

Item 4.**Development Application: 135-139 McEvoy Street, Alexandria - D/2018/1581****File No.: D/2018/1581****Summary**

Date of Submission:	19 December 2018 (last set of amendments lodged 2 September 2020)
Applicant:	Ms J Adler
Architect/Designer:	Redgen Mathieson Architects
Owner:	Ms J Adler
Cost of Works:	\$17,064,774
Zoning:	B4 Mixed Use, which permits the proposed development.
Proposal Summary:	<p>The subject application is for a six storey mixed use development comprising:</p> <ul style="list-style-type: none">• Demolition of existing structures;• Excavation and construction of two basement levels;• Vehicular access off McEvoy Street;• 1 commercial tenancy fronting McEvoy Street;• 34 residential apartments;• 41 basement car parking spaces (residential and commercial); and• Associated landscaping.

This application is classed as integrated development, requiring the approval of Water NSW under the Water Management Act 2000. Water NSW have issued General Terms of Approval for the development pursuant to Section 4.47 of the Environmental Planning and Assessment Act 1979.

There have been multiple revisions of application documents to address concerns regarding remediation, building form, internal amenity, overshadowing and landscape treatments.

The proposed development complies with height controls prescribed under Clause 4.3 of the LEP, except for the clerestory windows that exceed the controls by 2.25 - 2.35m. The applicant has satisfied the Clause 4.6 test and the variation is supported.

The site is located within the Green Square Locality. The proposed floor space complies with the 1.5:1 control (inclusive of the 0.5:1 community infrastructure bonus) permitted under Clauses 4.4 and 6.14 of the LEP. The owner of the site has offered to enter into a Voluntary Planning Agreement (VPA) with Council. The agreement includes a monetary contribution to community infrastructure and the dedication of land for footpath widening on McEvoy Street. The VPA has been exhibited for 28 days between 10 July and 7 August 2020. One submission was received, which related to the proposed boundary wall height and not the agreement itself. This submission has been dealt with as part of the development assessment. The application is recommended for deferred commencement approval to enable execution of the VPA and its registration on title.

The application was notified and advertised for 30 days between 4 February and 5 March 2019. Three submissions were received, which raised the following matters:

- Height of new boundary wall;
- Traffic congestion; and
- Requirement to retain project architect.

These matters have been reviewed during the assessment and the development is generally considered to comply with all relevant planning controls. The amended proposal appropriately responds to the site's context and environmental conditions, and will help achieve the desired future character of the area, as expressed in the applicable planning policies.

The application requires determination by the Local Planning Panel.

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

Development Controls:

- (i) State Environmental Planning Policy No 55 - Remediation of Land ('SEPP 55')
- (ii) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development ('SEPP 65')
- (iii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ('BASIX SEPP')
- (iv) State Environmental Planning Policy (Infrastructure) 2007 ('Infrastructure SEPP')
- (v) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ('Vegetation SEPP')
- (vi) Sydney Local Environmental Plan 2012 ('LEP')
- (vii) Sydney Development Control Plan 2012 ('DCP')
- (viii) City of Sydney Development Contributions Plan 2015 ('Section 7.11 Plan')

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request
- D. Public Benefit Offer
- E. Exhibited Voluntary Planning Agreement

Recommendation

It is resolved that:

- (A) the variation requested to the LEP building height standard in accordance with Clause 4.6 'Exceptions to development standards' be upheld in this instance;
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2018/1581 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 proposed development is permissible with consent in the B4 Mixed Use zone.
- (B) The proposed development complies with the 22m and 15m building height controls under Clause 4.3 of the LEP, except for the clerestory windows. It also complies with the 1.5:1 floor space ratio control pursuant to Clauses 4.4 and 6.14 of the LEP.
- (C) The applicant's written request to vary the height standard adequately addresses the matters required to be demonstrated by Clause 4.6(3) of the LEP. The Applicant's request demonstrates that compliance with the building height development standard is unreasonable and unnecessary, and that there are sufficient planning grounds to justify the clerestory windows contravening Clause 4.3 of the LEP. The proposal is also in the public interest because it is consistent with the objectives of the B4 Mixed Use zone and the building height development standard.
- (D) The proposed development provides an appropriate architectural outcome that is suitable in terms of its scale, built form and response to the site's context. It is consistent with the desired future character of the area, as expressed in the applicable planning policies. As such, it is considered to satisfy the design excellence provisions under Clause 6.21 of the LEP.
- (E) The proposed development satisfies the relevant objectives and provisions of the DCP.
- (F) The proposed development will not unreasonably impact the amenity of surrounding residential properties.

Background

The Site and Surrounding Development

1. The property has a legal description of Lot 1 in DP 346555, and is commonly known as 135-139 McEvoy Street, Alexandria.
2. The rectangular site has an area of 2420sqm and is located on the northern side of McEvoy Street, near its intersection with Fountain street. The site has a 39.55m frontage to McEvoy Street.
3. A large, single storey warehouse is contained within the site. It is constructed from masonry and extends to all boundaries. The warehouse has recently been occupied by a supermarket and shoe retailer.
4. To the north is the Alexandria Park Community School. The southern area of the school, adjoining the subject site, is currently undergoing significant redevelopment works. When complete, the northern boundary of the subject site will front 3-4 storey school buildings. A landscaped setback separates the school buildings from the shared boundary. A new sporting field and outdoor play area will be in another area of the school.
5. To the east are industrial units, housed in a two storey commercial development. Most businesses utilise these units for office premises or small scale distribution centres.
6. To the west are two recently completed mixed-use developments. 'The Foundry' measures five storeys, and immediately adjoins the site's western boundary. A seven storey building sits adjacent, occupying the corner of McEvoy Street and Fountain Street. They both include ground floor commercial uses that front McEvoy Street, and were both approved in 2012.
7. To the south, on the opposite side of McEvoy Street, are two storey commercial developments. They currently accommodate office premises, retail premises and warehouses.
8. The wider area, particularly to the south of McEvoy Street, is predominately industrial and contains a variety of employment-generating land uses. Localities north of McEvoy Street are more residential, containing contemporary flat buildings and rows of Victorian terrace houses.
9. There are no heritage items in the immediate surrounds of the site. The site is also not within a heritage conservation area.
10. Multiple site inspections were carried out by staff, with the most recent occurring on 18 August 2020.

11. Photographs of the site and surrounds are provided below.

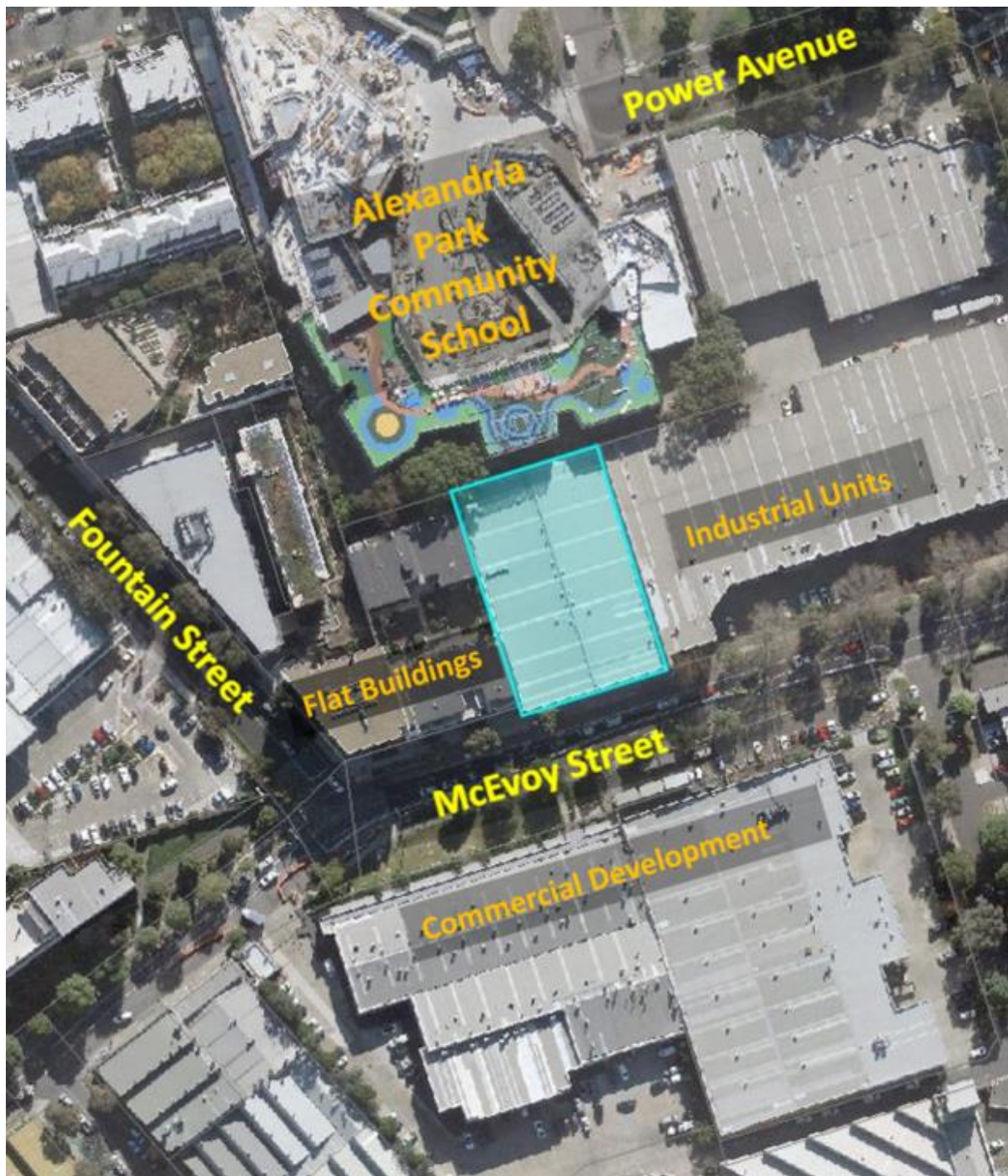


Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from McEvoy Street



Figure 3: Public domain in front of site, looking east along McEvoy Street



Figure 4: Industrial units immediately east of site, viewed from McEvoy Street



Figure 5: Flats west of site, viewed from corner of McEvoy Street and Fountain Street



Figure 6: Existing streetscape to east of site, viewed from McEvoy Street

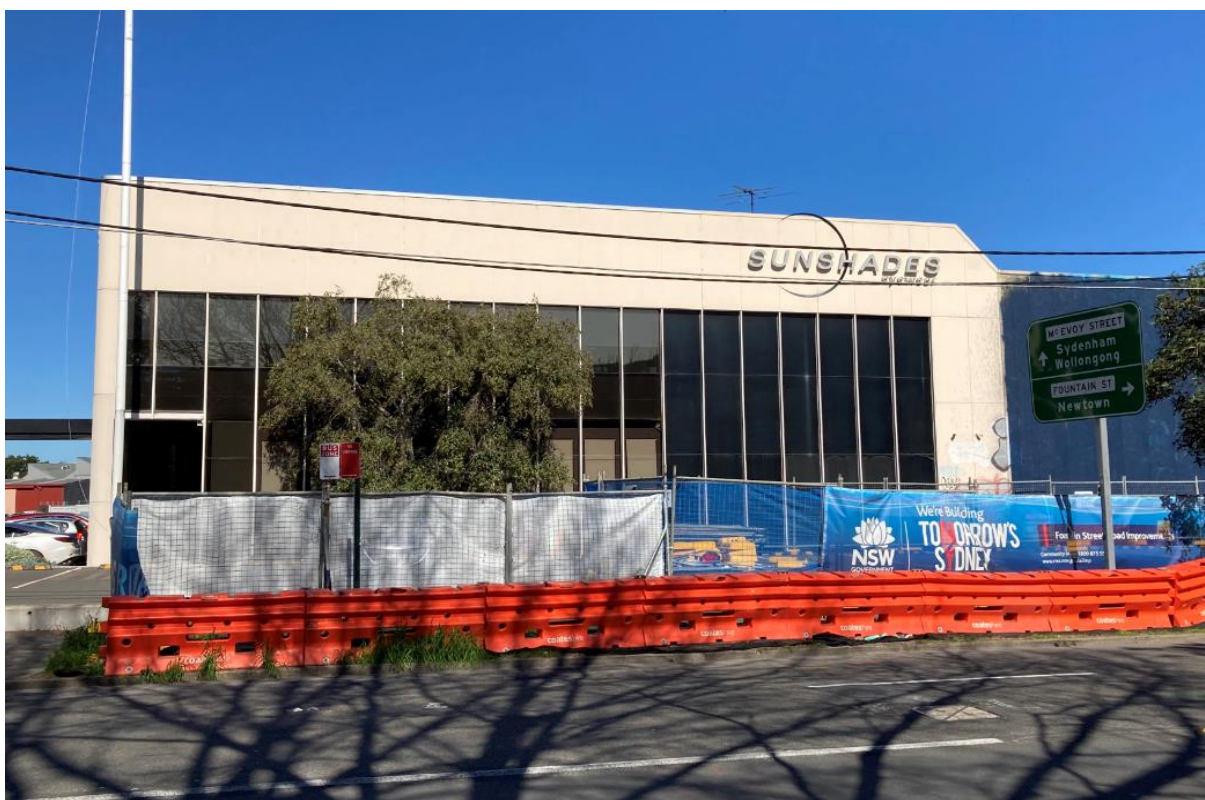


Figure 7: Commercial development, directly opposite site on McEvoy Street

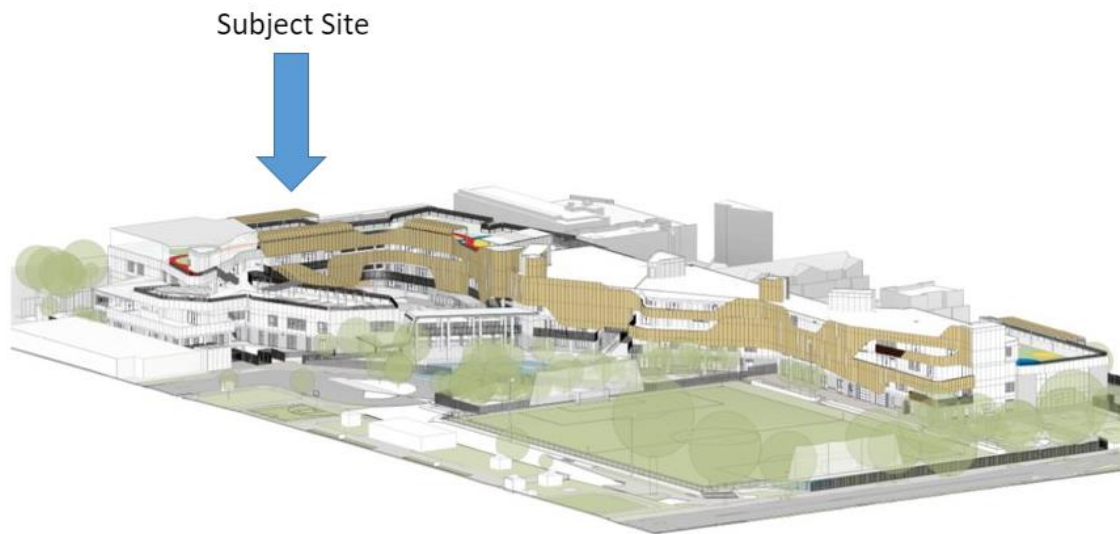


Figure 8: Illustration of redeveloped school, showing site's relative location over southern boundary

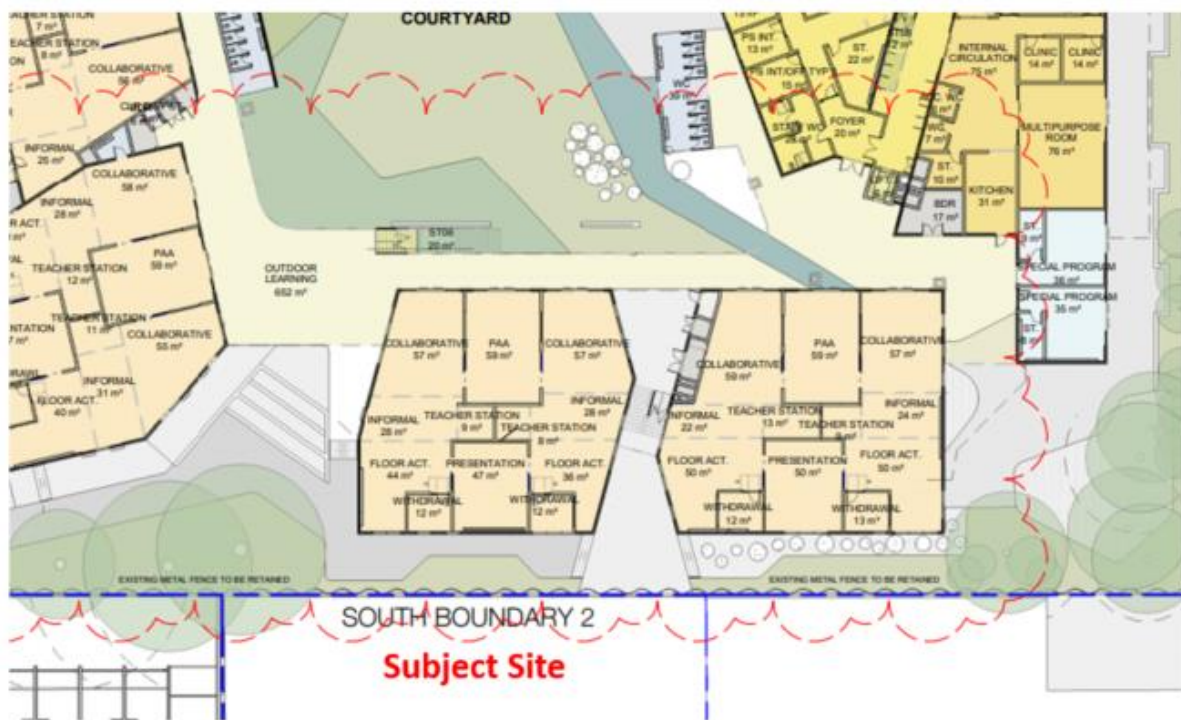


Figure 9: Ground floor plan of school, showing landscaped setback from the shared site boundary

History Relevant to the Development Application

Previous Applications for Site

12. The following applications are relevant to the current proposal:
- (a) D/1994/29 - Consent dated 18 August 1994 permitted the retail sale of shoes.
 - (b) D/2001/892 - Consent dated 28 November 2011 approved internal and external alterations to the retail premises, and the consolidation of land titles.
 - (c) P/2018/912 - Complying development certificate CF18017CD01, issued on 30 April 2018, permitted internal fitout works, and partial use of the internal area as a supermarket.
 - (d) PDA/2017/180 - Pre-application advice for a mixed-use development was provided on 27 February 2018. Guidance was offered on building height, floor space ratio, land contamination, internal amenity, flood management and transport planning.

Recent Applications for Surrounding Properties

13. The following approvals have been issued on nearby properties:
- (a) D/2011/1582 (141-143 McEvoy Street) - Deferred commencement consent dated 25 June 2012 permitted the construction of a five-storey mixed use development, containing 36 residential flats, retail space and basement parking. The development was accompanied by a Voluntary Planning Agreement (VPA) for land dedication (footpath widening).
 - (b) D/2011/1915 (145 McEvoy Street) - Deferred commencement consent dated 26 February 2013 approved the construction of a seven-storey mixed use development, containing 42 residential flats, retail space and basement parking. This development was also accompanied by a VPA for footpath widening.
 - (c) SSD-8373 - Consent dated 11 February 2019 approved the redevelopment of the Alexandria Park Community School, comprising:
 - (i) Site preparation works including demolition of existing buildings and structures, including temporary buildings;
 - (ii) Construction of multiple school buildings up to five storeys in height, inclusive of a childcare centre and community centre;
 - (iii) Construction of a sports hall, multiple outdoor courts and an all-weather multipurpose sports field; and
 - (iv) Associated site landscaping and ancillary infrastructure services.

Subject Application History:

14. Lodgement

- (a) The subject application was lodged on 19 December 2018. As integrated development, the application was notified and advertised for 30 days between 4 February and 5 March 2019.
- (b) Following an initial planning assessment, a letter requested the applicant provide further information on:
 - (i) Natural ventilation
 - (ii) Residential amenity;
 - (iii) Servicing arrangements;
 - (iv) Internal noise transfer; and
 - (v) RMS (Transport NSW) concurrence requirements.
- (c) A Public Benefit Offer was also requested, as the development was required to dedicate land and provide community infrastructure contributions.

15. Design Advisory Panel Residential Subcommittee (DAPRS)

- (a) As an application involving SEPP 65, the proposal was referred to DAPRS for comment on 25 June 2019.
- (b) Issues discussed included communal area landscaping, natural ventilation, driveway design, streetscape interface and service areas. It is noted that the panel supported the clerestory windows.

16. Additional Requests for Information

- (a) Following further assessment by Council officers, which incorporated the DAPRS advice, additional information was requested from the applicant in multiple sets of correspondence. The requests sought further information on:
 - (i) Communal open space circulation and landscaping;
 - (ii) Solar access impacts;
 - (iii) Providing separation between proposed and existing driveways;
 - (iv) Improved natural ventilation requirements;
 - (v) Consideration of acoustic impacts from Westconnex;
 - (vi) External materials; and
 - (vii) Waste storage areas.
- (b) Suitable information was provided by the applicant, with the final set of documents being submitted on 2 September 2020.

Proposal

Built Form

17. The subject application seeks consent for the demolition of the existing warehouse, and the construction of a four to six storey mixed use development containing:

(a) Basement Levels 1 and 2:

- (i) 41 car parking spaces;
- (ii) 40 bicycle parking spaces;
- (iii) 5 motorcycle parking spaces;
- (iv) 37 storages cages;
- (v) Servicing, garbage and plant room;
- (vi) Truck loading bay, with adjacent bin staging area;

(b) Ground Floor:

- (i) 1 commercial tenancy fronting McEvoy Street;
- (ii) 5 residential flats (5 x two bed);
- (iii) Car park entrance;
- (iv) Communal open space;
- (v) Residential flat lobby;
- (vi) Servicing and car park entrance ramp on western side of McEvoy frontage;

(c) Levels 1 - 5

- (i) 29 residential flats (including 4 x 1 bed, 20 x 2 bed and 5 x 3 bed); and
- (ii) Paved communal terrace on Level 4, adjacent to eastern boundary.

18. Of the 34 residential apartments, five will be adaptable. The removal of the Brush Box street tree is also proposed.
19. The development will be predominately finished using metal cladding and precast concrete panels.
20. The development will comprise three buildings: A, B and C. Building A is four storeys high, and will connect to the six storey Building B. Both these structures will front McEvoy Street.
21. Building C is four storeys and is located at the rear of the site. The basement parking extends beneath all buildings, and provides internal access via multiple lift cores. The buildings are identified on the site plan excerpt below:

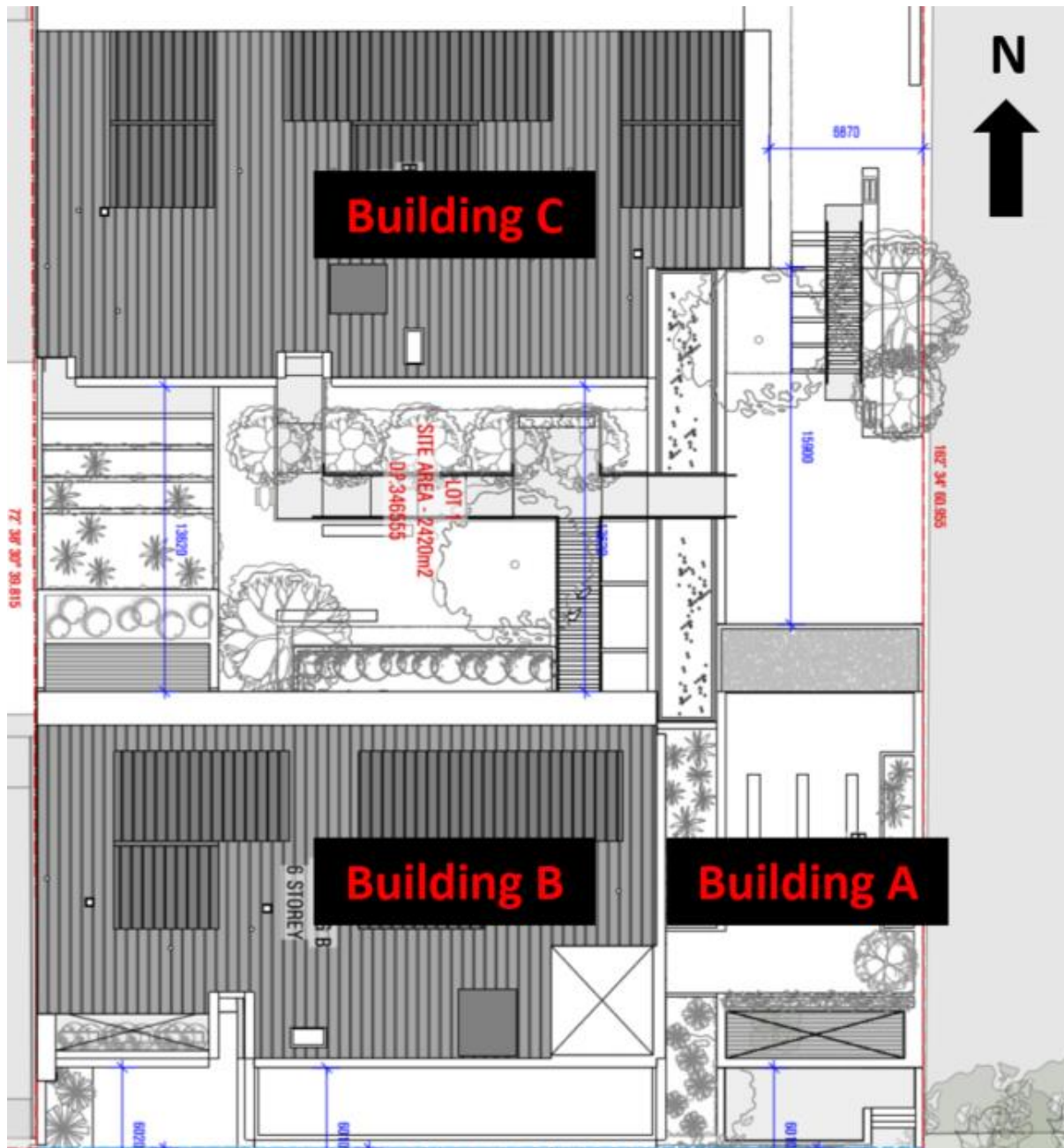


Figure 10: Identification of proposed buildings

22. The communal landscaped area will be located between the two building blocks, in addition to wrapping around the eastern side of the property. A deep soil zone will be located across the northern (rear) boundary of the site, as shown below.



Figure 11: Proposed rear setback area (deep soil indicated in red)

23. A three-dimensional perspective, photomontage and drawing excerpts are provided below.

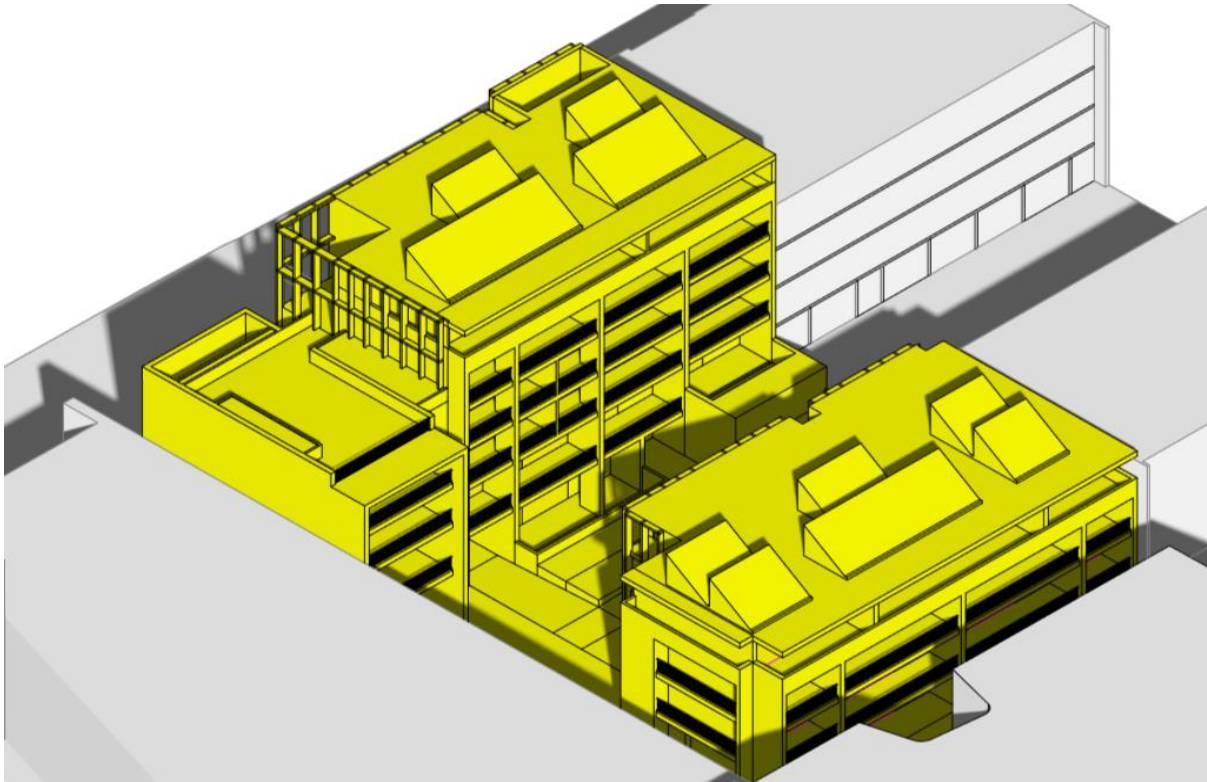


Figure 12: Three-dimensional perspective of proposal from north-east, including roof top clerestory pop ups



Figure 13: Photomontage of proposal from McEvoy Street



Figure 14: Proposed south elevation of Buildings A and B (facing McEvoy Street)



Figure 15: Proposed (internal) north elevation of Buildings A and B



Figure 16: Proposed (internal) south elevation of Building C



Figure 17: Proposed north elevation of Building C (facing the boundary to the adjoining school)

Planning Agreement

24. In correspondence dated 3 April 2019, the site owner made a written offer to enter into a Voluntary Planning Agreement (VPA).
25. The VPA that was prepared in association with the subject application provides for the following public benefits:
 - (a) Dedication of a 2.4m wide strip of land along the McEvoy Street frontage to allow for a widened pedestrian footpath; and
 - (b) Payment of \$497,537.50 for the provision of community infrastructure associated with bonus floor area provided under Clause 6.14 of the LEP.
26. The VPA was advertised between 10 July and 7 August 2020. Deferred commencement consent is recommended to enable execution of VPA and its registration on title.

Economic/Social/Environmental Impacts

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

Water Management Act 2000

28. The proposal is integrated development under the Environmental Planning and Assessment Act 1979. This is because the development will encounter groundwater during the excavation process and must obtain a Water Supply Work Approval under the Water Management Act 2000.
29. As such, the application was referred to Water NSW, who provided General Terms of Approval. These will be included in the decision notice.

Sydney Airport Referral Act 1996

30. 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.
31. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify the subject site is subject to a control of the construction of buildings more than 50 feet (15.24m) above existing ground height.
32. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted. The relevant approval body is the Civil Aviation Safety Authority (CASA).
33. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, provided approval for the controlled activity.

State Environmental Planning Policy No 55—Remediation of Land

34. 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.
35. The site was historically used for the manufacturing of plastics and adhesives, prior to its use as a warehouse during the 1970s. A site investigation established that the soils were contaminated by asbestos, heavy metals (lead and zinc) and hydrocarbons. In addition, local groundwater was impacted by metals (copper, zinc and aluminium), polycyclic aromatic hydrocarbons (PAHs) and poly-fluoroalkyl substances (PFAS).
36. A Remedial Action Plan (RAP) was submitted during amendments to the application. This was accompanied by a letter from a NSW accredited site auditor, who was satisfied the RAP could make the site suitable for the proposed uses. Council's Environmental Health Specialist endorsed these recommendations, and provided appropriate conditions to be satisfied prior to works.
37. The conditions will ensure the site is remediated to a level that requires no long-term environmental management plans on land dedicated to Council, and that any 'cap and contain methodology' allows sufficient clean soil depth to ensure landscaping and deep soil commitments are fulfilled.

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

38. The application was accompanied by a Design Verification Statement, prepared by registered architect Phillip Mathieson (NSW Registration 6440).
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, and
Principle 2: Built Form and Scale

The proposed scale and massing of the buildings is contextually appropriate. The stepped height of the southern building respects the transition in street front bulk, as the five storey flat building to the west lowers to a two storey commercial development on the site's eastern boundary. The proposal meets the desired future character prescribed under the DCP.

- (b) Principle 3: Density

The proposed building envelope will create a density envisaged under the relevant planning controls. The proposal has a floor space ratio of 1.487:1, which is consistent with that permitted under the LEP. It is noted that the same control applies to most sites in the immediately surrounding area, which are also eligible for community infrastructure floor space.

The density that may be achieved on the site is appropriate and reflects the desired future character of the Green Square locality.

(c) Principle 4: Sustainability

The proposal satisfies relevant energy and efficiency performance standards. A BASIX certification and NatHERS thermal assessment were undertaken to ensure the development meets water, energy and thermal efficiency requirements.

Dual aspect and cross through units are provided where possible to create opportunity for natural cross ventilation. The apartments along McEvoy Street are set back behind street facades with voids, and employ acoustic plenums to provide natural ventilation.

(d) Principle 5: Landscape

The development provides an area of communal open space at the ground floor level, partially set between the two building blocks. It is accompanied by a rooftop terrace on Level 4 of the southern block.

The communal open space on the ground floor is divided into two sections that are separated by a pond. The area west of the pond is heavily planted with medium sized trees and screen planting. This is designed for passive use, and to enhance the visual amenity of ground floor apartments, by both improving the outlook and visual privacy. The area east of the pond is intended for recreational purposes, with a large expanse of lawn, seating and barbeque equipment.

The Level 4 rooftop terrace provides an additional area for social interaction. It also improves the visual amenity of McEvoy Street, by introducing visible greenery to the southern elevation.

A deep soil zone extends along the northern boundary of the property, creating a landscaped buffer between the development site and the Alexandria Park Community School. This is proposed to form an extension of the ground floor apartments' private courtyards. The arrangement is supported in principle, however it is recommended that the deep soil remain common property. This is further discussed under the heading Issues.

(e) Principle 6: Amenity

The proposal will provide a suitable level of amenity to future occupants of the buildings.

All units have balconies orientated towards the north, maximising access to direct sunlight. They also have high glass doors, enabling outdoor space to act as an extension of indoor living areas. All apartments also comply with ADG requirements for room sizes.

The proposed building blocks also comply with ADG minimum building separation requirements, to ensure appropriate levels of visual and acoustic privacy are achieved. This will be bolstered by landscaped buffer zones, screen planting, wall projections and privacy treatments to certain apartments.

An accessible path of travel is also provided from the McEvoy Street pedestrian entry to all residential units, common areas and car parking.

(f) Principle 7: Safety

The proposal optimises safety and security within the development and the public domain.

The main pedestrian entry to McEvoy Street is designed to be clearly identifiable, allowing for ease of night time access. The glazed shopfront and communal open space above will also provide casual surveillance over the public domain, improving safety on McEvoy Street.

The secure basement parking will be accessed with an electronically controlled roller shutter. All car parking levels have direct access to the residential lobbies, allowing residents to enter the building securely.

(g) Principle 8: Housing Diversity and Social Interaction

The development provides 4 one-bedroom apartments, 25 two-bedroom apartments and 5 three-bedroom apartments. This mix complies with DCP requirements. The proposed size and configuration of different units within the development will cater to a range of resident demographics. The development also includes five adaptable apartments, in accordance with DCP requirements.

The proposal provides communal open space facilities at ground level and level 4. With seating and other amenities, these spaces encourage social interaction amongst residents. The ground entry area is connected to the communal open space, and this will create a further opportunity for social interaction.

(h) Principle 9: Aesthetics

The design achieves a built form that has a balanced mix of materials, colours and textures. The facade of aluminium blades, openings, glazed panels and aluminium sheeting provides visual interest, and is contrasted against the smooth concrete of the lower, street-facing building in the eastern portion of the site.

The proportion, height and setbacks of the buildings respond appropriately to the street context. The internal layout achieves a reasonable level of amenity, and the overall design and materiality of the development complements the emerging character of the streetscape.

40. The development is considered generally acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These design controls are generally replicated under the Sydney DCP 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

Apartment Design Guide

2F Building Separation 3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 9m between habitable rooms and non-habitable rooms • 6m between non-habitable rooms 	Yes	<p>The northern four storey building has compliant 6 - 6.87m setbacks to the rear boundary and one side boundary. A zero side setback is proposed to the boundary shared with 141-143 McEvoy Street. This is acceptable as the development will abut a blank wall, and therefore have no impact on the amenity of the neighbouring property. Separation distances between habitable areas in the two blocks will also comply with ADG requirements, averaging between 12 - 13.6m.</p> <p>The four storey component of the southern block will also have a zero side setback. This adjoins the blank wall of the commercial development at 119-133 McEvoy Street and is consequently supported. Nor will the proposed building footprint impinge upon the re-development potential of this adjoining site.</p>
<p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> • 18m between habitable rooms / balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms 	Yes	<p>The fifth and six storeys of Building B comply with setback requirements. These levels sit above the height of Building C.</p> <p>A zero setback is provided to the boundary with 141-143 McEvoy Street, which is acceptable as previously outlined.</p>

3B Orientation	Compliance	Comment
Living areas, private open space and communal areas of neighbouring properties should receive compliant sunlight. Where this is not achieved, a proposal should not reduce it by more than 20%.	Partial compliance	<p>The only adjacent residential property is 141-143 McEvoy Street.</p> <p>Individual units will not be significantly affected by this development, and will continue to receive compliant sunlight.</p> <p>The communal open space will experience a partial reduction in sunlight. This is acceptable, as further discussed under the heading Issues.</p>

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	The communal open space is 778sqm, which equates to 32.1% of the site area.
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).	Partial compliance	<p>The ground floor communal open space receives sunlight to 23% of its principal area at 11.00am, 40% at 12.00pm and 61% at 1.00pm. This is acceptable as the proposed building footprint matches the adjoining development to the south, and includes a centralised area of open space.</p> <p>This area is also augmented by the 120sqm principal area of rooftop open space that receives uninterrupted sunlight between 10.00am and 12.00pm. This provides additional amenity, and suitably addresses the design criteria.</p>

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Yes	A deep soil zone measuring 243sqm is proposed, which equates to 10% of the site area. It has a minimum dimension of 6m.

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	82% of the units receive direct sunlight to their living rooms and private open space. This calculation accounts for the footprint of the approved school north of the site.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	12% of units to do not receive direct sunlight during the winter solstice. This is largely due to the sunlight being obstructed by the adjoining school building.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	No	The drawings demonstrate that 56% of units (19 of 34) will be naturally cross ventilated. The layout is supported, as it minimises the habitable areas fronting McEvoy Street. This is further discussed under the heading Issues.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The overall depth of the apartments does not exceed 18m.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	All habitable rooms provide a minimum ceiling height of 2.7m.
Non-habitable rooms: 2.4m	Yes	All non-habitable rooms provide a minimum ceiling height of 2.4m.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Partial compliance	<p>The ground floor commercial area of the southern building has a 4m ceiling height. The first floor of the same building has 3.3m ceiling heights.</p> <p>Similar heights are not provided on the northern building. This is acceptable, given it is located at the rear of the site and is unlikely to be used for commercial purposes.</p>

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 	Yes	<p>The proposal provides units that will achieve the following minimum sizes:</p> <ul style="list-style-type: none"> • 57.5sqm - 1 bedroom • 78.8sqm - 2 bedroom • 104.9sqm - 3 bedroom
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.	Partial compliance	The development complies with this requirement.
<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 cross through apartments are discussed above under Part 4B. The depths of the remainder of the apartments are acceptable.
<p>Minimum area for bedrooms:</p> <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² 	Yes	All bedrooms achieve the minimum sizes and dimensions required.

4D Apartment Size and Layout	Compliance	Comment
<p>Living room minimum widths:</p> <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m 	Yes	All living areas achieve the minimum widths.

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>Three bed apartments are to have a minimum balcony area of 12m² with a minimum depth of 2.4m.</p>	Yes	The proposal achieves the minimum required private open space to all apartments.
<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>	Partial compliance	<p>The private open space of the unit located on the ground floor of the southern block has an area of 26.8sqm and a minimum dimension of 2.5m. The minor reduction in depth can supported due to the excess area provided.</p> <p>Private open space serving units on the ground floor of the northern (rear) block currently complies with the minimum requirements. However, the landscaped courtyards also form part of the deep soil area. Due to concerns regarding the ability to manage the deep soil area it is recommended that it be provided as common property and accordingly modified. This is further discussed under the heading Issues.</p>

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight.	Yes	The number of apartments off a single core will not exceed five.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	The windows for living areas and bedrooms do not open directly onto primary circulation spaces.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Common circulation spaces have windows where permitted by the configuration of lift cores and services. These will provide appropriate amenity to these spaces.

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	The development provides the minimum amount of storage required by Part 4G.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	<p>As noted elsewhere in this report, the McEvoy Street frontage is a classified road and noise affected.</p> <p>An Acoustic Report was submitted with the application, and amended during the course of the assessment. It has demonstrated that dwellings near the primary frontage can comply with relevant noise criteria. Noise attenuation measures, such as acoustically-treated plenums, will be provided to ensure noise can be reduced while also providing suitable ventilation. It is proposed that seven units will rely on these plenums for ventilation to the bedrooms closest to McEvoy Street.</p> <p>At the request of Council's Environmental Health Specialist, the report also included traffic volume from the completed Westconnex infrastructure.</p>

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45 - Electricity Networks

42. The proposed development is near electricity power lines and may affect a transmission or distribution network.
43. In accordance with the SEPP, the application was notified to Ausgrid. Return correspondence indicated no objections were held, provided recommended conditions were imposed.

Clause 101 - Development on Classified Roads

44. The application is subject to Clause 101 of the SEPP as the site has a frontage to McEvoy Street, which is a classified road. As such, the application was referred to Transport for NSW (TfNSW).
45. Concurrence was not initially granted, as TfNSW sought a left-in left-out access arrangement for the site. This was rectified by the applicant, and resulted in concurrence being subsequently granted.
46. Conditions recommended by TfNSW will be included in the consent.

Clause 102 - Impact of Road Noise or Vibration

47. The subject site has a frontage to McEvoy Street which carries an average daily traffic volume of 20,000 vehicles and is therefore subject to this clause.
48. Council's Environmental Health Specialist has reviewed the submitted Acoustic Report and has advised that subject to the recommended noise attenuation strategies, the proposed development can achieve relevant internal noise criteria.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

49. The aim of the SEPP is to protect the biodiversity values and amenity of non-rural areas of the state through the preservation of trees and other vegetation.
50. There is one street tree adjacent to the site within McEvoy Street and two trees on an adjoining property.
51. The street tree is proposed for removal, however it will be replaced by three new specimens. This is considered a satisfactory outcome, as discussed further under the heading Issues.
52. Conditions have been recommended to protect the adjoining trees from proposed works.

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

53. A BASIX Certificate has been submitted with the development application.
54. 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.

Sydney Local Environmental Plan 2012

55. The site is located within the B4 Mixed Use zone. The proposed residential flat building use is permissible in the zone. While the specific use of the commercial tenancy is not sought in this application, it is noted that both retail premises and food and drink premises are also permitted.
56. 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	<p>The LEP prescribes a maximum building height of 22 metres for that portion of the site having frontage to McEvoy Street, and a maximum building height of 15 metres for the rear of the site</p> <p>Maximum heights of 24.35m and 17.25m are proposed respectively.</p> <p>Refer to issues section.</p>
4.4 Floor Space Ratio	Yes	<p>An FSR of 1:1 is permitted for the site as per Clause 4.4 of the LEP.</p> <p>An additional 0.5:1 bonus is allowed pursuant to Clause 6.14 subject to the provision of community infrastructure. The proposed FSR of 1.487:1 complies.</p> <p>The application is subject of a VPA for the dedication of land for footpath widening on McEvoy Road and the provision of monetary contributions for community infrastructure.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the building height development standard prescribed under Clause 4.3.</p> <p>This variation is supported, as discussed under the heading Issues.</p>
5.10 Heritage conservation	Yes	<p>The site does not contain a heritage item and is not in a heritage conservation area.</p> <p>Alexandria Park is the nearest item, being located 100 metres north-east of the site. However, the Alexandria Park Community School occupies the land in between, and therefore results in the site having no visual connection to the heritage item. As such, no adverse impacts will arise from the proposal.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
<p>Division 2 Additional floor space outside Central Sydney</p> <p>Clause 6.14 Community infrastructure floor space</p>	Yes	<p>The site is located within Area 6 on the floor space ratio map, and is therefore eligible for an additional 0.5:1 FSR.</p> <p>As previously discussed, this bonus is available due to the VPA accompanying this application.</p> <p>The proposed development complies with the 1.5:1 FSR established by Clauses 4.4 and 6.14.</p>
<p>Division 4 Design excellence</p>	Yes	<p>The proposal is considered to satisfy design excellence provisions.</p> <p>The bulk, massing and modulation of the buildings respond appropriately to neighbouring developments and the public domain. These aspects were also considered favourably by the Design Advisory Panel Residential Subcommittee.</p> <p>Additionally, the configuration of the dwellings will provide suitable light and ventilation, while also addressing acoustic impacts from the nearby classified road.</p> <p>The landscape treatment is generally well resolved, and will provide opportunities for passive recreational and socialisation.</p> <p>The finish of the development, mostly comprising metal cladding and precast concrete, will provide a high standard of detailing appropriate to the emerging streetscape character.</p>

Part 7 Local Provisions - General	Compliance	Comment
Division 1 Car parking ancillary to other development	Yes	<p>The land is in categories C and F for the purpose of calculating car parking rates. The maximum number of car spaces permitted for each aspect of development is:</p> <ul style="list-style-type: none"> • Retail - 2.8 spaces • Residential - 33 spaces • Visitor - 6.5 spaces <p>The number of spaces proposed is:</p> <ul style="list-style-type: none"> • Retail - 2 spaces • Residential - 33 spaces • Visitor - 6 spaces
Division 3 Affordable housing	Yes	<p>The development introduces new residential floor space, and is therefore subject to an affordable housing contribution. The necessary contribution is calculated later in the report.</p>
7.14 Acid Sulphate Soils	Yes	<p>An Acid Sulphate Soils Management Plan (ASSMP) has been submitted with the application, as the site is located on Class 3 land and is likely to lower the water table more than one metre below the natural ground surface.</p> <p>The ASSMP recommends that additional testing be conducted prior to excavation works to confirm if such soils are present. It includes number of recommendations relating to the treatment and disposal of acid sulphate soils from the site. A condition has been recommended by Council's Environmental Health Specialist, requiring compliance with the ASSMP.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.15 Flood planning	Yes	<p>McEvoy Street is subject to minor flooding during a 1% AEP event. As such, the application was reviewed by Council's Stormwater Engineer, in liaison with the Public Domain Unit. A review of the submitted flood study and drawings (as amended) confirmed the development complies with the City's Interim Floodplain Management Policy.</p> <p>The floor levels of habitable rooms are located 0.5m above the 1% AEP flood level. The crest of the driveway to basement parking will also sit at RL 10.5 ADH, which similarly complies with the Council requirements.</p>
7.16 Airspace operations	Yes	The proposed development does not penetrate the Obstacle Limitation Surface for Sydney Airport.
7.17 Development in areas subject to airport noise	Yes	The site is not within the ANEF 2039 contours.
7.20 Development requiring preparation of a development control plan	Yes	The subject site is under 5000sqm and the proposed building height is under 25 metres. As such, a site-specific development control plan is not required.

Sydney Development Control Plan 2012

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

2. Locality Statements – Alexandria Park

The subject site is located in the Alexandria Park locality. The proposed mixed-use development is considered to be in keeping with the unique character of the area and design principles in that:

- The additional street tree planting will improve canopy coverage, and assist with the establishment of tree-lined streets;
- The proposed footpath widening will improve pedestrian amenity, and assist with linkages to Alexandria Park;

2. Locality Statements – Alexandria Park

- The proposed retail tenancy will reinforce McEvoy Street's character as a mixed-use strip, that provides services to the population; and
- The street setback, ground floor glazing and retail tenancy will ensure the development positively addresses McEvoy Street and activates the public domain.

3. General Provisions	Compliance	Comment
3.1.1 Public Domain Elements - Streets, lanes and footpath	Yes	<p>The dedication of land for the widening of footpaths adjoining McEvoy Street has been secured in the VPA associated with this application.</p> <p>Recommended conditions of consent will ensure public domain works are built to relevant design codes.</p>
3.1.4 Public Open Space	Yes	The proposed development does not overshadow any public parks.
3.2.2 Addressing the Street and Public Domain	Yes	The drawings demonstrate that the flood planning levels recommended in the site-specific flood assessment can be achieved, and that an appropriate interface can be provided to the public domain.
3.2.3 Active Frontages	Yes	<p>The subject portion of McEvoy Street is identified as an active frontage on the DCP Active Frontages Map.</p> <p>The retail space, associated ground floor terrace and large panes of glass will provide pedestrian interest and interaction.</p> <p>The vehicle crossover is permitted on this active frontage, as there is no alternative means of site access.</p>
3.5 Urban Ecology	Yes	It is proposed to remove one street tree and replace it with three new specimens. This is supported, as discussed under the heading Issues.

3. General Provisions	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	The proposal complies with BASIX requirements and will satisfy relevant objectives of this provision.
3.7 Water and Flood Management	Yes	<p>Matters regarding flooding have been discussed under the LEP assessment.</p> <p>Recommended conditions of consent will ensure the development drains in accordance with the City's Stormwater Drainage Manual.</p>
3.11 Transport and Parking	Yes	<p>The proposed vehicle crossover and associated basement parking can be supported, subject to conditions.</p> <p>The crossover is sufficiently separated from the adjoining driveway on McEvoy Street and will not compromise pedestrian safety.</p> <p>The proposal generates a need for 34 residential bicycle parking spaces, four for residential visitors and three spaces for the retail component. A total of 40 bike parking spaces are proposed, which is less than the DCP's requirement for 41. Recommended conditions of consent will ensure sufficient bicycle parking is provided, and that it complies with AS 2890.3.</p> <p>The DCP also requires one motorcycle parking space for every 12 car parking spaces. Five motorcycle spaces are provided, achieving compliance with the DCP.</p>
3.12 Accessible Design	Yes	<p>A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.</p> <p>There are five (15%) adaptable apartments, which is consistent with the adaptable dwelling mix requirement in Section 3.12.2.</p>

3. General Provisions	Compliance	Comment
3.13 Social and Environmental Responsibilities	Yes	In accordance with the public domain interface and active use requirements discussed elsewhere in this report, the design will provide adequate passive surveillance and accord with relevant CPTED principles.
3.14 Waste	Yes	<p>The original submission had an insufficiently detailed Waste Management Plan and undersized garbage storage facilities.</p> <p>These issues were rectified with a revised Waste Management Plan and the submission of amended plans, which incorporated enlarged storage rooms and bulky waste storage required by the Guidelines for Waste Management in New Developments.</p> <p>Consequently, the revised proposal was supported by Council's Waste Management Unit, subject to recommended conditions.</p>

4. Development Types	Compliance	Comment
4.2 Residential flat, commercial and mixed use developments		
4.2.1 Building height	Yes	<p>This section prescribes a six storey building height for the front of the site, and a four storey height for the remaining rear portion.</p> <p>The front and rear building blocks measure six and four storeys respectively, and therefore comply with this section.</p> <p>No separate street frontage height is nominated for this site.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.2 Building setbacks	Yes	<p>The side, rear and internal setbacks comply with relevant provisions of the ADG.</p> <p>The public domain setback is discussed under Section 5.2.10.</p>
4.2.3 Amenity	Yes	<p>The proposal will provide reasonable sunlight to the proposed development and neighbouring sites, as previously discussed.</p> <p>The communal open space also meets size requirements of the ADG.</p> <p>Windows higher than ground level face the rear, front or internal areas of the site. As such, any views to the neighbouring residential development will be oblique, and compliant with the DCP. As previously discussed, both proposed building blocks are sufficiently set apart to maximise visual privacy between the units.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The street frontage width of the southern building block is less than 65m, which does not require the building to be split into distinct architectural sections.</p> <p>However, the mix in the materiality and building height of the southern block does support a fine grain character. The scale and modulation respond appropriately to the surrounding urban context.</p>
4.2.5 Types of development	Yes	<p>All ground floor apartments will face the central courtyard or the rear boundary of the site. Appropriate separation distances and landscaping will ensure that suitable amenity is provided.</p>

4. Development Types	Compliance	Comment
4.2 Residential flat, commercial and mixed use developments		
4.2.6 Waste and Recycling Management	Yes	The development has been assessed against relevant sections of the DCP and the Guidelines for Waste Management in New Developments. It is supported, subject to the imposition of conditions recommended by the City's Waste Management Team.
4.2.7 Heating and Cooling Infrastructure	Yes	In accordance with the DCP, plant facilities are in a centralised basement location.
4.2.8 Letterboxes	Yes	Letterboxes are located adjacent to the primary building entry. They will be securely accessible from the internal apartment lobby.
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	<p>The proposed commercial tenancy is adequately separated from the residential areas and open space. Subject to the imposition of suitable conditions, it is anticipated that any reasonable use will not adversely affect the amenity of the remainder of the development.</p> <p>It is noted that the commercial tenancy's use will be subject to a separate application.</p>

5. Specific Areas - Green Square	Compliance	Comment
5.2.1 General	Yes	The subject proposal is consistent with, and will support the realisation of the Green Square Urban Strategy.
5.2.3 Community Infrastructure	Yes	This application is accompanied by a planning agreement, which proposes a monetary contribution towards community infrastructure and the dedication of land for footpath widening.

5. Specific Areas - Green Square	Compliance	Comment
5.2.4 Local Infrastructure	Yes	The DCP does not require an additional street or laneway to be provided through the subject site.
5.2.5 Pedestrian and Bike Networks	Yes	A through-site link is not required on the subject site.
5.2.7 Stormwater Management and Waterways	Yes	As previously discussed, the proposed development suitably addresses localised flood risk.
5.2.9 Building Design	Yes	<p>The proposed development complies with this section. The building façade incorporates a variety of materials, and is sympathetic to other developments near the site.</p> <p>The front block matches the predominant street alignment, and incorporates multiple entries to the development.</p> <p>The vehicular entry is separated from the primary pedestrian entry to minimise the likelihood of conflict.</p> <p>Three new street trees will be planted on McEvoy Street. These will improve the quality of the streetscape and enhance pedestrian amenity.</p>
5.2.10 Setbacks	Yes	<p>In accordance with the Public Domain Setbacks Map, 2.4m of the front setback will be dedicated to Council for footpath widening. The land to be dedicated will be free of encroachments and clear to the sky.</p> <p>Suitable landscaping has been accommodated into the street frontage design, in accordance with the DCP.</p>

Issues

Clause 4.6 request to vary a development standard

58. The site is subject to maximum building height controls of 22m for the front portion (incorporating the whole southern block) and 15m for the remainder of the site. The proposed development has maximum building heights of 24.35m and 17.25m respectively. These vary the control by 11% and 15%.

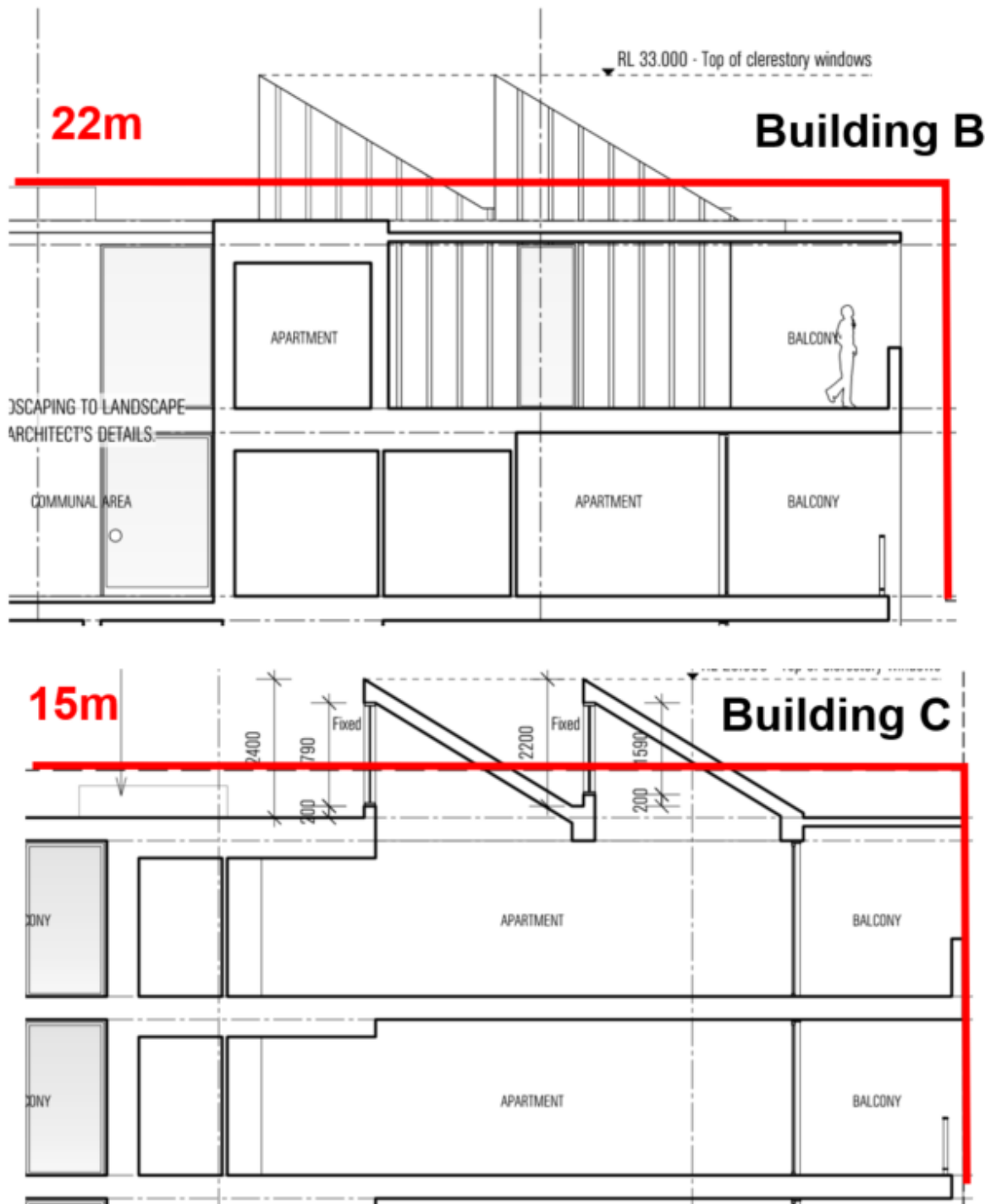


Figure 18: Proposed variation of building heights on Buildings B (top) and C (bottom)

59. 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.
60. A copy of the applicants written request is attached to this report.

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

61. The applicant seeks to justify the contravention of the building 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 non-compliance is limited to architectural roof features only, which comprise decorative elements on the uppermost part of the building;
 - (ii) The non-compliance is minor in nature;
 - (iii) The proposed development is consistent with the objectives of the building height standard and the zone objectives;
 - (iv) There is no loss of views or overshadowing, or any adverse impacts upon adjacent properties that result from the non-compliance;
 - (v) The architectural roof features are not intended as an advertising structure,
 - (vi) The roof form does not include floor space area and is not reasonably capable of modification to include floor space area;
 - (vii) The building height does not create additional overshadowing on any adjacent building; and
 - (viii) There is no building equipment for servicing the building (including air conditioning plant) contained in or supported by the roof features.
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The proposed variation to the building height does not hinder the proposal's ability to satisfy the zone objectives. The development will continue to provide for a mix of compatible land uses by integrating retail and residential development.
 - (ii) The development is consistent with the provisions of Clause 5.6 of the LEP, which permits breaches of the maximum building height by architectural roof features where the requirements of that clause are satisfied. The proposed architectural roof features create a unique and distinctive roof form and that is respectful of the site's historic context.

- (iii) The decorative roof features will provide light and ventilation to upper level apartments.
- (iv) The breach to the maximum building height will have no adverse impact on the streetscape.

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

62. 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 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)?

63. The applicant had adequately established that compliance with the standard is unreasonable and unnecessary in the circumstances of the case. The objectives of the building height development standard are still achieved, notwithstanding the non-compliance proposed. An assessment against the objectives of Clause 4.3 are provided in the paragraphs that follow.

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

64. The applicant has established adequately environmental planning grounds for varying the standard. The non-compliant elements of the buildings are limited to clerestory windows, which will improve solar access and natural ventilation to top floor apartments. This improvement in amenity will not come at the cost of additional overshadowing or bulk visible from the street, as the windows are positioned on the northern side of both building blocks.

Is the development in the public interest?

65. The development is in the public interest, as it accords with the objectives of the B4 Mixed Use zone and the building height development standard.

66. The proposal addresses the zone objectives as follows:

- (a) As the development includes both residential flats and a small-scale commercial tenancy, it will provide for a mixture of compatible land uses;
- (b) The proposal will introduce the new uses to a location close to heavy rail, bus services and new cycleways, maximising public transport patronage and active transportation; and
- (c) The new uses introduced will enhance the mix, and viability of the Green Square centre.

67. The proposal addresses the development standard objectives as follows:
- (a) The minor variation will still result in a development that is appropriate to the site context and its context, particularly in view of established development to its west;
 - (b) The development will not affect height transitions to any heritage items;
 - (c) The proposal will not affect any view sharing arrangements;
 - (d) The overall height transition between the Green Square Town Centre and adjoining areas will not be significantly affected; and
 - (e) The proposed built form will not affect the amenity of the public domain, and will contribute to the physical definition of the street network.

Conclusion

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

Solar Access to Adjoining Property

69. The proposal will result in reasonable amounts of sunlight access the adjoining residential flat building at 141-143 McEvoy Street.
70. Units on the northern elevation, which sit further south than the proposed rear building block, will continue to receive compliant sunlight. The development will allow unobstructed access to direct light between 10.00am - 1.00pm mid-winter. This was evidenced by updated sun's eye diagrams provided by the applicant.
71. The proposal will result in most of the adjoining communal open space being overshadowed at 9.00am (from 21.2% to 3.84%). As all building elements causing shadowing are within the 15m height limit, this is an expected and reasonable impact. For the remainder of the day, the average loss of sunlight is 10.7%, which complies with the maximum of 20% specified in the ADG. In this basis, the minor reduction in sunlight is supported.

Tree Management

72. The submitted documentation and a site inspection revealed one Brush Box and two Tallowwoods will be affected by the proposed development. The Brush Box is a street tree, while the Tallowwoods are in the neighbouring school grounds. The site does not contain any trees itself, as the existing warehouse is built to all boundaries.
73. The Brush Box is proposed for removal to accommodate the new vehicular crossing. The tree is in good health (see figure below) however, its removal is supported given:
- (a) The proposed driveway location is on the lowest part of the frontage, which ensures ease of access to the basement and reduces pressure on building height;

- (b) The minimised basement ramp length maximises soil volume in the rear landscaped areas, which in the existing configuration receive improved northerly sunlight; and
 - (c) Locating the commercial tenancy and residential entry on higher parts of the frontage better addresses flood planning levels, and allows an improved height transition from the site to public domain.
74. The applicant has also proposed to replace the tree with three new specimens that comply with the City's Street Tree Master Plan. Recommended conditions of consent will ensure these trees are appropriately planted and monitored for health.
75. The two mature Tallowwoods are protected under the development consent for Alexandria Park Community School. The Arboricultural Impact Assessment states that there is a three metre height difference between the school grounds and the existing commercial building, which will limit construction impacts to existing tree roots.
76. However, the removal of the existing boundary wall within the Tree Protection Zone of the Tallowwoods has the potential to damage exiting tree roots or cause soil subsidence. Accordingly, Tree Management recommends that a Work Methodology Statement be prepared by an AQF Level 5 Arborist for the removal and construction of the retaining/boundary wall within the TPZ. This will be required through conditions recommended by Council's Tree Management Unit.
77. Having regard to the above matters, the proposal is acceptable in terms of tree management.



Figure 19: Brush Box street tree proposed for removal

Natural Ventilation

78. The original Acoustic Report identified non-compliances with Infrastructure SEPP criteria. These predominately related to bedroom openings in Buildings A and B, fronting McEvoy Street. The acoustic attenuation initially proposed was likely to have significant impacts on the proposed glazing and room sizes, and was not accompanied by verification of the air flow rates.
79. As such, an alternative airflow strategy was developed by the applicant. Amended plans proposed acoustic plenums on the McEvoy Street elevation, to allow natural ventilation to seven of the front, noise-affected bedrooms (see figure below). These will be complemented with glazing to lightwells open to the sky, which will help the apartments achieve natural cross ventilation.

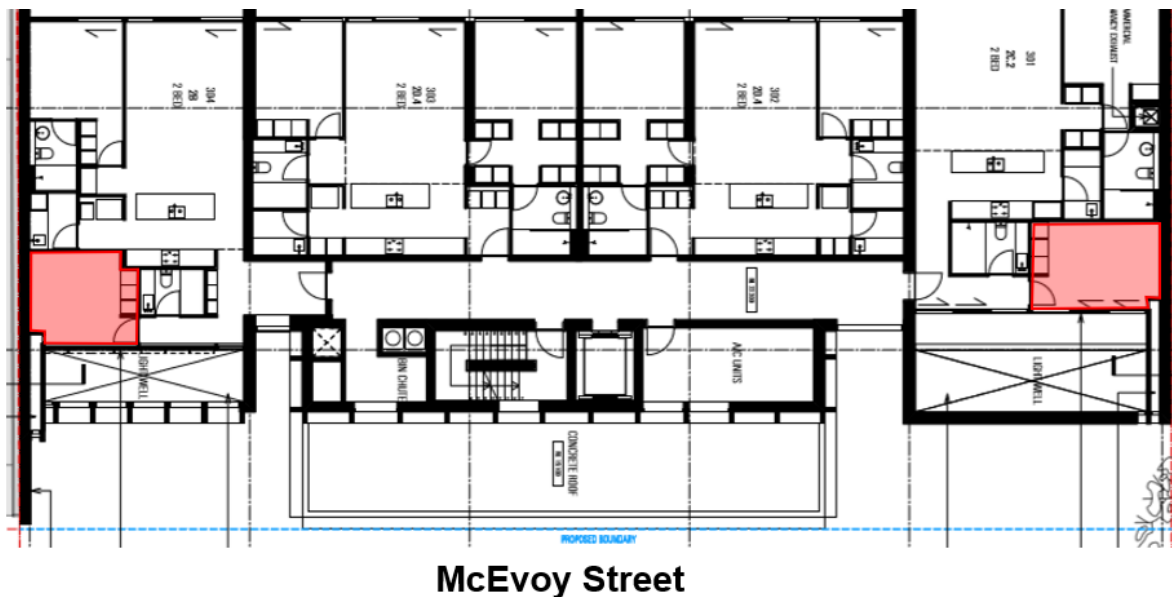


Figure 20: Location of noise-affected bedrooms on floor plan (indicated in red)

80. Following the receipt of an amended Acoustic Report, which confirmed the measures would produce compliant internal noise levels, the proposed ventilation arrangements were supported by Council's Environmental Health Officer and external ventilation consultant. The final amendment of the Acoustic Report also incorporated future traffic volumes from Westconnex, ensuring the longevity of the proposed solution.
81. Recommended conditions of consent will ensure the plenums and external openings are built and maintained to the appropriate specifications. The conditions will require:
 - (a) The detailed design of the plenum to accord with the sections provided to Council on 2 September 2020;
 - (b) The development and implementation of a plenum maintenance plan;
 - (c) The clerestory windows to be provided with a means of passive solar protection; and
 - (d) Effective open areas of the windows to comply with relevant provisions of the NCC and ADG.
82. These arrangements, subject to conditions, will result in 19 of the 34 units receiving natural cross ventilation. This equates to 100% of Building A, 43% of Building B and 60% of Building C. While the average of all apartments is 4% less than the minimum required under the ADG (60%), the proposed configuration of the apartments can be supported. In response to the noise from McEvoy Street, habitable areas have been concentrated on the northern side of Building B, with common circulation space and servicing being located closer to the southern road frontage. Though this does make cross ventilation more difficult, also means the apartments are instead orientated to receive more sunlight and less noise. Accordingly, the minor non-compliance resulting from Building B can be supported.

Landscaping

83. The primary landscaped areas include an upper level terrace fronting McEvoy Street, an area of communal open space between the two buildings and a deep soil zone along the rear boundary. As previously discussed, the landscape treatment is generally well resolved, and will afford sufficient amenity to the residents, subject to the imposition of Council's standard landscape condition
84. However, the deep soil zone at the rear of the site is largely incorporated into the private open space of the ground floor units. Each of these dwellings has a paved courtyard, which adjoins a large expanse of grass and deep soil planting area. This will make the deep soil zone, particularly the trees, more difficult to maintain, and will not safeguard the deep soil zone against improvements made by individual residents.
85. As such, a condition of consent is recommended to require the deep soil area to remain in common ownership, except for a minor area required to fulfil private open space requirements of the ADG.

Vehicular Access

86. As the site fronts a classified road, the application was referred to Roads and Maritime Services for concurrence. This was not initially granted, as the right-in and right-out operation of the proposed driveway was deemed unsuitable for an arterial road. Following the revision of the design to a left-in and left-out operation, concurrence was granted subject to conditions. The proposal was also reviewed by Council's Traffic Operations Unit, who supported the proposed means of accessing McEvoy Street.
87. The original proposal provided an insufficient dimension between the proposed access driveway, and the driveway of the adjoining development at 141-143 McEvoy Street. This would have resulted in poor pedestrian safety outcomes, with limited to space to refuge if multiple vehicle movements were occurring. This was rectified in amended plans, which doubled the refuge area to 2.5m. This will improve safety, and also help enhance the public domain through additional landscaping opportunities.
88. Having regard to these matters, the proposed McEvoy Street access has been well-resolved, and will not result in unsafe traffic movements on the classified road.

Other Impacts of the Development

89. The proposed development can comply with the BCA.
90. 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

91. The proposal is of a nature in keeping with the overall function of the site. The premises are in a mixed use surrounding and amongst similar uses to that proposed.

Internal Referrals

92. The application was referred to the following internal units of Council:
- (a) Environmental Health;
 - (b) Landscaping;
 - (c) Public Domain (incl. Water Assets and Lighting);
 - (d) Traffic Operations;
 - (e) Transport Planning;
 - (f) Tree Management;
 - (g) Urban Design; and
 - (h) Waste Management.
93. Professional services were also procured from Flux Consultants, who provided independent advice on natural cross ventilation.
94. Issues raised in referrals have been addressed, where relevant, in this report.

Notification

95. The application constitutes integrated development and as such the application was notified and advertised for 30 days between 4 February and 5 March 2019 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification three submissions were received. Their content is summarised below:
- (a) The proposal is well designed and will make a positive contribution to the area. To ensure all details are captured in construction, the project architect should be retained as a requirement of consent.

Response - An appropriate level of detailing can be achieved through compliance with the stamped plans, and the approved material samples board (which will be a condition of consent).
 - (b) The proposal will increase traffic congestion and demand for parking.

Response - The number of apartments and associated car parking spaces are permitted under relevant planning controls. The proposal's bicycle parking facilities, together with its proximity to public transport, will reduce the burden on local road networks by encouraging alternative forms of transport. Residents of the development will also be unable to obtain street parking permits.

- (c) The height of the rear boundary wall between the site and adjoining apartment complex should be confirmed. Additionally, clarification is sought on the positioning of the rear building line relative to the adjoining apartment complex.

Response - The western boundary wall, at the rear of the site, measures approximately 2100mm. This height will not produce unreasonable overbearing impacts. Additionally, the rear building form (including balconies) will align with the adjoining residential development's rear block.

External Referrals

Sydney Water

96. The application was referred to Sydney Water due to its proximity to their assets. No objections were raised, subject to the imposition of recommended conditions.

NSW Police Force

97. The NSW Police Force were also provided with an opportunity to comment on the proposal. No return correspondence was received.

Public Interest

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

Financial Implications

Section 7.11 Contributions

99. 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.
100. The existing building has been split into two tenancies, and has recently accommodated a supermarket and retail premises. Credits for 1010sqm and 854sqm of gross floor area were applied to each existing use respectively.

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

(a)	Open Space	\$379,600.04
(b)	Community Facilities	\$77,680.77
(c)	Traffic and Transport	\$47,192.07
(d)	Stormwater Drainage	\$18,671.17
	Total	\$523,144.05

102. The above contribution was calculated using the proposed mix of units, and the proposed gross floor area of the commercial tenancy. As the tenancy is configured for use as a food and drink premises, and is likely to be used for such a purpose, the corresponding contribution rate was applied.

Affordable Housing Contributions

103. In accordance with Clause 7.13 of the LEP and the Green Square Affordable Housing Program, the development is subject to an affordable housing contribution. The total figure is \$1,117,333.97, which includes:

- (a) \$1,104,967.28 (\$214.17 x total residential floor area of 5159.3sqm); and
- (b) \$12,366.69 (\$71.36 x total non-residential floor area of 173.3sqm).

Conclusion

- 104. The proposal seeks approval for demolition of the existing building, remediation works, and the construction of a mixed use development containing 34 apartments and a retail tenancy.
- 105. The proposal has been amended during the assessment to address issues of cross ventilation, vehicular access, solar access, acoustic privacy and waste management.
- 106. The proposed development produces a land use intensity envisaged in relevant policies, complying the totalled FSR controls for the site. While the clerestory windows exceed the maximum permissible height in metres, they produce no adverse environmental impacts and improve the internal amenity of the proposal. The development also achieves the number of storeys required on the site, ensuring that building bulk appropriately relates to neighbouring sites and the public domain.

107. The development meets the objectives of the ADG, including compliant apartment sizes and solar access, and demonstrates good design when considered against the design principles in SEPP 65. The development will also improve the public domain on McEvoy Street, resulting in a wider footpath and three new street trees that will enhance pedestrian amenity.
108. Subject to the implementation of conditions, as detailed in the report and Attachment A, the proposal generally complies with relevant planning controls and can be supported.

GRAHAM JAHN, AM

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Lyle Tamlyn, Planner