADG building separation distances are not achieved. Some balconies have only 9m between them. More design input is required to reduce privacy and acoustic issues between the proposed building and the existing building.
 - (j) More thought is required regarding the loading and servicing of Camperdown Cellars.
79. The applicant has undertaken design modifications which address the concerns noted above. Most notably, the development removed the balconies facing Parramatta Road, resulting in a more defensive facade. The proposal incorporated the provision of fresh air plenums to noise affected units and appropriately integrated them into the design of the facade (see further discussion below). Acoustic modelling and air flow modelling was provided to support the alternative design. The development was also amended to address parking, loading, waste and privacy concerns.

Acoustics and Ventilation

80. The site is located on Parramatta Road which is defined as a busy road carrying over 40,000 Annual Average Daily Traffic (AADT) number. The SEPP Infrastructure 2007 requires 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 AADT volume greater than 20,000.
81. 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 noise privacy in noisy environments.
82. Following preliminary assessment of the application and consideration of the application by the City's Design Advisory Panel - Residential Subcommittee in March, the proposal included 10 apartments over Levels 1 to 5 that had habitable rooms with their only source of light and air from windows onto Parramatta Road. Figures 32 and 33 below include a floor plan and elevation of the proposal as was lodged.
83. Due to potential traffic noise instruction from Parramatta Road, bedrooms facing this busy road are unable to rely on operable windows for natural ventilation.
84. The applicant was requested in correspondence, dated 17 April 2020, to amend the proposal to ensure that these rooms were able to be naturally ventilated whilst effectively responding to the noisy road environment. It is recommended that the design explore the use of plenums to a number of units.



Figure 32: originally proposed floor plan, illustrating bedrooms with sole reliance on balconies to Parramatta Road



Figure 33: Originally proposed Parramatta Road elevation with use of balconies

85. Compliance guidance is provided within the City of Sydney's Draft Alternative Natural Ventilation of Apartments in Noise Environments - Performance Pathway Guideline. This document outlines minimum air flow requirements as follows:

- (a) 10 litres/second/person (where the number of persons is equal to the number of bedrooms in the apartment +1); or

(b) 0.3 litres/second/sqm of floor area of the apartment for 90% of all hours in the year.

86. The application was amended and now includes a combination of vertical and horizontal plenums to supply air to a total of 10 apartments, including Units 1.01, 1.04, 2.01, 2.04, 3.01, 3.04, 4.01, 4.04, 5.01 and 5.03. As illustrated in Figure 34, below, the plenums have been appropriately integrated into the design and will not adversely impact the façade.

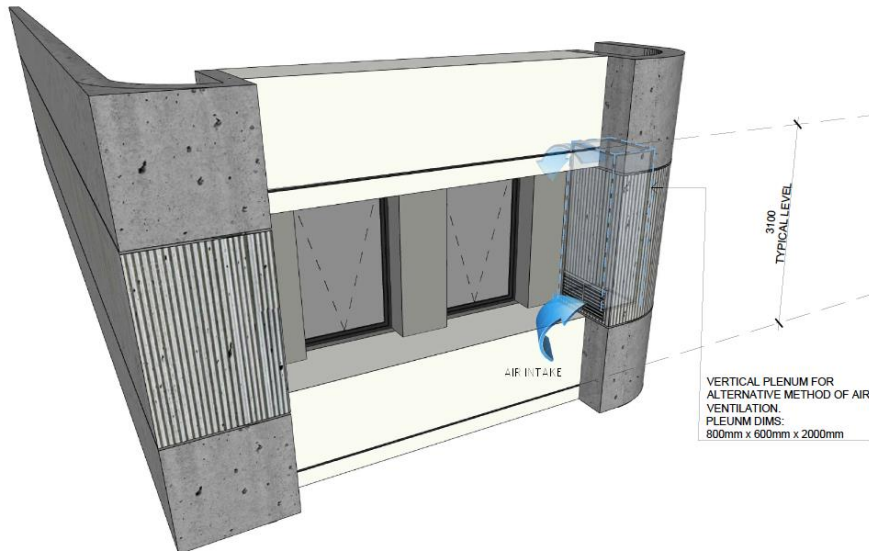


Figure 34: Proposed plenum design

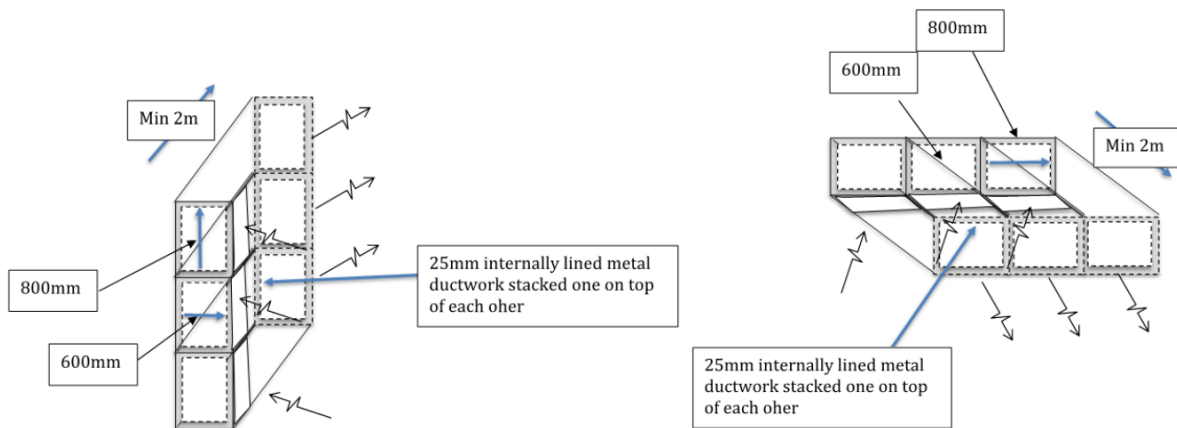


Figure 35: Plenum dimensions for vertical configuration (left) and horizontal configuration (right).

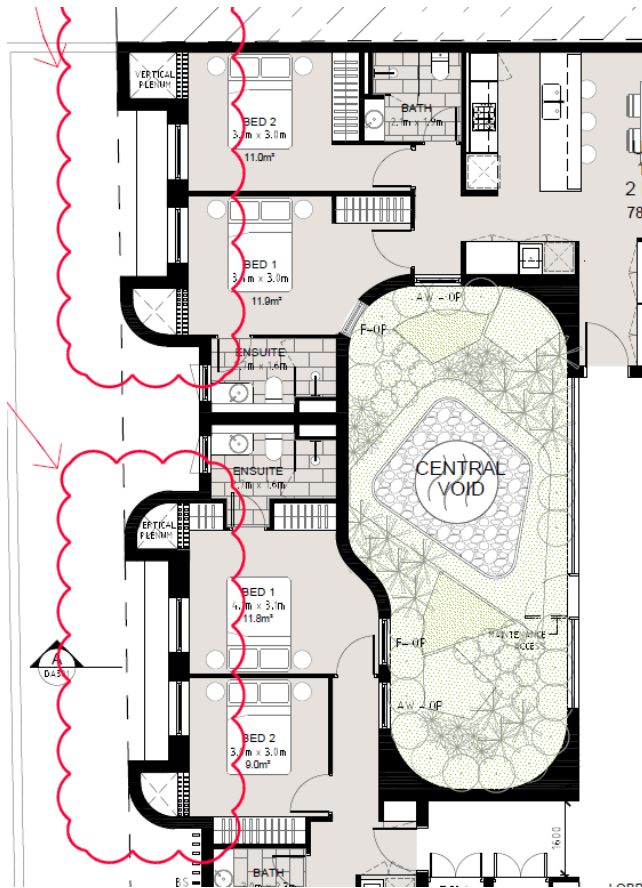


Figure 36: Typical plan illustrating plenum location

87. To demonstrate air-change rates of the proposed natural ventilation strategy satisfies Objective 4B-1 of the ADG, a combination of wind data analysis and multi-zone airflow modelling was carried out as part of this development assessment. The Natural Ventilation Study, prepared by Inhabit Australasia Pty Ltd, dated 4 June 2020 demonstrates that the plenums included in the above design are able to achieve an air flow rate of 0.3 litres/second/sqm of floor area to all plenum apartments for minimum 90% of all hours in the year. This modelling is in accordance with City of Sydney's Draft Alternative Natural Ventilation of Apartments in Noise Environments - Performance Pathway Guideline (outlined above). On this basis, the proposed plenums are considered to be satisfactory. A condition has been recommended requiring that appropriate certification be provided to and satisfied by the certifying authority prior to issuing of a Construction Certificate. It is recommended that any change in design be submitted to Council for prior approval.
88. With the inclusion of the plenums, the development achieves natural cross-ventilation to 18 apartments (60%), as illustrated in Figures 34-36 below. It is noted that without the alternative solution, and assumption that the windows facing Parramatta Road will remain closed, 8 apartments (27%) achieve natural cross ventilation.

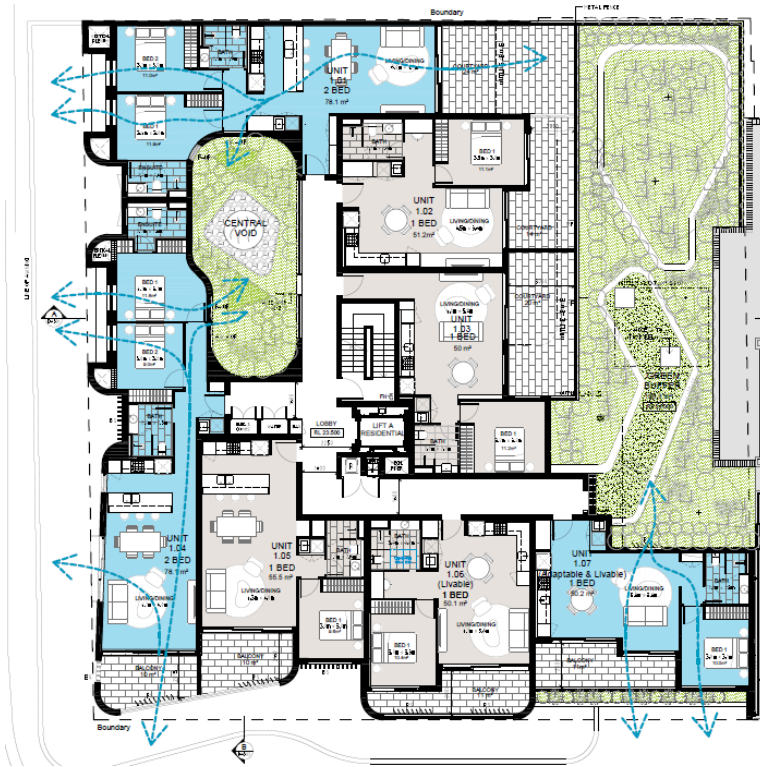


Figure 35: Level 1 units which achieve cross ventilation (including the plenum design)

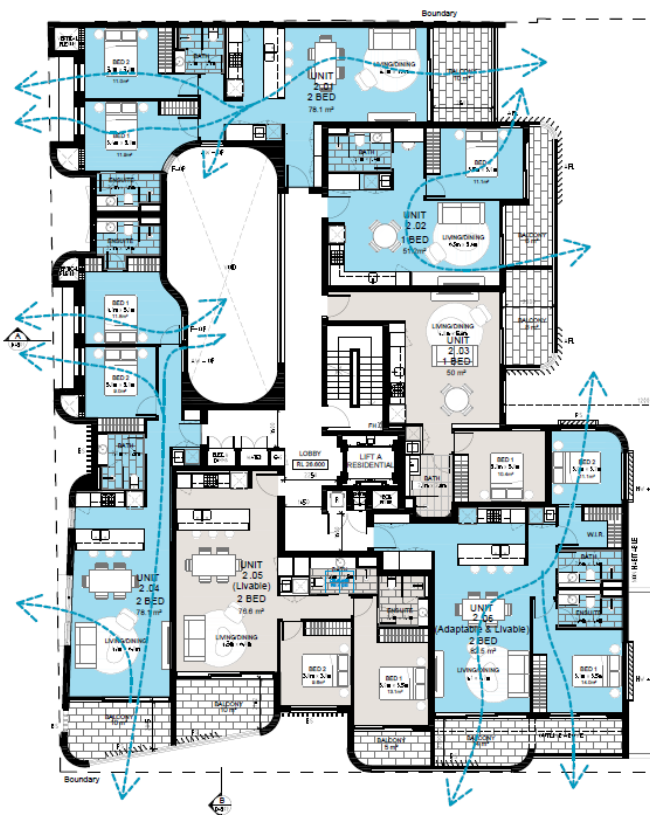


Figure 36: Level 2-4 units which achieve cross ventilation (including the plenum design)

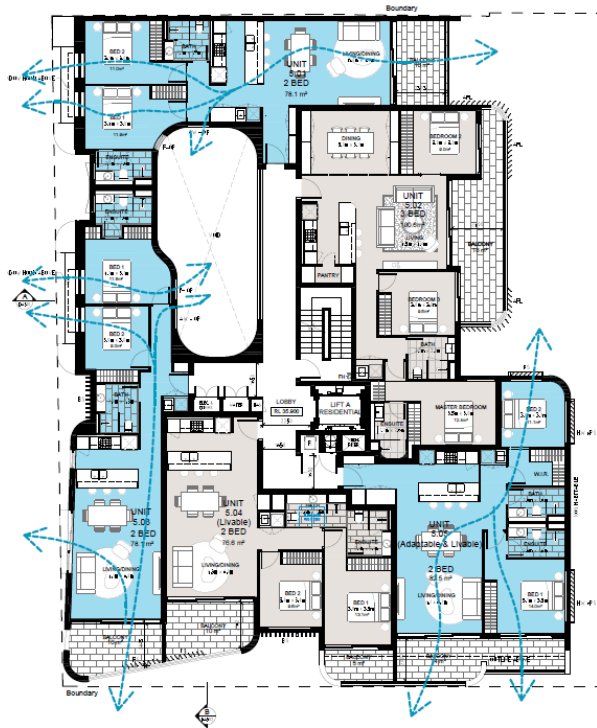


Figure 37: Level 5 units which achieve cross ventilation (including the plenum design)

89. Acoustic modelling has been done to assess potential noise impacts to Layton Street. The acoustic modelling concludes that the units fronting Layton Street can achieve noise emission requirements with the windows open.
90. The acoustic report has also addressed emissions from the air conditioning units on the roof and recommend the future design and treatment of all building services associated with the project can be acoustically treated to ensure all noise emissions from the site comply with the EPA NPfI and City of Sydney Council criteria. Details of the equipment and associated acoustic treatments will be provided as part of the CC submission of the project.

Privacy and building separation to the serviced apartments

91. The Apartment Design Guide outlines the minimum required separation distances between buildings as follows:
 - (a) Up to four storeys:
 - (i) 12m between habitable rooms / balconies
 - (ii) 9m between habitable and non-habitable rooms
 - (iii) 6m between non-habitable rooms
 - (b) Five to eight storeys:
 - (i) 18m between habitable rooms / balconies
 - (ii) 12m between habitable and non-habitable rooms

(iii) 9m between non-habitable rooms

92. Although the proposal is five storeys, the four storey control is more relevant as the adjacent serviced apartment building is 4 storeys.
93. The development results in separation distances between 12m (balcony to balcony) and 6m (habitable room to balcony).
94. Where the required distance is not achieved, external privacy treatments have been proposed to ensure visual and acoustic privacy is achieved between the users of the respective buildings.

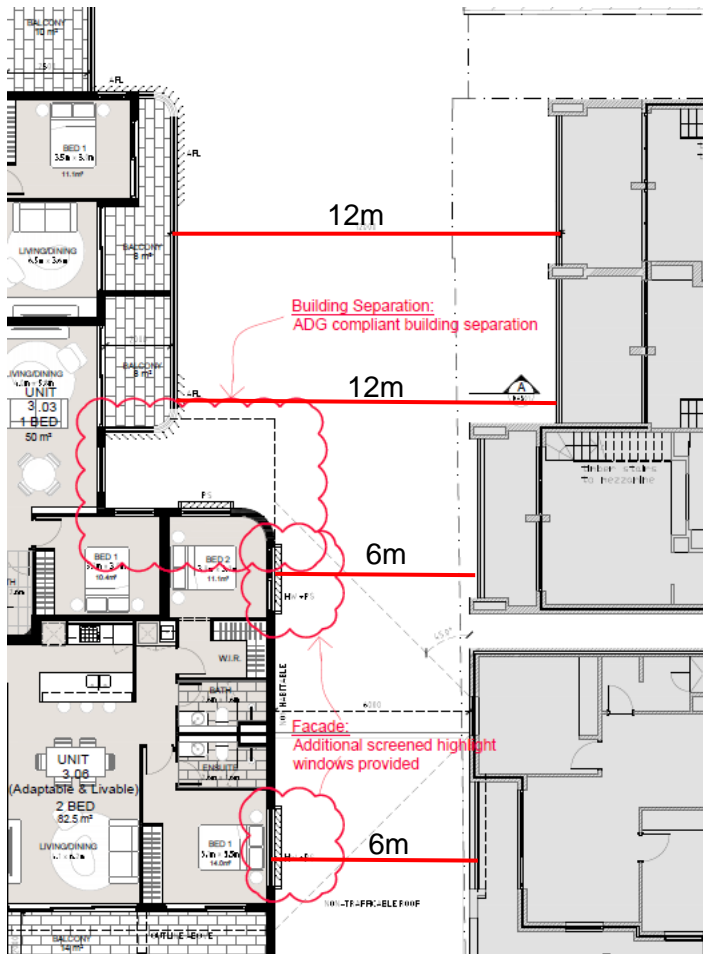


Figure 38: illustrating separation distances and proposed privacy measures

95. It is noted that the proposed separation distance also allows the apartment units and private open space balconies to achieve compliant levels of solar access. This has been discussed in detail below.
96. The proposed communal open space on level 1 has been amended to include privacy measures to those apartments on level 1 that may be impacted by the communal space, these include:
 - (a) fencing up to 1.5 m high is provided around the private open space courtyards of units 1.02 and 1.04;

- (b) an external privacy screens is provided to the living room windows of unit 1.07; and
- (c) soft landscaping as a 'green buffer' to shield the open space from the serviced apartments (refer to Figure 39, below).

97. With the inclusion of these measures, privacy concerns between the open space and the respective adjacent apartments and serviced apartments have been adequately addressed.

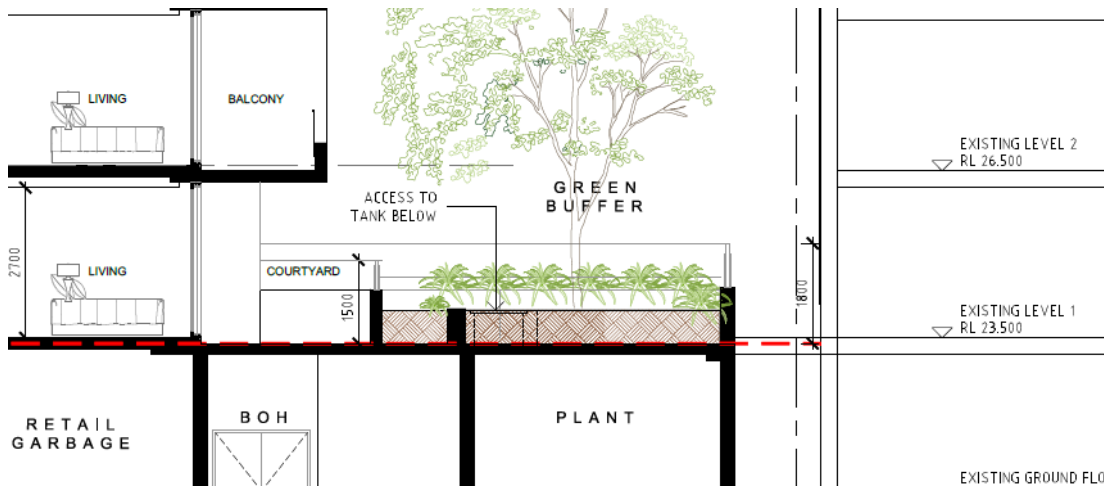


Figure 39: illustrating privacy measures to units on level 1 which address the communal open space

Privacy and separation across the internal lightwell / void

98. As illustrated in Figure 40, below, the proposed development includes an internal light well/void through the development, and has an internalised corridor and a number of apartments that have windows directly onto this void. The separation distance across this void between windows and the walkways is between 4 and 6 metres.

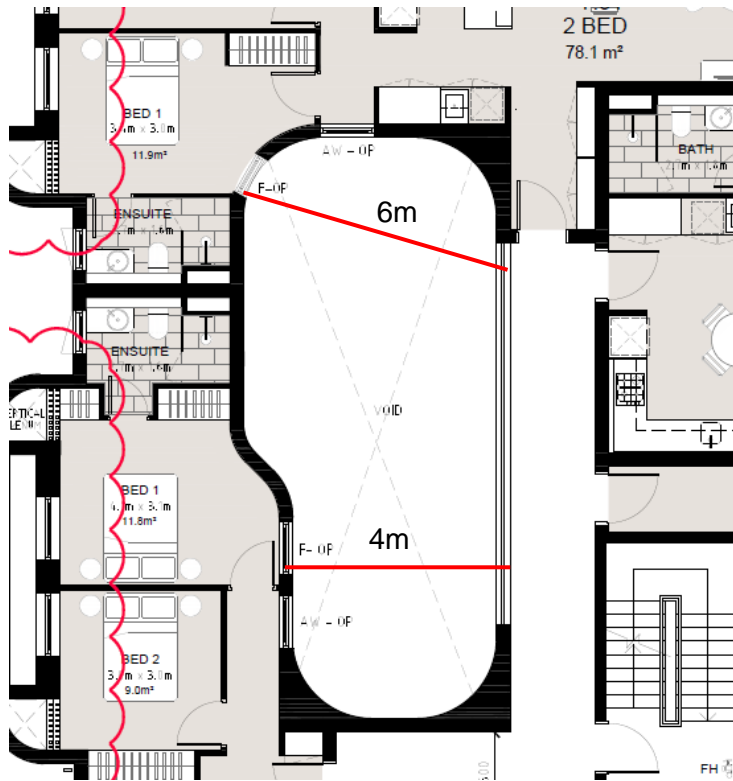


Figure 40: Illustrating internal void separation and opaque window glazing

99. In order to minimise potential visual and overlooking impacts across the void, the proposal has included opaque window treatments for those apartment windows that are located onto the void/light well.
100. It is noted that no apartment is reliant on these windows to the void/light well as their primary air source for light and ventilation to any habitable room, nor for the achievement of natural cross ventilation through the apartment. The internal windows to the light well/void are either designated as fixed or awning windows to provide opportunities for additional ventilation or the escape of odours from a secondary source within a room.
101. Potential noise impact has been addressed within the submitted Acoustic Report. The report recommends 10mm thick laminated windows to ensure acoustic privacy is maintained. A condition is recommended requiring compliance with the Acoustic Report.

Communal Open Space and relationship with existing consents

102. Objective 3D-1 of the Apartment Design Guide requires communal open space to be a minimum area of 25% of the site area.
103. The development includes an area of 167.7sqm of communal open space on level 1 and 301.7sqm of communal open space on the roof (refer to Figures 41 and 42, below). This results in a total area of communal open space of 464.3sqm.

104. The applicant has included the entirety of the site, including the portion occupied by the serviced apartment building, in the calculation of 25% of the site area. The collective site has a site area of 1764.5sqm, and 25% of this site area would be 441sqm. As such, the proposed 464.3sqm of communal open space exceeds the requirements for both the proposed residential apartment development and the existing serviced apartment building.

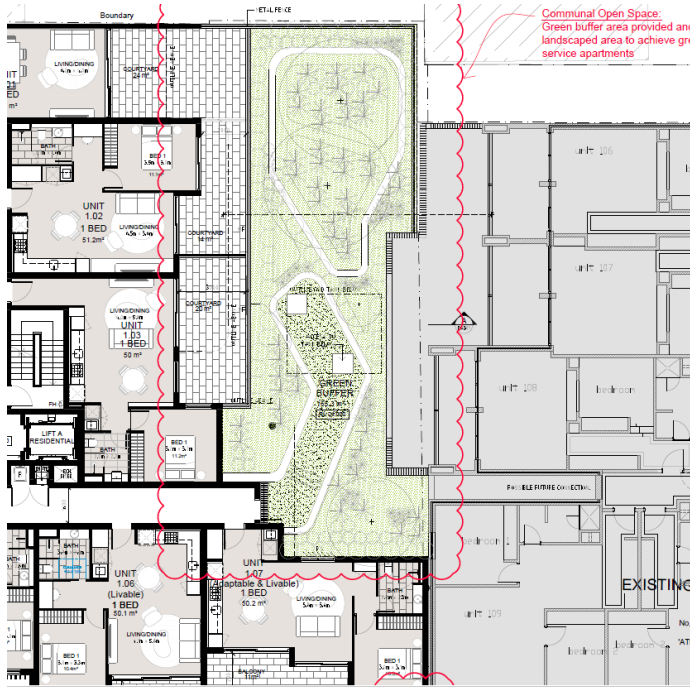


Figure 41: Proposed level 1 communal open space

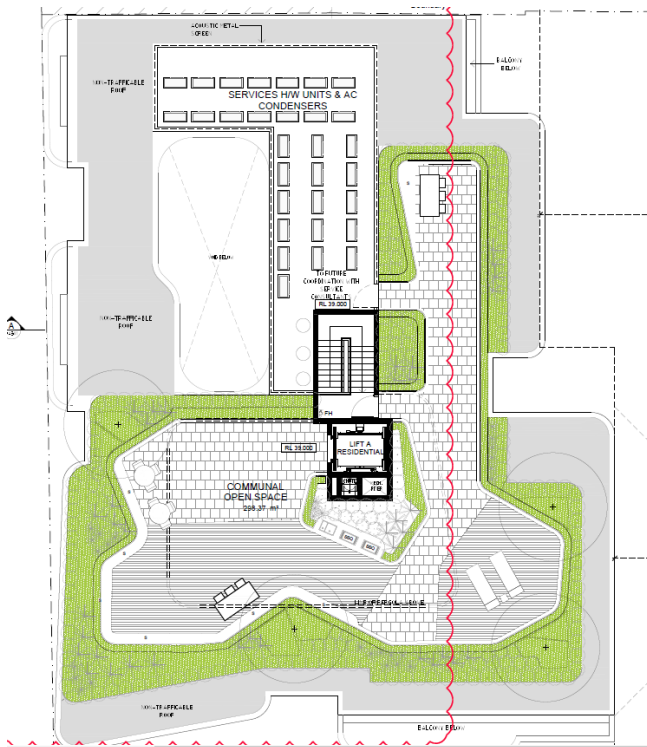


Figure 42: Proposed rooftop communal open space

105. The existing serviced apartment development currently includes an open space terrace on level 1 of the Camperdown Cellars commercial building. With the demolition of the existing commercial building, this existing area of open space for the serviced apartments will be demolished.
106. It is noted that a serviced apartment development does not require the provision of communal open space. The subject application does include notations on the plans that state "possible future connection" from the serviced apartment development onto the proposed Level 1 communal open space of the subject development.
107. Whilst noting that communal open space is not a requirement for serviced apartments, Condition 3 of the Court approved development consent D/2015/1227 that changed the use of the Atlas apartments into serviced apartments, does allow the building to revert back to permanent residential apartments in the future. Condition 3 of D/2015/1227 is replicated below

"REVERSION OF USE OF BUILDING TO PERMANENT RESIDENTIAL ACCOMMODATION

The use of the building may revert to a use for the purposes of a residential flat building in reliance on Development Consent No. 0273/99 (as modified by Section 96 U99-00273 dated 2 February 2001) but only if every unit and associated parking, communal and service areas are used for permanent residential accommodation in accordance with that consent. That development consent must not be relied upon unless all units are used for permanent residential occupation."

108. In its current use as a serviced apartment development, the shared use of the communal open space on level 1 between residents of the subject development and guests of the serviced apartment building is not supported. Section 4.4.8.5(3) of the Sydney DCP 2012 does not permit residential and serviced apartments to co-exist on the same floor of a buildings.
109. As such, it is recommended that a condition be imposed to require the removal of the notation on the plans that nominates a future connection to the serviced apartment building and includes a condition to state that the communal open space on either Level 1 or the roof top shall not be used by guests of the serviced apartments.
110. In the event that the serviced apartment building reverts to a full permanent residential use in accordance with Condition 3 of D/2015/1275 and is reliant on the 1999 consent for the site, then both residential buildings will have compliant levels of communal open space for use by all residents. A condition is recommended in this regard.

Parking, Loading and Servicing

111. The application proposes excavation on the southern portion of the site to extend the existing basement car park of the serviced apartment development. The proposed basement level is to be generally aligned with the existing basement level in the serviced apartment development (proposed basement level in the subject development is at RL 16.8 and is at RL 17 in the serviced apartment building). In is intended to be a combined basement, with vehicular access remaining in its current location off Isabella Street.

112. The proposed basement car park includes provision for resident car parking, bicycle parking, storage units, a residential waste room and a loading bay. A traffic and transport impact statement has been provided with the application and has been amended to suit the modified design.

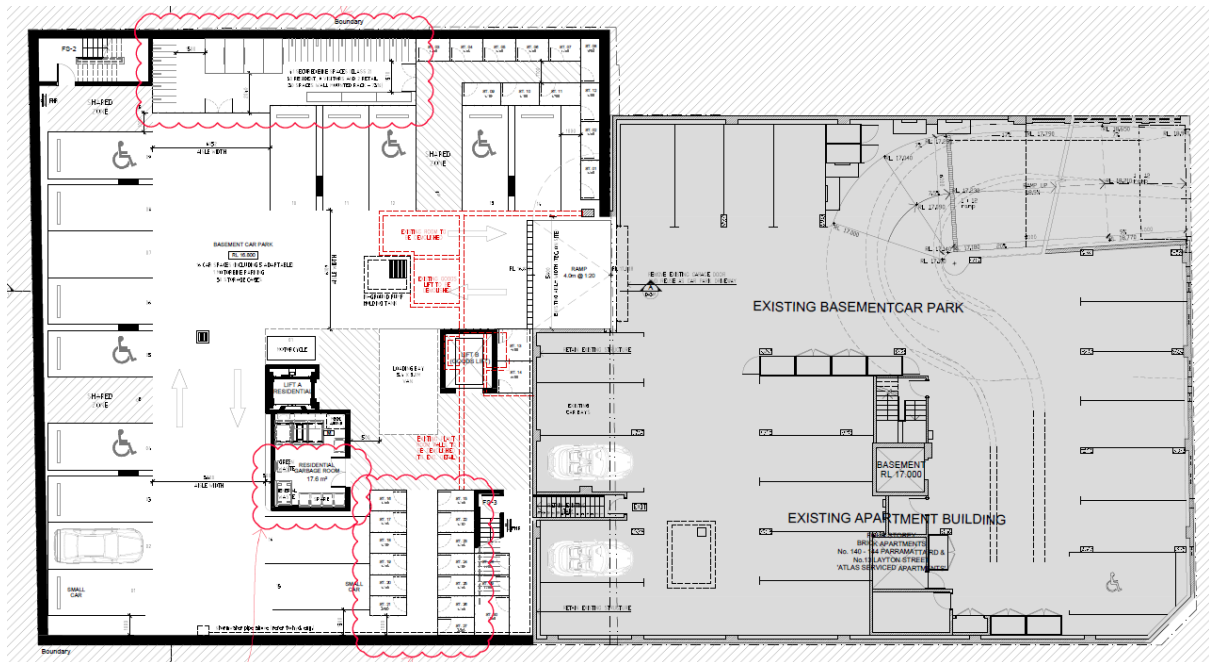


Figure 43: basement floor plan illustrated shared access with the existing serviced apartment site

113. The application has demonstrated that loading and servicing of the retail tenancies can be accommodated from designated loading zones on-site. A dedicated loading bay is proposed in the basement adjacent to the goods lift (Lift B). Clearance heights down the existing vehicular ramp and through the existing basement (under the serviced apartment building) is limited to 2.3 metres. This pre-existing basement does limit the size of vehicles that can enter the site. In this instance, the applicant has provided documentation to demonstrate the site can be serviced by vehicles up to and including one tonne vans. Swept paths diagrams are provided in support. This documentation has been reviewed by the City's Transport Officer, who is satisfied that the retail tenancies (including the specific operations of the liquor shop) can occur within the site.
114. The application demonstrates that the 'Camperdown Cellars' liquor shop tenancy will utilise a forklift to assist in loading and unloading of goods. The forklift is capable of vertical circulation within the goods lift. Swept paths are provided in support.

Waste collection

115. The application proposes on-street collection of waste from the Layton Street frontage of the site, which is contrary to the provisions of Section 3.14 of the SDCP 2012, which requires new development to accommodate waste collection from within their own site.
116. Following a preliminary assessment of the application, Council staff raised concern with the proposed kerbside collection and requested further information to demonstrate that the site could not be designed to facilitate on-site collection.

117. The applicant submits that waste collection is not available from within the site, as the only vehicular access to the site is via an existing building access from Isabella Street, which is insufficient in height for use by Council's waste vehicle.
118. The site is particularly constrained and is unable to accommodate on-site waste collection. Given the context of the site, kerbside collection is supported in this instance for the following reasons:
- (a) The existing basement of the serviced apartments building within the site limits access through the site to the basement of the new residential building. The existing basement level accessed via Isabella Street has a vehicle clearance of 2.3m high and is incapable of accommodating a Council waste collection truck (which requires a 4m clearance height).
 - (b) Due to the proximity of the site's Layton Street frontage to the signalised intersection with Parramatta Road, a new vehicular access location would not be supported in this location, nor is there sufficient dimensions within this portion of the site to allow for a new ramp down to the basement with a sufficient grade to accommodate a garbage truck.
 - (c) Ground level on-site collection with a turntable would also not be a desirable outcome due to the significant streetscape impacts such a design would have. Layton Street is located within active street frontage and in accordance with Section 3.2.2 of the Sydney DCP 2012, driveways are not permitted within active frontages. The construction of a driveway on Layton Street would have a negative impact on the public domain.
 - (d) Two existing street trees and planter beds are located along the Layton Street frontage. A new driveway on Layton Street would require removal of these city assets.
 - (e) The proposed waste collection is consistent with the existing development consent for the residential apartment building approved under development application D/2016/642 for the site.
119. The development includes a ground floor level residential waste room dedicated as an unloading and holding area. Residential waste will mainly be stored in the basement waste room and moved to the ground level holding room on waste collection days. This process will limit odours and impacts on the environment. There is a 10m clear path of travel from the holding room to the collection zone.
120. The proposed waste collection zone will be subject to approval from the Local Pedestrian, Cycling and Traffic Calming Committee. A condition is recommended requiring approval prior to the issuance of any Construction Certificate.

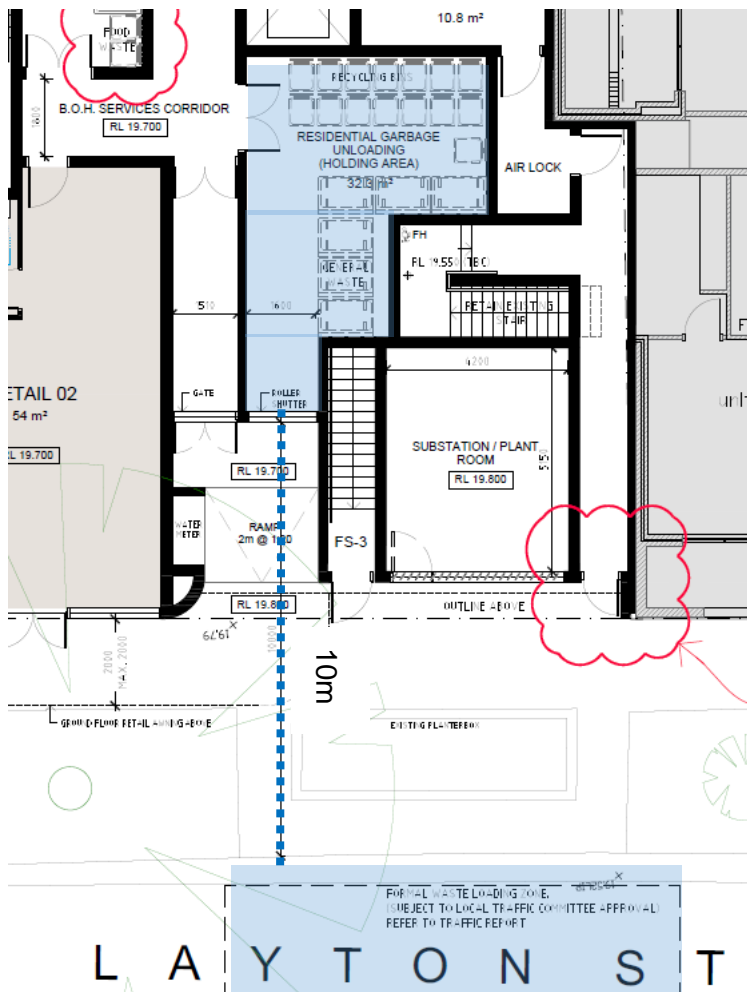


Figure 44: illustrating the residential garbage unloading and holding area, and the 10m path of travel to the proposed waste collection loading zone

Other Impacts of the Development

- 121. The proposed development is capable of complying with the BCA.
- 122. 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

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

Internal Referrals

124. The conditions of other sections of Council have been included in the proposed conditions.
- (a) Urban Designer
 - (b) Environmental Health Officers
 - (c) Transport Planner
 - (d) Public Domain Unit;
 - (e) Heritage Specialist;
 - (f) Building Services;
 - (g) Specialist Surveyor;
 - (h) Waste Management Officers;
 - (i) Tree Management Officers;
 - (j) Landscape Officer.
125. The above advise that subject to recommended conditions, the proposal, as amended, is acceptable. Any particular issues raised have been addressed throughout the report.

Notification, Advertising and Delegation

126. In accordance with Community Participation Plan 2019, the proposed development is required to be notified and advertised. As such the application was notified and advertised for a period of 21 days between 9 January 2020 and 31 January 2020, a total of 587 properties were notified and no submissions were received.

Sydney Airport Referral Act 1996

127. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
128. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify the subject site is subject to a prohibition of the construction of buildings more than / 150 feet in height (45.62m) above existing ground height.
129. The proposed development reaches a maximum height of 24.4m and therefore will not intrude the prescribed air space area. As such, a referral to the Civil Aviation Safety Authority (CASA) is not required.

Public Interest

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

S7.11 Contribution

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

132. Credits have been applied for the most recent past uses of the site including the following:

(a) 140-144 Parramatta Road (Camperdown Cellars building)

(i) 525 sqm of commercial shop space

(ii) 2x 2 bedroom units

(iii) 3x 1 bedroom units

(b) No 146 and 148 Parramatta Road:

(i) 130 sqm of commercial shop space

(ii) 2x 2 bedroom units

133. The proposed development includes 1x 3 bedroom units, 18x 2 bedroom units, 11x 1 bedroom units and 419 sqm of commercial shop space.

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

(a) Open Space	\$303,709.17
(b) Community Facilities	\$99,217.81
(c) Traffic and Transport	\$717.25
(d) Stormwater Drainage	\$0
Total	\$403,644.23

Conclusion

135. The proposal seeks consent for the demolition of commercial buildings on the site and redevelopment of a new mixed-use building comprising 2 retail uses at ground floor, 30 residential dwellings on levels 1-5 and basement car parking.

136. The proposal has been amended during the course of the assessment to address ventilation and acoustic impact, visual privacy, and basement car parking and waste storage layout.

137. A written request seeking to vary Clause 4.3, the 'Height of Buildings' development standard, has been submitted. The variation relates to the lift overrun, a shade canopy and the fire stair, where the development exceeds the 22m height control by 2.3m (10.4% variation).
138. The proposed request to vary the height standard is well founded. The statement provided demonstrates that compliance with the 'Height of Buildings' development standard is unreasonable and unnecessary in this instance, and that there are sufficient environmental planning grounds to justify the variation. The height variation to the development is consistent with the objectives of Clause 4.3 and the B4 - Mixed Use zone, and therefore is in the public interest.
139. The proposal exhibits design excellence, with a high standard of architectural design, materials and detailing in a built form that is consistent with the existing and future desired character of the area.
140. Subject to conditions, the development is in the public interest and is recommended for approval.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Christina Robinson, Planner