

# **Attachment D**

**Original Report to CSPC – 23 July 2020**

**Item 5.****Development Application: 163-173 McEvoy Street, Alexandria - D/2019/1350****File No.:** D/2019/1350**Summary****Date of Submission:** 25 November 2019. Most recent amended plans submitted 12 May 2020.**Applicant:** Ceerose/Priansa Pty Ltd**Architect/Designer:** Andrew Burns Architecture and PBD Architecture**Developer:** Ceerose/Priansa Pty Ltd**Owner:** Priansa Pty Ltd**Cost of Works:** \$66,891,420**Zoning:** The site is zoned B4 - Mixed Use under the Sydney Local Environmental Plan (SLEP) 2012. The proposed uses include commercial premises and residential accommodation, both of which are permissible with consent.**Proposal Summary:** Approval is sought for the demolition of existing structures, remediation, excavation and construction of two buildings:

- A part 7/8 storey mixed use building containing residential apartments and commercial tenancies (and signage) fronting McEvoy Street; and
- A 4-storey residential flat building to Lawrence Street.

Two basement levels are proposed with vehicular access from Lawrence Street.

The proposal is Integrated Development under the Water Management Act 2000, requiring approval from Water NSW. General Terms of Approval were received from Water NSW on 6 February 2020.

The application is referred to the Central Sydney Planning Committee as the cost of works exceeds \$50 million.

The subject development application requires amendment of the Court approved concept envelope. A section 4.56(2) application (D/2017/238/A) has been lodged separately and has been assessed concurrently with the subject DA. This modification application is also being reported to CSPC this cycle and is recommended for approval. Subject to approval for D/2017/238/A, the subject development application will be consistent with the concept development consent.

A competitive design alternatives process was held with Andrew Burns Architecture selected as producing the winning scheme. Subject to conditions, the proposal is considered to exhibit design excellence and is eligible for 10% additional height pursuant to Clause 6.21 of SLEP 2012.

A preliminary assessment of the application identified several departures from the winning design competition scheme. These included heights in metres and storeys, design of the internal light wells, building separation and visual privacy, and floor to ceiling of ground floor commercial premises. Other issues initially identified included solar access and overshadowing, natural ventilation, potential acoustic impacts on future occupants, landscaping, tree removal and waste management. These issues have been largely addressed through the resubmission of amended plans and additional information. The amended proposal is more consistent with the winning scheme and the recommendations of the selection panel.

The proposed development exceeds the maximum 24.2m building height standard (including the 10% design excellence bonus) by 1.27m (5%) for Building A and 1.97m (16%) for Building B. This is a consequence of the proposed architectural roof feature and air conditioner condensers.

A request to vary the Clause 4.3 height of buildings development standard has been submitted in accordance with Clause 4.6 of SLEP 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 building height is supported in this instance.

The application was notified and advertised for 30 days between 11 December 2019 and 29 January 2020 (extended got holiday period). 31 submissions were received. Following submission of amended plans, the application was re-notified for a period of 14 days between 20 May and 4 June 2020. 59 submissions were received.

Issues raised in submissions include traffic generation, site access and parking, height, bulk and scale, density, tree removal and landscaping, overshadowing, privacy, heritage, noise, construction impacts, air quality, wind impacts, hours of operation, design excellence, inconsistency with concept approval, insufficient documentation and inadequate re-notification period. These issues are addressed within the report.

Subject to conditions, the proposal is generally consistent with the applicable planning provisions including SLEP 2012 and Sydney Development Control Plan (SDCP) 2012. Proposed non-compliances have been assessed as having merit in this case and are addressed in the report. The proposal exhibits design excellence, with a high standard of architectural design, materials and detailing and a built form that is consistent with the future desired character of the area.

The application is recommended for deferred commencement consent to ensure the protection of existing street trees along Lawrence Street prior to activation of the consent.

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

- Development Controls:**
- (i) Environmental Planning and Assessment Act 1979
  - (ii) Sydney Airport Referral Act 1996
  - (iii) Water Management Act 2000
  - (iv) Sydney Water Act 1994
  - (v) State Environmental Planning Policy No. 55 - Remediation of Land
  - (vi) State Environmental Planning Policy (Infrastructure) 2007
  - (vii) State Environmental Planning Policy (Building Sustainability: BASIX) 2004
  - (viii) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
  - (ix) NSW Apartment Design Guideline 2015
  - (x) Sydney Local Environmental Plan 2012
  - (xi) Sydney Development Control Plan 2012
  - (xii) City of Sydney Development Contributions Plan 2015

- Attachments:**
- A. Recommended Conditions of Consent
  - B. Selected Drawings
  - C. Clause 4.6 Variation Request - Building Height
  - D. Architectural Design Report
  - E. Competitive Design Alternatives Report

## Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.3 'Height of buildings' in accordance with Clause 4.6 'Exceptions to development standards' of Sydney LEP 2012 be upheld; and
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2019/1350 subject to the conditions set out in Attachment A to the subject report.

## Reasons for Recommendation

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

- (A) The 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 Sydney LEP 2012;
- (B) It 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) It has been assessed against the aims and objectives of the relevant planning controls including SEPP 65, Sydney LEP 2012 and Sydney DCP 2012. Where non-compliances exist, they have been demonstrated to be acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent;
- (D) It is consistent with the amended concept approval for the site, being D/2019/238/A;
- (E) It is consistent with the design intent of the winning scheme of a competitive design process. The scale, form, articulation, materiality and architectural contribution of the proposed development is consistent with the site pursuant to Sydney DCP 2012 and the proposed development is consistent with the desired future character of the locality. The development satisfies design excellence provisions pursuant to Clause 6.21 of Sydney LEP 2012; and
- (F) It is appropriate within its setting and is a mixed-use development comprising compatible uses that will support the vitality of the area, consistent with the desired future character for the locality.

## Background

### The Site and Surrounding Development

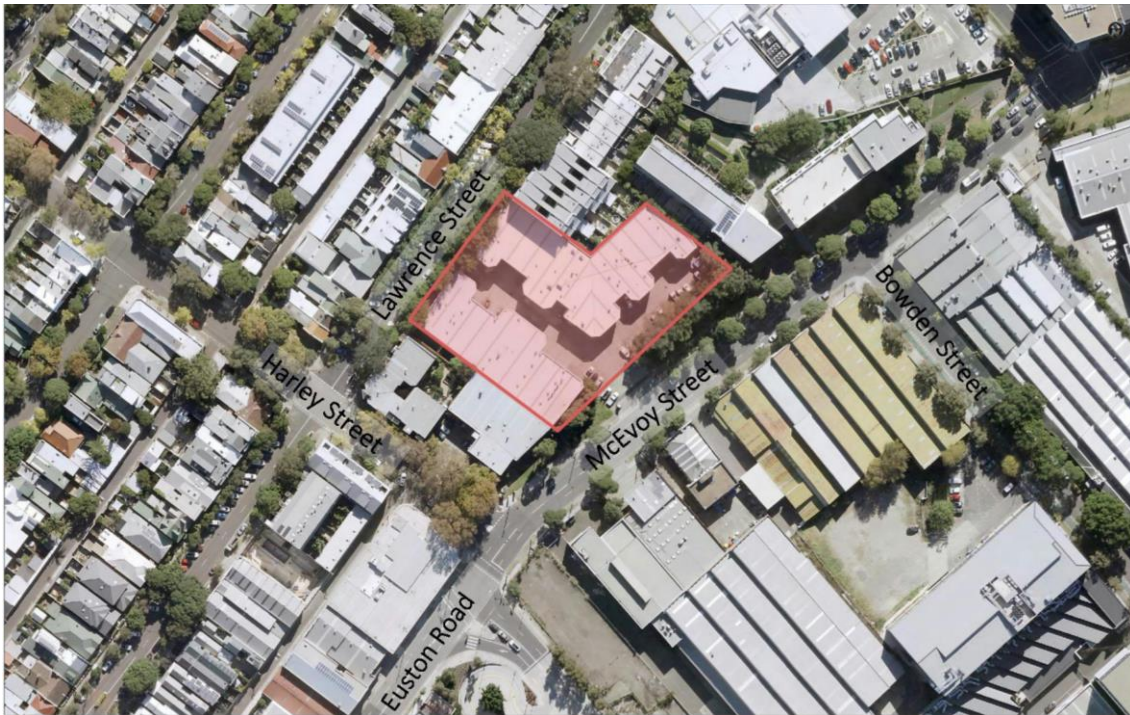
1. A site visit was carried out by staff on 10 February 2020 and 22 June 2020.
2. The site comprises 163-173 McEvoy Street, Alexandria and is legally described as Lot 1 in DP 786187. The site is subject to a strata plan with 18 industrial strata lots, identified as SP 34123.
3. The site has frontages to two streets, being located on the north-western side of McEvoy Street and the south-eastern side of Lawrence Street. It is located towards the southern end of the block bounded by Harley Street to the south-east and Fountain Street to the north-west.
4. The site slopes from the north-west in a south-easterly direction by approximately 2.8m.
5. The site is L shaped with a total area of 5,570.7sqm and boundary dimension of approximately:
  - (i) 89.4m along the south-eastern boundary (McEvoy Street);
  - (ii) 59m along the north-western boundary (Lawrence Street);
  - (iii) 68.7m along the south-western side boundary;
  - (iv) 40m along the north-eastern boundary with the property at 84 Lawrence Street;
  - (v) 28.4m along the north-western boundary with the property between 74 and 84 Lawrence Street;
  - (vi) 41m along the north-eastern boundary with the property at 147-161 McEvoy Street.
6. There are approximately 66 mature and semi-mature trees located within the site, predominately located along the frontages to McEvoy Street and Lawrence Street.
7. The site accommodates a 2-storey industrial warehouse unit development, which has vehicle and pedestrian access from McEvoy Street. The existing complex has nil setbacks to the south-western, north-western and north-eastern boundaries, at grade car parking throughout and a retaining wall adjacent to the north-western boundary to Lawrence Street. A substation is located in the eastern corner of the site.
8. The site is not a heritage item or located within a heritage conservation area. The Cooper Estate Conservation Area is located immediately to the north and west.
9. The Green Square Urban Renewal area and Southern Employment Lands are located on the opposite of McEvoy Street.
10. The surrounding area contains a mixture of land uses. In this location, McEvoy Street accommodates multi-storey residential, light industrial, commercial, retail and food and drinks premises. Lawrence Street is predominantly residential in character. The scale of surrounding development ranges from one to six storeys in height.

11. To the north-east is a part four, five and six storey mixed use development at 147-161 McEvoy Street known as 'Spectrum'. The buildings on this site comprise ground floor retail, 47 residential apartments, a rear communal open space area and basement parking with vehicle access via McEvoy Street.
12. Immediately to the south-east is McEvoy Street, a four lane arterial road carrying east and west bound traffic between Bourke Street and Euston Road. McEvoy Street is a State classified road under the Roads Act 1993. This road is currently zoned SP2 and joins with Euston Road to the south west. Traffic volumes are expected to increase as these roads provide direct access to the future West Connex motorway.
13. To the east, opposite the site at the intersection of McEvoy Street and Bowden Street is a single storey warehouse at 132-38 McEvoy Street which accommodates a retail remises trading as 'The Base Warehouse'. This property has vehicle access from McEvoy Street to an at-grade carparking area and separate vehicle access to the warehouse via Bowden Street. This site includes an approval for 4 storey commercial building (D/2018/1615). Works have not yet commenced on site.
14. To the south-east and south opposite are a number of single and double storey warehouse buildings at 140-142, 144 and 146 McEvoy Street with vehicle access from McEvoy Street to at-grade parking areas.
15. To the south-west at the intersection of McEvoy Street and Harley Street is a two storey warehouse building at 175-177 McEvoy Street, occupied by a pet supplies retail premises, trading as 'Petbarn'. This site has an at-grade loading dock and car parking area with vehicle access to Harley Street.
16. To the south-west at the intersection of Lawrence Street and McEvoy Street is a three-storey residential flat building at 118-136 Lawrence Street. This building comprises eighteen residential apartments and a rear communal open space area, above basement car parking with vehicle access to Lawrence Street.
17. Immediately to the north-west is Lawrence Street, a two-lane local street, with parallel on-street parking on its south-eastern side and angled on-street parking on its north-western side.
18. To the north are a row of six attached contemporary three-storey dwelling houses between 74 and 84 Lawrence Street.
19. To the west and north-west opposite the site are a mixture of development types within the Cooper Estate heritage conservation area. This mix of existing development includes:
  - (a) The Bowden Playground at 103A Lawrence Street;
  - (b) A row of four attached single storey residential dwelling houses between 97 and 103 Lawrence Street;
  - (c) A mixed-use warehouse development at 93-95 Lawrence Street comprising a residential dwelling and bicycle retail premises trading as 'Morgans Bicycles';
  - (d) A two-storey residential flat building at 87-91 Lawrence Street comprising seven residential apartments;



- (e) A row of five attached contemporary three storey dwelling houses between 79 and 85A Lawrence Street;
- (f) Four single storey detached and semi-detached dwelling houses between 71 and 77 Lawrence Street; and
- (g) Five attached two storey dwelling houses between 61 and 69 Lawrence Street.

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



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



**Figure 2:** Context map (site in red), red hatching illustrates the location of the adjoining Cooper Estate conservation area



**Figure 3:** Site looking north from McEvoy Street





Figure 4: Looking south west towards 175-177 McEvoy Street (Petbarn)



Figure 5: 175-177 McEvoy Street (Petbarn) immediately to the south west of the site





**Figure 6:** 147-161 McEvoy Street (Spectrum) immediately to the north east of the site



**Figure 7:** 132-138 McEvoy Street (Base Warehouse) located on the opposite side of the street. The site has approval for 4 storey commercial development.





**Figure 8:** 140-142, 144 and 146 McEvoy Street located on the opposite side the street



**Figure 9:** Site viewed from Lawrence Street looking east





**Figure 10:** 118-136 Lawrence Street immediately to the west of the site



**Figure 11:** 74-84 Lawrence Street containing 3 storey terraces immediately to the west of the site





**Figure 12:** 1-3 storey contemporary and traditional terraces along Lawrence Street, within the Cooper Street conservation area



**Figure 13:** Contemporary residential flat building along Lawrence Street towards Fountain Street

## Proposal

21. Approval is sought for the demolition of existing structures, remediation, excavation and construction of a part 7 / part 8 storey mixed use development (Building A) containing residential apartments and commercial tenancies to McEvoy Street and a 4-storey residential flat building (Building B) to Lawrence Street.
22. A total of 161 apartments and 3 commercial tenancies are proposed across Building A and B. The development is also serviced by two basement levels with vehicular access from Lawrence Street.
23. Building materials include a mix of metal and masonry. Lower levels contain a masonry palette with a variety of warm brickwork tones, while upper levels and the saw tooth roof feature are clad in metallic steel. The use of steel is carried through to balustrades and screening elements.
24. Building A presents as three masonry elements to McEvoy Street, with two 13m wide, double height breaks that provide access points and continue through to residential lobbies and covered open space areas. Lobbies are secured by open style metal screening with entry gates. Building B is provided with two building entries with access directly from Lawrence Street.
25. Two public art pockets are located within recessed points of the facade fronting McEvoy Street.
26. A signage strategy includes business identification signage to the proposed commercial space, as well as directional and wayfinding signage for residents and visitors.
27. Approval is sought for the removal of 66 mature and semi-mature trees within the site and one street tree located on Lawrence Street to facilitate the new driveway access.
28. Floor by floor details are as follows:
  - (a) Basement 2:
    - (i) Parking for 87 vehicles (64 resident, 2 carshare, 12 visitor, 3 service and 6 commercial)
    - (ii) Bicycle parking spaces
    - (iii) Residential storage areas
    - (iv) Chute rooms and bin holding area
    - (v) Loading dock and service area
    - (vi) Plant and services
  - (b) Basement 1:
    - (i) Parking for 84 resident vehicles
    - (ii) Residential storage areas
    - (iii) Plant, services and on-site detention tanks



- (c) Ground Floor:
  - (i) 8 apartments within Building A (2 x 1 bed, 3 x 2 bed and 3 x 3 bed)
  - (ii) 4 apartments within Building B (3 x 2 bed and 1 x 3 bed)
  - (iii) 2 residential lobbies fronting McEvoy Street
  - (iv) 3 commercial tenancies fronting McEvoy Street
  - (v) Vehicular access off Lawrence Street
  - (vi) Covered and uncovered common open space and landscaping
  - (vii) Substation located within the north east corner of the front facade fronting McEvoy street.
  - (viii) Visitor bicycle parking
- (d) Level 1:
  - (i) 8 apartments within Building A (2 x 1 bed, 3 x 2 bed and 3 x 3 bed)
  - (ii) 8 apartments within Building B (1 x 1 bed, 4 x 2 bed and 3 x 3 bed)
- (e) Level 2:
  - (i) 21 apartments within Building A (7 x 1 bed, 9 x 2 bed and 5 x 3 bed)
  - (ii) 7 apartments within Building B (5 x 2 bed and 2 x 3 bed)
- (f) Level 3:
  - (i) 21 apartments within Building A (7 x 1 bed, 9 x 2 bed and 5 x 3 bed)
  - (ii) 8 apartments within Building B (6 x 2 bed and 2 x 3 bed)
- (g) Level 4:
  - (i) 20 apartments within Building A (7 x 1 bed, 9 x 2 bed and 4 x 3 bed)
- (h) Level 5:
  - (i) 20 apartments within Building A (7 x 1 bed, 9 x 2 bed and 4 x 3 bed)
- (i) Level 6:
  - (i) 18 apartments within Building A (4 x 1 bed, 11 x 2 bed and 3 x 3 bed)
- (j) Level 7:
  - (i) 18 apartments within Building A (4 x 1 bed, 11 x 2 bed and 3 x 3 bed)
- (k) Rooftop:
  - (i) Air conditioner condensers, ventilation shafts and lift overruns

29. Illustrations and plans of the proposed development are provided below.



Figure 14: McEvoy Street Photomontage



Figure 15: Lawrence Street Photomontage





Figure 16: South East (McEvoy Street) Elevation



Figure 17: North West (Lawrence Street) Elevation



Figure 18: North West Courtyard Internal Elevation

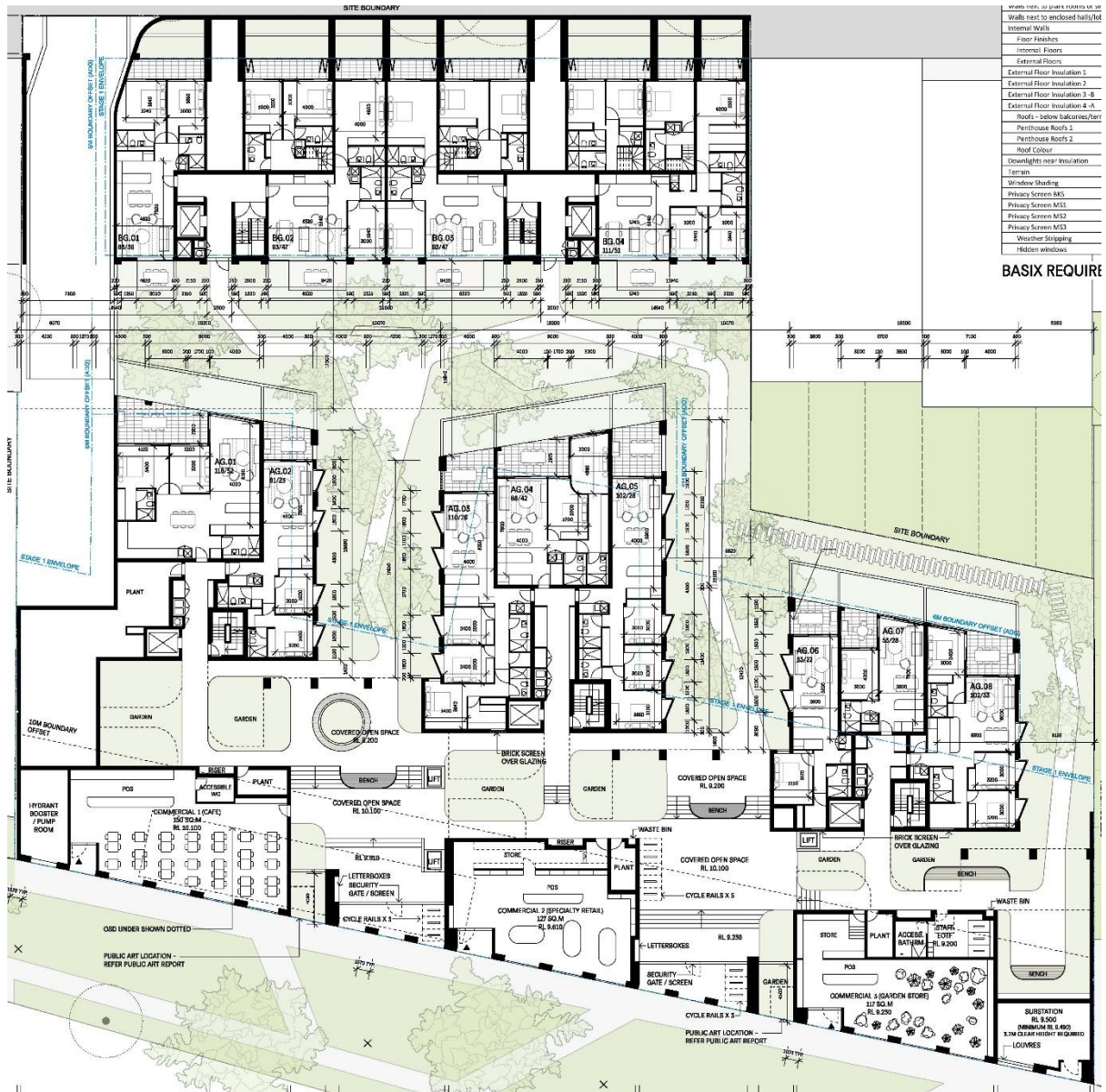


Figure 19: Ground Floor Plan





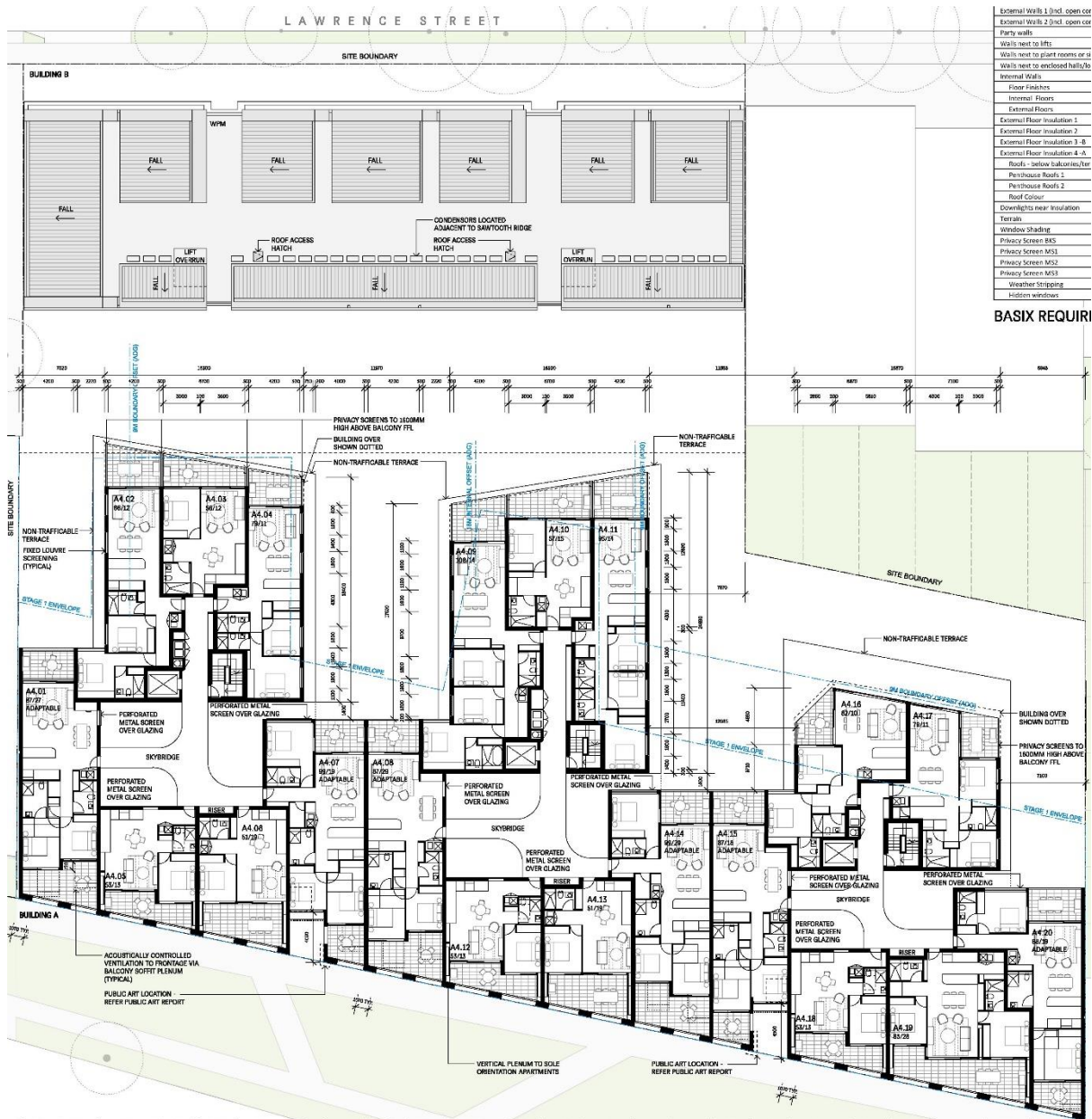


Figure 21: Level 4 Floor Plan



Figure 22: Level 7 Floor Plan

### History Relevant to the Development Application

#### D/2017/238/A - Concept Development Application

30. On 24 August 2018, deferred commencement development consent was granted by the Land and Environment Court for a Concept development application.
31. The proposal included two separate buildings between 4 and 6 storeys in height and 2 levels of basement car parking.
32. The deferred commencement conditions required the submission of physical and electronic models, minor design modifications to building envelopes and a revised public art strategy.

33. The deferred commencement conditions were satisfied on 12 April 2019, and the development consent is now active.
34. On 25 November 2019, a Section 4.56(2) modification application was submitted to modify the concept design to ensure consistency with the subject detailed design application.
35. An assessment of the proposed modification has been undertaken and the application is recommended for approval. This application is presented to the CSPC concurrently for determination.

### **Competitive Design Process**

36. A competitive design process was undertaken in accordance with the provisions of Clause 6.21 of SLEP 2012 and the City of Sydney Competitive Design Policy. As a result of this competitive design process, the developer is seeking up to 10% additional height for Building A, pursuant to Clause 6.21 of SLEP 2012.
37. The design competition was carried out between May and June 2019. An invitation was extended to three established architects, Koichi Takada Architects, Grimshaw Architects and Bates Smart, and one emerging architect Andrew Burns Architecture.
38. Andrew Burns Architecture was selected as the winning entrant by the four person jury. The jury considered the winner to demonstrate the potential for design excellence and recommended a number of fundamental aspects of the proposal be retained within the detailed design application.
39. A summary of the jury comments and corresponding responses by Andrew Burns Architecture is included within the Design Report provided at Attachment E. A copy of the Competitive Design Competition Jury Report is supplied at Attachment F.

### **Subject Application - Design Amendments**

40. Amended plans and documentation were submitted on 12 May 2020 in response to concerns raised by City officers and the Design Advisory Panel, resulting in the following modifications:
  - (a) Reduction in height in storeys of Building A from 8 storeys to part 7 part 8;
  - (b) Amendments to the design of the architectural roof feature to comply with the provisions of Clause 5.6 of Sydney LEP 2012;
  - (c) Increase of floor to ceiling height of ground floor commercial premises within Building A;
  - (d) Redesign of internal light wells to Building A to align with the winning design competition scheme;
  - (e) Reconfiguration of Building A units;
  - (f) Detailing of privacy measures, including window boxes to bays of Building A, brick screen detail to internal light wells of Building A and integrated privacy screening to below ground apartments in Building B;
  - (g) Inclusion of an additional core to Building B; and



- (h) Amended landscape plans.

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

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

#### **Sydney Airport Referral Act 1996**

- 42. Section 183 of the Commonwealth Airports Act 1996 specifies that, amongst other things, construction of a building or other structure that intrudes into a prescribed airspace is a controlled activity.
- 43. Schedules 2 and 5 of the Civil Aviation Building Control Regulations 1988 identify the site is subject to a prohibition of the construction of buildings more than 50 feet in height (15.24m) above existing ground height.
- 44. 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). The Sydney Airport Airfield Design Manager, as an authorised person of CASA, provided approval for the controlled activity on 12 December 2019.

#### **Water Management Act 2000**

- 45. The basement levels will have an impact on groundwater levels as groundwater is expected to be encountered within the depth of excavation. In accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, the application was forwarded to Water NSW as Integrated Development.
- 46. Water NSW provided General Terms of Approval on 6 February 2020, which have been included in Attachment A of this report.

#### **Sydney Water Act 1994**

- 47. Pursuant to section 78(1)(a) of the Sydney Water Act 1994, the development may increase the demand for water supplied by the Sydney Water Corporation. As such, the application was referred to Sydney Water for comment. Sydney Water provided conditions on the 8 May 2020, which have been included at Attachment A if this report, as relevant.

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

- 48. 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.
- 49. An Additional Site Investigation (ASI) and Remediation Action Plan (RAP) was submitted with the development application. Both documents have been endorsed by a NSW Accredited Site Auditor. The City's Environmental Health Unit has reviewed the documentation and is satisfied that subject to conditions, the site can be made suitable for the proposed use.

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

50. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 9 design quality principles and the Apartment Design Guide (ADG).
51. The proposal has been designed by Andrew Burns Architecture and a design verification statement prepared by Andrew Burns who is a registered architect has been submitted. This statement verifies that the development has met SEPP 65 design quality principles.

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

The western side of McEvoy Street, is transitioning from industrial style uses to mixed use commercial / residential uses. The proposal is appropriate in this context and will contribute to the desired future character and vitality of the redevelopment area.

The design responds to the local context by incorporating large masonry volumes with sawtooth roof forms to the McEvoy Street frontage, resonating with the large scale industrial context of the area. The Lawrence Street frontage responds to the fine grain terrace context of the Cooper Estate Conservation Area, incorporating vertical blade wall elements that speak to the terrace typology of the conservation area.

The development is proposed within the B4 Mixed Use zone. Residential and commercial uses are permissible within the zone and the proposal is generally in accordance with the aims and objectives of the zone and Sydney LEP 2012.

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

Appropriate street level massing reduces the bulk and scale of the proposal and provides good visual amenity. The proposal presents a 5-storey street wall height to McEvoy Street, with the upper levels of the building setback from the predominate building line to provide an appropriate transition in scale. The McEvoy Street frontage is broken up into three distinct masonry volumes, differentiated in material and appropriately detailed. The proposal presents as 3 storeys to Lawrence Street, providing an appropriate transition to the 1-3 storey built form along the north-western side of Lawrence Street.

The built form and scale is compatible with that envisaged in the concept approval (as amended under D/2017/238/A).

**(c) Principle 3: Density**

The proposed FSR complies with the LEP development standard under SLEP 2012 and is consistent with the amended concept approval. The proposed density is appropriate in the McEvoy / Euston Road locality, given its proximity to established and proposed infrastructure, public transport, community and recreational facilities. The proposed density responds well to the areas existing and future context and does not result in unacceptable levels of amenity impact for neighbouring properties.

(d) **Principle 4: Sustainability**

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

The proposal largely complies with solar access and cross ventilation requirements. The incorporation of light wells to Building A is integral to the design and allows for the provision of supplementary light and ventilation to apartments.

(e) **Principle 5: Landscape**

A mix of hard and soft landscaping is provided, with opportunities for passive and active recreation. Where required, landscaping has been incorporated to mitigate visual privacy, particularly between dwellings and the communal open space areas as well as along the Lawrence Street boundary. A centralised deep soil zone allows for canopy tree planting.

The covered communal areas will provide residents and visitors with space for passive recreation. These covered spaces connect the main pedestrian lobby areas accessed via McEvoy Street and the large central external common open space area located between Buildings A and B on the ground floor. The communal spaces will accommodate seating, pedestrian paths and extensive planting, as well as social spaces with BBQs, tables and chairs.

(f) **Principle 6: Amenity**

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

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

(g) **Principle 7: Safety**

The proposal is broadly in line with the principles for Crime Prevention Through Environmental Design (CPTED).

The development provides new opportunities for passive surveillance of existing streets and will increase on street activity. The McEvoy Street frontage is activated through the presence of commercial tenancies and residential lobbies.

The proposal includes two recessed areas on the McEvoy Street frontage to accommodate public art. Details of the public art are yet to be finalised. Conditions are recommended ensuring that these recessed spaces will be appropriately treated and not create safety or security concerns.

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

The proposal includes a mix of two-storey maisonette apartments, through apartments and single aspect apartments within Buildings A and B, offering an appropriate variety of apartment types across.

The development will accommodate 161 apartments and provide the following unit mix:

- (i) 42 x 1 bedroom apartments (26%);
- (ii) 78 x 2 bedroom apartments (48.5%); and
- (iii) 41 x 3 bedroom apartments (25.5%).

The proposed unit mix is broadly consistent with that envisaged under the Sydney DCP 2012, however there is a minor non-compliance with the requirement for 5-10% of apartments to be studios. This is acceptable.

The proposal provides 24 adaptable apartments which equates to 15% of the total dwellings, complying with the Sydney DCP 2012 requirement.

(i) **Principle 9: Aesthetics**

The proposed built-form presents a high-quality design, using a variety of architectural elements and materials to provide visual interest. The proposed materials are supported, and the overall design will positively contribute to the aesthetic qualities of the streetscape.

The amended design is generally consistent with the competition winning scheme, which was considered by the selection panel to be capable of exhibiting design excellence with regard to materiality and architectural expression.

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

**Apartment Design Guide**

<b>2E Building Depth</b>	<b>Compliance</b>	<b>Comment</b>
12-18m (glass to glass)	Yes	<p>The three projecting bays of Building A have a maximum depth of between 17-18m. The design of the bays and inclusion of internal lightwells and voids results in compliant building depths for Building A.</p> <p>Building B has been designed with a maximum building depth of 17m.</p>

<b>3B Orientation</b>	<b>Compliance</b>	<b>Comment</b>
Overshadowing of neighbouring properties is minimised during midwinter	Yes	<p>Detailed analysis has been provided to quantify the overshadowing impact to the only affected residential neighbour at 118-136 Lawrence Street.</p> <p>See discussion under the heading Issues.</p>

3D Communal and Public Open Space	Compliance	Comment
<p>Communal open space has a minimum area equal to 25% of the site.</p>	<p>Assessed as acceptable</p>	<p>A total of 1,301.1sqm (23.35%) of uncovered common open space is proposed. In addition, 504.5sqm (9.1%) of passive space is provided in the open-air lobbies of Building A.</p> <p>Areas of covered common open space are provided in Building A. These spaces are located adjacent to the back of house of the three ground floor commercial premises, presenting acoustic and amenity challenges and as such, are not considered usable common open space for the purpose of the ADG control. This space however, is suitable to supplement the outdoor common open space area and will provide opportunities for group and individual passive recreation activities.</p> <p>See discussion under the heading Issues.</p>
<p>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).</p>	<p>Assessed as acceptable</p>	<p>Approximately 32% of the entire outdoor, uncovered common open space receives a minimum of 2 hours of sunlight at midwinter.</p> <p>Of this area, three principal usable parts of the communal open space are identified, being two designated lawn areas and one deck/BBQ area. Solar access diagrams show that 52% of these principal usable parts of communal open space receive 2 hours of sunlight at midwinter.</p>

3E Deep Soil Zones	Compliance	Comment
<p>Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m</p>	<p>Assessed as acceptable, subject to conditions</p>	<p>Plans show a total of 595sqm (10.7%) of deep soil zone planting is provided across the site. Most of this space (81%) is provided in a centralised area between Buildings A and B, with dimensions ranging from between 3.75m and 23m.</p> <p>Supplementary deep soil zones, with a minimum width of 3m are provided along Lawrence Street.</p> <p>See discussion under the heading Issues.</p>

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

2F Building Separation and 3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> <li>• 6m between habitable rooms / balconies</li> <li>• 3m between non-habitable rooms</li> </ul>	<p>Assessed as acceptable</p>	<p>The proposal generally complies with the recommended building separation distances. Where separation distances are not achieved, the proposal incorporates design features to ameliorate visual privacy concerns for future occupants and adjoining properties.</p>
<p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> <li>• 9m between habitable rooms / balconies</li> <li>• 4.5m between non-habitable rooms</li> </ul>	<p>Assessed as acceptable</p>	<p>See discussion under the heading Issues.</p>
<p>Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.</p>	<p>Assessed as acceptable</p>	<p>Apartments that have walls adjoining internal lightwells in Building A have been designed to locate sensitive rooms away from this interface where possible. Were windows exist, a privacy treatment in the form of brick screen overlays are proposed. This is acceptable.</p>

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Assessed as acceptable	<p>A total of 113 (70%) of apartments achieve a minimum two hours solar access to private open space in mid winter.</p> <p>109 (68%) of apartments achieve a minimum of two hours solar access to living rooms in mid winter. This minor shortfall for living rooms is acceptable as the development has been designed to optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</p> <p>Shading devices must not restrict access to midwinter sunlight where living rooms are required to achieve compliance with solar access requirements. As details of shading devices to north-west facing openings (towards Lawrence Street) have not been provided, conditions are recommended requiring this information be submitted for approval.</p>
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	24 apartments (15%) will receive no direct sunlight.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	<p>All habitable rooms are naturally ventilated.</p> <p>Following a request by Council officers, additional detailed information and drawings were provided which demonstrate that the area of unobstructed window openings will be at least 5% of the area served.</p>



4B Natural Ventilation	Compliance	Comment
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Assessed as acceptable	<p>A total of 94 apartments (58%) are naturally cross ventilated in accordance with the ADG requirements. This is considered acceptable given site conditions fronting a classified Road.</p> <p>Due to the location of Building A on McEvoy Street, a number of apartments are not able to achieve natural cross ventilation, as per the prescribed ADG criteria as windows cannot be relied upon for natural ventilation due to external noise and pollution. However, these apartments have all been provided with passive plenums that deliver a performance based natural ventilation solution. A total of 67 (42%) of apartments are naturally ventilated via plenums.</p>
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The maximum depth of cross through apartments is 15.5m.

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

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	A minimum floor to floor height of 3.1m is provided, which is capable to delivering a minimum floor to ceiling height of 2.7m.
Non-habitable rooms: 2.4m	Yes	
Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.	Yes	
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Partial compliance	A floor to ceiling height of approximately 4.7m is provided for ground floor commercial spaces to McEvoy Street.

4C Ceiling Heights	Compliance	Comment
		A floor to ceiling height of 2.7m is provided to residential uses on the first floor. This is acceptable given the proposal concentrates commercial spaces on the ground floor with generous double storey ceiling heights.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35m<sup>2</sup></li> <li>• 1 bed: 50m<sup>2</sup></li> <li>• 2 bed: 70m<sup>2</sup></li> <li>• 3 bed: 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p>	Yes	All apartment sizes comply with the minimum area requirements.
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 have access to an external window.
<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 proposal includes minor exceedances of the 8m depth requirement to some of the open plan living layouts (between 8-8.9m). However these apartments have adequate amenity as the living areas are dual aspect and will receive ample natural light.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• master bedroom: 10m<sup>2</sup></li> <li>• all other bedrooms: 9m<sup>2</sup></li> </ul> <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	Apartments are provided bedrooms and living areas in accordance with minimum recommended internal areas and widths.
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>		
4m minimum width for cross over and cross through apartments.	Yes	Cross-through apartments are provided a minimum width of 4 metres as recommended.

4E Private Open Space and Balconies	Compliance	Comment
<p>One bed apartments are to have a minimum balcony area of 8m<sup>2</sup> with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m<sup>2</sup> with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m<sup>2</sup> with a minimum depth of 2.4m.</p>	Yes	All apartments are provided with balconies in accordance with minimum recommended dimensions and areas.
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.	Yes	All ground floor apartments are provided with the minimum requirement.

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	A maximum of 7 apartments is accessed from a single lift core.
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 circulation spaces of the internal lightwells to Building A have been designed so that no windows are to primary living rooms or bedrooms are adjacent to walkways.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Natural daylight and ventilation is introduced to the common circulation spaces.

<b>4G Storage</b>	<b>Compliance</b>	<b>Comment</b>
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> <li>• 1 bed: 6m<sup>3</sup></li> <li>• 2 bed: 8m<sup>3</sup></li> <li>• 3 bed: 10m<sup>3</sup></li> </ul> <p>(Minimum 50% storage area located within unit)</p>	Partial compliance	<p>All apartments are provided with internal storage, in addition to basement storage spaces. Some spaces are slightly undersized for the size of apartment and do not meet the ADG control.</p> <p>A condition of consent is recommended requiring storage space to be provided in accordance with the minimum ADG requirements.</p>

<b>4J Noise and Pollution</b>	<b>Compliance</b>	<b>Comment</b>
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	The proposal minimises the impacts of external noise and pollution through introduction 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 facade to mitigate noise pollution.

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

### State Environmental Planning Policy (Infrastructure) 2007

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

#### Clause 45

54. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP.
55. In accordance with the Clause, the application was referred to Ausgrid for a period of 21 days. No response was received and it is therefore assumed that no objection is raised by Ausgrid. It is noted that a new substation has been integrated into the design.

#### Clause 101

56. The application is subject to Clause 101 of the SEPP as the site has frontage to McEvoy Street, which is a classified road. The application satisfies Clause 101 of the Infrastructure SEPP as it does not provide access from the classified road and acoustic conditions are recommended conditions of consent.

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

57. The BASIX Certificate has been submitted with the development application.
58. 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

59. The site is located within the B4 Mixed Use zone. The proposed use is defined as mixed use commercial & residential and is permissible with consent.
60. 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	Partial compliance	<p>A maximum LEP height of 22m is permitted to McEvoy Street. Following the application of an additional design excellence bonus of 10%, the permitted building height is 24.2m. A building height of 25.47m is proposed for Building A because of the architectural roof feature.</p> <p>A maximum height of 12m is permitted to Lawrence Street. Building B has a maximum height of 13.97m from existing ground level to the top of the architectural roof feature. It is noted that as per Condition 6(c) of the concept approval, the 10% design excellence bonus in building height was awarded to Building A and did not apply to Building B.</p> <p>A Clause 4.6 variation request has been submitted for the above height variations and is supported. See discussion under the heading Issues.</p>
4.4 Floor Space Ratio	Yes	<p>A maximum FSR of 2.5:1 is permitted.</p> <p>A FSR of 2.48:1 is proposed.</p>
5.3 Development near zone boundaries	Yes	<p>The subject site adjoins McEvoy Street, which is zoned SP2 Infrastructure.</p> <p>The subject site has not been identified for future road widening that might hinder the orderly development of the site.</p>
5.6 Architectural roof feature	Yes	<p>The proposal includes architectural roof features in the form of saw tooth roofs that exceed the maximum building height.</p> <p>See discussion under the heading Issues.</p>

Development Control	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is not a heritage item and is not located within a heritage conservation area, however it is located adjacent to the Cooper Estate Conservation Area.</p> <p>The proposal has been designed to respond to the conservation area by providing a 3-storey built form to Lawrence Street and incorporating materials and design features that speak to the terrace typology of the conservation area.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 4 Design excellence	Yes	<p>The proposal exhibits design excellence as required by Clause 6.21(4) of Sydney LEP 2012.</p> <p>The proposal was the winner of a competitive design process and has retained the key elements of the winning proposal while addressing recommendations made by the Jury for improvements. These recommendations are detailed further in the Issues section of this report.</p> <p>The proposal responds appropriately to the concept approval conditions and planning controls where required, and the built form is compatible with the emerging character of the area, while providing appropriate transition in scale to the adjacent heritage conservation area.</p> <p>The proposal achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
		<p>The proposal presents a high standard of architectural design and the overall materiality, articulation and architectural expression of the development is 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> <p>Recommendations to further refine the landscape approach are discussed in the Issues section below.</p>

Part 7 Local Provisions - General	Compliance	Comment
Division 1 Car parking ancillary to other development	Yes	<p>A maximum of 173 car parking spaces are permitted.</p> <p>168 residential, retail and visitor car parking spaces are proposed, which complies with the LEP car parking control.</p>
7.14 Acid Sulphate Soils	Yes	<p>The site is identified as containing class 4 and class 5 Acid Sulphate Soil.</p> <p>The applicant has provided an Acid Sulphate Soils Management Plan, which is satisfactory.</p>
7.15 Flood planning	Yes	<p>A Flood Statement Report was submitted with the application which determined that all entry locations satisfy Council's Flood Planning Level (FPL) requirements.</p> <p>The application has been reviewed by Council's Flooding Engineers and has been found to be acceptable.</p>



Part 7 Local Provisions - General	Compliance	Comment
7.16 Airspace operations	Yes	The approval of Sydney Airport is required as the height of the building exceeds 15.24 metres. Approval was granted on 6 February 2020.
7.20 Development requiring preparation of a development control plan	Yes	<p>The proposed building is located outside of Central Sydney and exceeds 25 metres in height. The site also exceeds 5,000sqm. A site specific DCP is therefore required.</p> <p>This is a detailed design application submitted in accordance with concept approval D/2017/238. Pursuant to Section 4.23 of the EP&amp;A Act, the concept application was submitted in lieu of a site-specific development control plan to satisfy the control.</p> <p>Subject to approval of D/2017/238/A, the development is consistent with the concept approval and therefore satisfies the provisions of the control.</p>

### Sydney Development Control Plan 2012

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

#### 2. Locality Statements – Euston Road/McEvoy Street

The subject site is located in the Euston Road/McEvoy Street locality. The proposed mixed-use development is in keeping with the unique character of the area and design principles in that it replaces an existing industrial use with a mixed use development with ground floor retail uses with residential uses above. The built form aligns to and addresses McEvoy Street and Lawrence Streets and incorporates a change in material on upper levels to reduce bulk and scale and provide visual interest.

3. General Provisions	Compliance	Comment
3.1 Public Domain Elements	Yes	The submitted public art strategy has been reviewed by the City's Public Art Unit, who are generally supportive of the concept. A condition is recommended requiring the finalised strategy to be submitted to Council for approval prior to the issue of a construction certificate for above ground works.
3.2 Defining the Public Domain	Yes	The proposal will enhance the public domain by providing three ground floor commercial premises directly accessible from McEvoy Street, satisfying the active frontage requirements of the site.
3.3 Design Excellence and Competitive Design Processes	Yes	<p>A competitive design process for the site was conducted to select the project architect. The selection panel deemed the entry of Andrew Burns Architects as the design most capable of achieving design excellence.</p> <p>The proposal seeks additional height for the achievement of design excellence, which is supported.</p>
3.5 Urban Ecology	Yes, subject to conditions	<p>The proposal involves the removal of 66 trees within the site boundary. These trees are within the footprint of the approved concept envelopes and their removal is supported.</p> <p>Approval is also sought for the removal of one existing tree located within the public domain on Lawrence Street to allow for driveway access to the site, which is acceptable.</p> <p>As discussed in the Issues section below, deferred commencement conditions have been recommended to ensure the protection of existing street trees along Lawrence Street.</p> <p>Conditions have also been recommended to ensure landscaped and deep soil areas are able to accommodate mature tree planting.</p>

3. General Provisions	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management	Yes	<p>The proposal has been designed to the FPL and is acceptable in terms of flood planning.</p> <p>Conditions are recommended requiring the detailed design of stormwater and onsite detention prior to the issue of a construction certificate.</p>
3.9 Heritage	Yes	<p>The site is not a heritage item and is not located within a heritage conservation area, however the Cooper Estate Conservation Area is located to the north and west of the site.</p> <p>The development is sympathetic to the character and appearance of the conservation area through the provision of Building B, a 3-storey built form to Lawrence Street. This height provides a transition between the one, two and three storey traditional and contemporary terrace typologies of the conservation area and Building A fronting McEvoy Street. Building B also incorporates materiality and architectural expression similar to the terrace typology.</p>
3.11 Transport and Parking	Yes	<p>The proposal provides sufficient bicycle parking for residents and visitors. These are located throughout the development, including on the ground floor adjacent to building entries and commercial spaces, as well as in the basement.</p> <p>The proposal includes 2 dedicated car share spaces, 3 service vehicles spaces and a loading dock. The location and design of these spaces complies with the DCP requirement.</p> <p>Appropriate conditions are recommended to ensure the residential, retail, visitor and accessible spaces are allocated appropriately.</p>

<b>3. General Provisions</b>	<b>Compliance</b>	<b>Comment</b>
3.12 Accessible Design	Yes	A condition is recommended to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.  The proposal includes 24 adaptable apartments which equates to 15% of the total dwellings.
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	A condition is recommended to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.16 Signage and Advertising 3.16.1 Signage Strategy	No	A Signage Strategy is required, as per Condition 13 of the Concept approval. A Signage Strategy has been submitted. See discussion under the heading Issues.

<b>4. Development Types</b>	<b>Compliance</b>	<b>Comment</b>
<b>4.2 Residential flat, commercial and mixed-use developments</b>		
4.2.1 Building height	Partial compliance	Building A is designed as part 7 part 8 storeys.  Building B is 3-storeys in height to Lawrence Street and 4 stores to the internal courtyard.  See discussion under the heading Issues.
4.2.2 Building setbacks	Yes	The proposal complies with the 5-storey street wall height set by the concept approval. The upper levels are setback a minimum of 3m from the street wall height, as required by the DCP.

4. Development Types  4.2 Residential flat, commercial and mixed-use developments	Compliance	Comment
4.2.3 Amenity	Yes	<p>The proposal has acceptable amenity regarding solar access, overshadowing, open space and ventilation and noise as, outlined in the SEPP 65 and ADG assessment above.</p> <p>While the proposed landscape approach is generally supported, conditions have been recommended to improve the landscape outcomes on the site. See discussion under the heading Issues.</p> <p>Integrated design measures have been incorporated within the design to address visual privacy within the development site and to adjoining properties. See discussion under the heading Issues.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The proposal achieves a fine grain diversity through the use of generous building breaks at the ground and first floor. These building breaks are approximately 13m wide, offering sightlines into the landscaped common open space areas. These breaks are continued on Level 2 to 5 in the form of 2.8m wide vertical breaks to allow the building to be read as three masonry volumes that differ in brick colour and texture.</p>
4.2.5 Types of development	Yes	<p>The proposal is designed as a perimeter street block building with a central courtyard. Although the central courtyard is not publicly accessible, visual connections are provided to the street through building breaks and entrances.</p>

4. Development Types  4.2 Residential flat, commercial and mixed-use developments	Compliance	Comment
		<p>The proposal minimises the impacts of external noise and pollution through introduction of acoustic measures as detailed in the submitted acoustic report. Apartment facing McEvoy Street are provided with plenums to provide natural ventilation when windows are closed to alleviate noise.</p> <p>The proposal includes residential uses on the ground floor of Building B, fronting Lawrence Street. These ground floor apartments are setback a minimum of 5m from the property boundary and include balconies. Fencing and balustrades to the ground floor are a vertical, open style that maintains privacy while allowing for passive surveillance of the public domain.</p>
4.2.6 Waste and Recycling Management	Yes	<p>Each dwelling has adequate space to manage waste. Garbage chutes along with additional space for bins and storage of bulky goods are provided and are accessible on each level.</p> <p>Waste is collected in storage rooms within the basement. Waste will be collected from an internal loading bay with the basement.</p>
4.2.7 Heating and Cooling Infrastructure	Yes	<p>Heating and cooling infrastructure is located in a centralised area on Basement Level 1, with AC condensers located on the roof as required. These condensers are concealed by the architectural roof features and will not be visible from the public domain.</p>
4.2.8 Letterboxes	Yes	<p>Letterboxes are provided in secure areas in lobbies.</p>

4. Development Types  4.2 Residential flat, commercial and mixed-use developments	Compliance	Comment
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	<p>Building A incorporates three separate commercial premises, all fronting McEvoy Street.</p> <p>The proposed retail spaces will activate the public domain and satisfy the active frontages provision of the DCP that apply to the site.</p> <p>Facilities to services the commercial spaces, including waste management and deliveries have been integrated into the design of Building A.</p> <p>The operation of these premise is not expected to create unacceptable impacts on the surrounding area.</p> <p>The fitout of these premises and any proposed signage will be subject to assessment under a separate complying development certificates or development applications.</p>

## Issues

### Clause 4.6 request to vary a development standard

62. The site is subject to maximum building height controls as follows:
- (a) Building A - 24.2m (22m SLEP 2012 control + 10% design excellence bonus);
  - (b) Building B - 12m (SLEP 2012 control).
63. It is noted that as per Condition 6(c) of the concept approval, the 10% design excellence bonus in building height was awarded to Building A and did not apply to Building B.
64. The development proposes maximum building heights as follows:
- (a) Building A - 25.47m, which represents a 1.27m or 5% variation;
  - (b) Building B - 13.97m, which represents a 1.97m or 16% variation.

The variation to height for Building A and B are both caused by the proposed saw tooth roof design and air conditioning plant. The extent of the variation to the LEP building height control is illustrated in Figures 23, 24 and 25.

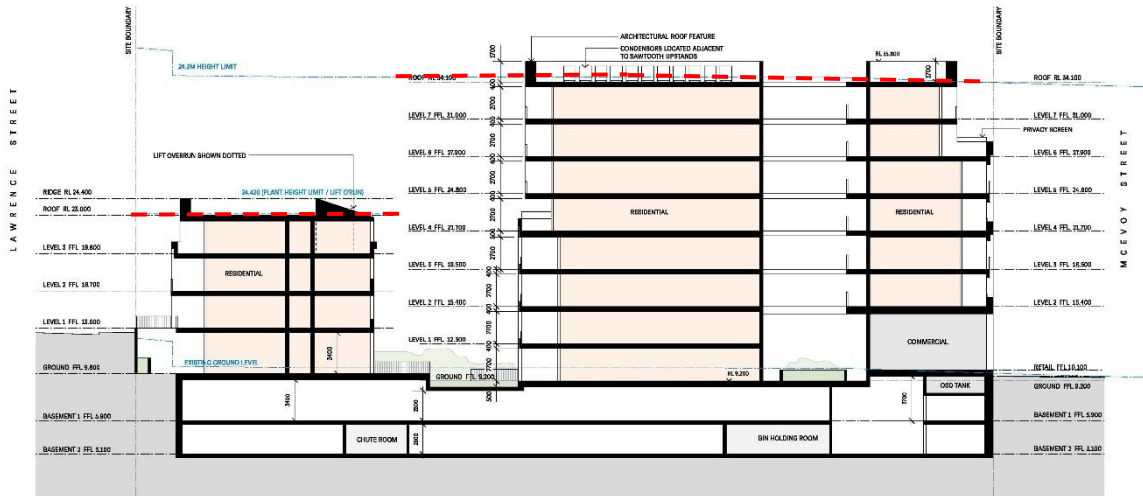


Figure 23: Proposed variation to LEP building height control (height control shown in red dash)

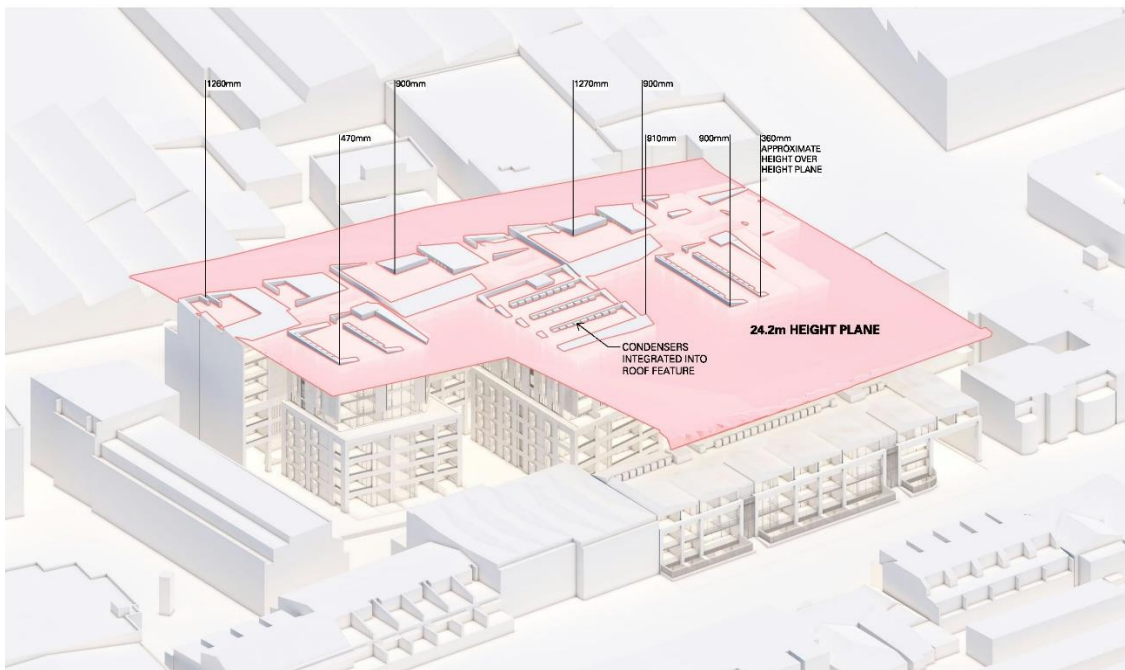
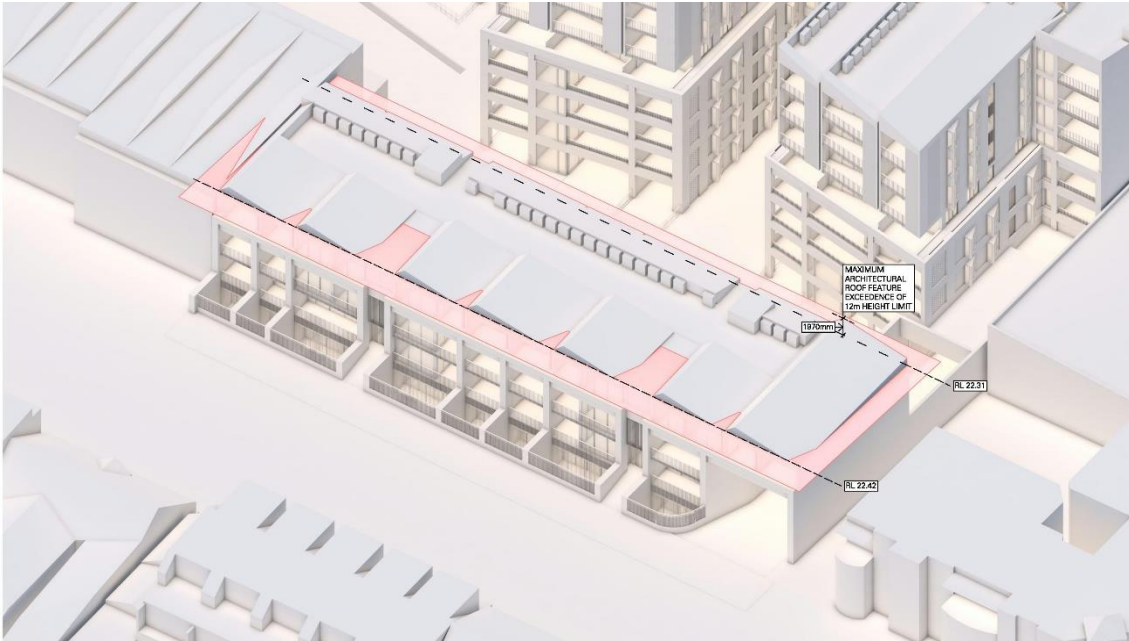


Figure 24: Proposed variation to LEP building height control - Building A





**Figure 25:** Proposed variation to LEP building height control - Building B

65. 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.
66. A copy of the applicants written request is provided at Attachment C.

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

67. 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 applicants statement refers to the first of the five tests established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The test seeks to demonstrate that the objectives of the standard are achieved notwithstanding non-compliance with the numerical standard.
    - (ii) The applicant states that the development satisfies the objectives of Clause 4.3 Height of Buildings development standard. The objectives of Clause 4.3 and the applicant justification are provided below:

## Objectives of Clause 4.3 Height of Buildings

- 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,
  - d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,
- (iii) The negligible breach to the maximum building height is a consequence of the architectural roof form arising from the architect's design competition entry.
- (iv) The breach to the maximum building height on Lawrence Street is consistent with the RL limitations prescribed by the concept approval conditions of development consent and have no adverse impact on the streetscape or rhythm of the established built form within the Cooper Estate HCA.
- (v) The applicant also states that the proposed variation to the building height does not hinder the proposal's ability to satisfy the zone objectives as the development will continue to provide for a mix of compatible land uses by integrating retail and residential development.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The applicant refers to the recent LEC decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 to demonstrate sufficient environmental planning grounds to justify contravening the standard as the development achieves a better outcome by allowing flexibility in particular circumstances.
  - (ii) The applicant also references 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.
  - (iii) The applicant provides the following environmental planning grounds to support the height variation:
    - The non-compliance is limited to architectural roof features only, which comprise decorative elements on the uppermost part of the building.
    - The proposed architectural roof feature, which in part includes provision for clerestory windows and otherwise proposes unique roof forms, results in a roofscape which reinterprets the sawtooth roofs of the surrounding and historic industrial streetscape upon the site.

- Proposed services (including air conditioning plan) is fully integrated within the roof form and building.
- The architectural roof features do not include floor space area and are not reasonably capable of modification to include floor space.
- There is no loss of views or overshadowing or any adverse impacts upon adjacent properties that results of the non-compliance to the building height.
- The architectural roof features are not intended as an advertising structure.

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

68. 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)?

69. The applicant has correctly referred to the test established by Preston CJ in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. Specifically, the applicant has addressed the first part of the test by demonstrating that the development meets the objectives of Clause 4.3, notwithstanding non-compliance with the numerical standard.
70. The applicant references the breach of the control being in relation to the architectural roof feature, which is an integral part of the building design that has been carried through from the winning design competition scheme. It is noted that the architectural roof feature, does not unreasonably add to the bulk and scale of the building when viewed from the public domain and surrounding buildings.
71. The applicant also references the established streetscape of the Cooper Estate heritage conservation area. Building B provides an appropriate height transition between adjoining buildings along Lawrence Street and within the conservation area. The height, scale and design of Building A is appropriate for the sites context, resulting in an acceptable built form within the streetscape.

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

72. The statement provides environmental planning grounds specific to the circumstances to justify the extent of non-compliance with the Height of Buildings development standard. Specific reference is made to the *Four2Five Pty Ltd v Ashfield Council* case to justify contravening the standard as the development achieves a better outcome by allowing flexibility in particular circumstances.

73. The area of non-compliance is relatively minor and as it is confined to an architectural roof feature, does not unreasonably add to the bulk and scale of the building when viewed from the public domain and surrounding buildings.
74. The proposal will not create unacceptable impacts on the amenity of surrounding properties with regard to views, solar access and visual privacy.
75. The architectural roof feature incorporates clerestory windows that improve the amenity of the apartments.
76. The sawtooth architectural roof form is utilised to conceal air conditioning condensers that are not able to be located within the basement plant area. The air conditioning plant will not be visible from the public domain.

Is the development in the public interest?

77. 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.
78. The relevant objectives of the building height 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,
  - (d) To ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas.
79. Building A complies with the 5-storey street wall height required by the Concept approval, resulting in an appropriate height in relation to the sites McEvoy Street context.
80. The height of Building B is in line with the existing 3 storey buildings along Lawrence Street and provides an appropriate transition from the taller Building A to the 1-3 storey buildings within the conservation area.
81. The proposed exceedance in height will not impact on any views or result in any adverse amenity impacts to surrounding development.
82. 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.

83. The mixed-use development proposes a diverse range of housing sizes and types in an accessible area close to public transport, employment opportunities and services, while integrating a compatible new retail space.
84. The introduction of new accommodation will also assist in supporting the viability of the nearby Green Square urban renewal area and South employment lands.
85. 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

86. 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 SLEP 2012. The proposed development is consistent with the objectives of the building height development standard and the B4 Mixed Use zone and is considered to be in the public interest.

#### Consistency with Concept Approval (D/2017/238/A)

87. Pursuant to Section 4.24 of the Environmental Planning and Assessment Act 1979, where a concept development application for a site remains in force, a determination of any further development application in respect to that site cannot be inconsistent with the concept development consent.
88. The concept approval relating to this proposal is D/2017/238. A Section 4.56(2) modification has been submitted to modify the concept approval to ensure consistency with the subject detailed design application. These modifications largely relate to height and building envelope and have been assessed as acceptable, as outlined in the assessment report for D/2017/238/A submitted concurrently with this application. The subject application is assessed on the basis that the modification application has been approved.
89. As outlined below, the detailed design proposal is consistent with the key conditions imposed on the concept development consent (as amended).
  - (a) Condition 2 Approved Development
    - (i) The proposal is consistent with the approved plans in the concept approval (as amended).
  - (b) Condition 4 Competitive Design Process
    - (i) The applicant undertook a competitive design alternatives process, whereby Andrew Burns Architecture was named the winning scheme.
    - (ii) The condition requires that the proposal exhibit design excellence. The Selection Panel were of the opinion that the design was capable of achieving design excellence, however made a series of recommendations. As outlined further below, these recommendations have been incorporated into the detailed design proposal.
    - (iii) Overall, the proposal achieves design excellence, as discussed elsewhere in this report.



(c) Condition 5 Detailed Design of Buildings

- (i) The concept approval includes design measures to be incorporated into the detailed design proposal as follows:

(a) Buildings to McEvoy Street should be designed with at least two distinct building components.

**Assessment** - Building A has been designed to appear as three separate masonry built forms to McEvoy Street.

(b) A five storey street wall height must be provided to McEvoy Street, with levels above provided with a setback from the street.

**Assessment** - A five storey street wall height has been provided to McEvoy street with a 3m setback to upper levels.

(c) Any exposed blank walls should be provided with a visually interesting treatment of high quality design.

**Assessment** - Textured sections of brickwork are incorporated into exposed blank walls, utilising a brick stretcher pattern achieved with brick specials to create visual variation. Conditions have been recommended requiring details of this brickwork be submitted for approval.

(d) Floor level entries must comply with the City's Interim Floodplain Management Policy for setting floor levels.

**Assessment** - The proposal complies with Councils flood policy.

(e) Any basement levels must accommodate onsite residential waste collection by Council's waste collection vehicles.

**Assessment** - A designated loading dock that can accommodate Council's waste collection vehicle has been provided within the basement. All waste is to be collected onsite.

(f) The buildings fronting to McEvoy Street must be provided with active commercial uses at ground floor level.

**Assessment** - Three retail premises are proposed to the ground floor of McEvoy Street.

(g) Any required substation on the site must be integrated into the development.

**Assessment** - A substation is located on the Ground Floor in the north-eastern corner of the site. It has been integrated into the design through the use of louvers to the building facade and the blast zone is accommodated by the two-storey height to the ground floor. A condition has been recommended requiring details of the proposed louvers be submitted and approved prior to the issue of a construction certificate.

(h) The building and residential apartments to Lawrence Street must reflect the fine grain and subdivision pattern and respect the context and scale of the Cooper Estate heritage conservation area.

**Assessment** - The proposal retains the fine grain and materiality to the Lawrence Street frontage. This consists of 590mm wide articulated blade walls that echo traditional terrace party walls. The masonry base is capped by an offset gable roof form, resonating with the residential roof forms to the north.

(i) No more than 15% of apartments are to receive no direct sunlight between 9am and 3pm.

**Assessment** - No more than 15% (24 in total) of apartments receive no direct sunlight.

(j) At least 60% of apartments are to be naturally cross ventilated.

**Assessment** - A total of 94 apartments (58%) receive natural cross ventilation in accordance with the ADG requirements. An additional 67 apartments have been provided with passive plenums that deliver a performance based natural ventilation solution for apartments that are located on the classified road and are subject to noise and pollution impacts.

(k) No below ground habitable rooms are to be provided to any residential apartments.

(l) Any void areas at ground level below the Lawrence Street building should be provided as non-habitable basement storage.

**Assessment** - Below ground apartments are provided within Building B orientated towards Lawrence Street. These apartments have been designed as either maisonette apartments or through apartments, with uses located below ground being limited to bedrooms. The glass line of bedrooms is setback a minimum of 5m from the property boundary / retaining wall in order to provide natural light and ventilation into these rooms and allow adequate space for landscaping (Figure 26).

Living, dining and kitchen areas of these apartments are orientated towards the central courtyards on the Ground floor or are located on Level 1. This layout ensures solar access is provided to living spaces and allows the passive surveillance of Lawrence Street.

The below grade bedrooms are afforded privacy through the addition of a fine louvred bi-fold screen, which can be used to control privacy, outlook, and access to light and ventilation without creating a sense of enclosure (Figure 27). Below grade apartments are acceptable in this instance.

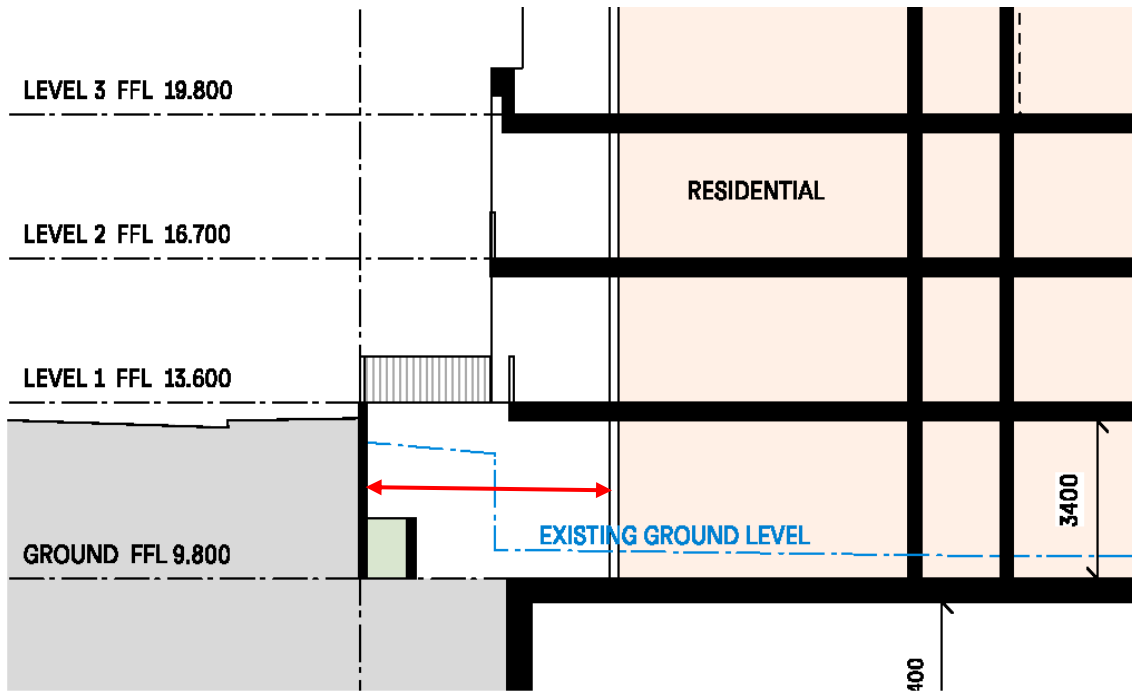


Figure 26: Minimum 5m setback to glass line



Figure 27: Photomontage of below grade apartment with landscaping and screening open (left) and closed (right)

(m) All buildings must have a clear street address, with lobbies having visual connection to communal open space areas.

**Assessment** - Both Building A and B have been provided with clear and legible building entries and street addresses. The wide ground, double height building entries to Building A allows visibility to the internal communal open space. These spaces are fitted with metal security gates and screens that provide visibility while offering security for residents. A condition is recommended requiring the submission of screen details prior to the issue of a construction certificate.

(n) Communal open space areas should be provided with direct and legible pedestrian connectivity through the site.

**Assessment** - The communal open space has been designed with planted access paths that provide circulation between buildings and around the covered and uncovered communal spaces. The submitted Signage Strategy incorporates directional signage to assist with wayfinding.

(o) All articulation zones in Building A are to be for balconies and architectural features only, with no gross floor area.

**Assessment** - The design of the proposal has been advanced through the design competition and detailed design application, reducing the relevance of this condition. Notwithstanding the above, the intent of the condition is largely met by the detailed design application through the concentration of balconies along the rear of the building bays.

(d) Condition 6 Building Height

(i) The detailed proposal complies with the building height of the concept approval, as amended by D/2017/238/A.

(e) Condition 6A Architectural Roof Features, Rooftop Lift Overruns, Skylight and Plant

(i) The detailed proposal complies with the items that are permitted to exceed the building height, as amended by D/2017/238/A.

(f) Condition 7 Floor Space Ratio

(i) The detailed proposal complies with the maximum floor space ratio outlined in Clause 4.4 of SLEP 2012.

(g) Condition 8 Building Envelope

(i) The detailed proposal fits entirely within the building envelope of the concept approval, as amended by D/2017/238/A.

(h) Condition 12 Landscaping of the Site

(i) This condition requires the provision of deep soil zones with a minimum of 10.5% of the total site area and a minimum dimension of 6m, in addition to a 3m wide deep soil zone to the Lawrence Street frontage that are unencumbered by structures above or below ground.

(ii) Approximately 10.7% of deep soil planting is proposed, with a minimum 3m dimension. This includes a 3m wide strip along the Lawrence Street frontage. A number of recommendations are made to increase the quality of the deep soil area and overall landscape approach.

### Competitive Design Panel Recommendations

90. The competitive design panel selected the scheme presented by Andrew Burns Architecture as the winning entrant. In the opinion of the panel, this scheme was most capable of achieving design excellence, subject to the retention of an improvement on a number of key design aspects.

91. As detailed in the table below the amended design responds to the key recommendations made by the Jury and retains the design integrity and key aspects of the winning scheme. The proposal satisfies the provisions of Clause 6.21 of SLEP 2012 and accordingly is eligible for 10% additional height.

Aspects that should be retained	
Jury Recommendation	DA response
The four strong masonry volumes to McEvoy Street differentiated through texture and colour that provides variety in the streetscape and across the large site	<p>The proposal has been modified from the competition proposal of four volumes / three breaks to the revised proposal of three volumes / two breaks.</p> <p>The revised proposal provides improved permeability, with each of the two entries enjoying views through to the central courtyard beyond.</p> <p>The revised proposal contains a group of strong masonry volumes, which meets the intent of the Jury comment.</p>
The fine grain and materiality of the street wall to Lawrence Street	The proposal retains the fine grain and materiality to the Lawrence Street frontage. This consists of 590mm wide articulated blade walls that echo traditional terrace party walls. The masonry base is capped by an offset gable roof form, resonating with the residential roof forms to the north.
The appearance of a sawtooth roofscape to both the McEvoy and Lawrence Street buildings	The sawtooth roof form has been retained to both McEvoy Street and Lawrence Street.
The landscape approach	The overall landscape approach has been retained, with a large central courtyard area proposed to be planted out with dense vegetation. Recommendations to further refine the landscape approach are discussed in the Issues section below.
The public art approach	The identified locations for public art at the design competition stage have been retained. The public art commission process has been undertaken, with the artist Jamie North selected for the project.

Aspects that should be retained	
	<p>The submitted public art strategy has been reviewed by the City's Public Art Unit, who are generally supportive of the concept. A condition of consent is recommended requiring the finalised strategy to be submitted to Council for approval prior to the issue of a construction certificate.</p> <p>The proposal identifies two recessed areas on the McEvoy Street frontage to accommodate public art. As details of the public art are yet to be finalised, conditions are recommended ensuring that these recessed spaces will be appropriately treated and not create safety or security concerns.</p>

Items for improvement	
Jury Recommendation	DA response
Ensuring that the McEvoy Street lobbies are designed such that they are truly externalised and can be excluded from gross floor area	The McEvoy Street lobbies have been designed as external breezeways, providing an open connection from McEvoy Street to the central courtyard. The openings are generous in size at approximately 13m wide and approximately 4.7m in height. The lobbies are punctuated by three large internal lightwells that allow natural light and ventilation. Conditions are recommended requiring further detail of metal gates and screening to McEvoy Street entries. A condition is also recommended requiring a covenant be placed on the title that prevents the lobbies and voids from being modified into gross floor area at a later date.
Technical attention regarding window openings to lobbies, fire egress distances and smoke escape considerations	The proposal has been developed in collaboration with BCA Consultants and Fire Engineers to address the technical considerations relevant to the proposal.

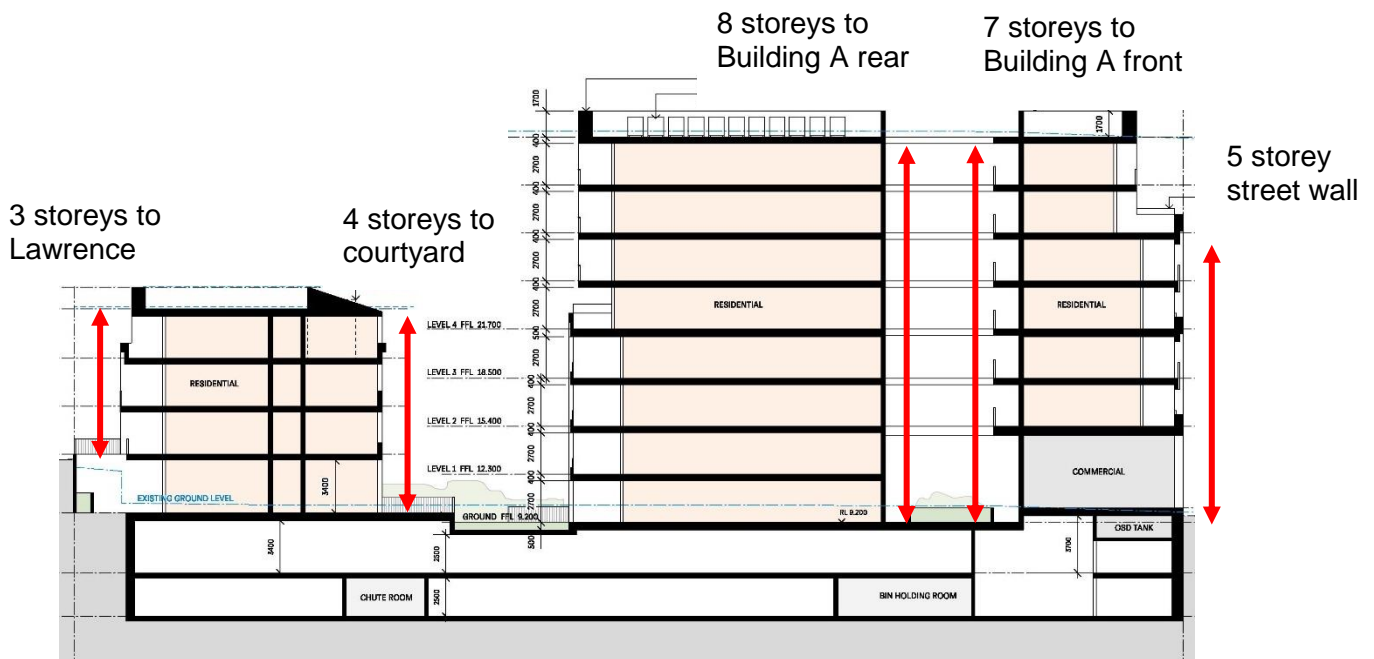


Items for improvement	
Reconsideration of the method of achieving acoustic protection and natural ventilation to the McEvoy Street frontage	<p>The proposal incorporates suitably sized vertical and horizontal plenums to ensure natural ventilation is provided to apartments affected by noise from McEvoy Street.</p> <p>Supplementary natural ventilation is provided through openings to the internal lightwell, where appropriate.</p>
The elimination of box gutters whilst maintaining the appearance of the sawtooth roof form	Box gutters have been eliminated from the proposal and the sawtooth roof form has been retained.
Incorporation of additional height to the McEvoy Street commercial spaces to address the future volume of traffic on McEvoy Street	A floor to ceiling height of approximately 4.7m is provided to ground floor commercial premises to enable the spaces to be adapted to a wide range of uses.
Improvement of the ground floor interface along McEvoy Street	The ground floor interface includes large permeable entries with double height voids and open screening allowing views to the central garden. The proposal incorporates flush glass to the commercial spaces providing visual connection to the retail spaces and a flat surface that contrasts to the deep reveals of the masonry grid.
Adjustment of layouts to address the mix, number and size of units within the envelope	<p>The proposal includes a mix of two-storey maisonette apartments, through apartments and single aspect apartments across Buildings A and B, offering an appropriate variety of apartment types across the development.</p> <p>The proposed unit mix is broadly consistent with that envisaged under the Sydney DCP 2012.</p>
Rationalisation of apartment planning to increase buildability and reduce complexity	The amended proposal incorporates a clear stack of apartments for the Ground to Level 4 storeys, repeating layouts and removing irregular types from the design. Structural transfers have been reduced for Building A and B.

Items for improvement	
Adjustment of the design at re-entrant corners to better solve visual privacy	The amended proposal removes one bedroom apartments from re-entrant corners eliminating perpendicular balconies.
Use of the roof form to provide additional solar access and natural cross ventilation	The proposal utilises the roof form to provide clerestory glazing to a number of apartments to Building A, enhancing solar access. The proposal generally complies with cross ventilation requirements by providing 58% of apartments with natural cross ventilation. Plenums have been incorporated to ensure natural ventilation to noise affected apartments.
Reconfiguration of the basement levels to improve efficiency and increase deep soil	The basement has been reconfigured to provide a simplified, efficient layout and increased deep soil. Deep soil is provided mainly to the communal courtyard, but also to the private open space to the northern side of Building B.

### Height in Storeys

92. SDCP 2012 permits a maximum of 6 storeys within the McEvoy Street section of the site. The original design of Building A included a 5-storey street wall with an immediate setback to 8 storeys. The amended design retains the street wall height but has been amended to include a 7-storey component setback 3m from the street wall. The building then incorporates an 8-storey component in the centre of the site. The extent of non-compliance is illustrated in Figure 28.

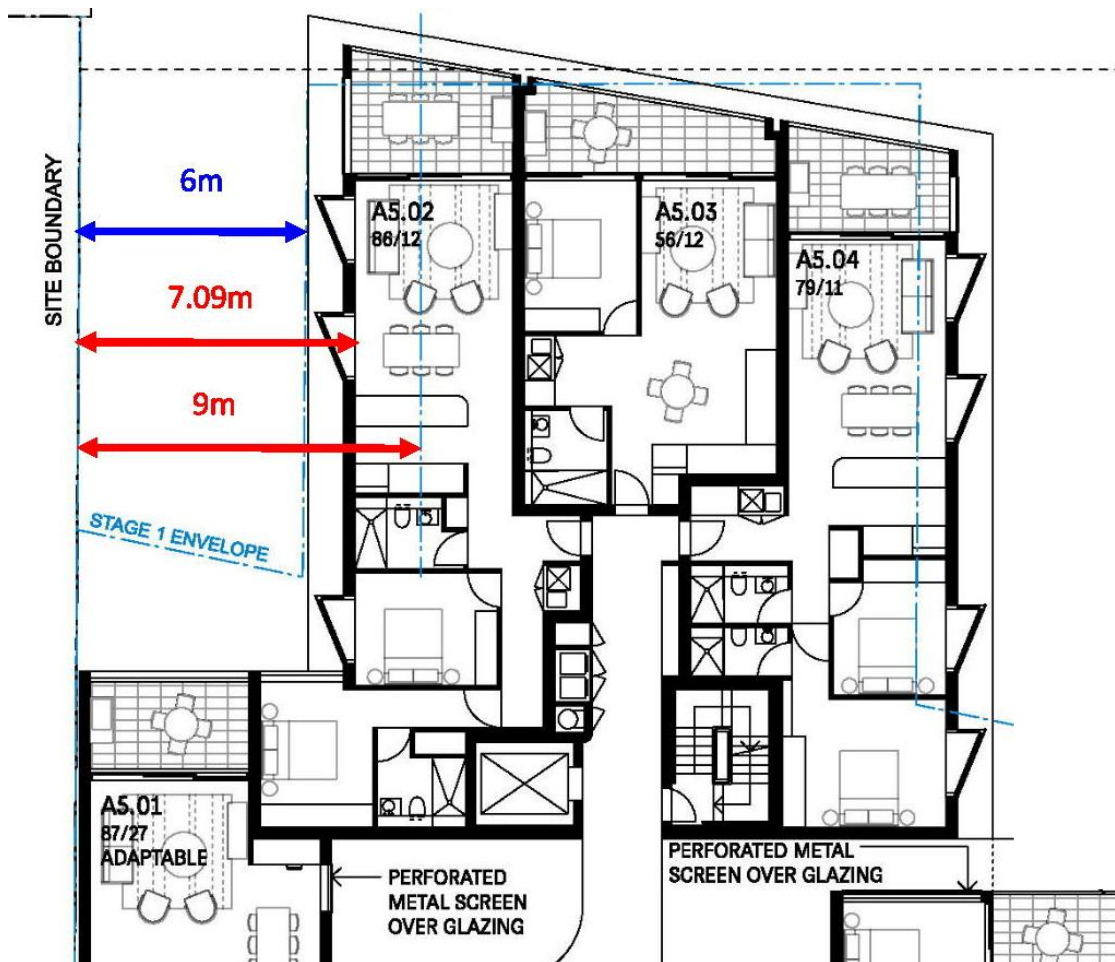


**Figure 28:** Height in storeys non-compliance, Buildings A and B

93. The departure from the height in storeys control is supported as follows:
- Building A has a 5-storey street wall height, as required by the concept approval.
  - Levels 6 and 7 are setback from the McEvoy Street property boundary by 3m, which complies with the DCP upper level setback requirement.
  - The upper two floors of Level 6 and 7 are articulated as a series of metallic volumes that enable the upper levels to be articulated as independent, recessive volumes.
  - The proposal complies with the LEP height in metres control at McEvoy Street, with the exception of the architectural roof features that exceed the control by 5%.
  - The GFA for Level 7 does not result in a non-compliance with the FSR control as the proposal complies with the maximum GFA.
94. SDCP 2012 permits a maximum of 3 storeys to Lawrence Street. Building B is 3 storeys to Lawrence Street and 4 storeys to the central courtyard. The extent of non-compliance is illustrated in Figure 28.
95. The departure from the height in storeys control is supported as the concept approval set maximum building heights in RLs that correspond to building that presents as 3 storeys to Lawrence Street and 4 storeys to the internal courtyard.
96. Building B continues to present as 3 storeys to Lawrence Street, reinforcing the neighbourhood character established by existing 3 storey buildings along Lawrence Street.

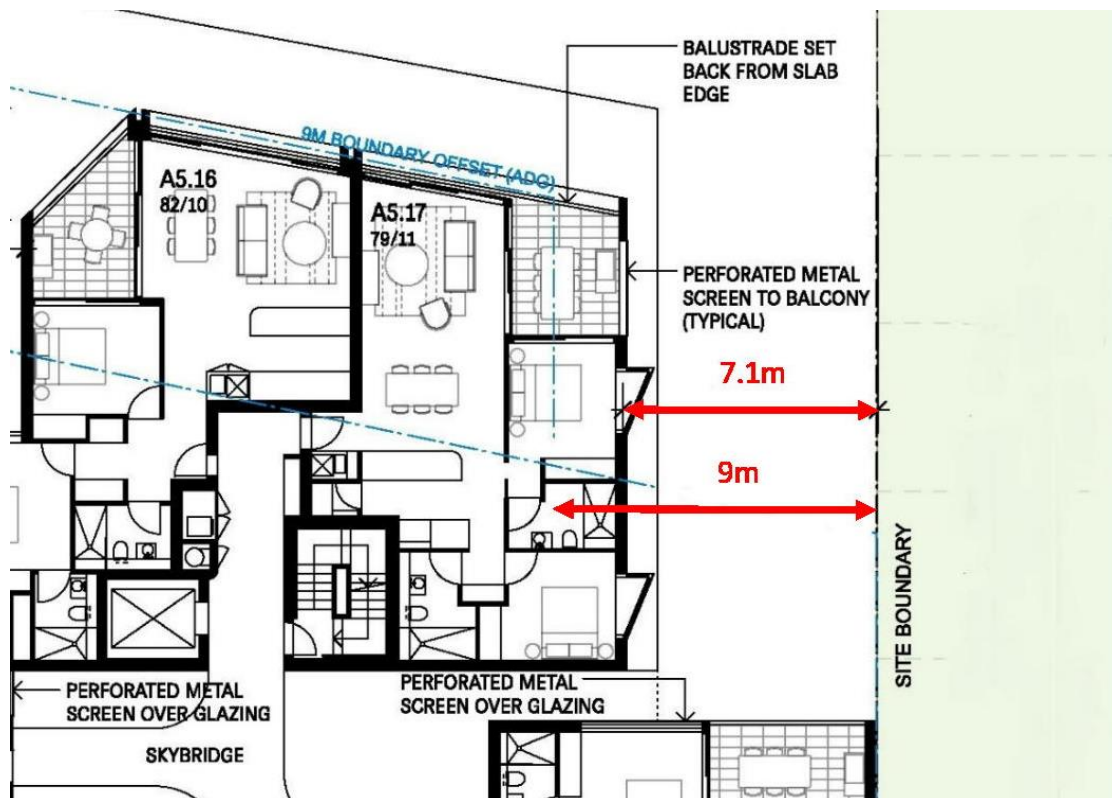
### Building Separation and Visual Privacy

97. The Apartment Design Guide outlines the minimum required separation distances from buildings to side boundaries as follows:
- 6m for building up to 4 storeys high
  - 9m for buildings between 5 and 8 storeys high.
98. The proposal generally meets the building separation design criteria outlined in the ADG and is contained within the concept approval envelope (as amended).
99. A variation to the ADG requirement is proposed to the north-eastern property boundary, adjoining No. 175-177 McEvoy Street (Petbarn) for Levels 4 to 7 of Building A. A minimum of 7m is provided where 9m is required (see Figure 29). It is noted however, that the building is setback a further 1m than the approved concept envelope in this location (building envelope setback indicated in blue).



**Figure 29:** Building Separation - Building A and south-western property boundary adjoining Petbarn

100. A 1.9m variation is proposed between the south-western property boundary, adjoining No. 147-161 McEvoy Street (Spectrum) and Levels 4 to 7. A minimum of 7.1m is proposed between Building A and these boundaries, as shown in Figure 30.



**Figure 30:** Building Separation - Building A and north-eastern property boundary

101. Potential for overlooking from apartments within Building A has been addressed via the inclusion of window boxes with reeded glazing for Levels 2-3 and Levels 5-7 and external louvered screen on Level 4. The proposed window box treatment is shown in Figure 31. Further details are provided on page 44 of the Architectural Design Report.
102. The window boxes are also proposed to maintain privacy between the rear bays of Building A. The effect of these bays is illustrated within Figure 32.
103. Building separation Between Building A and the north-eastern property boundary adjoining 74-84 Lawrence Street complies with the 6m building separation requirements for lower levels and the 9m requirements for upper levels. Notwithstanding, partial screening is proposed to balconies on upper levels, as illustrated in Figure 32.
104. The proposed privacy measures will provide an acceptable level of visual privacy within the site and to adjoining properties and are supported.





**Figure 31:** Proposed window box treatment between internal bays of Building A and south-western and north-eastern property boundary



**Figure 32:** Photomontage of proposed window box treatment and screening to upper level balconies



105. Ground floor apartments within Building B that address Lawrence Street are setback a minimum of 3.5m from the property boundary to the balcony balustrade and 6m to the glass line. While these distances are considered acceptable, conditions are recommended requiring the submission of balustrade details to ensure these balustrades offer appropriate levels of privacy for future occupants.

### Landscaping

106. Condition 12 of the concept approval requires a minimum of 10.5% of the site area be allocated as deep soil zone, with a minimum dimension of 6m. The approval also required a 3m deep soil zone along the Lawrence Street boundary that is unencumbered by structures.
107. The Apartment Design Guide requires a minimum of 7% of the site be allocated as deep soil zone, with a minimum dimension of 6m.
108. The development proposes a total of 595sqm of deep soil zone, which equates to 10.7% of the site area. The deep soil zone is configured as follows (see Figure 33):
- (a) Central area with a minimum of 6m diameter - 379sqm (6.8%) of site area;
  - (b) Central area with a minimum width of 3m - 109sqm (1.96%) of site area;
  - (c) 3m strip along Lawrence Street - 107sqm (1.92%) of site area.

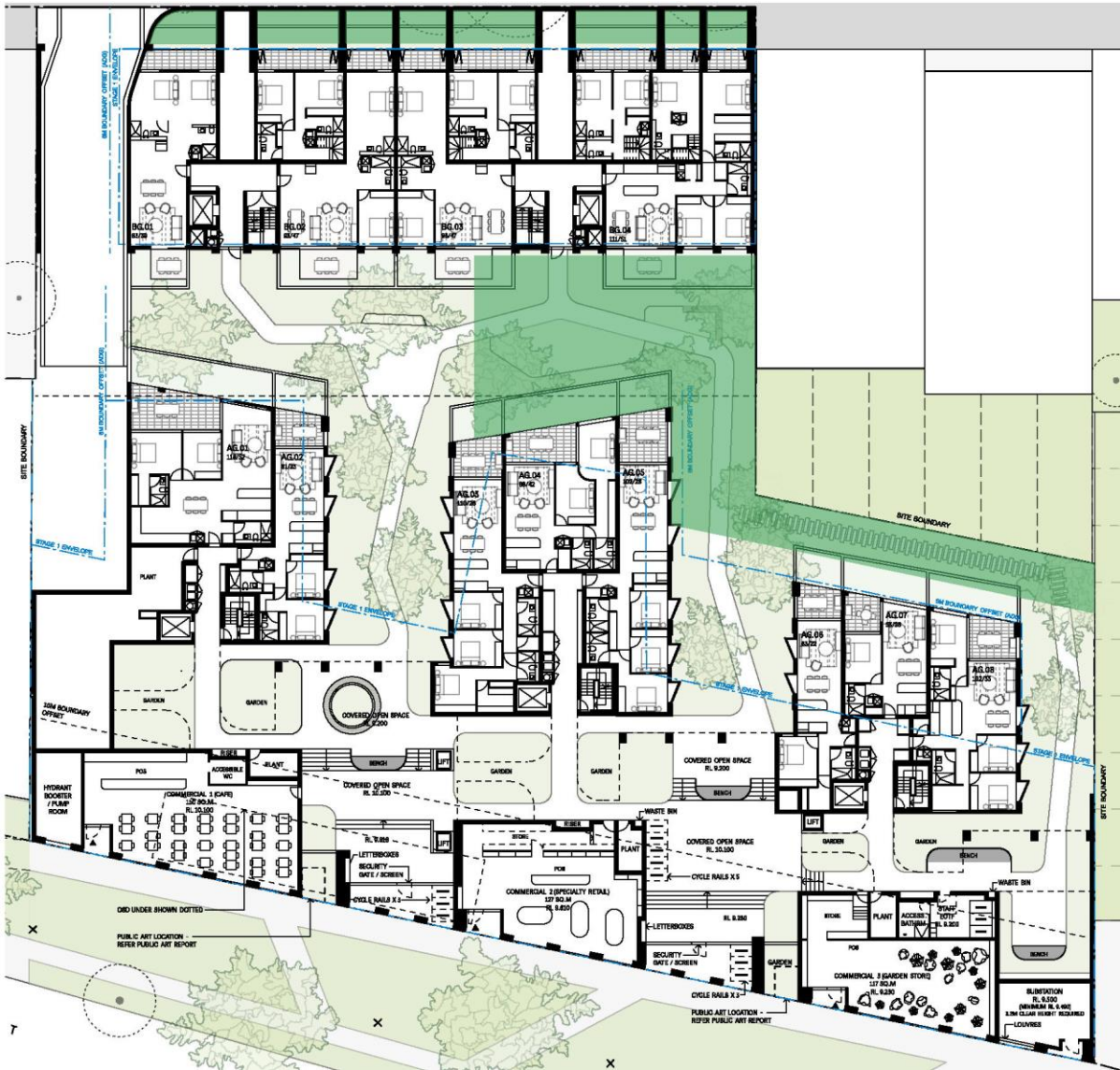


Figure 33: Proposed deep soil zones - Ground floor plan

109. The deep soil zones and proposed landscape plans have been reviewed by the City's Landscape Architect. Concerns were raised regarding the design of the central deep soil zone area and the Lawrence Street deep soil area.
110. In summary, both deep soil zones were considered to be compromised by structures or landscape elements. The landscape design of the central deep soil zone includes paths, walls, fences and paving that encroach into the deep soil. Although this can be acceptable in some instances, the overall alignment of deep soil and landscape elements doesn't lend itself to effective deep soil. The stepped garden beds located within the Lawrence Street deep soil zone result in limited deep soil being achieved in this area due to structures and footings.

111. In light of the above, conditions are recommended which require the resolution of deep soil and landscape design prior to the issue of the first construction certificate. These conditions require that the landscape design be revised to reflect the deep soil alignment as much as possible, reducing or removing any structures from within, and placing any fences, walls or footings outside the deep soil. Tree planting should, wherever possible, be co-located with deep soil. Conditions are also recommended for the removal of the mid-level terrace to the Lawrence Street boundary and replacement with a garden bed that can support largest trees, giving the lower-ground level units some visual privacy and creating a green edge to Lawrence Street.
112. In addition to deep soil recommendations, conditions are also recommended to ensure the outdoor communal open space creates a diverse series of spaces that meets the recreation needs of residents. More fixed seating and tables are required to facilitate a reasonable level of amenity in the (outdoor) communal open space and the planting design is to be refined to ensure a better balance between privacy and causal surveillance.
113. Overall, the balance of deep soil provided and the proposed landscape approach is acceptable, subject to conditions.

#### **Tree removal and protection**

114. The development proposes the removal of 66 trees within the site boundary. These trees are primarily located along the McEvoy Street and Lawrence Street property boundaries.
115. The submitted Arboricultural Impact Assessment has nominated these trees as having low retention value and low landscape significance.
116. Due to the location of the trees adjacent to the McEvoy and Lawrence Street property boundaries, all of these trees are located within the building footprint approved under the concept plan for the site. Retention of these trees would require significant modifications of the approved concept plan building footprints. As such, the removal of these trees is supported to allow for the orderly development of the site.
117. The proposal involves the removal of one street tree on Lawrence Street to accommodate the driveway access. The removal of this tree is necessary to facilitate the development of the site.
118. An additional 6 street trees are located within the Lawrence Street public domain. These trees are between 2.1m and 2.9m from the site boundary and sit between the street gutter and the footpath. These trees include one Eucalyptus and one Water Gum, both of good health. The remainder are Jacarandas of fair to poor quality (Figure 34).
119. Excavation to accommodate the two proposed basement levels is proposed immediately adjacent to the Lawrence Street property boundary. Works include the demolition of an existing retaining wall that currently runs the length of the site and excavation approximately 1.3m beyond this existing retaining wall to meet the site boundary.



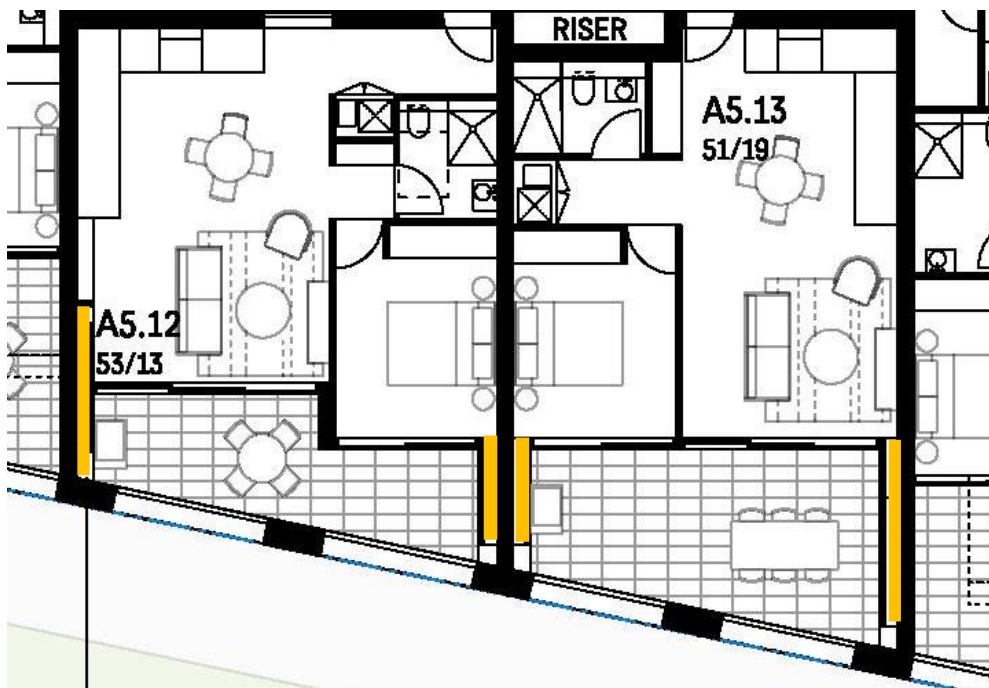


**Figure 34:** Lawrence Street site boundary shown in red (indicative). Existing street trees located to the right of the footpath.

120. Council's Tree Management Unit have identified the potential for this excavation to impact on the Structural Root Zone (SRZ) of the street trees.
121. The submitted Arboricultural Impact Assessment has assessed the quality of the trees and their retention value. Percentage of encroachment into the root zone has also been predicted.
122. Results of the Arboricultural Impact Assessment show that all street trees are capable of retention, subject to the implementation of specific tree protection plans. This includes those trees with high retention value and the largest portions of encroachment into the root zone.
123. Council's Tree Management Unit have assessed the submitted Arboricultural Impact Assessment and have recommended that non-invasive root investigations be undertaken in order to confirm the recommendations of the Arboricultural Impact Assessment.
124. A deferred commencement condition is recommended in order to carry out the necessary root investigations and allow for any modifications to the basement excavation plan, if required.

### Acoustics and Natural Ventilation

125. 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 annual average daily traffic volume greater than 20,000. McEvoy Street is projected to increase in excess of 40,000 average daily vehicle movements once the Euston Road off ramp to the Alexandria to Moore Park Connectivity Upgrade commences operation.
126. The development also needs to satisfy the requirements of Sydney DCP for development on busy roads. Sydney DCP 2012 outlines criteria for internal noise levels in residential developments to ensure that occupants have an acceptable level of amenity in noisy environments. Compliance guidance is provided within the City of Sydney’s Draft Alternative Natural Ventilation of Apartments in Noise Environments – Performance Pathway Guideline.
127. Alternative means of natural ventilation have been incorporated within the design of the noise affected apartments fronting McEvoy Street as the development cannot meet the DCP criteria for internal noise if windows are open.
128. A combination of vertical and horizontal plenums are proposed to supply air to the bedrooms and living rooms of impacted apartments. An example is provided in Figures 35.



**Figure 35:** Integrated vertical plenums to McEvoy Street apartments shown in yellow

129. The architectural plans have been updated to show the location of the plenums. Both the acoustic report and natural ventilation report will be approved as part of the consent to ensure plenums are constructed and installed in accordance with the specific details in approved reports.



### Overshadowing

130. Views from the sun diagrams have been provided, demonstrating that the development as amended will not adversely overshadow neighbouring properties.
131. In addition, detailed analysis has been provided to quantify the overshadowing impact to the nearest residential neighbour at 118-136 Lawrence Street. This building is located immediately to the southwest of the proposal and is designed in an L-shape with a communal open space area located along the property boundary and private terraces/balconies adjoining (see Figure 36).



**Figure 36:** Adjoining property at 118-136 Lawrence Street; communal open space in blue, private courtyards in yellow

132. The adjoining property currently receives solar access to 81% of its communal open space for 2 hours between 9am and 3pm at mid-winter. The proposal reduces solar access to the communal open space, but retains solar access to 61% of the communal open space for 2 hours between 9am and 3pm mid-winter. This impact is within the ADG criteria and is acceptable.



133. Of the two south facing ground level apartments (Unit 13 and Unit 14) which rely on the northwest aspect for solar access to their private open space, only Unit 13 is affected. The impact is at 10am, is very minor and falls within the ADG threshold.
134. The proposal will not result in unacceptable impacts on solar access to adjoining properties and is acceptable in this regard.

### **Signage Strategy**

135. The application seeks approval for a site wide signage strategy. The strategy includes details for a range of signage including business identification signage for the ground floor commercial premises, street numbering for the buildings and directional/wayfinding signage for pedestrian and vehicles. The strategy identifies locations for future signage and specifies materials and dimensions for future signs.
136. Business identification signage for the proposed commercial premises includes a combination of wall mounted signage affixed to the brickwork above each of the premises entries and decals to shopfront glazing.
137. Due to the double storey height of the commercial premises, the signage mounted over the entries would sit almost 5m above the footpath, which is above pedestrian eyeline. The flush mount of the sign to the building would not be overly visible to pedestrians walking parallel to the site along McEvoy Street. Decals to shopfront glazing are generally discouraged, particularly along active frontages.
138. In light of the above, the signage strategy is not approved as part of this development. A condition is recommended requiring a signage strategy be submitted and approved prior to the issue of a construction certificate.

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

139. The proposed development is capable of complying with the BCA.
140. 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**

141. 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**

#### **Design Advisory Panel**

142. The application was presented to the City's Design Advisory Panel on 20 February 2020. The original proposal was presented to the Panel, as well as an alternative proposal to address initial concerns raised by Council. The Panel noted and recommended the following:
  - (a) The proposal departs from the concept development application, the design competition design and selection panel comments. The Panel also noted non-compliance with building height and height in storeys.

- (b) The applicant submitted an alternative scheme to address some issues. The Panel supports the direction of the alternative scheme, however there are still issues that need to be addressed.
- (c) The Panel recommended increasing the number of lifts in Building B so that it complies with the Apartment Design Guide.
- (d) The Panel recommended revising common corridor spaces in Building A. It is concerned with the nature and amenity of the light well space, and indicated that the internal bridges will be problematic. Noting acoustic issues, the Panel preferred the competition scheme where light was allowed in from the sides, rather than above. The internal bridges are concerning acoustically and aesthetically.
- (e) The Panel noted that apartment balconies positioned at 90 degrees to each other in Building A are problematic and not a good design resolution. The Panel supported relaxing the requirement to provide balconies for every apartment to alleviate this problem.
- (f) The Panel noted that the public art component for the scheme has not been resolved.

143. As noted in the Proposal section, the applicant has undertaken subsequent design modifications which address the concerns raised by the Design Advisory Panel.

#### **Internal Council Units**

144. The application was referred to the following internal specialists and panels for review:

- (a) Urban Designer;
- (b) Building Services Unit;
- (c) Environmental Health Unit;
- (d) Public Domain;
- (e) Public Art;
- (f) Safe City;
- (g) Surveyors;
- (h) Transport and Access Unit;
- (i) Tree Management;
- (j) Waste Management;
- (k) Sustainability Officer; and
- (l) Landscape Officer.

145. The above consider that the proposed development, as amended, generally addresses matters raised throughout the assessment, and is acceptable subject to conditions.

## External Referrals

146. The application was referred to the following external referral bodies for review:

- (a) Transport for New South Wales;
- (b) Roads and Maritime Services;
- (c) Sydney Airport;
- (d) Sydney Water;
- (e) Ausgrid;
- (f) New South Wales Police Force; and
- (g) Ausgrid.

147. Comments from all the relevant external referral requirements are addressed or included in the recommended conditions of consent in Attachment A where relevant.

## Notification, Advertising and Delegation (Submission(s) Received)

148. The application constitutes integrated development and as such the application was notified and advertised for 30 days between 11 December 2019 and 29 January 2020 (extended for the holiday break) in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification 31 submissions were received.

149. Following submission of amended plans and additional information, the application was re-notified for a period of 14 days between 20 May 2020 and 4 June 2020. As a result of this renotification 59 submissions were received.

- (a) Traffic generation and associated impacts
  - Increased traffic flows on Lawrence Street as a result of the development.
  - Amenity impacts (noise, pollution, safety) as a result of vehicle access from Lawrence Street.
  - Amenity impacts from waste, service and delivery vehicles required to service the site.

**Response** - The amended Parking and Traffic Impact Assessment submitted with the application demonstrates the proposed development will not give rise to an adverse increase in traffic and congestion in the locality. The proposal is expected to generate comparable traffic volumes to what is currently generated by the existing use.

Waste collection and servicing will occur within the basement and will not occur on the street. A condition is recommended requiring the submission of a Loading Dock Management Plan to manage deliveries.

A total of 191 bicycle parking spaces are proposed, which will encourage sustainable modes of transport to reduce congestion on local roads.

(b) Site access / Lawrence Street driveway

- Request vehicle access be made via McEvoy Street, as currently exists, not Lawrence Street.
- Risks to pedestrian safety as a result of the Lawrence Street driveway.
- The original concept plans for this site showed vehicle access from McEvoy Street.

**Response** - McEvoy Street is a Classified Road and accordingly the development is subject to the provisions of Clause 101 of State Environmental Planning Policy (Infrastructure) 2009. Clause 101 of the Infrastructure SEPP sets out that the development should not provide access to the site from the classified road where there is alternate access available.

Conditions are recommended requiring signage at the vehicle egress points. This signage will require vehicles to stop and give way to pedestrian and bicycles before crossing a footway.

Indicative design plans submitted with the original concept application did show vehicle access via McEvoy Street, however this was not supported or approved, as per Clause 101 noted above.

(c) Impact on parking

- Increase in parking congestion on Lawrence Street.
- Lack of parking provided onsite.

**Response** - A total of 168 car parking spaces will be provided within the development which is consistent with the maximum number of car parking spaces permitted under the Sydney LEP 2012.

The site is in an accessible location, being within walking distance of a large supermarket as well as restaurants and cafes. Ample bicycle parking and car share spaces are provided to encourage sustainable mode of transport as an alternative to private vehicles.

(d) Height, bulk and scale

- Proposed height and scale is inappropriate, does not respect the surrounding area, context or adjoining buildings.
- Nil side setbacks for Building B is out of character in the area and contributes to the bulk and scale of the development.
- Development does not promote view sharing.
- Breaches to building height will set a precedent for further non-compliances in the area.

**Response** - Refer to the detailed discussion provided in the Issues section under the headings Clause 4.6 request to vary a development standard and Height in Storeys.

The provision of nil side setbacks is the underlying built form presented along Lawrence Street and within the Cooper Estate conservation area. The provision of nil side setbacks to Building B is consistent with the character of Lawrence Street. The proposal is of a similar scale to existing 2-3 storey contemporary and traditional terrace buildings within the conservation area.

The proposal will not result in the loss of views from surrounding properties.

Any future development application that may be submitted in the locality would be assessed against the relevant planning controls for the site and on the individual merits of the proposal.

(e) Density

- High density development is not in keeping with the low density of Lawrence Street.
- Apartment developments should be located closer to public transport.
- Removal of the restriction on below ground apartments allows for more apartments than would otherwise be the case.

**Response** - The proposal complies with the floor space ratio requirement outlined in Sydney LEP 2012.

The site is located in a B4 Mixed Use zone, which permits residential flat buildings. The adjoining R2 General Residential zone along Lawrence Street also permits residential flat buildings, as evident by a number of developments that currently exist along Lawrence Street.

The site is located within walking distance of a number of existing and planned bus services and train/metro stations.

The concept approvals restriction on below ground apartments was not a mechanism to limit density, rather due to concern over amenity. As outlined in the Issues section above the proposed below ground apartments offer acceptable amenity and are supported.

(f) Tree removal and landscaping

- The proposal reduces deep soil zones and has limited opportunity for replacement planting.
- Protection of Lawrence Street street trees.
- Excessive tree removal and pruning.
- Landscaped areas have been reduced in size and do not provide adequate amenity for future occupants.

**Response** - Refer to the detailed discussion provided in the Issues section under the heading Landscaping and Tree Removal and Protection.

(g) Overshadowing and solar access

- Overshadowing to adjoining properties, in particular 118-136 Lawrence Street.
- Additional height will result in loss of solar access to adjoining properties.

**Response** - Views from the sun diagrams have been provided, demonstrating that the development as amended will not adversely overshadow neighbouring properties. Detailed analysis has been provided to quantify the overshadowing impact to the only affected residential neighbour at 118-136 Lawrence Street. As discussed in the ADG compliance section above, the impacts on this building are minor and fall within the ADG threshold.

The proposed exceedance in height will not result in any adverse overshadowing impacts on adjoining properties.

(h) Inconsistency with concept approval

- The proposed building is inconsistent with the approved concept application.
- The originally approved concept plan better reflects the context and surrounds.
- Concerns over process and transparency of amending the concept approval that results in increased height and density.
- Exceedances outside the approved building envelope will reduce privacy and amenity to adjoining properties and increase noise.

**Response** - Refer to the detailed discussion provided in the Issues section under the headings Consistency with Concept Approval.

This application has been submitted concurrently with a Section 4.56(2) application to modify the concept plan. An assessment of the proposed modification has been undertaken and the application is recommended for approval.

(i) Heritage impacts and character of the Cooper Estate area

- Inclusion of below ground habitable rooms on Lawrence Street will create a visual impact and the building will appear more dominate.
- Lack of front garden to Lawrence Street due to subterranean apartments is not in keeping with the heritage conservation area.
- The proposal is inconsistent with the DCP locality statement for the area.
- Design and materials of Building B affects the integrity of the heritage conservation area.



- Lawrence Street and the conservation area will be visually impacted by the 8 storeys of Building A.

**Response** - As demonstrated throughout the report, the proposal is in keeping with the character of the area for a new development and will not adversely impact the conservation area. Building B presents as 3 storeys to Lawrence Street and has been detailed sufficiently to provide a fine grain aesthetic sympathetic to the conservation area. Landscape conditions are recommended that will enhance the appearance of the below ground apartments, when viewed from Lawrence Street.

(j) Privacy impacts

- Privacy impacts to adjoining properties.
- Window boxes direct views straight into adjoining properties.
- Overlooking from balconies of Building A to the rear yards of the Spectrum development.
- The proposal includes a new wing to Building A that doesn't comply with building separation requirements to the Spectrum development.

**Response** - Refer to the detailed discussion provided in the Issues section under the headings Building Separation and Privacy.

(k) Noise impacts

- A noise assessment to adjoining properties has not been undertaken.
- The noise impact assessment has not adequately addressed noise impacts from increased traffic and the commercial premises.
- The noise study reveals potentially high impact of increased traffic noise in Lawrence Street near the site.

**Response** - The submitted Noise Impact Assessment demonstrates that apartments facing Lawrence Street are capable of complying with the City's internal noise criteria with windows open. As such, unreasonable noise impacts are not expected to adjoining properties along Lawrence Street. The Noise Impact Assessment has been reviewed by the City's Environmental Health Unit and is acceptable.

(l) Construction impacts

- Construction impacts, including dust, noise pollution, safety and security.
- Request for appropriate protection of adjoining property during demolition and construction stage and liaison with neighbours.

**Response** - Appropriate construction management conditions are recommended to manage noise, waste, dust and traffic.

A condition is recommended requiring dilapidation reports will be required to be prepared for the properties directly immediately surrounding the subject site.

(m) Wind impacts

- Concern over a wind tunnel effect as a result of the proposed buildings.

**Response** - The height of the buildings is not expected to create a wind tunnel effect.

(n) Air quality

- No air quality study has been carried out for Lawrence Street.
- No consideration for exhaust fumes from additional vehicles utilising Lawrence Street.

**Response** - Traffic generation as a result of the proposal is not expected to result in a reduction in air quality on Lawrence Street.

(o) Design excellence

- The proposal does not exhibit design excellence.
- Development does not demonstrate design excellence as achieves bare minimum in floor to ceiling heights, deep soil zones solar access and other amenity items.
- Building envelope modifications breach the restrictions set by the original concept approval on the ground of design excellence.
- Submitted documentation does not address clause 6.21 of Sydney LEP 2012 and does not include a copy of the Design Excellence Strategy.

**Response** - A competitive design process was undertaken in accordance with the provisions of Clause 6.21 of SLEP 2012 and the City of Sydney Competitive Design Policy. The proposal is consistent with the design intent of the winning scheme of a competitive design process and the development, as amended satisfies design excellence provisions pursuant to Clause 6.21 of Sydney LEP 2012.

The scale, form, articulation, materiality and architectural contribution of the proposed development is consistent with the site pursuant to Sydney DCP 2012 and the proposed development is consistent with the desired future character of the locality.

Where non-compliances with controls exist, they have been demonstrated to be acceptable.

(p) General amenity

- The proposal does not meet the design quality principles outlined in SEPP 65 and does not meet the criteria set out in the Apartment Design Guideline.
- Minimum floor to ceiling heights will not be met by 3m floor to floor heights.

- Apartments attract renters, who create noise and will change the demographic of the area.

**Response** - The proposal has been assessed against the design principles of SEPP 65 and the ADG design criteria. Where non-compliances exist, they have been demonstrated to be acceptable or can be resolved by the recommended conditions of consent.

Whether apartments are occupied by owners or renters is not a planning consideration.

(q) Commercial hours of operation

- Proposed hours of operation for commercial tenancies are antisocial.

**Response** - The proposed hours of operation are in line with the standard hours permitted under a Complying Development Certificate. It is not anticipated that hours of operation of the commercial premises will have an amenity impact on the surrounding residential properties.

(r) Boundary fence

- Existing warehouse buildings currently provide high boundary walls to the adjoining properties at 74-78 Lawrence Street and 84 Lawrence Street providing privacy security and noise insulation. The application does not provide details of the boundary wall treatment.

**Response** - Adjoining properties will be secured during construction by temporary fencing in the form of hoarding or the like.

Permanent fencing along a property requires owners consent for all adjoining properties, and the proposed material and height of boundary fences is a decision to be agreed on by all property owners. The applicant has advised that affected adjoining properties will be consulted regarding the construction of boundary fences.

(s) Submitted documentation

- Inconsistencies within the documentation and inaccurate representation of the proposal.

**Response** - The submitted drawings and supporting documentation is considered accurate and adequate in order to make an assessment against the relevant controls.

(t) Renotification period

- Inadequate time provided to review the modified documents placed on renotification.

**Response** - Amended plans and documentation was re-notified for a period of 14 days, which is line with Council's approach for the notification of amended documentation. A one-week extension to this period was granted where requested.

## Public Interest

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

## S7.11 Contribution

151. 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.
152. Credits have not been applied as accurate information, including approved uses and GFA of existing warehouse buildings has not been supplied with the development application.
153. The following monetary contribution is required towards the cost of public amenities:
- |                           |                |
|---------------------------|----------------|
| (a) Open Space            | \$2,000,040.17 |
| (b) Community Facilities  | \$397,352.27   |
| (c) Traffic and Transport | \$526,928.79   |
| (d) Stormwater Drainage   | \$208,404.29   |
| Total                     | \$3,132,725.52 |

## Relevant Legislation

154. Environmental Planning and Assessment Act 1979
155. Sydney Airport Referral Act 1996
156. Water Management Act 2000
157. Sydney Water Act 1994

## Conclusion

158. The application proposes the demolition of existing structures, remediation, excavation and construction of a part 7 / part 8 storey mixed use building containing residential apartments and commercial tenancies (and signage) to McEvoy Street, a 4-storey residential flat building to Lawrence Street, and 2 basement levels with vehicular access from Lawrence Street.
159. The proposal is consistent with the amended concept approval being D/2017/238/B.

160. The development exceeds the maximum 24.2m building height standard (including the 10% design excellence bonus) by 1.27m (5%) for Building A and 1.97m (16%) for Building B caused by the architectural roof feature and AC condensers. A request to vary Clause 4.3 Height of Buildings development standard has been received in accordance with Clause 4.6 of SLEP 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 building height is supported in this instance.
161. Subject to conditions, the proposal is generally consistent with the applicable planning provisions including SEPP 65, SLEP 2012 and SDCP 2012. Proposed non-compliances have been assessed as having merit in this case and are addressed in the report. Conditions are recommended to address non-compliances were appropriate.
162. The proposal represents design excellence, with a high standard of architectural design, materials and detailing and a built form that is consistent with the existing and future desired character of the area.
163. The proposal is Integrated Development under the Water Management Act 2000, requiring approval from Water NSW. General Terms of Approval were received from Water NSW on 6 February 2020.
164. The development is in the public interest and is recommended for deferred commencement approval, subject to the conditions in Attachment A.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Natasha Ridler, Area Planning Coordinator