

Item 4.**Development Application: 20-26 Allen Street, Waterloo - D/2020/1426**

File No.: D/2020/1426

Summary

Date of Submission:	29 December 2020; with the latest set of amendments and additional information received on 22 July 2021.
Applicant/Architect:	PTI Architecture
Owner:	Allen Street Waterloo Pty Ltd
Planning Consultant:	Hamptons Property Services Pty Ltd
DAPRS:	2 March 2021
Cost of Works:	\$22,939,349
Zoning:	The site is located in the B4 Mixed Use zone. The proposal is defined as a mixed-use development (including a residential flat building and a retail premises) and is permissible with consent in the zone.
Proposal Summary:	<p>Approval is sought for the demolition of existing structures, lot consolidation, tree removal, remediation, excavation and construction of a mixed-use development including 61 residential apartments and one retail tenancy. The development includes two basement levels servicing three apartment buildings.</p> <p>The site is located within Green Square and the application is accompanied by a public benefit offer for the provision of community infrastructure as required under the Sydney LEP 2012. The offer includes dedication and embellishment of approximately 26.8m² for 1.5m footpath widening along the site's George Street frontage and monetary contribution for community infrastructure in the Green Square urban renewal area. The Voluntary Planning Agreement (VPA/2021/2 was exhibited for 28 days between 28 July and 26 August 2021.</p> <p>A deferred commencement condition is recommended to require the VPA to be executed prior to the consent becoming operative.</p>

The application is integrated development requiring the approval of Water NSW under the Water Management Act 2000. General Terms of Approval have been issued and form part of the recommended conditions in Attachment A.

The proposed development exceeds the 'height of buildings' development standard to allow lifts, fire stairs, and shade structures to the rooftop communal open spaces. A written request to vary the development standard in accordance with Clause 4.6 of the Sydney LEP 2012 is submitted.

The application is referred to the Local Planning Panel for determination as the proposal is subject to State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, has a height variation of more than 10 per cent and includes a voluntary planning agreement.

The application has been amended to address several issues identified by Council and Ausgrid during assessment. The main issues relate to:

- interface with the adjoining substation;
- equitable access to communal open space;
- provision of deep soil zones; and
- additional information to address land contamination, acoustic privacy to future residents and surrounding sensitive uses, and electromagnetic and fire safety given the proximity to the zone substation

The original application was notified and advertised for 28 days between 18 January 2021 and 16 February 2021. As a result, eight submissions were received, which raised the following concerns:

- overshadowing and visual bulk;
- traffic and parking;
- residential amenity to the future occupants, including the impacts from the adjoining substation;
- material and finishes, massing and bulk being unsympathetic to the area;
- tree removal and landscape design;

- over delivery of apartments resulting in adverse economic impacts on people's investments; and
- opportunity for the site to be a green passage from Waterloo Oval to Green Square.

Following the application being amended in June 2021, the proposed development was re-notified for a period of 14 days between 4 June 2021 and 19 June 2021. As a result, one additional submission was received from a previous objector. The submission reiterates concerns with overshadowing and visual bulk to an apartment at 356-368 George Street.

All concerns raised in the submissions are addressed within the report.

Overall, the proposal responds satisfactorily to surrounding developments and its context and achieves a standard of architectural design that is considered to demonstrate design excellence.

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

Development Controls:

- (i) Water Management Act 2000
- (ii) Sydney Water Act 1994
- (iii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (iv) State Environmental Planning Policy (Infrastructure) 2007
- (v) State Environmental Planning Policy No. 55 - Remediation of Land
- (i) State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development
- (ii) Apartment Design Guide 2015
- (iii) Sydney Local Environmental Plan 2012
- (iv) Sydney Development Control Plan 2012
- (v) City of Sydney Development Contribution Plan 2015
- (vi) Green Square Affordable Housing Program

Attachments:

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

Recommendation

It is resolved that:

- (A) the variation requested to the 'height of buildings' development standard in accordance with Clause 4.6 'exceptions to development standards' of the Sydney Local Environmental Plan 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/2020/1426 subject to the recommended conditions set out in Attachment A.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development complies with the objectives of the B4 Mixed Use zone pursuant to Sydney Local Environmental Plan 2012.
- (B) Based upon the material available to the Panel at the time of considering this application, the Panel is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney Local Environmental Plan 2012, that compliance with the 'height of buildings' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney Local Environmental Plan 2012; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B4 Mixed Use zone and the 'height of buildings' development standard.
- (C) The development exhibits design excellence under Clause 6.21 of Sydney Local Environmental Plan 2012.
- (D) The development meets the objectives of the Apartment Design Guide and is consistent with the design quality principles under State Environmental Planning Policy No 65 - Design Quality of Residential Apartments.
- (E) The development is generally consistent with the objectives of Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot A DP 155422 and Lot 1 DP 77716, known as 20-26 Allen Street, Waterloo. It is irregular in shape, with a rectangular area to Allen Street and a panhandle to George Street. The site has an area of approximately 3,394.6m².
2. The site is located on the southern side of Allen Street, between Elizabeth Street and George Street. It also has a secondary frontage to George Street. The site has a crossfall of approximately 0.8m from east to west.
3. A two-storey warehouse is contained within the site along Allen Street (Figure 2) and obtains vehicular access from George Street (Figure 3). Parking is provided along the panhandle and the site's western boundary. A steel framed structure is also located in the south-eastern portion of the site as a servicing/wash bay (Figure 6).
4. The surrounding area is characterised by a mixture of land uses, primarily being residential, commercial, and light industrial. To the northeast is the Waterloo Park, and to the northwest is a five-storey mixed use building comprising retail/commercial uses on the ground floor and residential units above. To the East, along Elizabeth Street, are two four-storey residential flat buildings, each with a rooftop communal open space.
5. To the south is a three-storey warehouse complex that accommodates a range of commercial uses. The complex has windows and a roller door along the site's southern boundary. The windows along the panhandle are built to the common boundary (Figure 4), and the windows and roller door along the southern boundary are set back between 35mm to 120mm from the common boundary (Figure 5). The windows are not protected by an easement burdening the site, and similarly, the roller door is not protected by an easement/right of way, neither is it necessary for the on-going operation of the complex as alternative vehicular access is provided from George Street and Elizabeth Street.
6. To the west, is the Zetland zone substation. Further to the west, on the western side of George Street, is a four- to six-storey mixed use development comprising retail/commercial uses on the ground floor and residential units above. The residential units on the top two levels are generally oriented north-south.
7. The site is located approximately 400m north of Green Square station, and approximately 700m south-east of the future Waterloo metro station. An existing dedicated cycleway also runs along Allen Street.
8. The site is not a heritage item nor located within a heritage conservation area. It is located within the Green Square locality, and is identified as being subject to flooding.
9. A site visit was carried out on 17 February 2021. Photos of the site and surrounds are provided below:

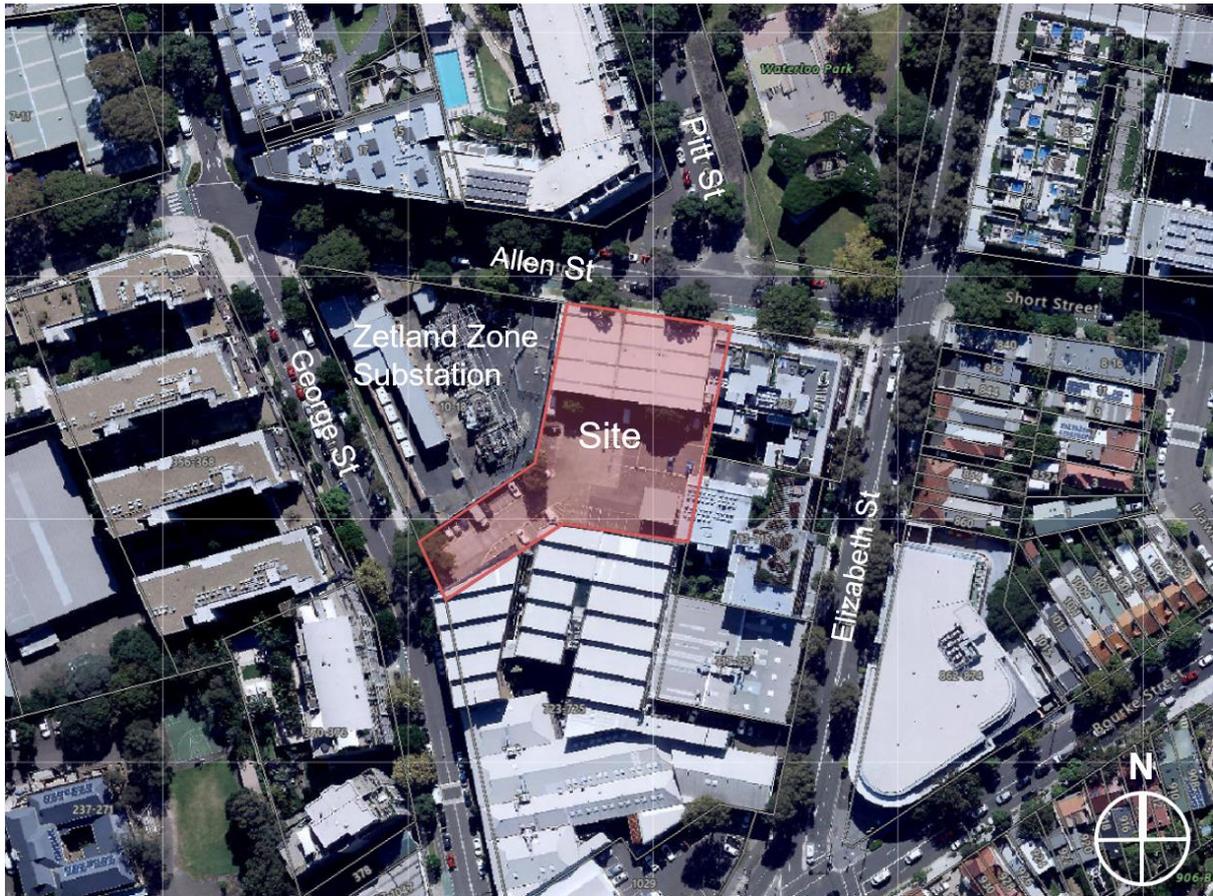


Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Allen Street



Figure 3: Site viewed from George Street (panhandle) - including adjoining industrial building with windows facing on the site's south western boundary



Figure 4: Northwest elevation of adjoining commercial building to the south with windows on the common boundary looking towards George Street (panhandle).



Figure 5: North elevation of adjoining commercial building to the south with windows and roller door set back between 35mm (right) to 120mm (left) from the common boundary



Figure 6: Adjoining apartment buildings to the east viewed from the subject site



Figure 7: Existing boundary wall with the adjoining zone substation viewed from the subject site



Figure 8: Waterloo Park to north east on the opposite side of Allen Street



Figure 9: Five storey mixed use development to the north-west



Figure 10: Four storey apartment building at 707 Elizabeth Street viewed from the corner of Elizabeth Street and Allen Street



Figure 11: Four storey apartment building at 713 Elizabeth Street viewed from Elizabeth Street



Figure 12: Four to six storey mixed use development to the west at 358 George Street (on the western side of George Street)

History Relevant to the Development Application

Background - pre-lodgement advice

10. The following applications are relevant to the current proposal:

- (a) **PDA/2020/64** – pre-lodgement advice was provided on the 29 April 2020 for a similar scheme to the original proposal and included the following:
- (i) site planning should provide unobstructed and direct connection from Allen Street through the ground level common open space and to George Street;
 - (ii) provide design solution to cap or cover the driveway and to provide meaningful landscape to terminate the vista if a minimum height clearance of 4m can be provided;
 - (iii) driveway ramp must not be located within the 1.5m George Street setback to be dedicated to Council;
 - (iv) removal of street trees on Allen Street or George Street will not be permitted;
 - (v) ground level apartments (with reduced separation) will rely heavily on an excellent landscape design of the common open space to prevent overlooking;
 - (vi) detailed landscape plans for the ground level communal open space and roof top will be required;
 - (vii) lift and stairs to the rooftop communal open space exceeds the maximum height. A Clause 4.6 written statement will be required;
 - (viii) all rooftop plant area must be appropriately set back and screened by building parapet;
 - (ix) residential lobby on George Street needs to be clearly legible;
 - (x) hydrant booster will need to be integrated into the design of the building;
 - (xi) waste storage or holding areas must be located clear to the loading area in the basement;
 - (xii) bicycle parking to be provided in accordance with the DCP; and
 - (xiii) ambient electromagnetic report or the fire assessment will need to be referred to Ausgrid for review as part of DA assessment.

Background - Assessment / Amendments

11. Following an initial assessment of the original proposal by Council Officers, a first request for additional information was sent on 18 February 2021 for the following items:
 - a Detailed Environmental Site Investigation (DESI), a Remedial Action Plan, and a Site Audit Statement or Letter of Interim Advice issued by an accredited site auditor to certify that the site will be suitable after remediation for the proposed residential use. It was noted that land to be dedicated to Council was not to include a long-term management plan.
12. In response to submissions and further assessment, a second request for additional information and amendments was sent on 22 March 2021 for the following items:
 - (a) updated Electric and Magnetic Fields (EMF) assessment to specifically assess the suitability of the submitted proposal, including appropriate setbacks for the three buildings, with empirical evidence that the identified setbacks at heights above the existing boundary fence will be suitable for the safe occupation of future residents;
 - (b) updated fire risk assessment to specifically assess the suitability of the submitted proposal, including sufficient justification for the nil setback for Building C given its proximity to the oil-filled transformers. The report should address the risk for levels below and above the existing boundary wall;
 - (c) services report to identify all essential services (to meet BCA) and plant (to meet BASIX) and to demonstrate their cumulative impact on the actual delivery of the proposed development. This should include whether a substation is required within the site, and if the current fire hydrant and sprinkler booster valve on Allen Street is sufficient;
 - (d) updated acoustic report to demonstrate acceptable acoustic amenity, including noise generated by the substation. The report must also identify emission goals for all mechanical plant;
 - (e) updated waste management plan to demonstrate compliance with the City's Guidelines for Waste Management in New Developments 2018;
 - (f) updated architectural design to incorporate the following changes:
 - (i) along the western boundary, apartments in Buildings A and B should not rely on the western boundary for amenity. No habitable openings should face the west, with outlooks directed north-south. Otherwise, a 6m setback must be provided to comply with ADG, and appropriate screening (subject to safety considerations), should be provided to mitigate the undesirable outlook to the substation;
 - (ii) along the eastern boundary, the bulk of Buildings A and B should be aligned with the adjoining apartment buildings for the width of one room to avoid highly visible exposed side walls;
 - (iii) a direct pedestrian link between Building C and the ground floor communal open space should be provided to improve legibility;

- (iv) internal layout of apartment types should avoid creating a large storage room that could be used as a study or habitable room without the necessary amenity. Any proposed 'study' must also have direct view of a glazed opening to access daylight and air;
 - (v) layout of adaptable apartments should minimise works necessary to provide accessible apartments;
 - (vi) natural light and ventilation should be provided to the common stairs in Buildings A and B;
 - (vii) a separate mailbox should be provided for Building C, and all mailbox areas must be located in a secure area;
 - (viii) storage cages should be relocated to be close to car and bicycle parking areas;
 - (ix) provision of communal open spaces should be investigated on the rooftop of Buildings B and C to achieve equitable access as per Objective 3D-1 of the ADG and a high residential amenity to achieve design excellence. All communal open spaces shall be provided with adequate weather protection and amenities to accommodate a range of uses;
 - (x) a reduction in vehicle parking should be investigated to facilitate the provision of a consolidated deep soil area that is collocated with the communal open space on the ground floor, considering that the proposed deep soil zone along the western boundary, as advised by Ausgrid, cannot accommodate any substantial planting;
 - (xi) an increase in solid to void ratio on the Allen Street facade should be investigated to assist in the successful interpretation of the existing 'nut shop' building. The use of actual brickwork should be considered for superior durability, substantial mass and depth;
 - (xii) additional details on the operable bi-fold screens are required, including around the radius corners; and
 - (xiii) visual and acoustic shielding should be provided over the driveway, particularly in the area between Buildings B and C. The shielding must maintain a minimum height clearance of 4m; and
- (g) updated solar analysis, traffic report, landscape design, and **Clause 4.6** written request to support the amended architectural design.
13. A series of responses was provided by the applicant with the latest amendments and additional information being submitted on 22 July 2021. The submitted documentation includes:
- (a) amended architectural design (Revision D);
 - (b) amended landscape design;
 - (c) updated solar analysis;
 - (d) updated acoustic assessment;

- (e) updated fire risk assessment;
- (f) a certificate to demonstrate that the amended architectural design accommodates the necessary services;
- (g) a detailed site investigation (DESI);
- (h) a remediation action plan, supported by a letter of interim advice;
- (i) updated traffic report;
- (j) updated waste management plan;
- (k) updated BASIX certificate and HERS summary certificate;
- (l) updated EMF assessment; and
- (m) updated Clause 4.6 written statement.

Proposed Development

14. The application seeks consent for the for the demolition of all existing buildings and structures, removal of all existing trees, remediation of the site, excavation and construction of a four-storey mixed-use development with three buildings (Building A, B and C) and two levels of common basement, comprising 61 residential apartments and one retail tenancy. A detailed description of the proposed development is as follows:

- (a) Basement Level 2
 - a 30 tonne turn table
 - residential waste storage areas, including a temporary collection point adjacent to the turn table
 - storage areas for residential apartments, and bicycle parking and storage
- (b) Basement Level 1
 - 46 car parking areas, including 8 visitor parking spaces and 1 car spare space
 - retail waste storage area
- (c) Ground Floor
 - 10 residential apartments (1x one bedroom, 3x two bedroom, 2x adaptable three bedroom, and 4x three bedroom)
 - A retail tenancy (52m²) in Building C fronting George Street
 - a communal open space between Building A and Building B

- (d) Level 1
- 17 residential apartments (2x adaptable one bedroom, 4x one bedroom, 2x adaptable two bedroom, 9x two bedroom)
- (e) Levels 2 & 3
- 34 residential apartments (12x one bedroom, 4x adaptable two bedroom, 18x two bedroom)
- (f) Roof
- 2x communal open space with BBQ and play area on Buildings A and B
 - a communal open space on Building C
 - a consolidated plant area for each building
15. Vehicular access to the proposed development is maintained at the George Street frontage. The single driveway splits to provide access to the two levels of basement.
16. The proposal includes a public benefit offer to capture bonus floor space under the community infrastructure delivery clauses of the Sydney LEP. The proposal seeks an addition 0.1:1 of FSR above the base. A draft Voluntary Planning Agreement (VPA 2021/2) was exhibited and requires the following community benefits to be delivered:
- (a) dedication of a 1.5m wide strip of land along the George Street frontage to allow for footpath widening; and
- (b) monetary contribution of \$145,305 for the provision of community infrastructure.
17. Photomontage and selected drawings of the proposed development are provided below.



Figure 13: Proposed photomontage fronting Allen Street

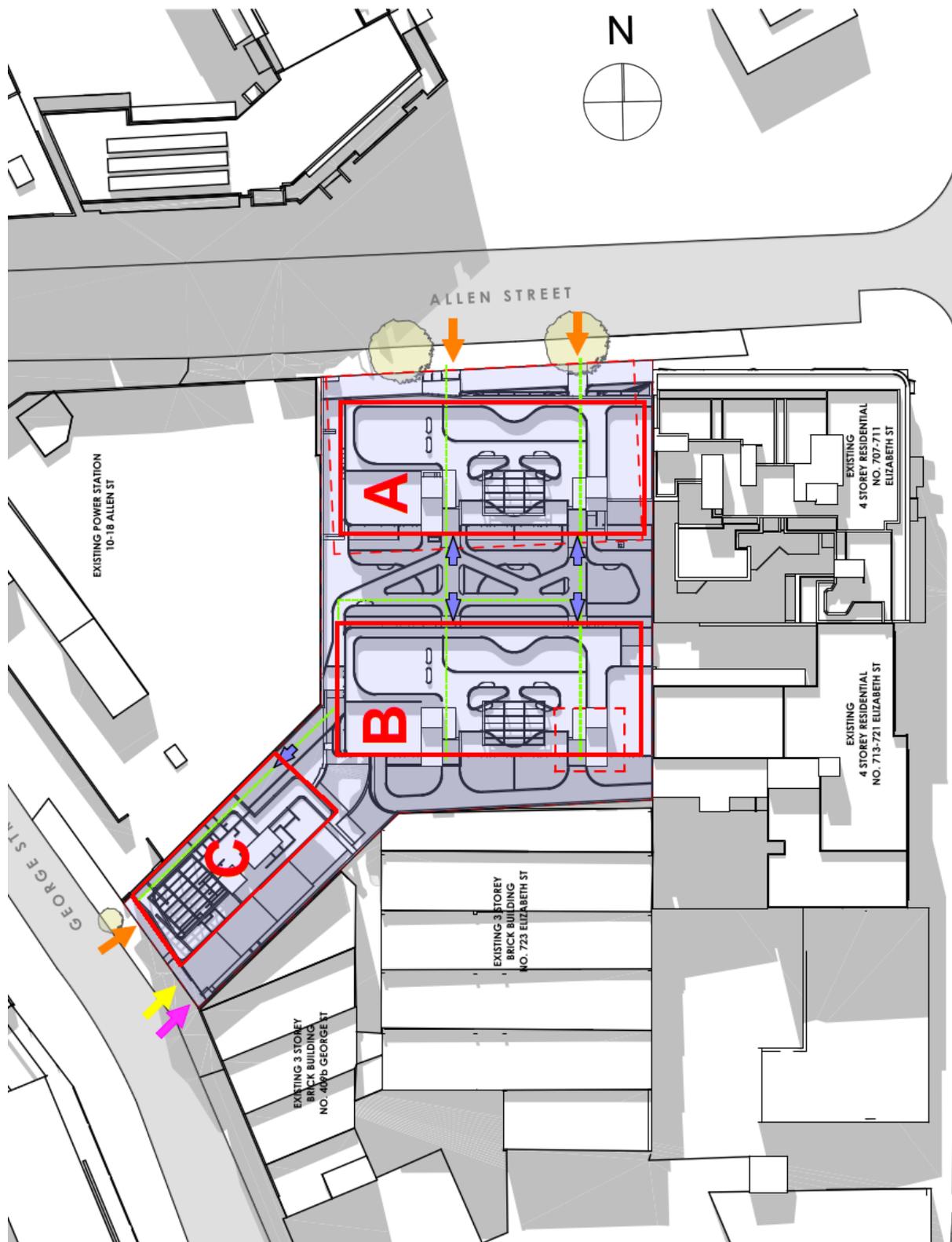


Figure 14: Proposed site plan, illustrating the footprints of Buildings A, B and C

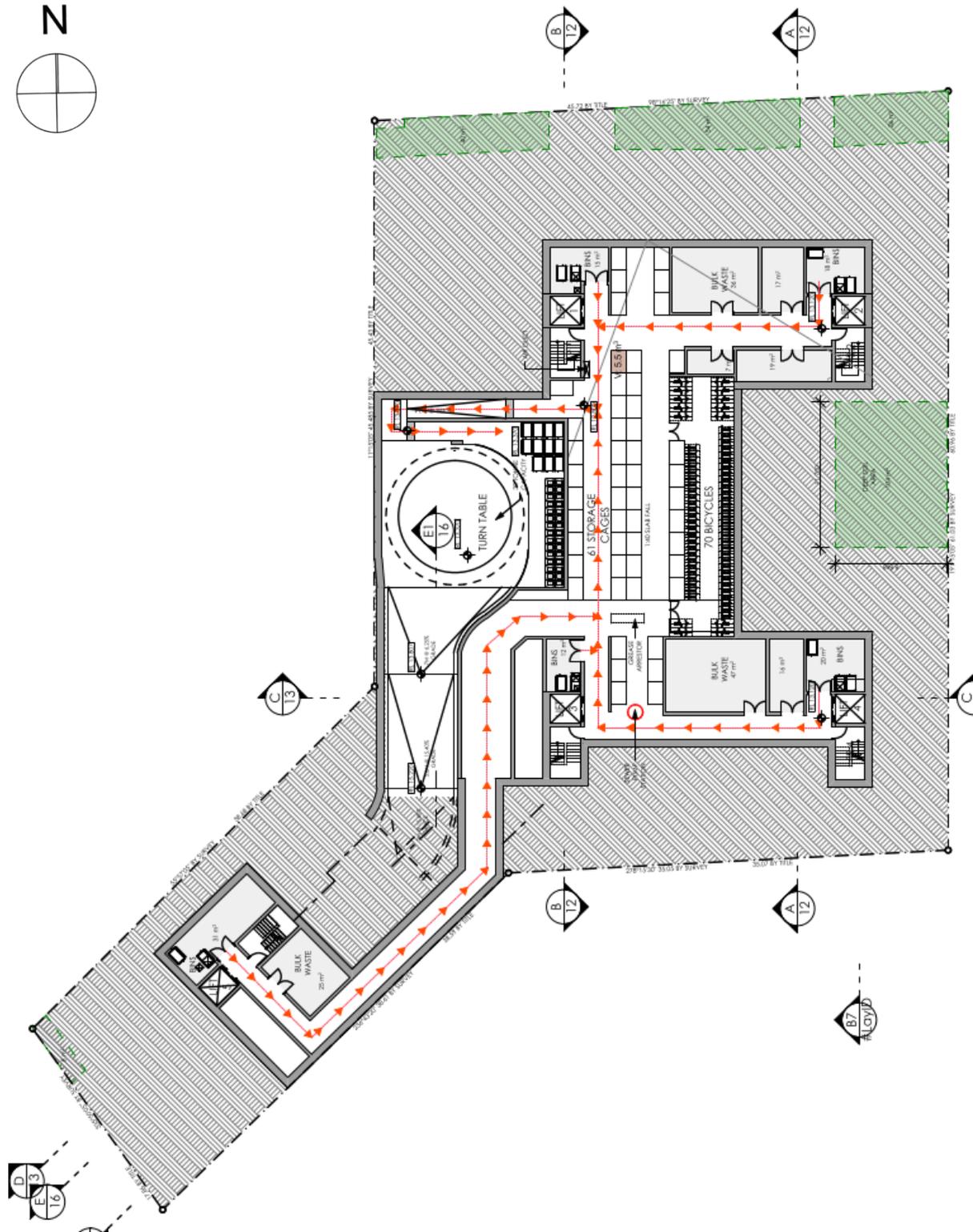


Figure 15: Proposed basement 2

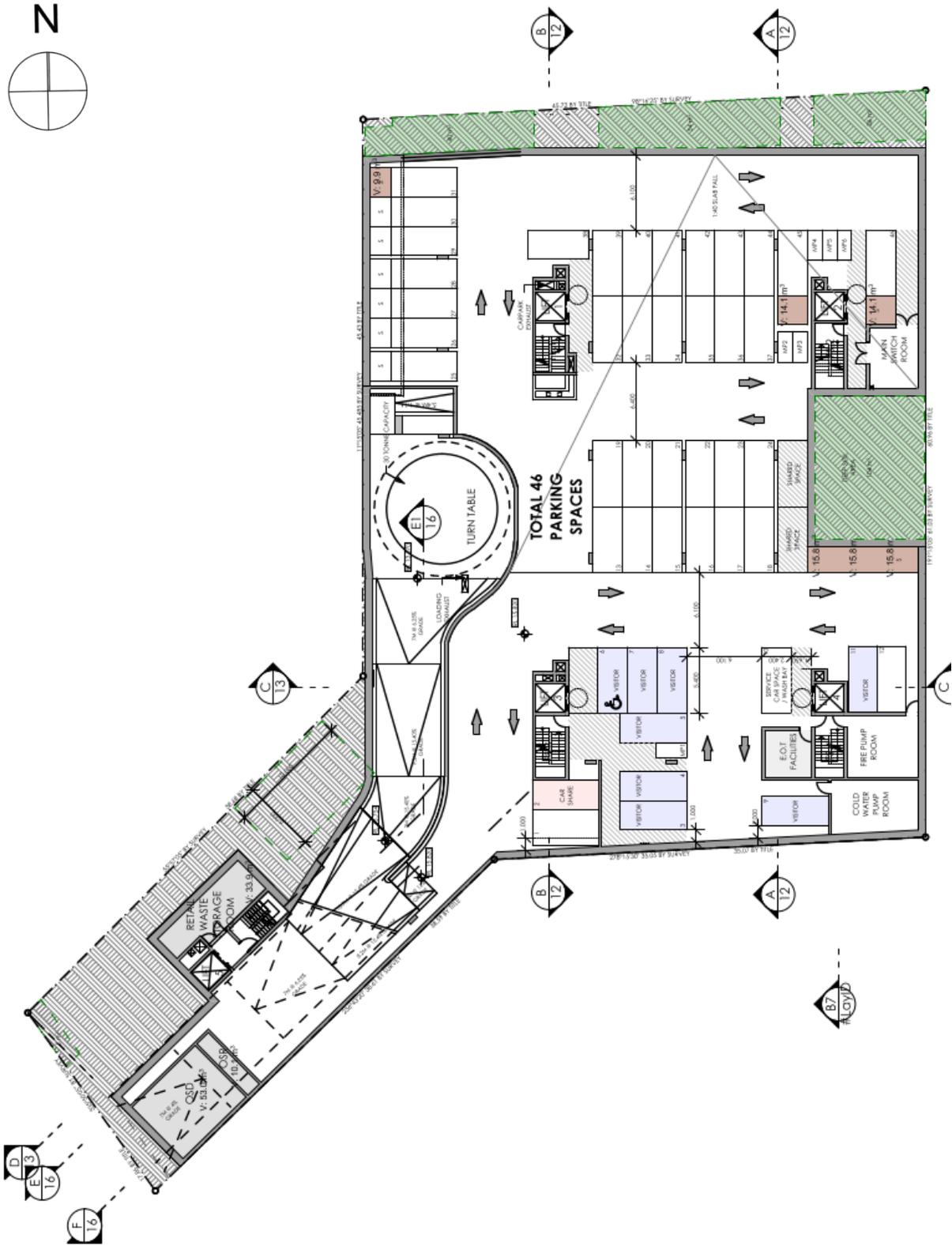


Figure 16: Proposed basement 1

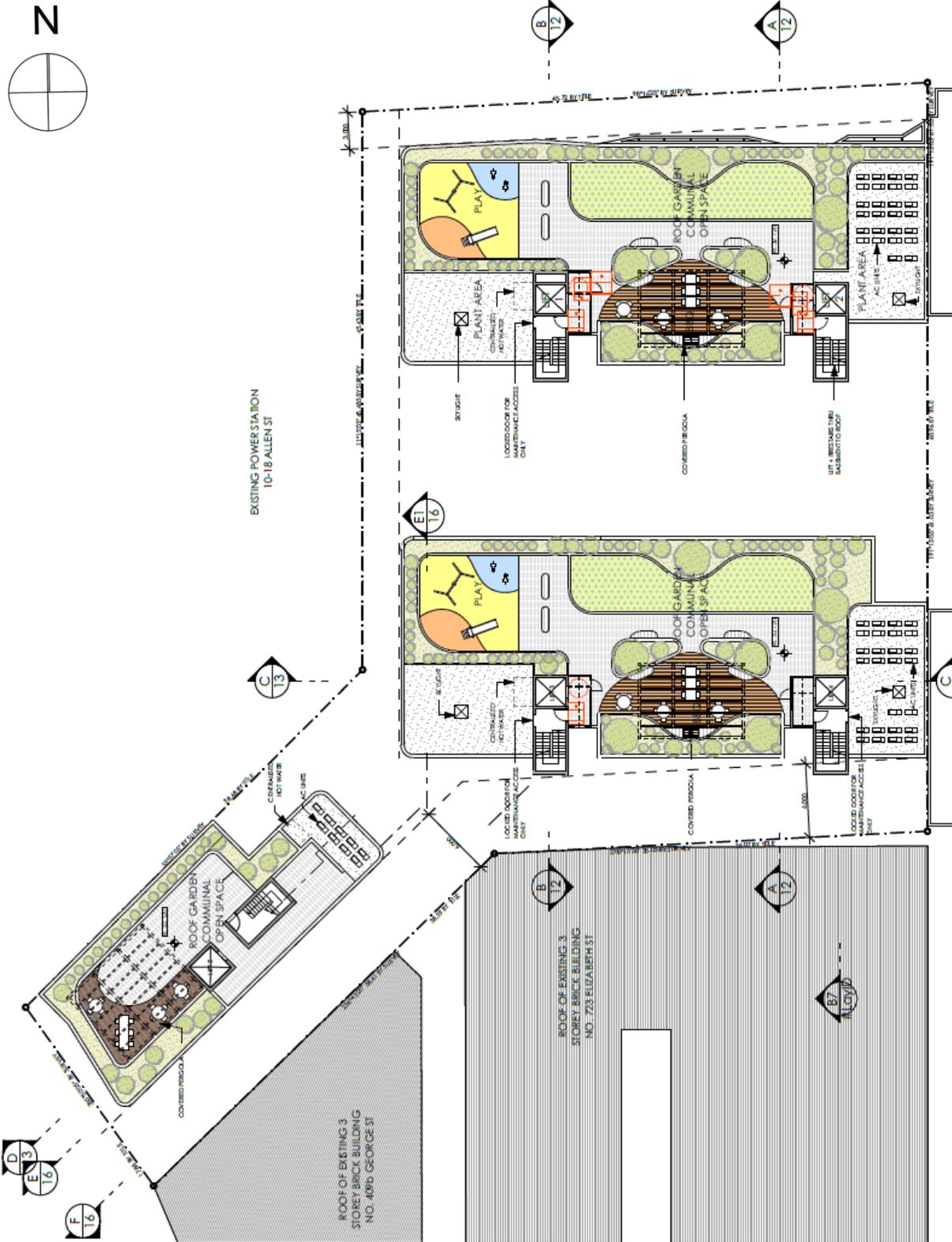


Figure 21: Proposed roof terrace plan



Figure 22: Proposed Allen Street (north) elevation



Figure 23: Proposed George Street (south-west) elevation



Figure 24: Proposed north-west elevation



Figure 25: Proposed south elevation



Figure 26: Proposed west elevation



Figure 27: Proposed internal (south) elevation of Building A



Figure 28: Proposed internal (north) elevation of Building B



Figure 29: Proposed south-east elevation of Building C

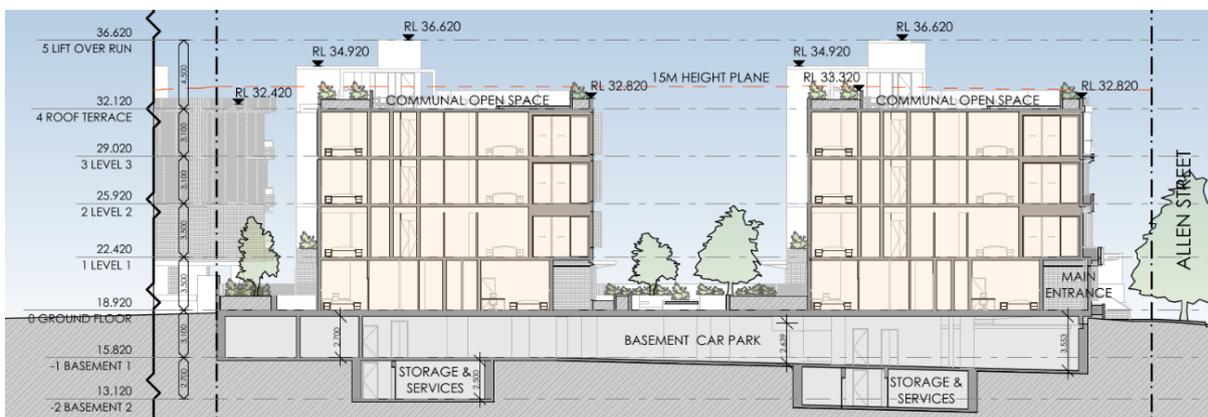


Figure 30: Proposed section A - building A (right) and building B (left)

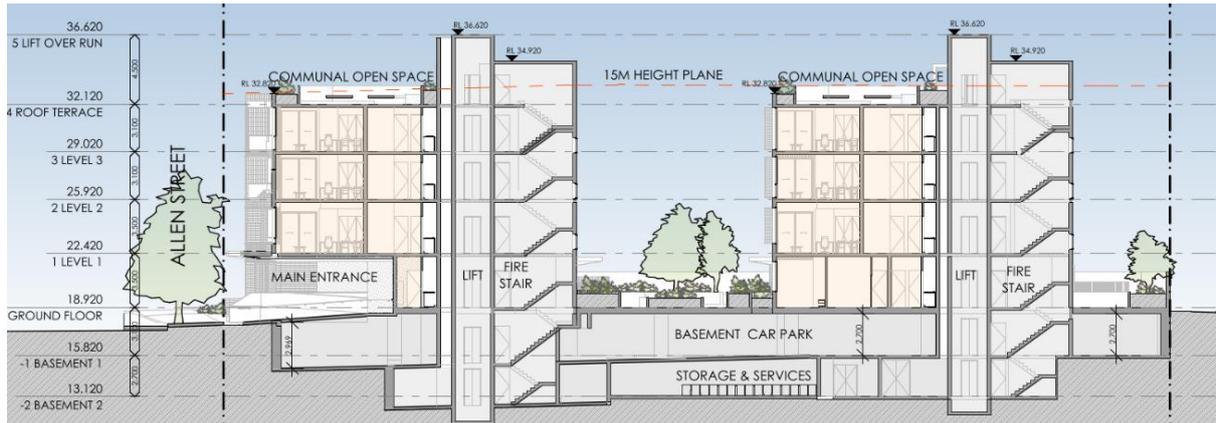


Figure 31: Proposed section B - building A (left) and building B (right)

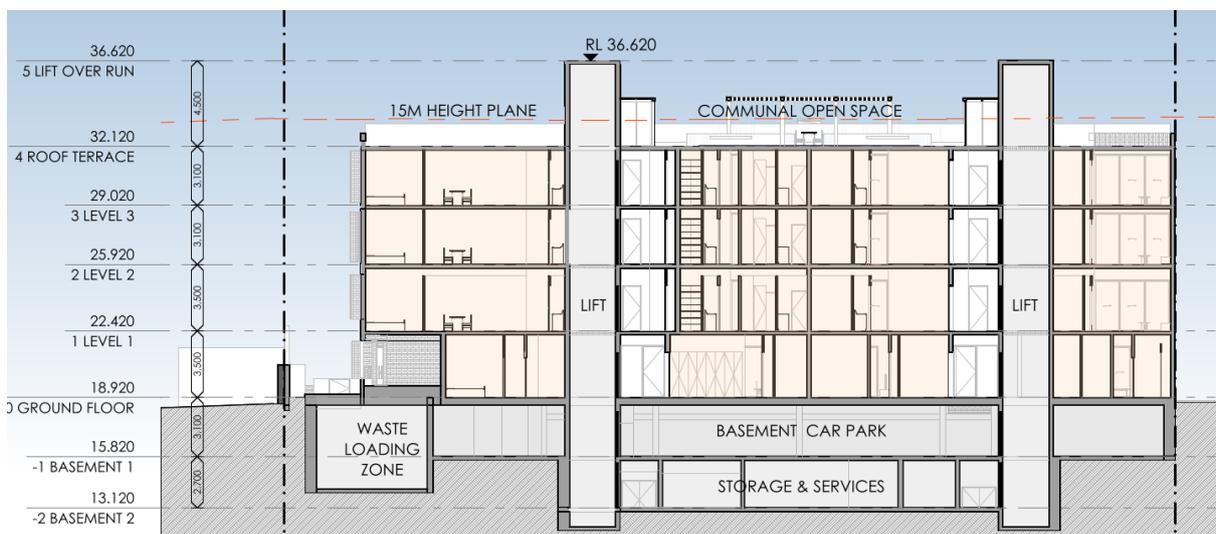


Figure 32: Proposed section C - long section of building B

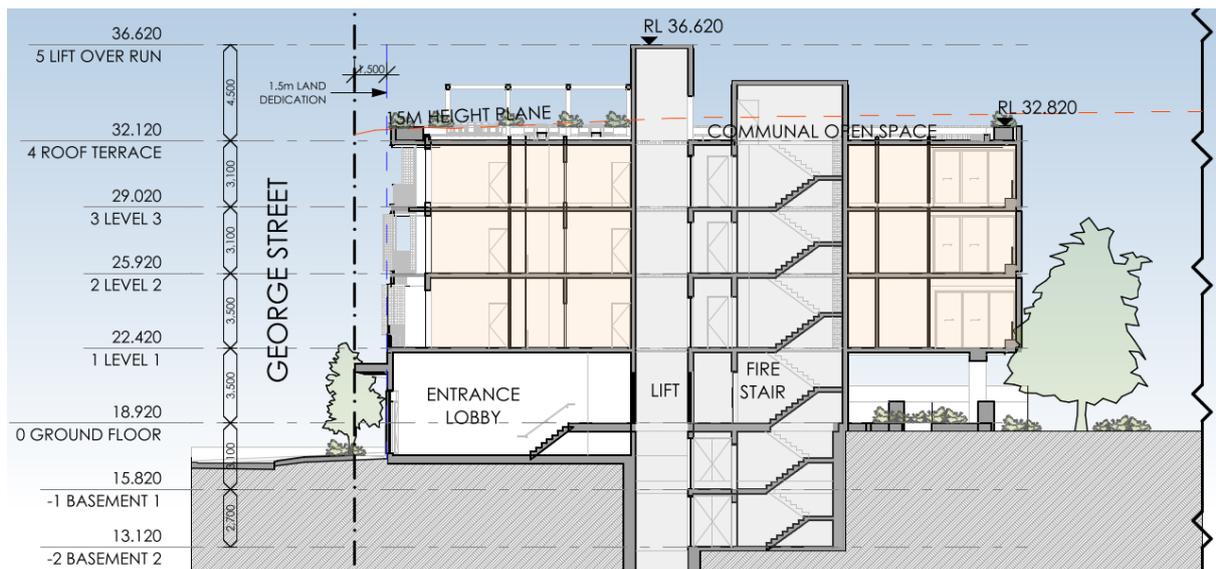


Figure 33: Proposed section D - building C

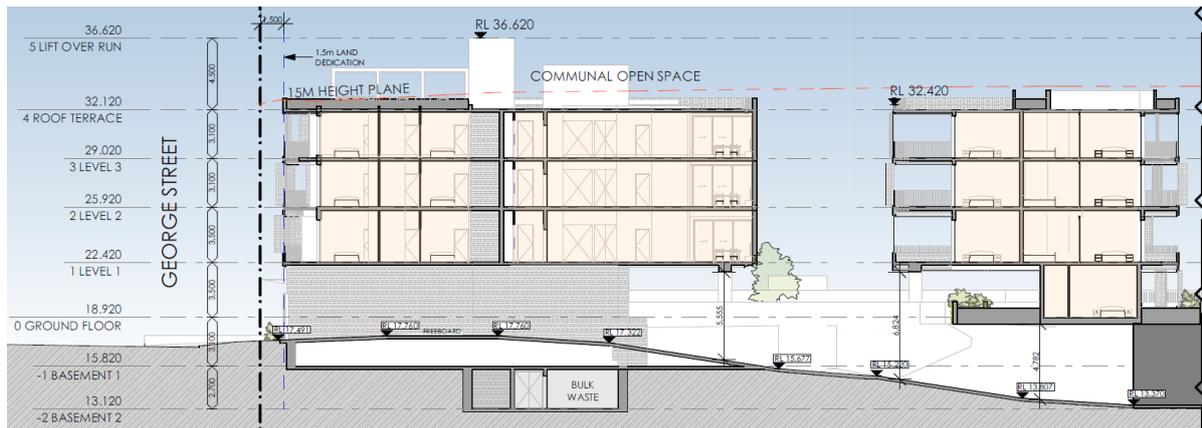


Figure 34: Proposed section E

Assessment

18. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Water Management Act 2000

19. The proposal is integrated development under the EP&A Act. This is because the development will encounter groundwater during the excavation process and must obtain a Water Supply Work Approval under the Water Management Act 2000.
20. As such, the application was referred to WaterNSW, who provided General Terms of Approval. The General terms of approval are incorporated in the recommended conditions in Attachment A.

State Environmental Planning Policies

State Environmental Planning Policy No 55 - Remediation of Land

21. The aim of State Environmental Planning Policy (SEPP) No 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.
22. Site investigations have identified soil contamination within both fill and natural soils and groundwater contamination, containing Total Recoverable Hydrocarbons (TRHs), Benzene, Toluene, Ethylbenzene and Xylene (BTEX), Polycyclic Aromatic Hydrocarbons (PAHs), and Chlorinated Volatile Organic Compounds (cVOCs).
23. A Remediation Action Plan (RAP) accompanied by a letter of interim advice has been submitted with the development application.
24. The RAP proposes an 8-step remediation process, including the removal of contamination sources as part of the excavation and dewatering process and the installation of a vapour barrier (and if required a mitigation system). The letter of interim advice confirms the above approach is appropriate.

25. The City's Environmental Health Unit has reviewed the information provided and has recommended conditions to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the remediation strategy.
26. Council officers are 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

27. SEPP65 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).

Design Advisory Panel - Residential Subcommittee

28. The Design Advisory Panel - Residential Subcommittee (DAPRS) were presented with the application, as it was originally lodged, on 2 March 2021.
29. Issues raised by DAPRS have been largely resolved by the submission of the amended plans. The key issues raised and amendments in response include:
 - (a) provision of a communal open space to the rooftop of Buildings B and C to allow equitable access across all buildings;
 - (b) provision of a consolidated deep soil zone between Buildings A and B along the eastern boundary in lieu of a deep soil zone between Buildings B and C along the western boundary, and an associated reduction of car parking spaces;
 - (c) amendments to the western elevation of Buildings A and B to mitigate the undesirable outlook and potential amenity impacts from the adjoining substation;
 - (d) reduction of building bulk of Buildings A and B on the upper levels to better align with the adjoining apartment buildings to the east;
 - (e) provision of a direct pedestrian link between Building C and the ground floor communal open space between Buildings A and B;
 - (f) amendments to the apartment layouts to avoid large storage room that could be used as habitable room without the necessary amenity;
 - (g) increase the solid to void ratio of the Allen Street facade to better interpret the outline of the existing 'nut shop' building;
 - (h) use actual brickwork in lieu of the originally proposed brick tiles for superior durability, substantial mass and depth; and
 - (i) visual and acoustic shielding added over the driveway between Buildings B and C, with a minimum height clearance of 4m.

Design Quality Principles

30. The development has been designed by PTI Architects and a design verification statement has been prepared and submitted by Peter Israel, who is the registered architect (no. 5064) for the project, addressing the design quality principles and the objectives of parts 3 and 4 of the ADG. The statement is deemed to satisfy Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000.
31. An assessment of the proposal against the design quality principles is provided below:

(a) Principle 1: Context and Neighbourhood Character

The site is located within the northern part of Green Square, which is transitioning from a predominantly industrial and commercial area to a medium density mixed use area. The demolition of the existing building and construction of a residential flat building is compatible with the emerging and desired future character of the area.

The design has also appropriately responded to the adjoining zone substation to the west in terms of safety and amenity.

(b) Principle 2: Built Form and Scale

The proposed development is consistent with the relevant built form controls and is similar in bulk and scale to other recently approved residential flat buildings neighbouring the site, particularly those adjoining to the east.

Despite a variation to the 'height of buildings' development standard, the variation is to accommodate lifts and facilities to the rooftop communal open spaces. The pattern of exceedance is consistent with other recently approved residential flat buildings and is considered to be acceptable as discussed elsewhere in this report.

(c) Principle 3: Density

The proposal complies with the maximum FSR of the site, inclusive of a FSR bonus under Clause 6.14 of Sydney LEP 2012. It provides a suitable mix and variety of apartment types, with acceptable amenity for future residents. The proposed density is appropriate in the local context, particularly in proximity to established infrastructure, public transport, community and recreational facilities. The development does not result in unacceptable amenity impacts to neighbouring properties as discussed elsewhere in this report.

(d) Principle 4: Sustainability

The apartments are designed to maximise the northerly aspect, and the proposed setbacks ensure adequate access to natural light and achievement of natural cross ventilation. Centralised heating and cooling, and waste management facilities are also provided.

The site is located close to existing and future public transport and is well-served by the existing dedicated cycleway that runs along its Allen Street frontage. Bicycle parking and facilities are provided to encourage cycling as an alternative transport mode. Similarly, a car share parking space is also provided as an alternative to private vehicle use and ownership.

(e) Principle 5: Landscape

A consolidated deep soil zone is provided between Buildings A and B, and additional deep soil zones are provided along the Allen Street frontage. The total deep soil zone is nine per cent of the site area, exceeding the seven per cent requirement of the ADG.

Additional landscaping is provided on the ground floor within the building setbacks, as well as the communal open spaces on the roof of each building.

(f) Principle 6: Amenity

The proposal achieves a reasonable level of amenity for the residential occupants of the development and neighbouring properties. Compliance with the amenity controls are detailed in the ADG assessment table below.

(g) Principle 7: Safety

The proposal provides for passive surveillance of Allen Street and George Street, and the communal open spaces are easily accessible, clearly defined, and visible to optimise safety. The design is generally consistent with the principles of Crime Prevention Through Environmental Design.

(h) Principle 8: Housing Diversity and Social Interaction

The development provides an appropriate mix of dwelling types with varying sizes to accommodate different demographics. The development is also designed to have equitable access, including 10 adaptable units. Communal open spaces are designed to accommodate active and passive uses, to provide amenity to the residents and encourage social interaction.

(i) Principle 9: Aesthetics

The design of the proposed development is of a high standard and is compatible with existing developments and the desired future character of the locality. The proposed materials primarily consist of masonry, metal clad detailing, and glass balustrade. The use of masonry makes reference to the neighbouring developments, while its two-tone finishes pays tribute to the form of the existing 'nut shop' warehouse building and provides articulation and visual interests.

32. The proposal is acceptable when assessed against SEPP65 including the above stated principles and the associated 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 against the ADG is provided below.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	The proposal includes 4 areas of communal open space with a total area of approximately 1,897m ² (56% of site area), including 627m ² on the ground floor between Buildings A and B, and on the roof of each building, being a total of 1,270m ² .
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	In mid-winter, the rooftop open space, which comprises more than 50% of the total communal open space area, receives over 2 hours of direct sun.

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 3m	Yes	The proposal includes 291m ² of deep soil zone (9% of site area), which is compliant with the ADG requirements.

2F Building Separation 3F Visual Privacy	Compliance	Comment
Up to four storeys (12 metres): <ul style="list-style-type: none"> • 6m between habitable rooms / balconies • 3m between non-habitable rooms 	Yes	Objective 2F of the ADG recommends that building separation requirements are shared between the development site and adjoining properties. It is noted that adjoining properties to the south have limited setback to the common boundaries with the subject site. As such, the separation recommended by Objective 2F can only be achieved within the site's boundary. There are also reduced separation between the balconies of Type F apartments in Building B and Type B apartments in Building C. Refer to the 'Discussion' section below.

2F Building Separation 3F Visual Privacy	Compliance	Comment
4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	72% (44 out of 61) apartments achieve the recommended solar access.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	Only 5% (3 out of 61) apartments receive no direct sunlight between 9am and 3pm.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	62% (38 out of 61) of apartments achieve natural cross ventilation. This excludes the western most apartments in Buildings A and B which no longer have windows on the western elevation but includes apartments 302 and 309 as they are provided with a skylight to the living area.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	All cross-through apartments do not exceed 18m, measured glass line to glass line.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	All habitable rooms are provided with a floor to ceiling height of at least 2.7 metres.
Non-habitable rooms: 2.4m	Yes	All non-habitable rooms are provided with a floor to ceiling height of at least 2.4 metres.

4C Ceiling Heights	Compliance	Comment
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Yes	The ground floor and first floor are capable of achieving 3.3m floor to ceiling height for future flexibility of use.

4D Apartment Size and Layout	Compliance	Comment
Minimum unit sizes: <ul style="list-style-type: none"> • studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² + 5m ² per additional bathroom.	Yes	The apartments comply with the minimum apartment sizes including where an additional bathroom is being provided.
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 (including studies where provided) have access to an external window as required by the ADG.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	All apartments are open plan and have a maximum room depth of 8 metres measured from the inside of the glass line to the kitchen.
8m maximum depth for open plan layouts.	Yes	
Minimum area for bedrooms (excluding wardrobes): <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	The development complies or exceed the minimum sizes and dimensions.
Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> • Studio and 1 bed: 3.6m • 2 bed or more: 4m 	Yes	The development provides compliant living and dining room widths.

4D Apartment Size and Layout	Compliance	Comment
4m minimum width for cross through apartments.	Partial compliance	<p>The minimum dimension of cross through apartments is 4 metres.</p> <p>However, a recommended condition will reduce the living/dining room width of 3 apartments in Building C, being the 1 Bed Type K apartments, to comply with the minimum 3.6m width instead for reasons detailed in the 'Discussion' section below.</p>

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments are to have a minimum balcony area of 4m² with a minimum depth of 1m.</p> <p>1 bed apartments are to have a minimum balcony area of 8m² with a minimum depth of 2m.</p> <p>2 bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.</p> <p>3 bed apartments are to have a minimum balcony area of 12m² with a minimum depth of 2.4m.</p>	Yes	All apartments are provided with the required area of private open space.
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m ² and a minimum depth of 3m.	Yes	All apartments located on the ground level are provided with private open space with the minimum area and depth.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is 8.	Yes	A maximum of 4 apartments per level per core.

4F Common Circulation and Spaces	Compliance	Comment
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	No primary living room or bedroom windows open directly onto common circulation spaces.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	All common circulation spaces have access to natural light and ventilation.

4G Storage	Compliance	Comment
Minimum storage provision facilities: <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ (Minimum 50% storage area located within unit)	Yes	Adequate storage is provided for each apartment, with at least 50% being provided within the unit.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	All apartments are capable of natural ventilation and provide acceptable acoustic amenity.

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

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

State Environmental Planning Policy (Infrastructure) 2007

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

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network**Clause 45 Determination of development applications – other development**

36. The application is subject to Clause 45 of the SEPP as the development will be carried out immediately adjacent to an electricity substation.
37. As such, the application was referred to Ausgrid for a period of 21 days and concerns were raised to the original proposal. To address Ausgrid's objections, the proposed development has been amended as follows:
- (a) all habitable windows on the western elevations have been removed to minimise reliance on the interface with the substation (western boundary) for amenity;
 - (b) the upper level north-facing balconies of Building C along the western boundary are required to be deleted by condition to address concerns of unauthorised access into the substation;
 - (c) the rooftop communal open spaces are designed with perimeter landscaping of approximately 1.5m wide along the western edges to minimise risk of projectiles being thrown or falling into the substation;
 - (d) the deep soil area has been relocated from between Buildings B and C along the western boundary to between Buildings A and B, so that planting of new trees would not impact on the substation; and
 - (e) the proposed development will be constructed of brick, particularly the side wall of Building C. Brick is an integral material that does not require regular maintenance, and is therefore appropriate to act as an interface with the zone substation. This will also avoid the need to access the substation for maintenance of the wall.
38. The amended design updated technical reports have been reviewed by Ausgrid, who provided updated advice on 21 July 2021 as follows:
- (a) the updated Electric and Magnetic Fields (EMF) assessment has adequately addressed Ausgrid initial concerns regarding the proposed 3m setback for Buildings A and B and the nil setback for Building C. It also demonstrates compliance with the requirements of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) *Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields*;
 - (b) the updated fire risk assessment has demonstrated that, subject to compliance with the relevant fire safety requirements of the BCA and recommendations made by the fire safety consultant during the design resolution stage, the proposed development, particularly Buildings B and C, could provide unconditional safety to future occupants;

- (c) the rooftop open spaces are approximately 14m above ground level, and are considered to be adequately protected from fire risk associated with the substation;
 - (d) the pedestrian path connecting Building C to the communal open space between Buildings A and B is considered to be adequately protected by the existing boundary wall; and
 - (e) the design changes to the basement levels do not result in any additional risk to the substation in terms of undermining, settlement, vibration during construction, or rock anchors.
39. All other objections are to be resolved or managed by recommended conditions at Attachment A, including:
- (a) a vibration management plan to include the vibration limits, construction method, and notification and reporting requirements detailed in Ausgrid's advice;
 - (b) geological movement monitoring as detailed in Ausgrid's original advice;
 - (c) other management and construction requirements, particularly along the boundary with the substation, including shoring design, ground/rock anchors, and control of dust; and
 - (d) standard conditions that:
 - (i) require the preparation of a dilapidation report for the substation; and
 - (ii) acoustic amenity to the future residents as demonstrated in the Acoustic Report reviewed by Council's Environmental Health Unit.

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors

Clause 85 – Development adjacent to rail corridors

40. The site is adjacent to the underground 'Airport & South Line" heavy rail corridor and was subsequently referred to Sydney Trains for comment.
41. Sydney Trains have raised no objections, and all recommended conditions are included in Attachment A.

Local Environmental Plans

Sydney Local Environmental Plan 2012

42. An assessment of the proposed development against the relevant provisions of the Sydney LEP 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the B4 Mixed Use zone. The proposed development is defined as a mixed-use development, comprising a residential flat building and a retail premises, which are permissible with consent in the zone. The proposal generally meets the zone objectives.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	A maximum height of 15m is permitted. A height of 19.12m is proposed, which represents a variation of approximately 4.12m (27.4%). A request to vary the 'height of buildings' development standard in accordance with Clause 4.6 has been submitted. Refer to the 'Discussion' section below.
4.4 Floor space ratio (FSR)	Yes	A base FSR of 1.5:1 is permitted, and an additional FSR of up to 0.5:1 is available under Clause 6.14. Therefore, a maximum FSR of 2:1 is available to the site. This application seeks an additional FSR of 0.1:1, with a maximum FSR of 1.6:1. The proposal is therefore compliant.
4.6 Exceptions to development standards	Yes	The proposed development seeks to vary the 'height of buildings' development standard prescribed under Clause 4.3. A Clause 4.6 variation request has been submitted with the application. Refer to the 'Discussion' section below.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.14 Community infrastructure floor space at Green Square	Yes	The site is eligible for a maximum additional FSR of 0.5:1 subject to the provision of community infrastructure.

Provision	Compliance	Comment
		<p>The applicant has made a public benefit offering, including the dedication of land for footpath widening along the site's George Street frontage and monetary contribution for the provision of community infrastructure, to secure an additional FSR of 0.1:1.</p> <p>The proposal, as amended, utilises the additional FSR, and is subject to the related VPA being executed.</p>
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposal has been amended to address comments provided by the City's Design Advisory Panel - Residential Subcommittee, and is of a high standard and uses materials and detailing which are compatible with the existing developments in the locality and will contribute positively to the character of the area.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence.</p> <p>The development is not subject to a competitive design process as it is not a development type identified under Clause 6.21(5).</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
7.5 Residential flat buildings, dual occupancies and multi dwelling housing 7.7 Retail premises	Yes	<p>A maximum of 52 car parking spaces are permitted.</p> <p>The proposed development includes 46 car parking spaces and complies with the relevant development standards.</p>

Provision	Compliance	Comment
7.13 Contribution for purpose of affordable housing	Yes	<p>The proposed development is subject to the Green Square affordable housing contribution.</p> <p>Refer to the 'Financial Contribution' section below.</p>
7.14 Acid Sulfate Soils	Yes	<p>The site is located on land with class 5 Acid Sulfate Soils and is approximately 200m from class 3 Acid Sulfate Soils.</p> <p>The application proposes works requiring the preparation of an Acid Sulfate Soils Management Plan.</p> <p>The submitted Acid Sulfate Soils Management Plan has been reviewed by the City's Environmental Health Unit and is satisfactory subject to recommended conditions included in Attachment A.</p>
7.15 Flood planning	Yes	<p>The site is identified as being subject to flooding and is located within the Alexandra Canal catchment.</p> <p>A site-specific flood assessment has been reviewed by the City's Public Domain Unit and is satisfactory. The flood report demonstrates that the finished floor levels of the proposal comply with the City's Interim Floodplain Management Policy and satisfies the provisions of the standard. Appropriate conditions are recommended in Attachment A.</p>
7.16 Airspace operations	N/A	<p>The proposal will not penetrate the Obstacle Limitation Surface as shown in the Obstacle Limitation Surface Map for the Sydney Airport.</p>
7.20 Development requiring or authorising preparation of a development control plan	N/A	<p>As per subclause (2)(b), the site area is less than 5,000m² and the proposed development involves a height no greater than 25m above existing ground level. A DCP is therefore not required.</p>

Provision	Compliance	Comment
7.23 Large retail development outside of Green Square Town Centre and other planned centres	Yes	The proposal includes 1 retail tenancy that is 52m ² in size, which complies with the maximum retail floor space allowable under this clause.

Development Control Plans

Sydney Development Control Plan 2012

43. An assessment of the proposed development against the relevant provisions within the Sydney DCP 2012 is provided in the following sections.

Section 2 – Locality Statements

44. The site is located within the Waterloo Park locality. The proposed development is in keeping with the unique character and the design principles of the locality in that the bulk and scale of the development is contextually appropriate to the area, and includes a public benefit offer that includes land dedication for future footpath widening on George Street and monetary contribution for the provision of community infrastructure.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposed development will make a positive contribution to the public domain. A 1.5m wide strip of land along the George Street frontage of the site will be dedicated to Council to enable future footpath widening.
3.2. Defining the Public Domain	Yes	The design of the proposal will enhance the quality of the public domain. The proposal provides legible and accessible entrances from Allen Street and George Street, and provides passive surveillance to both frontages.
3.4 Hierarchy of Centres, City South	Yes	The proposed retail tenancy will not undermine the economic strategy of the Green Square retail centre or impact its viability.

Provision	Compliance	Comment
3.5 Urban Ecology	Partial compliance	<p>An arborist report has been submitted and reviewed by the City's Tree Management Unit. The proposed removal of trees within the site is considered acceptable subject to replacement planting.</p> <p>Refer to the 'Discussion' section below.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management	Yes	<p>The site is identified as being on flood prone land. As discussed under Clause 7.15 above, a satisfactory flood report has been submitted to demonstrate that the proposed development can comply with the City's Interim Floodplain Management Policy.</p> <p>A stormwater concept design was also submitted. The design includes an OSD system that discharge to the existing kerb inlet pit on George Street adjacent to the site. This is considered acceptable by the City's Public Domain Unit, subject to conditions.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	A separate development application is required for the strata subdivision of the site. Conditions are recommended.
3.11 Transport and Parking	Yes	<p><i>Car Parking</i></p> <p>The proposal provides 46 car parking spaces, including 1 car share space, and 9 visitor parking spaces.</p> <p>Accessible parking spaces are also provided.</p> <p><i>Motorcycle Parking</i></p> <p>The proposal provides a compliant number of 6 motorcycle parking spaces.</p> <p><i>Bicycle Parking</i></p> <p>The proposal provides a compliant number of bicycle parking spaces, including 61 residential spaces and 6 visitor spaces. Provision of these, and their compliance with the Australia Standard, are ensured by conditions.</p>

Provision	Compliance	Comment
		<p><i>Servicing</i></p> <p>A service area is provided within basement 2 for waste collection and all other loading and unloading. The service area is adequately sized, with a 30 tonne-capacity turn table to allow a Council waste truck to enter and exit the site in a forward direction to maximise pedestrian safety.</p>
3.12 Accessible Design	Yes	<p>Equitable access is provided to all buildings, and 10 adaptable units are provided as required.</p> <p>The proposed development can provide residential accommodation and access to shared facilities for persons with disabilities in accordance with the DCP and BCA.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles, subject to conditions.</p>
3.14 Waste	Yes	<p>Conditions have been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>
3.15 Late Night Trading Management	N/A	<p>The fitout and use of the retail tenancy fronting George Street are subject to a separate development application, at which stage, the appropriate trading hours will be assessed and determined.</p> <p>Notwithstanding, the standard hours of operation as per the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is provided for the tenancy to be used as a retail premises.</p>

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	The site is permitted a maximum building height of 4 storeys with a maximum street frontage height of 4 storeys. The proposed development is 4 storeys in height with a street frontage height of 4 storeys and complies.
4.2.3 Amenity	Partial compliance	Many of the relevant provisions of this section are superseded by the ADG, pursuant to Clause 6A of SEPP65.
4.2.3.1 Solar Access	Yes	Refer to the 'Discussion' section below.
4.2.3.11 Acoustic privacy	Yes	An acoustic assessment has been submitted and reviewed by the City's Environmental Health Unit. The assessment is acceptable and demonstrates that all apartments will achieve an acceptable day time and night-time noise levels in a window-open scenario.
4.2.3.12 Flexible housing and dwelling mix	Yes	The proposal has the following unit mix: <ul style="list-style-type: none"> • 19 x 1 bed (31%) • 36 x 2 bed (59%) • 6 x 3 bed (10%) The mix is largely consistent with this section and is acceptable.
4.2.6 Waste and recycling Management	Yes	Each residential unit can accommodate at least 2 days volume of general waste and recyclables. Appropriate conditions are recommended to ensure compliance with the City of Sydney Guidelines for Waste Management in New Development.

Provision	Compliance	Comment
4.2.7 Heating and cooling infrastructure	Yes	Centralised plant areas have been provided on the rooftop plant area of each building.
4.2.8 Letterboxes	Yes	Letterboxes are provided in secure locations as recommended by the NSW Police.
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	Subject to conditions, the development will not adversely impact the amenity of neighbouring residential properties.

Section 5 – Specific Areas

Provision	Compliance	Comment
5.2.2. Objectives of Green Square	Yes	The proposal satisfies the relevant objectives for Green Square in that it provides a sensitive in-fill development that complements the desired future character of the neighbourhood and contributes to the housing stock of the area.
5.2.3 Community infrastructure	Yes	The proposal will dedicate land along it's George Street frontage and provide monetary contributions to the delivery of community infrastructure to access additional FSR permitted under Clause 6.14 of Sydney LEP 2012.
5.2.9 Building design	Yes	<p>The buildings appropriately address Allen Street and George Street, providing multiple entries to allow optimum access from, as well as passive surveillance of the public domain.</p> <p>The vehicular access is retained on the George Street frontage, which is appropriate to minimise impacts on the dedicated cycleway along Allen Street. The access point is separate from the retail and residential entrances, and all vehicles can enter and exit the site in a forward direction to maximise safety.</p>

Provision	Compliance	Comment
		The height of the development is consistent with adjoining buildings, including the provision of lifts to rooftop communal open spaces. Given the consistency in height, and proposal will not unreasonably affect outlook from neighbouring properties. Furthermore, the site is not interfere with city skyline views from neighbouring taller development (i.e. the upper floors of 356-368 George Street), and therefore will not have an adverse impact.
5.2.10 Setbacks	Yes	A 1.5m wide footpath widening setback along George Street is provided.

Discussion

Clause 4.6 Request to Vary a Development Standard

- 45. The site is subject to a maximum 'height of buildings' development standard of 15m. The proposed development is generally compliant, where the parapet of the buildings has a maximum height of 15m. This is exceeded by lifts, fire stairs and shade structures that service the rooftop open space areas and have a maximum height of 19.12m.
- 46. The variation is a maximum of 4.12m (27.4 per cent). The areas above the maximum 15m height plane, denoted by a red line, are identified in the sections shown in Figures 35 and 36 below.

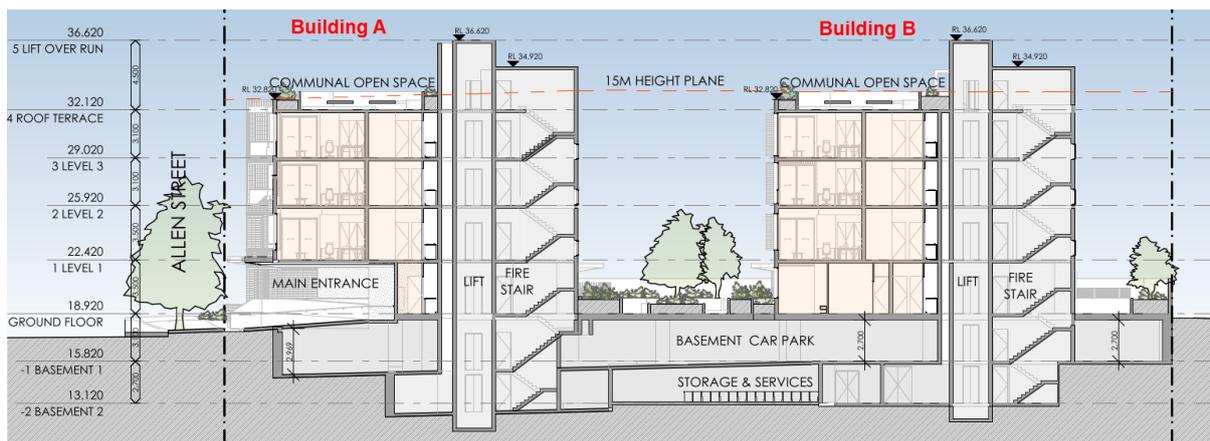


Figure 35: Height exceedance for Buildings A and B

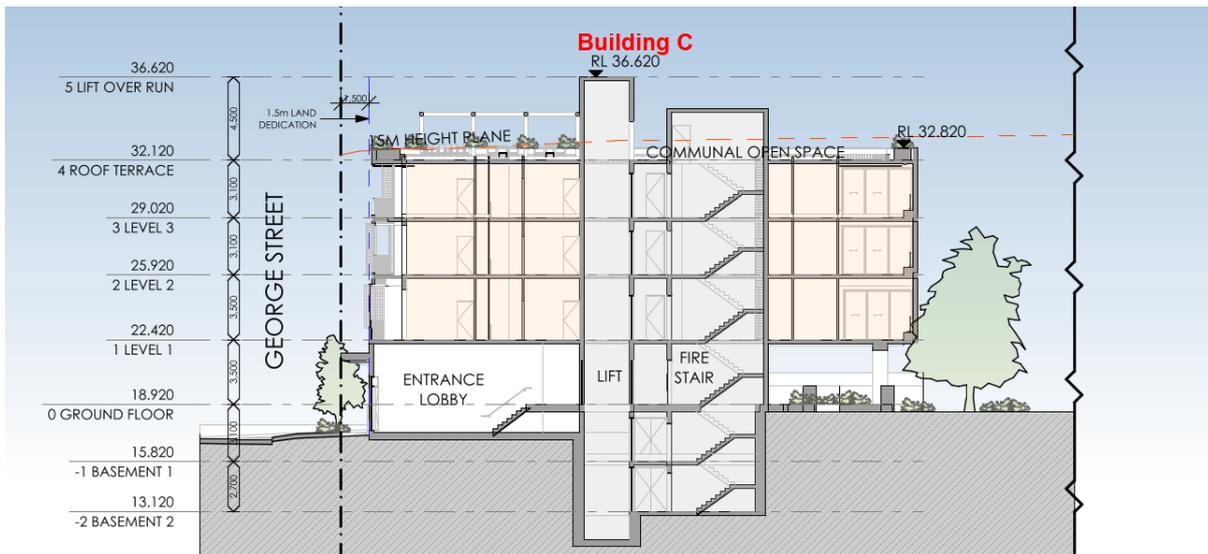


Figure 36: Height exceedance for Building C

47. 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.
48. A copy of the applicant's written request and figures referenced in their statement is provided at Attachment C.

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

49. The applicant seeks to justify the contravention of the 'height of buildings' 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 statement referred to the first method of the five part test 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 development standard are achieved notwithstanding non-compliance with the numerical standard.
 - (ii) A summary of the applicant's assessment against the objectives of the development standard are provided below:

Objective (a): to ensure the height of development is appropriate to the condition of the site and its context

- (iii) The main bulk of the proposed development is compliant with the 15m 'height of buildings' development standard and the maximum four-storey height recommended by Sydney DCP 2012 as shown in Figures 35 and 36 above. The proposed height is also consistent with the adjoining residential flat buildings to the east as shown in Figure 37 below.



Figure 37: Elevation comparing the maximum height of the proposed development with the adjoining 707 Elizabeth St

- (iv) The areas of non-compliance are limited to lifts, fire stairs, and shade structures to the rooftop communal open spaces. These elements are set back from the street frontages to minimise visual impacts when viewed from the public domain to maintain the consistency in height and bulk with neighbouring developments.
- (v) The pattern of having similar height exceedance is also consistent with the residential flat buildings to the east, as shown in Figure 37 above. Furthermore, the proposed maximum height, being RL 36.62, is below the maximum heights of RL 37.07 for 707 Elizabeth Street and RL 37.4 for 713 Elizabeth Street that were previously approved and now implemented.

Objective (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas

- (vi) The site is not a heritage item nor located within a heritage conservation area, with the closest heritage item being the Waterloo Park to the north. The development provides a four-storey street frontage that is consistent with the adjoining 707 Elizabeth Street, and the numerical non-compliance does not deter an appropriate height and bulk to the heritage item.

Objective (c) to promote the sharing of views

- (vii) The proposed building height, including the elements of non-compliance, are consistent with neighbouring developments. The site is not located within a significant view corridor, including that of the upper levels of the taller development at 356-368 George Street, and therefore will not result in unacceptable impact on any existing public and private views.

Objective (e) in respect to Green Square: (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and (ii) to ensure the built form contributes to the physical definition of the street network and public spaces

- (viii) The proposed height and bulk are commensurate with the those of adjoining developments, particularly the residential flat buildings to the east. The development complies with the primary building bulk controls and provides a consistent street wall to clearly define the public domain. The elements of non-compliance are recessed from the street frontages to minimise visibility and potential amenity impacts to the public domain.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The lifts are necessary to provide equitable access to the rooftop communal open spaces, which are best located on the rooftop to maximise solar access and ventilation to ensure high residential amenity. The shade structures are also necessary to ensure those open spaces are fit for purpose with adequate weather protection. The fire stairs, on the other hand, is necessary to comply with fire safety requirements. Strict compliance with the development standard will hinder the achievement of a good planning outcome.
 - (ii) The heights of the non-compliant components are comparable to the approved maximum heights to the lifts of the adjoining residential flat buildings to the east, which are subjected to the same development standard. The maximum height of RL37.07 at 707 Elizabeth Street and RL37.4 at 713-715 Elizabeth Street were previously approved to allow access to their respective rooftop communal open spaces. As shown in Figure 35 above, the proposed exceedance, being RL36.62 is not out of context, and is less than those previously approved and implemented.
 - (iii) Given the elements of non-compliance are recessed from the street frontages, they will not contribute to significant additional bulk and scale when viewed from the public domain.
 - (iv) Given the subject site is not located within a significant view corridor, as discussed against the objective of the development standard above, the elements of non-compliance will not adversely impact on existing public and private iconic views.
 - (v) As discussed elsewhere in this report, the elements of non-compliance will not deter the development from complying with the solar access requirements of the ADG, including its overshadowing impacts to neighbouring properties.

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

50. Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this proposed development;

- (b) The applicant's written request has adequately established sufficient environmental planning grounds to justify contravening the development standard;
- (c) The proposed development will be in the public interest because it is consistent with the objectives of the development standard in question; and
- (d) The proposed development will be in the public interest because it is consistent with the objectives of the zone in which the development is proposed to be carried out.

51. The four matters are addressed individually below.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

- (a) A detailed discussion of the applicant's submission with regard to the objectives of the development standard is provided above. The written request has adequately demonstrated that the proposed development meets the objectives of the 'height of buildings' development standard despite the non-compliance with the numerical standard. As such, to the extent of the variation proposed, compliance with the development standard is unreasonable and unnecessary.

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

- (b) A detailed discussion of the applicant's submission with regard to environmental planning grounds to justify contravening the development standard is provided above. The environmental planning grounds established are specific to the circumstances of the site to justify the extent of non-compliance with the 'height of buildings' development standard. In this instance, the elements of non-compliance are required to achieve high residential amenity for the development and are appropriately located to fit within the context of the immediate surroundings. The written request has therefore demonstrated that there are sufficient environmental planning grounds to support the extent of the variation proposed.

Is the development in the public interest by being consistent with the objectives of the development standard in question?

- (c) With regard to varying development standards, the public interest is conceived as being protected where a development meets the objectives of the zone and the development standard sought to be varied. As discussed above, the development is consistent with the objectives of Clause 4.3 despite the non-compliance with the numerical standard and is therefore in the public interest.

Is the development in the public interest by being consistent with the objectives of the zone in which the development is proposed to be carried out?

- (d) Similarly, the public interest is considered protected where a development is consistent with the objectives of the B4 Mixed Use zone, in which the development is proposed to be carried out. The objectives of the zone are discussed below:

First objective to provide a mixture of compatible land uses

- (e) The development provides residential apartments and a retail tenancy in a highly accessible location, where a range of facilities and services, as well as educational facilities and recreational opportunities are already available in close proximity. The proposed mixed-use development is commensurate and complementary to other neighbouring mixed-use developments in the area.

Second objective 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.

- (f) The development is in proximity to public transport, and a dedicated cycleway runs along Allen Street that connects to the wider cycleway network in the City. Bicycle parking spaces and associated facilities are provided by the development as recommended by Sydney DCP 2012 to encourage active transport. A car share parking space is also available in the basement to provide alternative to private vehicle ownership and usage.

Third objective to ensure uses support the viability of centres

- (g) The development will support additional population that provides demand for goods and services in the nearby centres, including Green Square, and supports their viability.

Conclusion

- 52. For the reasons provided above the requested variation to the 'height of buildings' development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney LEP 2012 and the proposed development is in the public interest because it is consistent with the objectives of 'height of buildings' development standard and the B4 Mixed Use zone.

Building Separation

- 53. The aims for the recommended building separation as per Part 2F of the ADG are to ensure that massing and scale are appropriate to support the desired future character; assist in providing visual and acoustic privacy, natural ventilation, sunlight and daylight access, and outlook; and provide suitable areas for communal open spaces, deep soil zones and landscaping. The recommended separation is between 6m to 12m, while no separation is required for blank party walls. When applying separation on adjoining sites, half of the minimum separation distance is applied to the boundary.
- 54. Internally, Buildings A and B are separated by at least 12m between habitable area to habitable area (measured from balcony to window or balcony to balcony). All habitable openings on the southern elevation of Building B, and the south-eastern elevation of Building C are also provided with a minimum 6m setback from the common boundary to the industrial warehouse complex to the south. These separation distances are compliant with Part 2F of the ADG.

Buildings A and B

- 55. In addition to the ADG recommended building separation, the subject site is required to provide a minimum 3m setback to Buildings A and B from the western boundary to mitigate the potential safety impacts from the adjoining zone substation. As advised by Ausgrid, no substantial landscaping (over 1m) would be supported within the setback.

56. Type E and Type F apartments in Buildings A and B are located along the western boundary. As shown in Figure 38 below, the amended design has removed all openings to habitable rooms on the western elevation so that the Type E and Type F apartments do not rely on the western setback for ventilation or outlook from the bedrooms. These blank walls therefore do not require any additional setback from the western boundary beyond the 3m required for safety reasons. Any openings to the living areas of these apartments are otherwise provided with at least a compliant 6m setback from the boundary.
57. The amended design also provides fixed screens at the radius corners of the balconies (except the Type E apartments in Building A where the exposed corner would afford acceptable outlook north-west to Allen Street), with bi-fold screens along the western edge of each balcony. While balconies are considered to be habitable openings and a minimum 6m would typically be required, the reduced 3m separation to the substation would not result in unacceptable visual privacy impact, and the bi-fold screens allow future occupants to screen the outlook to the substation if desired and direct outlook from the balconies to the north and south.

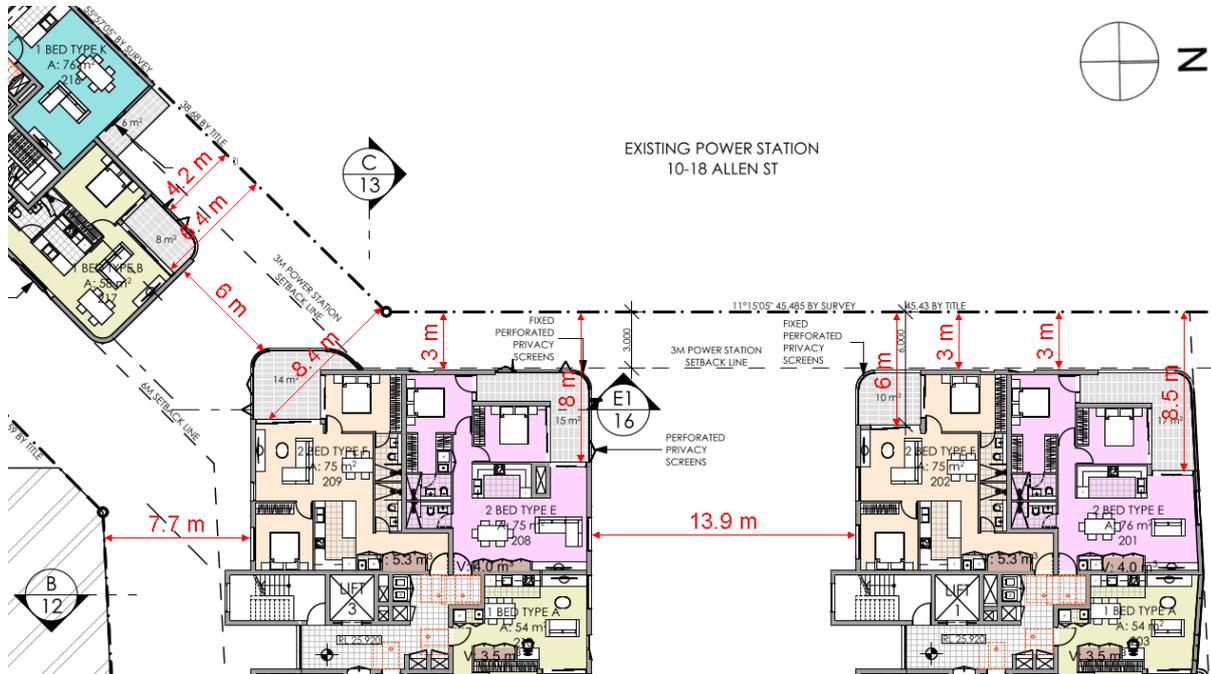


Figure 38: Building separation along the western boundary, and internally between buildings

Building C - Type B Apartments

58. The blank walls to the bedrooms of Type B apartments do not require any additional setback from the western boundary beyond the 3m required for safety reasons. The glazing line of each of living area is also set back a compliant 6.4m from the western boundary.

59. While the balconies have a reduced setback of 4.2m to the western boundary, the reduced setback to the substation will not result in unacceptable privacy impacts or restrict outlook to the sky. Such outlook would not be significantly improved by requiring a 6m setback and is therefore not pursued in this instance. Notwithstanding, a solid balustrade is provided to the western edge of each balcony to screen any downward view to the substation. Bi-fold screens also provide future occupants the option to screen the outlook to the substation if desired, and privacy protection if the substation is redeveloped in the future.
60. Despite the reduced setback, Type B apartments achieve natural cross ventilation, and have acceptable level of sunlight and daylight access by relying on openings that are appropriately setback from the boundary. As such, allowing a reduced setback to the balconies is not considered to result in unreasonable amenity impacts.

Buildings B and C

61. As shown in Figure 38 above, the balcony of Type F apartments in Building B and the balcony of Type B apartments in Building C are provided with a separation of 6m.
62. While typically a distance of 12m would be required, the design has been amended to provide a blade wall to the balcony of Type B apartments to create a blank wall scenario, so that only a 6m separation is required. Fixed screens will also be provided to the radius corners of the balcony of Type F apartments for added privacy protection.

Other Considerations

63. As discussed elsewhere in this report, the proposed development achieves acceptable level of natural ventilation, sunlight and daylight access, amount of deep soil area, and amount of community open spaces despite any numerical non-compliances discussed above. As such, the proposed development is considered to achieve the aims of Part 2F of the ADG.

Privacy

Ground Floor Apartments and Communal Open Space

64. The ground floor communal open space between Buildings A and B is designed as a more passive landscaped space. While limited separation is provided between the communal open space and the internal-facing ground floor apartments in Buildings A and B, the private open spaces of the apartments are screened from the trafficable area of the communal open space by raised planters of approximately 1m high, internal fence of approximately 1.6m high, and additional landscaped area behind the fence to allow additional privacy screen planting.

Rooftop Communal Open Spaces

65. The trafficable area of the rooftop communal open spaces on Buildings A and B are set back 9m from the eastern site boundary to provide a compliant separation to the rooftop communal open spaces of the adjoining apartment buildings at 707 and 713 Elizabeth Street.
66. Similarly, the trafficable area of the rooftop communal open space on Building C is set back approximately 3.3m from the George Street site boundary. In addition to the separation provided by George Street, a separation of over 23m is provided to the east-facing apartments of developments on the western side of George Street.

67. The separation distances are compliant with Part 2F of the ADG and provides for acceptable visual and acoustic privacy protection to neighbouring residential developments.

Building B and the Adjoining Warehouse Complex

68. As discussed in paragraph 66 above, all habitable openings on the southern elevation of Building B are provided with compliant setback to the common boundary with the warehouse complex to the south. The openings are mostly provided to bedrooms, which are typically used at a different time to the commercial premises of the adjoining warehouse complex and that privacy would be managed with internal blinds when the room is in use. The finished floor levels of the warehouse complex and the proposed development also do not align, limiting view to be oblique, either up or down.
69. The two windows above the roller door, as shown in Figure 5, were approved in 2014 as a later addition. Under development consent D/2014/627, those windows are subject to a restrictive covenant requiring those windows to be sealed, bricked up or otherwise enclosed when the subject site is redeveloped. The removal of these windows would further reduce any visual privacy concerns.

Building C and the Adjoining Warehouse Complex

70. Similarly, the misalignment of window openings is demonstrated in Figure 23. The habitable windows provided to the living area of the Type B apartment are also provided with privacy screens to minimise any actual or perceived privacy impact.

Internal Layout - Building C - Type K Apartments

71. Part 4D-3 of the ADG requires two bedroom apartments to have a minimum width of 4m, while 1 bedroom apartments are to have a minimum width of 3.6m. All cross-through apartments must also have a minimum width of 4m, with the intention to avoid a deep narrow layout.
72. The Type K apartments in Building C are cross-through apartments, with a width of 3.8m internally at the southern portion. The amended design (Revision D) modified Type K into a one-bedroom apartment, with a secondary north-facing balcony. Following discussion with the City's Urban Designer, a condition is recommended to:
- (a) delete the northern balcony, which would resolve the privacy concern with the Type B apartments
 - (b) swap the location of the bedroom and the combined living/dining area so that the living/dining area can obtain better outlook to George Street and has a better relationship with the adequately sized balcony.

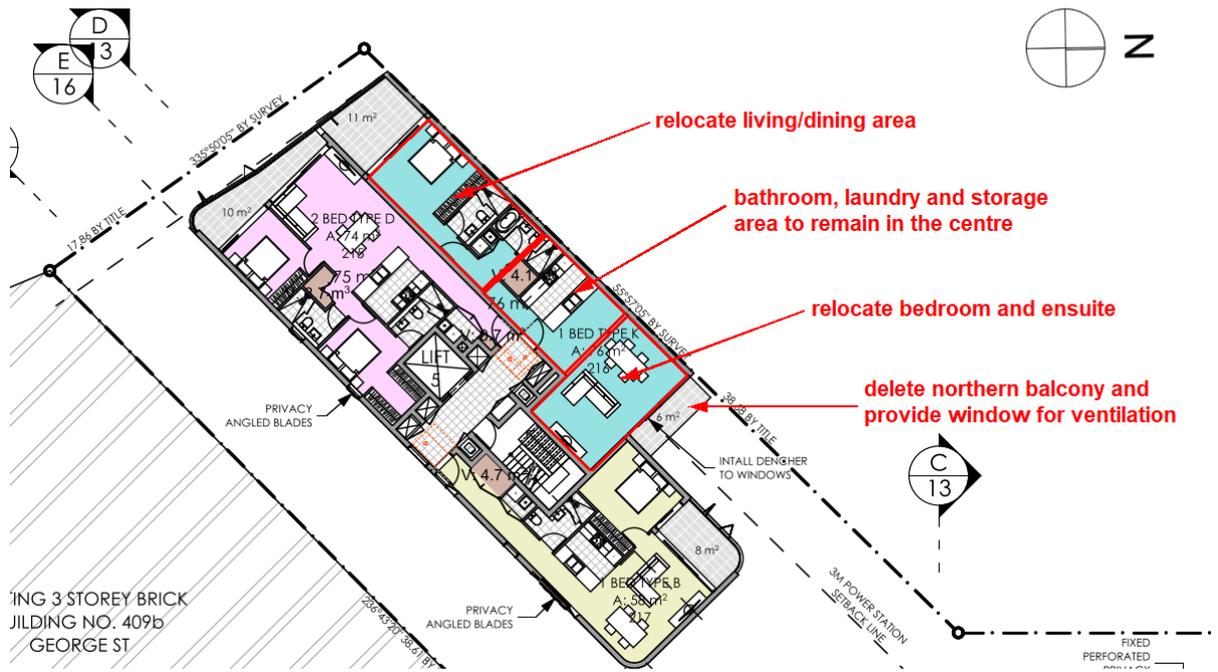


Figure 39: Type K apartment in Revision B

73. The amendment sought, as illustrated in Figure 39 above, is to ensure that:
- design scheme does not include a north-facing balcony, which is an element not expressed supported by the updated fire safety assessment and EMF assessment, and is an element that Ausgrid has previously raised concern about; and
 - the living/dining area of the apartments have direct access to a balcony, and an acceptable outlook to George Street.
74. While the amendment sought would still be a numerical non-compliance with the 4m width for cross-through apartments, it exceeds the 3.6m width otherwise recommended for a one bedroom apartment, and the dual aspect nature of Type K also allows natural light and cross ventilation to address amenity concerns typically associated with a deep narrow layout.

View Sharing Analysis

75. Two submissions were received raising concerns that the proposed development, particularly the proposed height, will impact on the view of the skyline, tree canopy on Allen Street, and the Waterloo Oval from the development at 356-368 George Street.
76. 356-368 George Street includes apartments on the lower levels (ground floor to Level 3) fronting George Street (east), and upper two levels (Levels 4 and 5) apartments orientated north-south. One of the submissions is from a resident on Level 3, and the outlook from the resident's balcony towards the subject site is provided in Figure 40 below.



Figure 40: Outlook from the balcony of a Level 3 apartment at 356-368 George Street

77. As shown in Figure 40 above, the subject site is located to the east of 356-368 George Street and is not within a corridor to a significant/iconic view as considered in the principles of view sharing established in *Tenacity Consulting v Warringah Council* [2004] NSW LEC 140. Therefore, the proposed development will not have impact to any significant view. The lift shafts would only interrupt the general outlook to the sky and are not considered to be significant visual bulk given the separation provided by George Street.
78. Protection of outlook to the canopy on Allen Street and Waterloo Oval, if currently afforded, would reduce any development potential within the subject site to well below the maximum 15m or four storey building height, and would be unreasonable.
79. As for the upper two levels' apartments, given the site is located to the east, and the apartments are orientated north-south, the proposed development will not affect their outlook, including their possible view to the two towers in Redfern, and glimpses of the City skyline beyond.

Overshadowing

80. A solar analysis report (as updated to reflect the amended design) prepared by Walsh Analysis details the overshadowing impacts of the proposed development on the two adjoining residential flat buildings to the east, being 707 Elizabeth Street and 713 Elizabeth Street.
81. Sun's eye diagrams are also provided in the report at 30 minutes interval to compare the overshadowing impact of the existing building and the proposed development.

707 Elizabeth Street

82. The analysis report demonstrates that currently 24 apartments (68.8 per cent) receive the two hours of solar access to the living area and private open space between 9am and 3pm on winter solstice as recommended by Part 4A of the ADG. The proposed development will not reduce that number of apartments complying with the recommended two hours of solar access.
83. The report also demonstrates that currently three apartments (8.6 per cent) receive no direct sunlight. The proposed development will result in two additional apartments receiving no solar access, being the south-west facing apartments on the ground floor and first floor. Their locations are identified in Figure 41 below.
84. The ground floor apartment currently receives one hour of direct sunlight to its private open space between 12.30pm and 1.30pm, and no direct sunlight to its living area glazing. The first-floor apartment receives 2.5hrs of direct sun to its balcony between 12.30pm and 3pm, and one hour of direct sun to its living area glazing between 2pm and 3pm.



Figure 41: Location of the two apartments at 707 Elizabeth St impacted by the proposed development

85. The additional overshadowing is caused by the building bulk of Building A that is compliant with the maximum building height. The orientation, mid-block location, and being located on the ground and first floor also significantly hinders the protection of access to direct sunlight for these two apartments without unreasonably reducing the height and bulk of Building A. As such, the additional overshadowing is considered reasonable.
86. Furthermore, the increase in the total number of apartments without direct sunlight to five apartments, being 14.3 per cent, is compliant with the maximum 15 per cent recommended by the ADG and is acceptable.

713 Elizabeth Street

87. The analysis report demonstrates that currently 24 apartments (64.8 per cent) receive the two hours of solar access to the living area and private open space between 9am and 3pm on winter solstice.
88. The proposed development will impact on one ground floor apartment (Figure 42), resulting in its private open space receiving less than two hours of direct sunlight. As a result, the number of apartments achieving the recommended two hours of solar access is reduced by one, to a total of 23 apartments, or 62.1 per cent. The overshadowing impact is caused by the building bulk of Building B that is compliant with the maximum building height, and the reduction is within the maximum 20 per cent reduction allowable under Part 3B-2 of the ADG. The impact has also been minimised by providing a setback to the eastern boundary despite a setback is not typically required for a blank wall scenario. Therefore, the impact is considered reasonable.
89. The report also demonstrates that currently eight apartments (21.6 per cent) receive no direct sunlight. The proposed development will not increase that number.

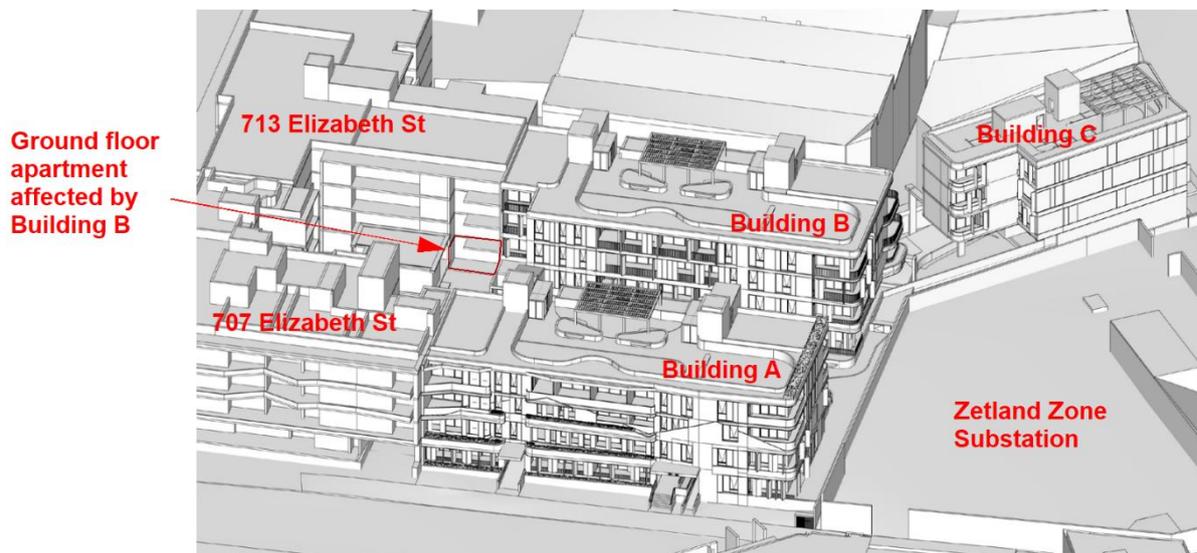


Figure 42: Location of the ground floor apartment at 713 Elizabeth St impacted by the proposed development

365-368 George Street & 370-376 George Street

90. A submission was received raising concern of overshadowing by Building C to the George Street facing apartments of 365-368 George Street. The overshadowing diagrams included in Attachment B2 demonstrates that the development could potentially impact 365-368 George Street and 370-376 George Street between 9am and 10am.
91. The sun's eye diagrams included in the solar analysis report, reproduced in Figures 43-44 below, further confirms that there is no impact to 365-368 George Street, and the impacts to 370-376 George Street are limited to before 10am. This allows the George Street facing apartments to continue to receive at least two hours of direct sunlight to the balconies, living area windows, and other bedroom windows between 9am and 12noon.

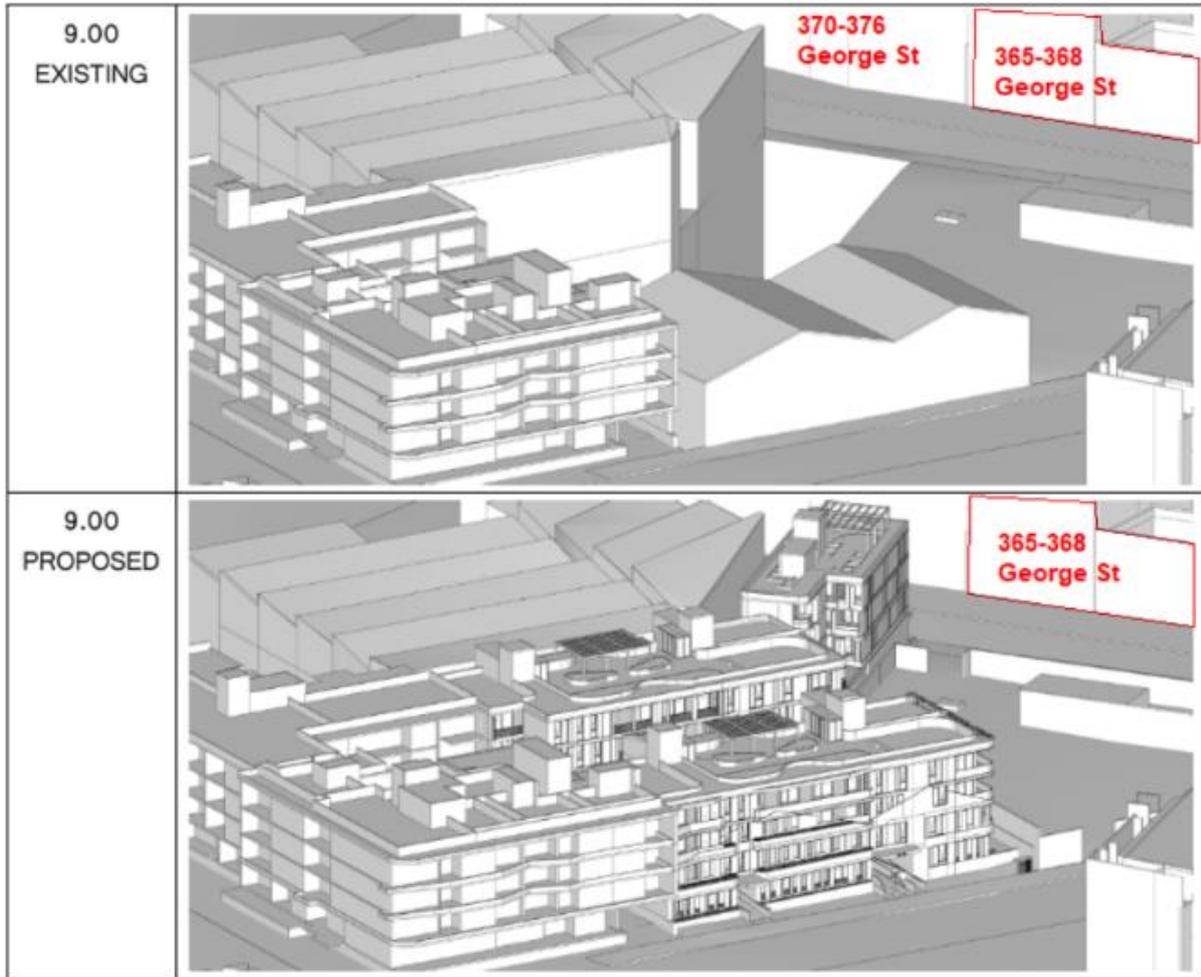


Figure 43: Sun's eye diagram at 9am demonstrating the overshadowing impact to developments on the western side of George Street

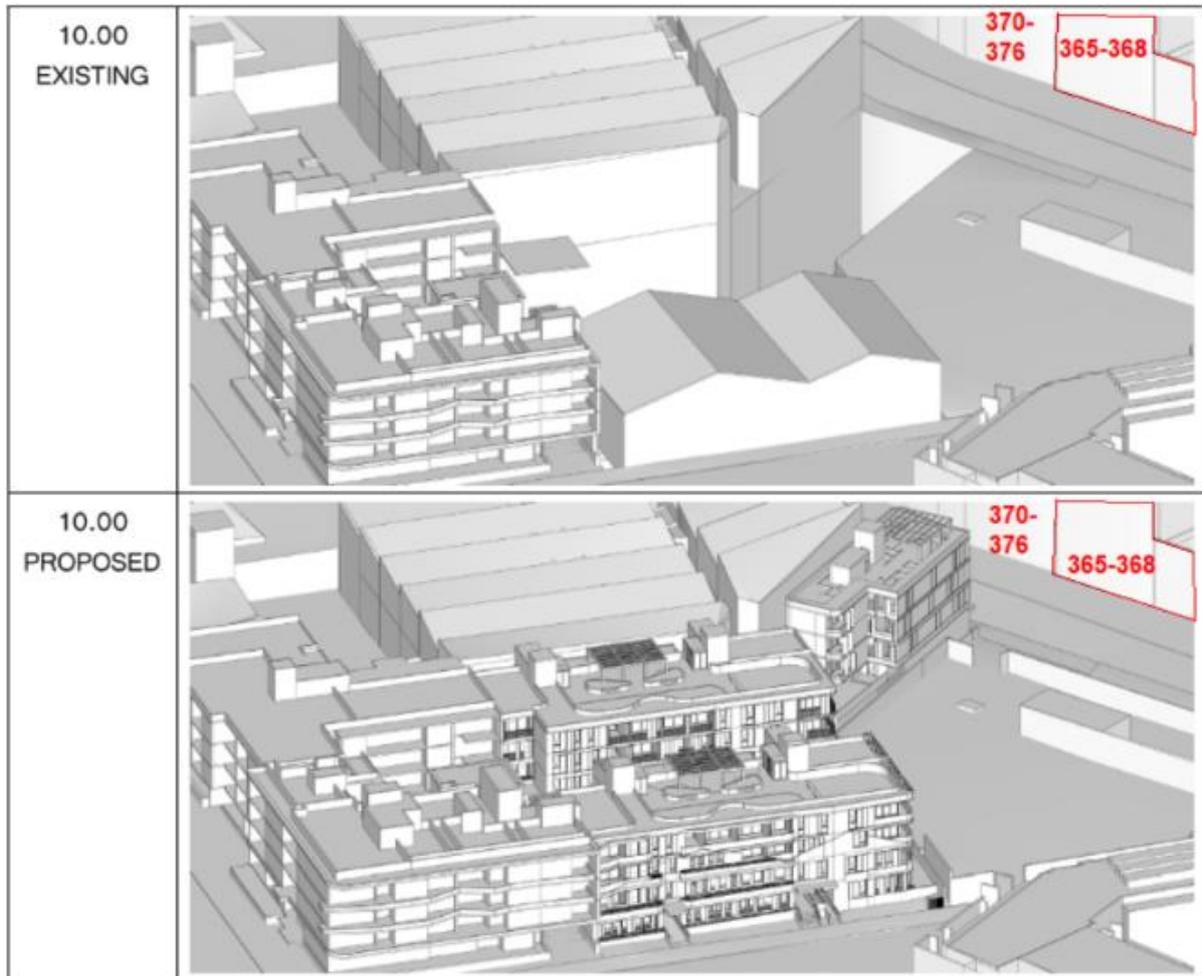


Figure 44: Sun's eye diagram at 10am demonstrating the overshadowing impact to developments on the western side of George Street

Tree Protection and Removal

Trees Onsite

92. Trees 1-3 (*Syzigium leuhmanii* - Riberry), Tree 4 (*Jacaranda mimosifolia*) and Trees 5 & 8, (*Washingtonia robusta* - Mexican Fan Palm) are located in planter boxes with a restricted soil volume. As such, they have short Useful Life Expectancies. Their removal and replacement are therefore supported.
93. Tree 6 (*Eucalyptus sideroxylon* - Ironbark) is also located within a planter box along the site's western boundary. It is of poor form and structural condition due to the previous loss of the main stem. Its removal and replacement is therefore supported.
94. Tree 7 (*Celtis sinensis* - Hackberry) is not a protected species, and its removal is supported.
95. Tree 9 (*Eucalyptus grandis* - Flooded Gum), located at the site's George Street frontage, has had multiple branch failures, one of which has resulted in a large wound on the eastern side of the main stem. A fungal fruiting body was also present at a separate wound to the lower main stem. This is consistent with the findings of the submitted arborist report, which noted evidence of decay. Its removal and replacement is therefore supported.

Street Trees

96. Three (3) *Eucalyptus microcorys* (Tallowood) are located along the Allen Street frontage. The proposal does not include the removal of these trees, and the 3m setback from the site boundary will avoid pruning of their canopy.

Recommendations - Trees Removal

97. As detailed above, the removal of trees within the site's boundary is supported by the City's Tree Management Unit. Their removal, and associated loss of urban canopy, is required to be compensated as part of the proposed development. Conditions are recommended in Attachment A for replacement planting within the site, with a criterion that the canopy cover will reach at least 15 per cent of the total site area within 10 years post-development.
98. Regarding the street trees on Allen Street, conditions are recommended to ensure their retention and protection during construction of the proposed development.

Consultation

Internal Referrals

99. The application was discussed with Council's Design Advisory Panel - Residential Subcommittee, Environmental Health Unit, Heritage and Urban Design Unit, Public Domain Unit, Transport and Access Unit, Tree Management Unit, Waste Management Unit, and the Voluntary Planning Agreement team, who advised that the proposal is acceptable subject to conditions. Relevant comments have been included in this report, and where appropriate, recommended conditions are included in Attachment A.

External Referrals

Ausgrid

100. Pursuant to Clause 45 of the SEPP (Infrastructure) 2007, the application was referred to Ausgrid for comment.
101. As discussed under the SEPP (Infrastructure) 2007 section, the application has been amended and additional information provided to address issues raised in Ausgrid's initial response.
102. Ausgrid has reviewed the amended proposal and updated technical advice and provided updated response on 21 July 2021. The updated response raised no objections to the EMF and fire safety assessments. All construction-related issues are also addressed by conditions that form part of the recommended conditions in Attachment A.

Water NSW

103. Pursuant to Section 90(2) of the Water Management Act 2000, the application was referred to WaterNSW for concurrence as an integrated development under the EP&A Act.
104. Copies of public submissions made to the City of Sydney during the original notification period in January/February were forwarded to WaterNSW., and General Terms of Approval were issued by Water NSW on 26 March 2021 and have been included within the recommended conditions in Attachment A.

Sydney Water

105. Pursuant to Section 78 of the Sydney Water Act 1994, the application was referred to Sydney Water for comment.
106. Sydney Water responded on 9 February 2021 raising no objections subject to conditions, which have been included within the recommended conditions in Attachment A.

Sydney Trains

107. Pursuant to Clause 85(2) of the SEPP (Infrastructure) 2007, the application was referred to Sydney Trains for comment.
108. Sydney Trains responded on 5 February 2021 raising no objections subject to conditions, which have been included within the recommended conditions in Attachment A.

NSW Police

109. The application was referred to NSW Police for comment.
110. A response was received raising no objections to the proposed development, but identifying measures that could improve CPTED compliance of the proposal.
111. The application has been amended to incorporate NSW Police's recommendations where appropriate.

Advertising and Notification

112. In accordance with the City of Sydney Community Participation Plan 2019, the original proposed development was notified and advertised for a period of 28 days between 18 January 2021 and 16 February 2021. A total of 768 properties were notified and eight submissions were received.
113. The amended proposed development was notified for a further period of 14 days between 4 June 2021 and 19 June 2021. One (1) submission was received, which reiterates issues previously raised.

114. A total of nine submission were received. The submissions raised the following issues:

Amenity - Neighbouring Properties

- (a) **Issue:** Overshadowing to the apartment building at 356-368 George Street.

Response: A detailed assessment is provided in the 'Discussion' section above. The proposed development will maintain at least two hours of direct sunlight to the George Street facing apartments of 356-368 George Street.

- (b) **Issue:** The height of the proposed development will impact view of residents of 356-368 George Street to the skyline, tree canopy on Allen Street, and the Waterloo Oval.

Response: The height non-compliance and view impacts are discussed in the Discussion section. The subject site is not within a corridor to a significant/iconic view.

Amenity - Proposed Development

- (c) **Issue:** The proposal does not appear to provide acceptable level of residential amenity in terms of apartment size, amount of private open space, outlook, proximity to substation, and air pollution by nearby traffic. The long-term health and social impact of low residential amenity, as amplified by COVID-19 restrictions, should be considered as part of the planning process.

Response: As discussed elsewhere in this report, the development is compliant with the requirements of the ADG in terms of apartment size and amount of private open space. The provision of communal open space that receives good solar access also exceeds the requirements of the ADG. The adverse impacts caused by the adjoining substation have been adequately managed, this includes redirecting outlooks to the north and south, and avoiding reliance on that interface for amenity.

The proposed development is not located along a major road and is located amongst other residential flat buildings of similar scale. The location of the site therefore does not raise particular concern in terms of air pollution by nearby traffic.

- (d) **Issue:** Insufficient separation is provided to the western boundary with the substation, and between Buildings B and C.

Response: The proposal has been amended to minimise relying on the interface with the substation for amenity, and include acceptable design solution to address privacy concerns associated with the reduced separation between Buildings B and C. Please refer to the 'Discussion' section above for detailed assessment.

- (e) **Issue:** The blank wall of Building C to the substation will be highly visible and should be carefully considered.

Response: The western elevation of Building C will be of brick construction, which is a material with an integral finish that will not require regular maintenance. The dual-tone design will also provide articulation to reduce the overall visual bulk. Greater articulation is unfeasible given its interface with the adjoining substation.

- (f) **Issue:** The material and finishes, massing and bulk of the proposal are not sympathetic to the area and does not fit with the heritage of the Waterloo area.

Response: The subject site is not located within a heritage conservation area, or immediately adjacent to a heritage item, except Waterloo Park to the north. The massing and bulk of the proposal is contextually appropriate, particularly in relation to the adjoining residential flat buildings to the east and the industrial complex to the south. The material and finishes, particularly the use of brick is appropriate, including the dual-tone design to interpret the existing 'nut shop' building on Building A.

- (g) **Issue:** The proposed play area is unshaded, which will be of little use due to weather.

Response: The communal open spaces are to be provided with shade structures to provide weather protections.

Tree Removal and Landscaping

- (h) **Issue:** Existing trees, particularly the eucalyptus (Tree 9) should be retained given the ecological impacts associated with the removal of trees.

Response: As detailed in the 'Discussion' section above, the trees located within the site are either of short useful life expectancy, poor form and structural condition, or in a state of decay. In particular, Tree 9 is in poor health with visible evidence of decay. As advised by the City's Tree Management Unit, the removal of existing trees within the site is therefore supported subject to replacement planting to be provided as part of the development. The replacement planting is required by the recommended conditions in Attachment A.

- (i) **Issue:** The greenery and plants on the roof of Building A should be added to the other two buildings.

Response: Consistent with the recommendation of the Design Advisory Panel - Residential Subcommittee, communal open space and associated landscaping has been added to the rooftop of Buildings B and C. This is aligned with the comment made. The detailed design is to be resolved prior to the issue of a construction certificate, and the delivery of the landscaping is secured by the recommended conditions in Attachment A.

Traffic and Parking

- (j) **Issue:** Additional traffic on George Street would increase risks to pedestrians, especially at peak times.

Response: An acceptable traffic report, as reviewed by the City's Traffic and Access Unit, has demonstrated that the development will have minimal increase in traffic volume at peak commuter period. In addition, all vehicles will enter and exit the site in a forward direction, this include a Council waste truck (the largest vehicle to service the site) as facilitated by a turn table, to maximise safety.

- (k) **Issue:** The lack of off-street parking will reduce the availability of on-street parking for existing residents and drop-off area for the nearby child-care centre.

Response: The proposal provides compliant number of bicycle parking spaces and a car share parking space to encourage alternatives to private vehicle ownership and usage. This is particularly appropriate given the site's proximity to public transport, and the availability of a dedicated cycleway along Allen Street.

Conditions are recommended to clarify that the future residents of the development are not qualified to participate in the City's street parking permit scheme. Therefore, it will not reduce the availability of on-street parking for existing residents, or such parking spaces currently utilities as drop-off area for the childcare centre.

Other Issues

- (l) **Issue:** Clarification is required on the number of motorcycle parking, adaptable units and disabled parking spaces provided, as well as the need for a 3m setback to be extended to Building C.

Response: The number of motorcycle parking, adaptable units and disabled parking spaces are detailed elsewhere in this report and their delivery as part of this development is secured by the recommended conditions in Attachment A.

The nil setback to the substation for Building C has been supported by the updated EMF assessment report and a fire safety report. These reports have been reviewed by Ausgrid who raised no objections subject to compliance with the BCA.

- (m) **Issue:** The proposed retail space and high number of apartments are unnecessary. Particularly the provision of more apartments in this area provides no benefit for people investing in the area and the future rental and property market. The site would be more beneficial as a public park.

Response: The proposed development is permissible with consent and is consistent with the zone objectives. Furthermore, the provision of additional and diverse housing stock, particularly in proximity of existing infrastructure, is consistent with the City of Sydney Local Housing Strategy that was adopted in February 2020.

The site is not required to provide public open space as part of the Green Square Urban Strategy in Section 5.2.1 of Sydney DCP 2012.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

115. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.
116. The contribution is calculated based on:
- (a) 16x 1 bed
 - (b) 39x 2 bed
 - (c) 6x 3 bed
 - (d) 52m² of retail space
117. Credits have been applied for the most recent approved use of the site, being classified as 'light industry', for the purpose of calculation, of approximately 1,000m².
118. A condition relating to this development contribution has been included in the recommended conditions of consent in Attachment A. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Clause 7.13 of the Sydney Local Environmental Plan 2012

119. The site is located within the Green Square affordable housing contribution area. As the proposed development is not identified as an excluded development, a contribution is required.
120. A calculation plan in accordance to the definition of 'total floor area' contained in Clause 7.13 of Sydney LEP 2012 has not been provided. As such, a calculation is done based on the amended floor plans (Revision D) with consideration of the changes included in the recommended condition for design modification, at a rate of \$228.58 per square metre of residential floor area of 6,768m² and \$76.16 per square metre of non-residential floor area of 52m², totalling \$1,550,989.76. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.

Relevant Legislation

121. Environmental Planning and Assessment Act 1979.
122. Water Management Act 2000
123. Sydney Water Act 1994

Conclusion

124. The proposed residential flat building is generally consistent with the zone objectives contained in Sydney LEP 2012.

125. A written request seeking to vary the 'height of buildings' development standard under Clause 4.3 of Sydney LEP 2012 was submitted. The variation relates to non-compliances to accommodate lifts, fire stairs, and shade structures to the rooftop communal open spaces, which are necessary to provide equitable access and weather protection.
126. The proposed request to vary the 'height of buildings' development standard is well founded. The statement demonstrates that compliance with the standard is unnecessary in this instance and that there are sufficient environmental planning grounds to justify the variation. The variation is consistent with the objectives of Clause 4.3 of Sydney LEP 2012, and the B4 Mixed Use zone, and therefore in the public interest.
127. The development achieves a high standard of architectural design, materials, and detailing, with the provision of landscaping that can contribute positively to the urban canopy. The development is generally consistent with the design quality principles of SEPP65 and the objectives of Parts 3 and 4 of the ADG. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances of the site or can be resolved by the recommended conditions.
128. The building has been suitably designed with an appropriate bulk and scale, addressing both Allen Street and George Street. The proposed development is consistent with the objectives and desired future character for Green Square and the provisions of the Sydney DCP 2012.

ANDREW THOMAS

Executive Manager Planning and Development

Bryan Li, Specialist Planner