

Item 5.**Development Application: 296-298 Botany Road, Alexandria and 284 Wyndham Street, Alexandria - D/2021/319**

File No.: D/2021/319

Summary

Date of Submission:	8 April 2021 Amended plans and additional information received on 13 August 2021, 24 September 2021, 11 October 2021, 20 December 2021, 3 February 2022 and 15 March 2022
Applicant:	URBIS
Architect:	SJB
Developer:	GAZCORP PTY LIMITED
Owner:	EMERALD CITY PROPERTY INVESTMENTS PTY LTD
Planning Consultant:	URBIS
DAP:	17 June 2021
Cost of Works:	\$132,916,004.10
Zoning:	The site is located in the B4 Mixed Use zone. The proposed residential and commercial development is permissible with consent in the zone.
Proposal Summary:	<p>The application seeks consent for the construction of a new mixed-use development consisting of a 2-storey podium above the already approved retail podium (approved under development application D/2012/1021) and two 20-storey towers above consisting of the following:</p> <p>Upper Level Carpark</p> <ul style="list-style-type: none">• Provision of above ground car parking on Level 1 and Level 2 for commercial and residential uses, services and storage areas integrated within the approved retail podium plant room, including:

- 173 resident/tenant spaces
- 17 residential visitor spaces
- 25 commercial spaces
- 3 car share spaces
- Commercial end of journey facilities
- Residential storage
- Provision of vehicular access via Botany Road to/from Level 1 carpark

Podium (Tower C)

- Construction of a two-storey podium comprising 4,656sqm of commercial office floor space located above the residential and commercial car park

Tower A and Tower B

- Construction of two 20-storey residential towers comprising 26,488sqm of residential floor space including 255 residential apartments
- Construction of internal communal facilities and open space including a rooftop terrace, gym, pool, sauna, BBQ area, outdoor seating, outdoor kitchen, lounge and concierge/office spaces
- Construction of building plant and rooftop level

The application also seeks consent for design modifications to the approved retail podium as approved under development application D/2012/1021 (as amended). Proposed amendments include:

- Reconfiguration of parking, back of house functions, pedestrian walkways and trolley bays on the lower ground floor
- The removal of a retail tenancy to provide space for the new residential car park ramp
- Modifications to fire escapes and travelators on the lower ground and ground floors
- Removal of retail shops 02, T2, 03 and 04 for the new Tower C commercial lobby and lift core

- Provision of fire escape stairs for commercial tenants, a new commercial lift core and the provision of commercial office staff bicycle parking
- Insertion of a new commercial waste room, relocation of retail plant areas and the conversion of retail storage to waste management rooms
- Facade modifications to reflect the replacement of retail tenancies fronting Botany Road to a car park ramp and the commercial Tower C lobby
- Various modifications to approved landscaped areas along Botany Road and Bourke Street at the ground floor and Level 1

The application was publicly notified for 30 days between 20 April 2021 and 19 May 2021. One submission was received suggesting that the southern facades of the development should be the primary face of the building to better address Green Square Town Centre rather than the facade facing Botany Road.

The application is accompanied by a public benefit offer for the following:

- Dedication of 63sqm of land along Bourke Street for the purposes of footpath widening
- The provision of an easement and covenant for public access 2.4m wide along the Botany Road frontage (239sqm)
- Developers works to the dedication land along Bourke Street and to the easement area for footpath widening
- A monetary contribution of \$7,325,587 towards community infrastructure in Green Square

A voluntary planning agreement (VPA) was drafted and was publicly notified for 30 days between 17 February 2022 and 18 March 2022. No submissions were received.

A deferred commencement condition is recommended which requires the VPA to be executed prior to the consent becoming operative.

During the assessment of the proposal, the scheme was amended, and additional information was submitted to address the concerns of Council officers. These concerns principally related to:

- Building separation
- Apartment sizes
- Convertible/dual key apartments
- Separation between commercial and residential uses
- Land dedication
- Acoustic compliance
- Vehicle access
- Landscaping
- Waste management
- ESD
- Tree removal
- Apartment safety and security
- Wind impacts
- Natural ventilation
- Overshadowing
- Shading to balconies and unprotected facades
- Reflectivity
- Materials and finishes

These issues were addressed by the applicant in amended plans and the submission of additional supporting documentation. Subject to the adoption of the recommended conditions of consent, the proposal is now considered to achieve an acceptable degree of compliance with the relevant planning controls and provides an acceptable level of residential amenity.

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

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

- Development Controls:**
- (i) Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000
 - (ii) City of Sydney Act 1988 and City of Sydney Regulation 2016
 - (iii) Sydney Water Act 1994 and Sydney Water Regulation 2017
 - (iv) Airports Act 1996 (Commonwealth) and Civil Aviation (Building Control) Regulation 1988
 - (v) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG)
 - (vi) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)
 - (vii) State Environmental Planning Policy (Transport and Infrastructure) 2021 (previously State Environmental Planning Policy (Infrastructure) 2007)
 - (viii) State Environmental Planning Policy (Resilience and Hazards) 2021 (previously State Environmental Planning Policy No 55 - Remediation of Land) and the Managing Land Contamination Planning Guidelines (SEPP 55 Guidelines)
 - (ix) Sydney Local Environmental Plan 2012 (Sydney LEP 2012)
 - (x) Sydney Development Control Plan 2012 (Sydney DCP 2012)
 - (xi) Sydney Landscape Code Volume 2: All Developments Except for Single Dwellings 2012
 - (xii) City of Sydney Guidelines for Waste Management in New Developments
 - (xiii) City of Sydney Public Art Policy 2011
 - (xiv) City of Sydney Public Art Strategy 2011
 - (xv) City of Sydney Interim Guidelines for Public Art in Private Developments 2006
 - (xvi) City of Sydney Development Contributions Plan 2015
 - (xvii) City of Sydney Affordable Housing Program

(xviii) City of Sydney Development Guidelines for
Community Infrastructure in Green Square 2012

(xix) City of Sydney Community Participation Plan 2020

Attachments:

A. Recommended Conditions of Consent

B. Selected Architectural Drawings

C. Selected Landscape Drawings

D. Public Benefit Offer

E. Draft Voluntary Planning Agreement

Recommendation

It is resolved that 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/2021/319 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

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

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The proposal generally satisfies the objectives and provisions of the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and the Apartment Design Guide.
- (C) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012, particularly the site-specific provisions for the development site per section 6.37 of the Sydney Local Environmental Plan 2012.
- (D) The articulation, materiality and architectural contribution of the proposal combine to exhibit design excellence in accordance with the relevant provisions and matters for consideration in Part 6 Division 4 of the Sydney Local Environmental Plan 2012.
- (E) The proposed development is consistent with the design intent of the winning scheme of a competitive design alternatives process, held in accordance with the City of Sydney Competitive Design Policy.
- (F) The proposed development has a height, scale and form suitable for the site and its context, and subject to conditions, satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and setting of the Green Square locality.
- (G) The proposed mix of compatible land uses will support the vitality of the area and do not result in any significant adverse environmental or amenity impacts on the subject or surrounding properties, the public domain and the broader Green Square locality, subject to the recommended conditions.
- (H) The proposed development facilitates the improvement of the public domain by way of dedication of land along Bourke Street for footpath widening, provision of easement and covenant for public access along Botany Road and Developer Works.



Figure 4: Part of 296-298 Botany Road viewed from Wyndham Street



Figure 5: Part of 296-298 Botany Road viewed from Wyndham Street



Figure 6: 284 Wyndham Street viewed from Wyndham Street



Figure 7: Site viewed from Botany Road looking south



Figure 8: Site viewed from Botany Road looking north

6. The site has recently been amalgamated into a single allotment with the common address being 284 Wyndham Street. The site was previously separated into two allotments and was known as 284 Wyndham Street, Alexandria and 296-298 Botany Road, Alexandria.

The Locality

7. The surrounding area is characterised by a mix of older residual industrial buildings, transitional uses of existing warehouse buildings such as factory outlet stores and motor vehicle showrooms, and newly constructed residential buildings with smaller commercial tenancies at the ground level.
8. Contained in the site to the north are two 2-storey warehouse style buildings currently used as retail premises. The site is approved for a new 7-storey commercial building including retail, food and drink and commercial office uses. Further to the north of the site are several multi-storey residential apartment buildings.
9. To the east of the site, on the opposite side of Botany Road, are 1-2 storey industrial and warehouse buildings. Green Square Public School is also located to the north-east of the site.
10. To the west of the site, on the opposite side of Wyndham Street is the NSW Fire and Rescue Recruitment and Training Centre.
11. To the south of the site is the Green Square Town Centre, including the existing Green Square train station (corner of Bourke Road and O'Riordan Street) and a newly

constructed 20-storey residential and serviced apartment building with a mix of retail, commercial office and food and drink uses at the ground floors.

12. Figures 9 to 13 show the existing development in the vicinity of the site.



Figure 9: Existing warehouse development to the north of the site along Botany Road



Figure 10: Existing residential development further to the north of the site



Figure 11: Existing Fire and Rescue building located opposite the site to the south



Figure 12: Existing development located opposite the site on Botany Road to the east



Figure 13: Existing development located to the south of the site within the Green Square Town Centre

History Relevant to the Development Application

Development Applications

13. The following applications are relevant to the current proposal:
14. Development Application **D/2007/1566** was granted deferred commencement consent under delegation of the Central Sydney Planning Committee on 4 February 2008 for the demolition of the existing buildings, amalgamation of the 2 lots and construction of a 3-4 storey retail and commercial development containing 25,682sqm of gross floor area (14,949sqm of retail and 10,733sqm of commercial floor area) and with 3 levels of basement parking accommodating 614 spaces. The deferred commencement conditions were satisfied, and the consent became operable on 17 February 2009.
15. As a result of the Environmental Planning and Assessment Amendment (Development Consents) Act 2010, the consent lapsing period was extended to the maximum of 5 years, however, this consent was not formally activated, and consent lapsed on 17 February 2014.

16. Development Application **D/2008/1092** was lodged with Council on 2 July 2008, and sought consent for demolition of the existing buildings and construction of a new 3-4 storey development that comprised of 23,717sqm of retail floor space and 3,686sqm of commercial floor space and 4 levels of basement car parking accommodating 800 car parking spaces. A deemed refusal appeal was lodged with the Land and Environment Court (Appeal No. 11081 of 2008), with the matter considered by the Court in a hearing on 2 to 6 February 2009 and 13 February 2009. The appeal was dismissed in a judgment dated 20 March 2009.
17. Development Application **D/2012/1021** was granted deferred commencement consent under delegation of Council on 30 November 2012 for the demolition of the existing structures, excavation for 2 basement levels accommodation 327 car parking spaces and the construction of a 3-storey retail and commercial development accommodation 11,452.05sqm of floor space. The deferred commencement conditions were satisfied, and the consent became operable on 20 November 2013. It is noted that preliminary physical works have commenced on site and the consent is currently active.
18. On 18 April 2013, development application D/2012/1021 was amended (modification application **D/2012/1021/A**) to amend Condition 11 relating to the granting of a separate consent for any supermarket and approve the use and fit out of the supermarket tenancy.
19. On 14 October 2016, modification application **D/2012/1021/B** was granted consent for modifications to the consent as follows:
 - (a) modify the design to remove one basement level and reduce car parking (205 car spaces);
 - (b) alter vehicle and pedestrian access points;
 - (c) realign building levels;
 - (d) reconfigure tenancies, lobbies, plans and Level 1 commercial space;
 - (e) delete level 2 (reduction of floor space to 7,523sqm); and
 - (f) amendment to building facade.
20. On 22 June 2017, modification application **D/2012/1021/C** was granted consent for amendments to Condition 109 relating to road works as required by Roads and Maritime Services.
21. On 2 August 2018, modification application **D/2012/1021/D** was granted consent for the following:
 - (a) internal and external building alterations and changes in external building materials;
 - (b) reconfiguration of internal building layout;
 - (c) redesign of the main building entrance;
 - (d) relocation and rearrangement of the substation, fire hydrant and retail tenancies with street frontages;

- (e) an increase in building height;
 - (f) deletion of level 1 (reduction of floor space to 7,318sqm);
 - (g) reduction in car parking (202 car spaces) and modifications to the end of trip facilities; and
 - (h) changes to approved staging of demolition and construction works.
22. On 19 April 2018, modification application **D/2012/1021/E** was granted consent for amendments to Condition 109 relating to right-hand turn vehicular access into the basement carpark from Wyndham Street and the deferral of the submission of the design of the driveway prior to the issue of a Construction Certificate prior to above ground works.
23. On 21 August 2018, modification application **D/2012/1021/F** was granted consent for amendments to Condition 16 to reflect and updated Remediation Action Plan and Interim Advice Letter.
24. On 29 August 2019, modification application **D/2012/1021/G** was granted consent for amendments to Condition 13 requiring compliance with the recommendations contained within an updated flooding report and the subsequent deletion of Conditions 13A to 13G relating to flooding as they are no longer required.
25. On 3 March 2020, development application **D/2019/1185** was granted consent under delegation of Council for a signage strategy to coordinate signage across the commercial podium.

Site Specific Amendments to Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012

26. On 22 December 2017, amendment 37 to Sydney Local Environmental Plan 2012 (SLEP 2012) came into force. The SLEP 2012 amendment resulted in the following:
- (a) increased the height of building control to facilitate residential towers on the site;
 - (b) includes a restriction that no on-site parking be provided for any residential apartments created as a result of an award of design excellence floor space; and
 - (c) requires any part of the building that is BASIX affected development to be provided above the State-mandated BASIX target for energy if the development is to be eligible for design excellence floor space.
27. An associated Sydney Development Control Plan 2012 (SDCP 2012) amendment also took effect on 22 December 2017. The SDCP 2012 amendment contains detailed provisions for the redevelopment of the site, including provisions surrounding the built form and design, access and circulation, overshadowing and wind impacts.

Competitive Design Process

28. From 18 November 2019 to 8 May 2020, Gazcorp Pty Ltd conducted a competitive design alternatives process to ensure design excellence was achievable and subsequently integrated into a detailed design development application.

29. The proponent invited four architectural firms to respond to a design brief as part of a Design Excellence Competition. On 3 February 2020, the SJB scheme was recommended by the Selection Panel as the winning scheme to develop into a detailed proposal.

Amendments

30. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 5 July 2021.
31. The request raised the following matters:
- (a) building separation;
 - (b) undersized apartments;
 - (c) dual key/convertible apartments and 'post-converted' apartment compliance with relevant controls;
 - (d) separation between commercial and residential uses;
 - (e) land dedication and public benefit offers;
 - (f) acoustic assessment of plenum performance;
 - (g) driveway design and vehicle access from Botany Road;
 - (h) landscaping details;
 - (i) waste management;
 - (j) ecologically sustainable development;
 - (k) tree loss and arboricultural assessment;
 - (l) safety and security of apartments;
 - (m) mailbox security;
 - (n) wind assessment;
 - (o) natural ventilation to apartments;
 - (p) overshadowing to Green Square Town Centre;
 - (q) shading to unprotected apartments;
 - (r) reflectivity;
 - (s) materials and finishes;
 - (t) request to include a music practice room in the communal internal spaces; and
 - (u) rooftop plant and equipment enclosures.

32. An additional request was sent to the applicant on 5 August 2021 requesting updated Public Art details and to clarify requests from Transport for NSW relating to the median design along Botany Road to facilitate vehicle entry to the proposed ramp.
33. The applicant responded to the request on 13 August 2021, and submitted amended plans and additional documentation that responded to matters raised by Council. In regard to notable design modifications, the amended application included the following:
 - (a) revision of building envelope to maintain solar access to the Green Square Town Centre;
 - (b) reduced the number of convertible apartments to ensure SEPP 65 and ADG compliance could be achieved;
 - (c) reconfiguration of apartment and balcony layouts to increase building separation;
 - (d) area calculations undertaken to ensure all apartments meet minimum ADG size requirements;
 - (e) provision of additional details regarding visual separation between commercial and residential uses;
 - (f) submission of a formal public benefit offer for land dedication, public domain embellishments and the provision of a monetary contribution for local community infrastructure;
 - (g) submission of a revised acoustic assessment;
 - (h) submission of further detailed landscape plans;
 - (i) submission of a revised Waste Management Plan;
 - (j) clarification of ESD targets and details of plans and supporting documentation;
 - (k) submission of a revised Arboricultural Assessment ;
 - (l) clarification of security screening to apartments and provision of further detail of residential mailboxes;
 - (m) addition of recommended wind mitigation measures and reflectivity recommendations on architectural drawings;
 - (n) correction of drafting errors on plans in relation to low level windows and ventilation matters;
 - (o) provision of suns eye view drawings to clarify shading to exposed apartment windows; and
 - (p) provision of an updated materials and finishes schedule and a new music practice room within communal indoor areas on Level 3.
34. A subsequent request was sent to the applicant on 9 November 2021 to address unresolved matters relating to building separation (visual privacy), landscaping, tree management, overshadowing and shading to exposed apartment windows on the western elevation.

35. The applicant responded to the request on 3 February 2022 providing amended drawings that included the following design amendments:
- (a) provision of fixed hinged privacy screens to apartments with less than 24m separation over 8 storeys;
 - (b) clarification on plans that some areas of balconies within 24m of other apartments are for maintenance purposes only;
 - (c) removal of planters on blank wall facades that are inaccessible;
 - (d) submission of an updated Arboricultural Assessment report;
 - (e) provision of additional details on extent of overshadowing impact on surrounding residential developments; and
 - (f) provision of additional details confirming extent of shading to exposed western facing windows is acceptable.
36. Subsequent requests for minor matters of clarification were sent to the applicant with responses being received on 15 March 2022 and 20 April 2022.

Proposed Development

The application seeks consent for the construction of a new mixed-use development consisting of a 2-storey podium above the already approved retail podium (approved under development application D/2012/1021) and two 20-storey towers above consisting of the following:

Amendments to Development Application D/2012/1021 (Lower ground floor to Level 1)

37. The application seeks consent for design modifications to the approved retail podium as approved under development application D/2012/1021 (as amended). Proposed amendments include:
- (a) reconfiguration of parking, back of house functions, pedestrian walkways and trolley bays on the lower ground floor;
 - (b) the removal of a retail tenancy to provide space for the new residential car park ramp;
 - (c) modifications to fire escapes and travelators on the lower ground and ground floors;
 - (d) removal of retail shops 02, T2, 03 and 04 for the new Tower C commercial lobby and core;
 - (e) provision of fire escape stairs for commercial tenants, a new commercial core and the provision of commercial office staff bicycle parking;
 - (f) insertion of a new commercial waste room, relocation of retail plant areas and the conversion of retail storage to waste management rooms;
 - (g) facade modifications to reflect the replacement of retail tenancies fronting Botany Road to a car park ramp and the commercial Tower C lobby; and

- (h) various modifications to approved landscaped areas along Botany Road and Bourke Street at the ground floor and Level 1.

Upper Level Carpark (Levels 1 and 2)

- 38. Provision of above ground car parking on Level 1 and Level 2 for commercial and residential uses that are integrated within the approved retail podium plant room, services and storage areas including:
 - (a) 173 resident/tenant spaces;
 - (b) 17 residential visitor spaces;
 - (c) 25 commercial spaces;
 - (d) 3 car share spaces;
 - (e) commercial end of journey facilities; and
 - (f) residential storage.
- 39. The application also includes the provision of vehicular access via Botany Road to/from Level 1 carpark.

Podium - Tower C (Levels 3 and 5)

- 40. Construction of a two-storey podium comprising 4,656sqm of commercial office floor space located above the residential and commercial car park.
- 41. The two levels of commercial office spaces occupy the majority of the eastern and northern property boundaries and consist of double height office spaces accessed via a lobby at the north-eastern corner of the site.
- 42. The two levels of commercial offices include privacy screens to mitigate overlooking impacts between the residential and commercial uses. Landscape solutions are also included to mitigate overlooking and privacy concerns.
- 43. A separate landscaped outdoor area is also provided for commercial tenant use on Level 3 along the northern and eastern boundaries of the site.

Tower A and Tower B (Levels 3 to 22)

- 44. Construction of two 20-storey residential towers comprising 26,488sqm of residential floor space including 255 residential apartments including the provision of the following:
 - (a) construction of internal communal facilities and open space on Levels 3, 7 and 22 including a rooftop terrace, music room, gym, pool, sauna, BBQ area, outdoor seating, outdoor kitchen, lounge and concierge/office spaces; and
 - (b) construction of building plant and rooftop level.
- 45. Residential uses are proposed from Level 3 to Level 22 and are separated into two tower buildings.

46. Of the 255 apartments proposed, 92 are proposed as convertible apartments, providing an overall apartment yield of 347 residential apartments. The apartments are designed to require minor works (i.e. removal of an internal door and creation of a new opening to a common hallway) to convert several 2-bedroom apartments to 1-bedroom and studio apartments. The proposed apartment yield and mix pre- and post-conversion of apartments is provided in the table below:

	Pre-conversion	Post-conversion
Studio	28 (11%)	120 (34.6%)
1-bed	11 (4.3%)	103 (29.7%)
2-bed	178 (69.8%)	86 (24.8%)
3-bed	38 (14.9%)	38 (11%)
Total	255	347

47. It is noted that the application is proposed to be operated in the build-to-rent model as defined in Chapter 3, Part 4 of the State Environmental Planning Policy (Housing) 2021. This occurs when the building to be retained in a single ownership whilst all residential units are leased to occupants. Clause 2B of Section 1.9 of the Sydney Local Environmental Plan 2012 states that Chapter 3, Part 4 of the State Environmental Planning Policy (Housing) 2021 does not apply to land in Green Square and as such, the specific provisions of the SEPP have not been considered in this assessment report.
48. Photomontages, plans and elevations of the proposed development are provided below.



Figure 14: Proposed photomontages of the Botany Road frontage (left) and corner of Bourke Street and Wyndham Street (right)



Figure 15: Proposed photomontages of the Bourke Street frontage (left) and Botany Road frontage (right)

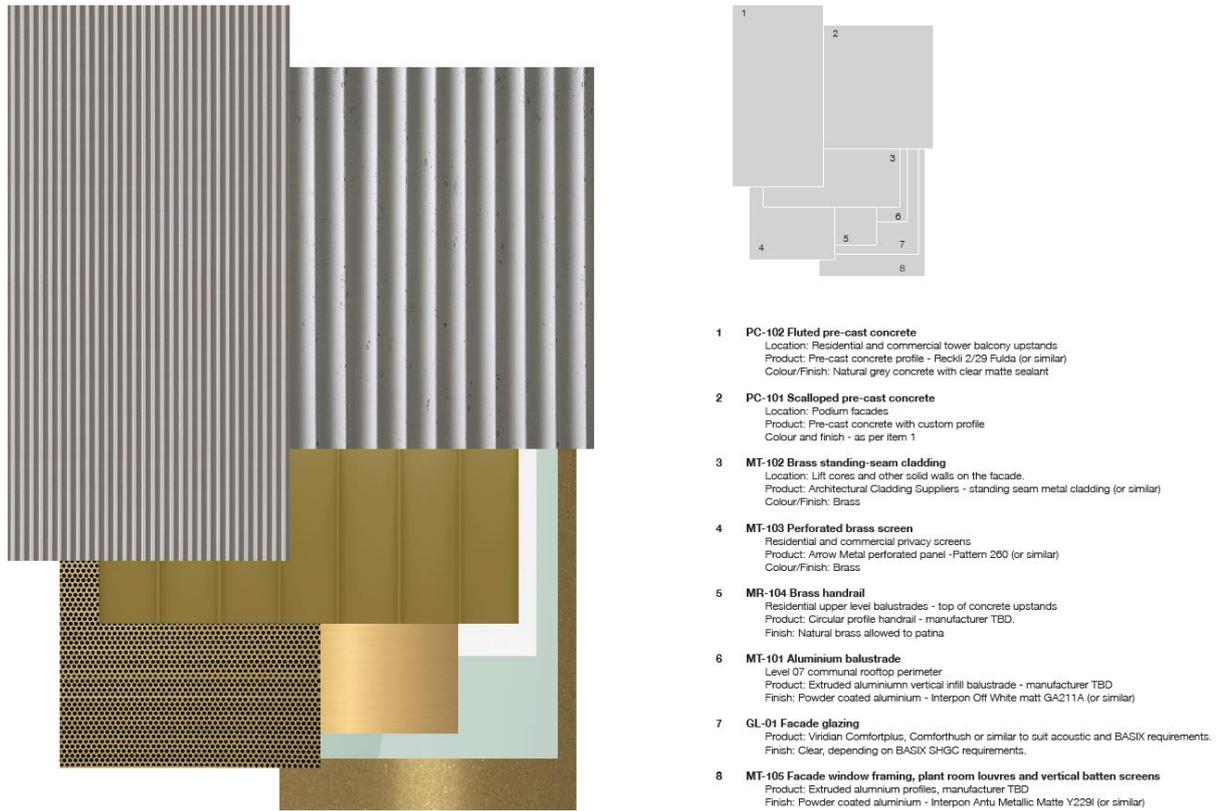


Figure 16: Proposed materials palette

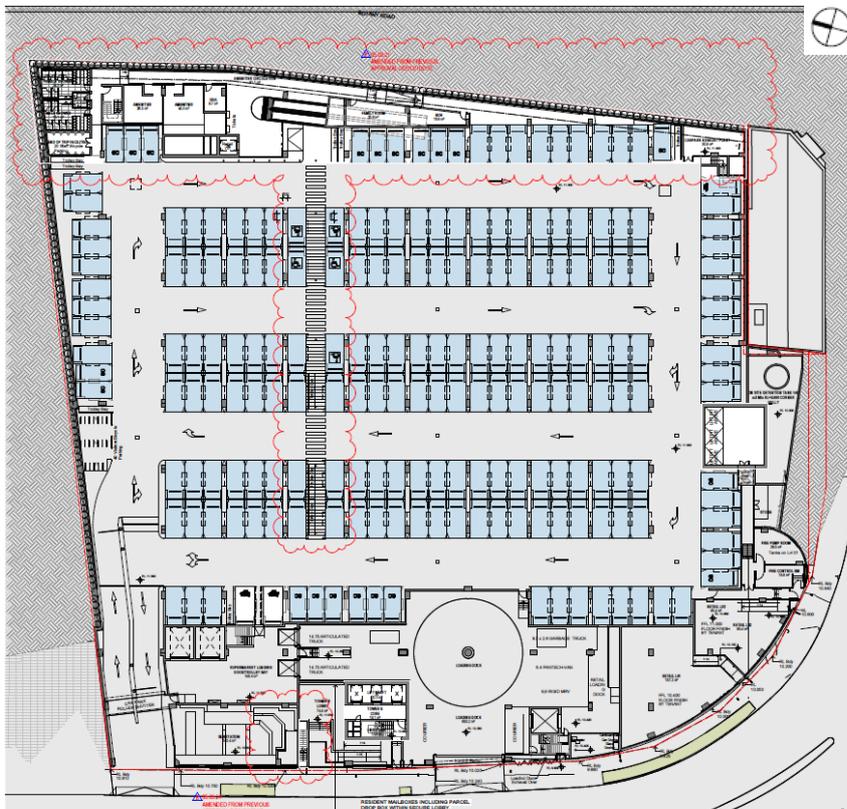


Figure 17: Lower ground floor



Figure 20: Proposed Level 2

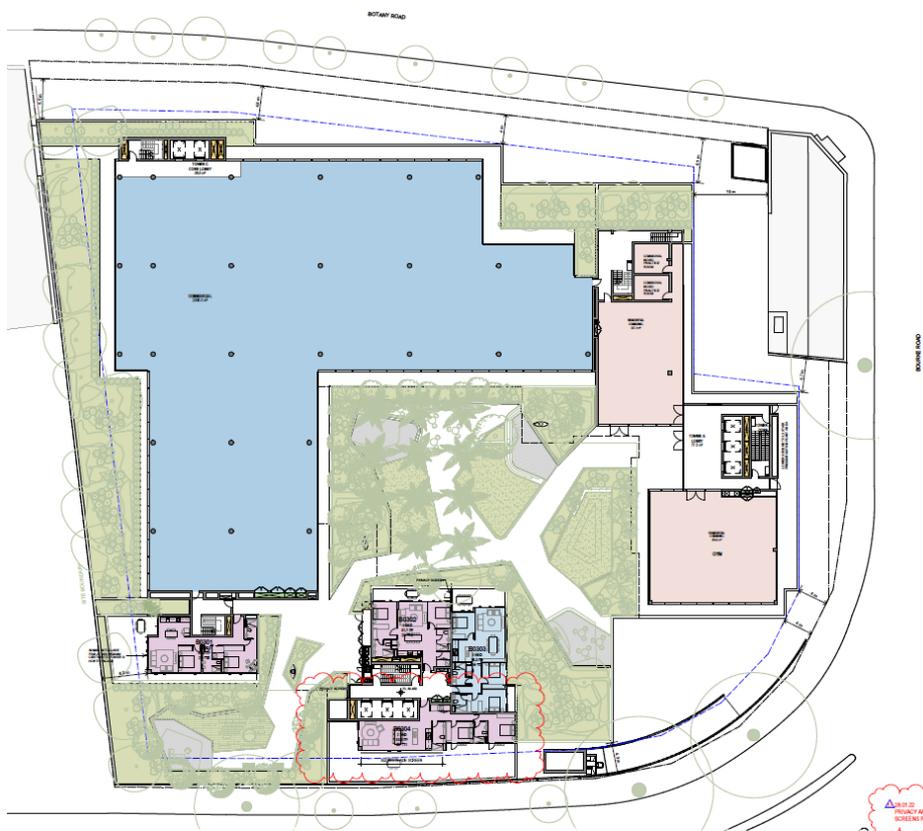


Figure 21: Proposed Level 3



Figure 22: Proposed Level 4



Figure 23: Proposed Level 5



Figure 24: Proposed Level 6



Figure 25: Proposed Level 7



Figure 26: Proposed Level 8



Figure 27: Proposed Level 9



Figure 28: Proposed Level 10



Figure 29: Proposed Level 11



Figure 30: Proposed Level 12

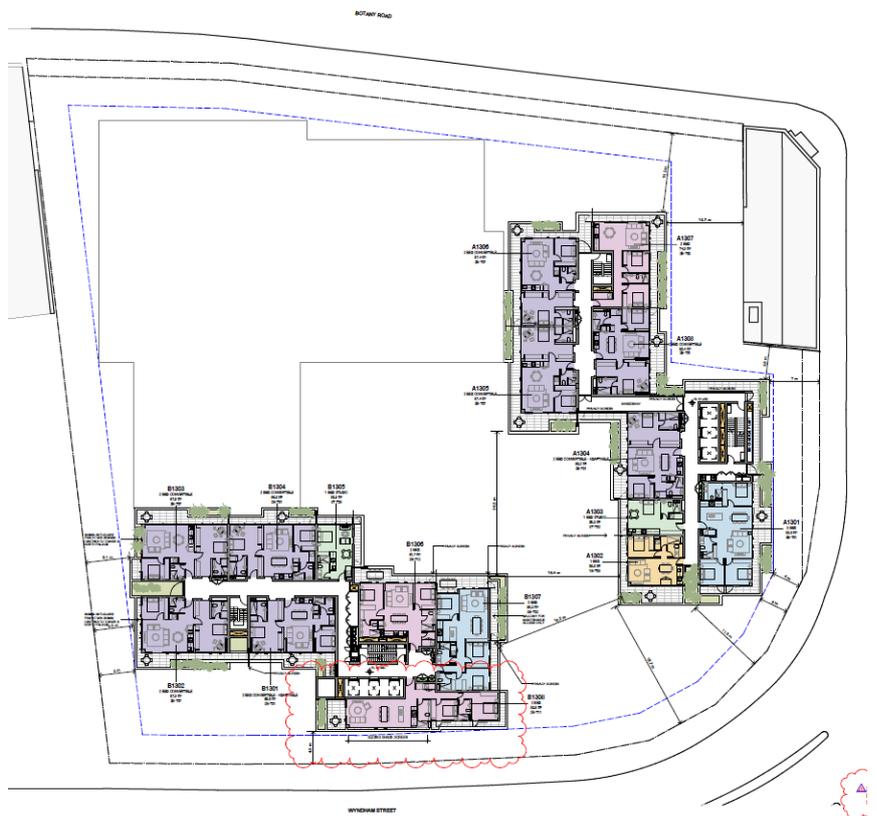
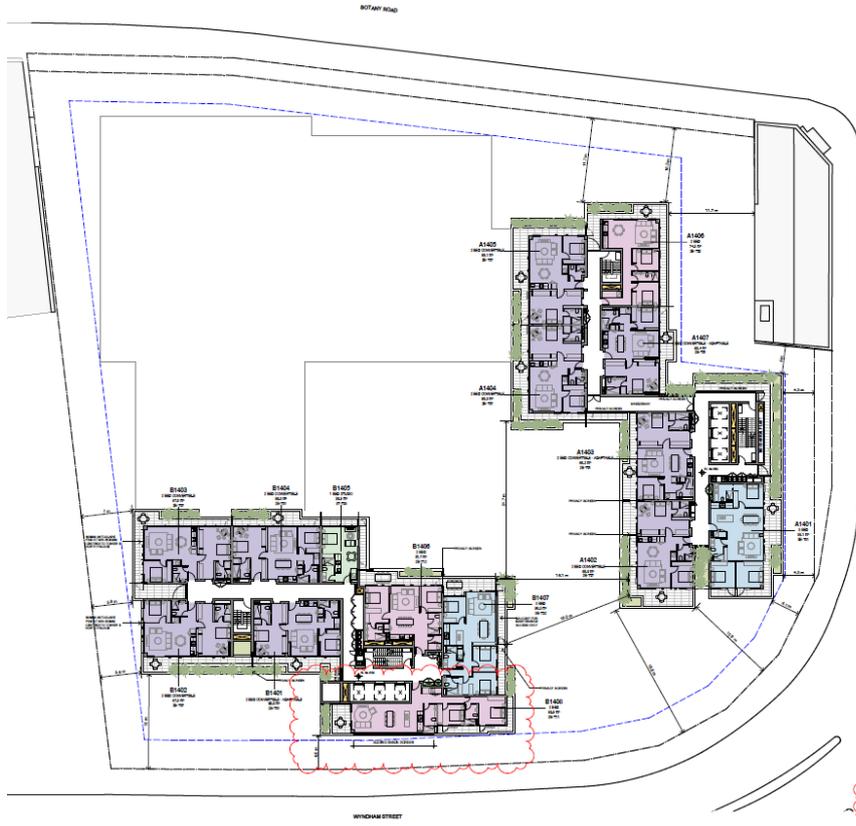


Figure 31: Proposed Level 13



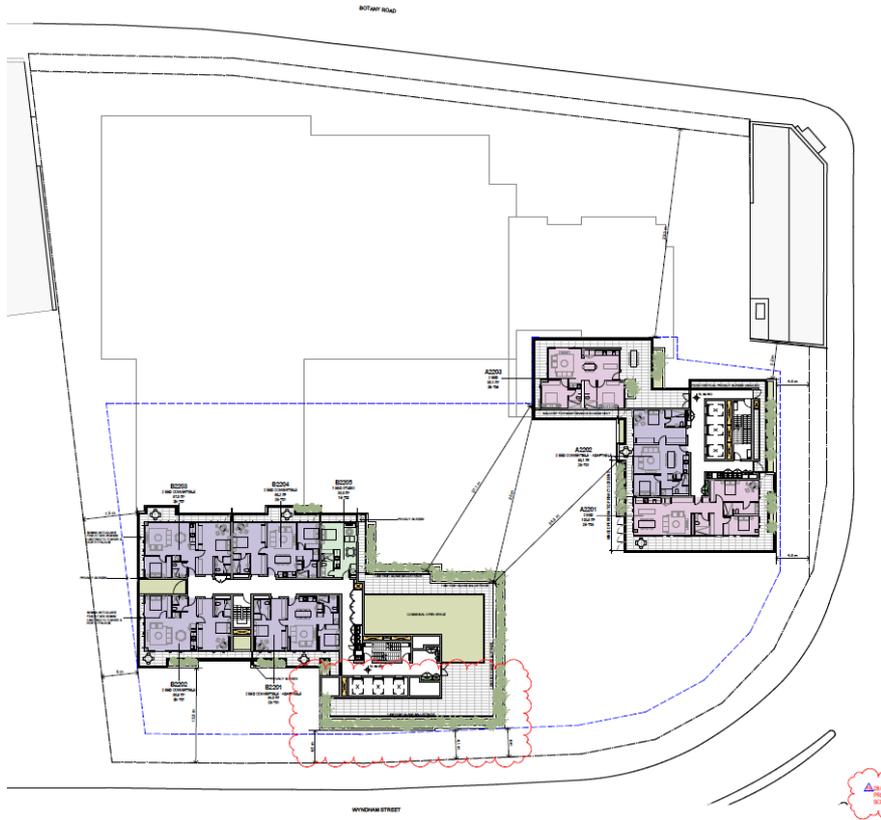


Figure 40: Proposed Level 22

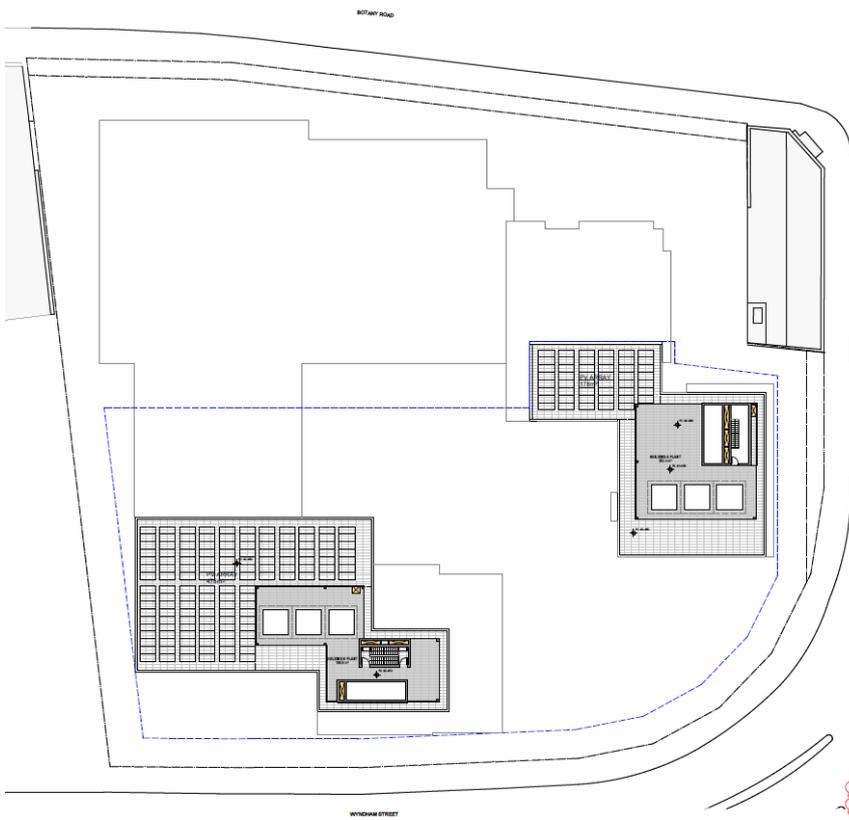


Figure 41: Proposed Level 23 plant

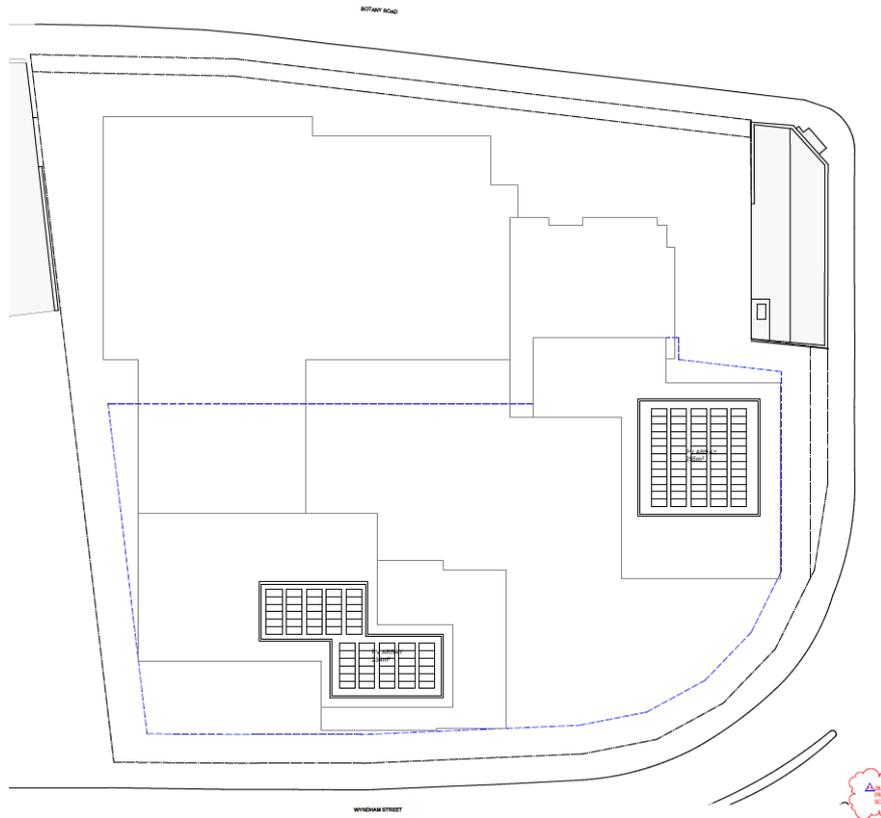


Figure 42: Proposed Rooftop

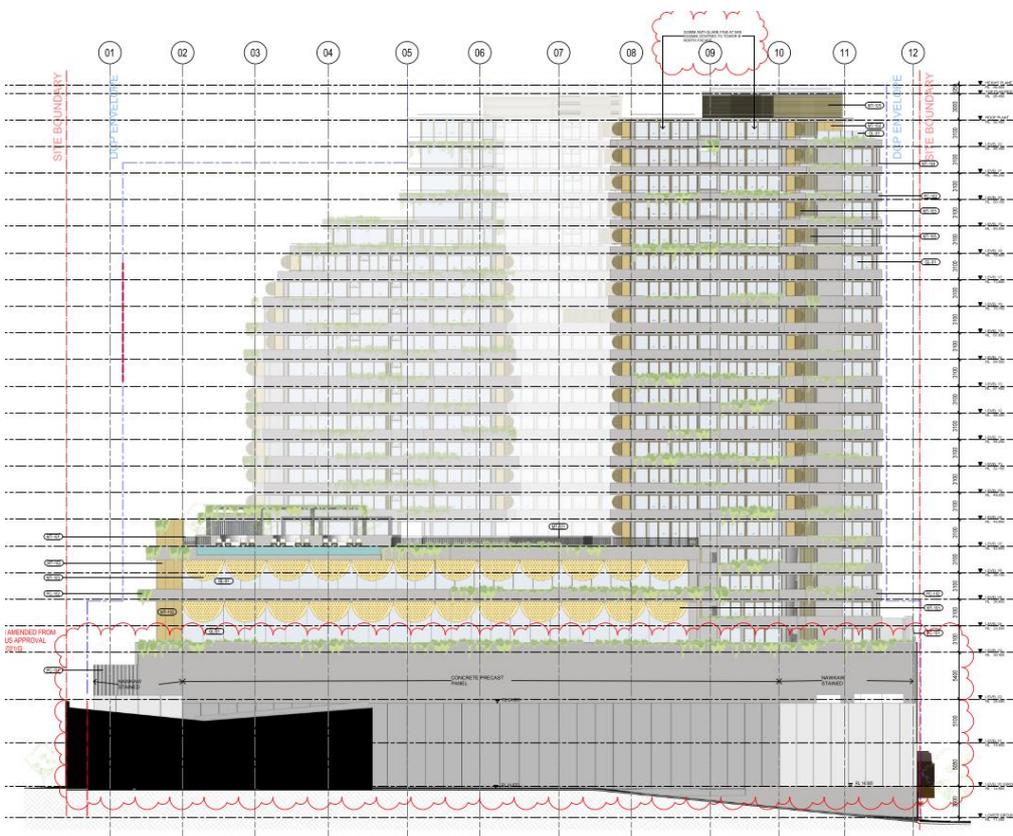


Figure 43: Proposed northern elevation

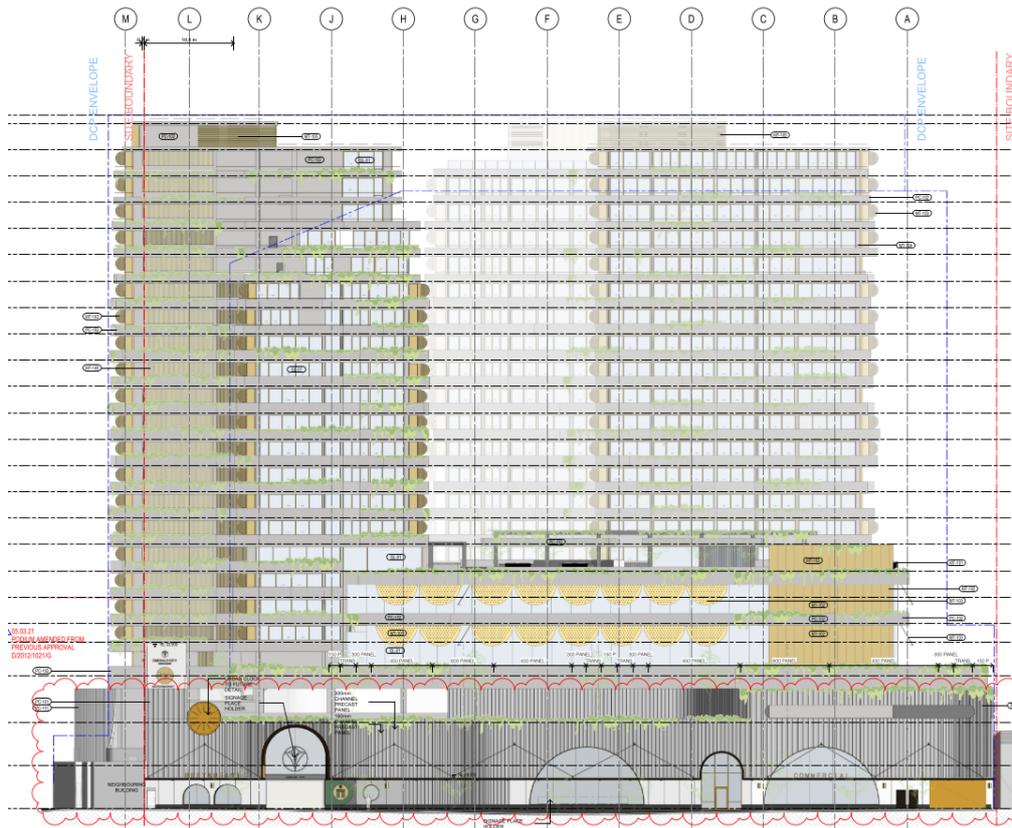


Figure 44: Proposed eastern elevation

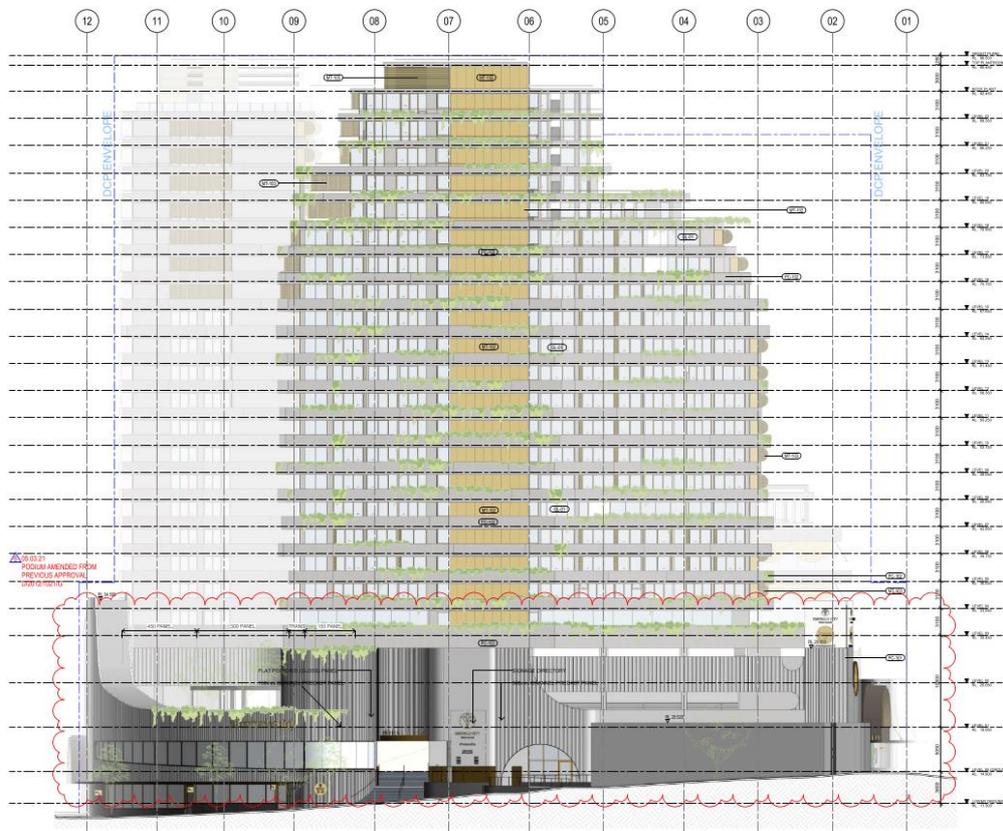


Figure 45: Proposed southern elevation

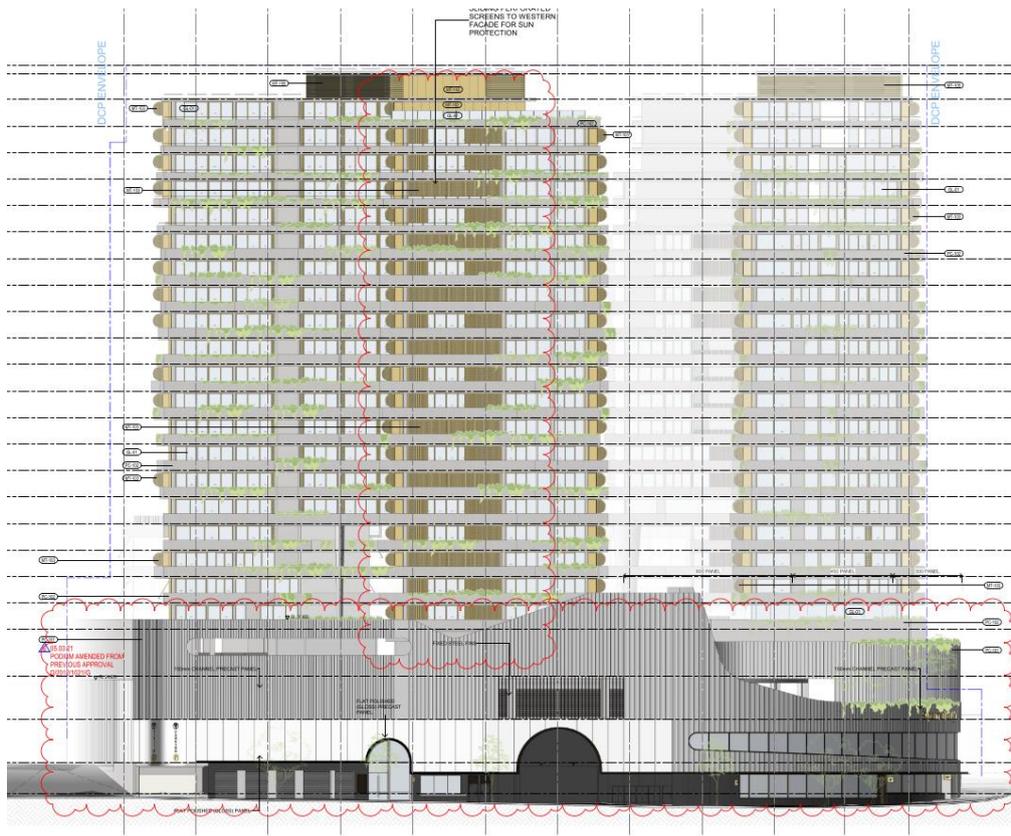


Figure 46: Proposed western elevation



Figure 47: Proposed Level 3 landscaping



Figure 48: Proposed Level 7 landscaping



Figure 49: Proposed typical tower integrated landscape planters on balconies (Level 12)



Figure 50: Proposed Level 22 landscaping

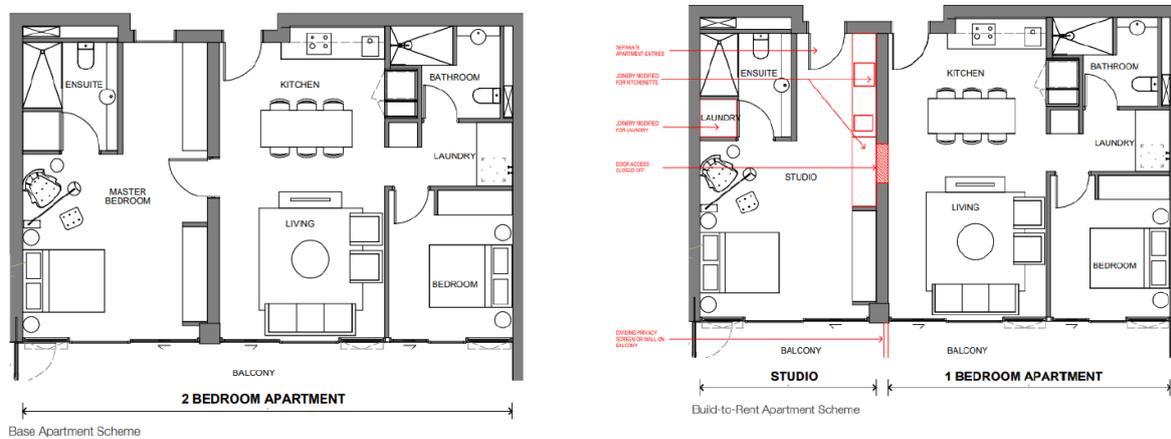


Figure 51: Proposed convertible apartment scheme. Typical 2-bedroom apartment (left) and converted 1-bedroom and studio apartments (right).

Assessment

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

Sydney Water Act 1994

50. Section 78 of the Sydney Water Act 1994 sets out various requirements for the determination of development applications which would:
 - (a) increase the demand for water supplied by the Corporation; or
 - (b) increase the amount of waste water that is to be removed by the Corporation; or
 - (c) damage or interfere with the Corporation's works; or
 - (d) adversely affect the Corporation's operation.
51. Subclauses (2) and (4) of Section 78 of the Sydney Water Act 1994 allow for a consent authority to approve an application at any time, subject to a condition requiring that a developer obtain a compliance certificate from the Sydney Water Corporation.
52. Several conditions have been recommended in Attachment A requiring various Sydney Water approvals and certification, including a condition requiring that the developer obtain a Section 73 Compliance Certificate from the Sydney Water Corporation.

State Environmental Planning Policies

53. Commencing on 1 March, the 45 existing State Environmental Planning Policies have been consolidated into 11 policies. The new SEPPs are based on nine focus areas listed below:
 - (a) Housing
 - (b) Transport and Infrastructure
 - (c) Primary Production
 - (d) Biodiversity and Conservation
 - (e) Resilience and Hazards
 - (f) Design and Place
 - (g) Industry and Employment
 - (h) Resources and Energy
 - (i) Planning Systems
54. While the existing SEPPs have been consolidated, no policy changes have been made. The SEPP consolidation does not change the legal effect of the SEPPs being repealed and section 30A of the Interpretation Act 1987 applied to the transferred provisions.
55. The consolidation of the SEPPs has not changed the provisions that apply to the proposed development. The assessment against relevant SEPPs as below will refer to the relevant SEPP sections as updated in their consolidated form, however, will reference the relevant SEPPs in their previous form.

State Environmental Planning Policy (Resilience and Hazards) 2021 (previously State Environmental Planning Policy No 55 - Remediation of Land)**Chapter 4 Remediation of land**

56. The aim of Chapter 4 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.
57. A detailed site investigation report, prepared in accordance with the SEPP and the SEPP 55 Guidelines, was submitted and considered as part of the previous retail podium development consent issued under development application D/2012/1021 (as amended). All remediation works will be carried out in accordance with that consent.
58. The City's Health and Building Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed mix of land uses, in accordance with Clause 4.6 of the SEPP and the SEPP 55 Guidelines. The recommended conditions are included in Attachment A.

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

59. The aim of State Environmental Planning Policy (SEPP) 65 is to improve the design quality of residential apartment development in New South Wales.
60. When determining an application for a residential flat development of three or more floors and containing four or more apartments, SEPP 65 requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 1.
61. A design verification statement and SEPP 65 design report prepared by Adam Haddow (Registration Number 7188) and John Pradel (Registration Number 7004) of SJB Architecture Pty Limited, who are both registered as architects under the Architects Act 2003, accompanies the application.
62. The statement and accompanying SEPP 65 report addresses the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide (ADG). The statement is deemed to satisfy Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000.
63. An assessment of the proposal against the design quality is provided as follows:
 - (a) **Principle 1: Context and Neighbourhood Character**
 - (i) The site is located within the Green Square urban renewal area, amongst existing or approved buildings of similar heights and scale and is located in proximity to existing and planned public transport infrastructure, including being located directly north of Green Square train station and approximately 700m south of the new Waterloo Metro rail station, due for completion in 2024.
 - (ii) The proposal contributes to the vitality of the redevelopment area, providing a mix of residential, retail, and commercial office uses.

- (iii) The development is proposed within the B4 Mixed Use zone and is broadly in accordance with the aims and objectives of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012, subject to the recommended conditions. The proposal is also consistent with the existing and desired future character of the locality.
- (b) **Principle 2: Built Form and Scale**
- (i) The Green Square locality is currently in transition from former industrial and warehousing uses to a mixed-use local centre. The built form and scale of this proposal is consistent with the desired future character of the area.
 - (ii) The built form of the proposed development responds appropriately to the site context, transitioning from a lower scale commercial use (Tower C) from the north to two tower forms as the site continues further south.
 - (iii) The proposal generally complies with the maximum height controls prescribed by the Sydney LEP 2012 and responds satisfactorily to the surrounding emerging dense urban context.
- (c) **Principle 3: Density**
- (i) The proposal is compliant with the maximum floor space ratio control for the site contained within the Sydney Local Environmental Plan 2012.
 - (ii) The proposed overall density of the development is consistent with that envisaged for the Green Square locality under the relevant planning controls and is appropriate given the emerging dense urban context of the site.
 - (iii) The proposal will provide for up to 347 residential apartments (post-conversion), which is an appropriate level of residential density for the site, given its proximity to established and forthcoming infrastructure, public transport and community and recreation facilities.
 - (iv) The proposed density of the development does not result in unacceptable levels of amenity impact for neighbouring properties or future residents of the development.
- (d) **Principle 4: Sustainability**
- (i) The proposed development maximises cross ventilation and solar access penetration into residential apartments to reduce artificial lighting, heating and cooling, reducing future energy consumption.
 - (ii) The proposal also incorporates passive shading devices to reduce heat gain and improve the energy performance, amenity, and longevity of the development. Acoustically treated natural ventilation plenums are also provided which will reduce demand for air conditioning related energy use.
 - (iii) The proposal is compliant with the requirements of BASIX, and a condition is recommended to ensure that the development complies with the commitments contained on its BASIX certificate.

(e) **Principle 5: Landscape**

- (i) The approved retail podium will be constructed to the site boundaries and will occupy the whole of the site area. Accordingly, there is no at grade landscaped area. Landscape solutions are provided throughout the proposed development, however, with extensive hard and soft landscaped areas located at ground floor, Level 3, Level 7 and Level 22.
- (ii) Landscaped areas are provided to members of the public within the ground floor retail podium, commercial tenants on Level 3 and for residents on Levels 3, 7 and 22, providing opportunities for passive and active recreation.
- (iii) Landscape planters are also integrated into residential balconies providing visual interest and texture to the building facades.

(f) **Principle 6: Amenity**

- (i) The proposed development, by adopting design measures that are generally responsive to the constraints and sensitivities of surrounding developments, provides a reasonable level of amenity for the residential occupants of the development.
- (ii) Compliance with amenity controls is detailed in the below ADG assessment table.

(g) **Principle 7: Safety**

- (i) The proposal is broadly in line with the principles of Crime Prevention through Environmental Design (CPTED).
- (ii) The development provides new opportunities for passive surveillance of the surrounding streets, and will increase on-street activity, particularly along Botany Road and Bourke Street. Further, letterboxes are provided in secure areas in lobbies or designated mail rooms.

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

- (i) The proposed development provides an acceptable mix of residential apartment types to encourage housing diversity, including adaptable apartments and accessible communal facilities for both passive and active recreation. The proposal also includes several apartments that function as convertible dual-key apartments, allowing the mix of apartment types to respond appropriately and flexibly to market demands.
- (ii) The proposed development responds well to the social context of its location in the Green Square locality, which is in close proximity to established infrastructure, public transport, community and recreational facilities.

- (iii) The proposal provides the following mix of dwellings:

	Pre-conversion	Post-conversion
Studio	28 (11%)	120 (34.6%)
1-bed	11 (4.3%)	103 (29.7%)
2-bed	178 (69.8%)	86 (24.8%)
3-bed	38 (14.9%)	38 (11%)
Total	255	347

- (iv) The proposed unit mix is broadly consistent with that envisaged under the Sydney Development Control Plan 2012 (SDCP 2012), however there is a non-compliance (post conversion) with the requirement to limit the overall quantum of studio and one-bedroom apartments to 40 per cent or less, as 64.3 per cent is proposed in a post-conversion scheme. The non-compliance is directly related to the flexibility of convertible apartments and the nature of the build-to-rent model, allowing the building owner to carry out minor works to convert a 2-bedroom apartment to a 1-bed and studio apartment should the market demand smaller apartments. The proposed convertible scheme does not impact the number of 3-bedroom apartments provided within the development.

(i) **Principle 9: Aesthetics**

- (i) The proposed development provides for a contemporary, well-modulated and articulated mixed use development, which is compatible with the existing and desired future character of the locality.
- (ii) The detailed design of the development was the result of a competitive design process, which was awarded as the winning scheme and was considered by the selection panel to be capable of exhibiting design excellence.
- (iii) The proposed built form, expression and composition of the new building will make a positive contribution to the visual quality of the area.

64. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 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.

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Acceptable	<p>The proposal is largely compliant, providing building depths ranging between 17-18m, however, there are minor non-compliances within Tower B as a result of the planning of three apartments and the building's articulation.</p> <p>Where non-compliances occur, they are restricted to only part of the building's length and do not exceed 20.5m.</p> <p>The design of the development ensures that adequate light and ventilation is achieved in each dwelling and building depths are considered acceptable.</p>

2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <p>12m between habitable rooms / balconies</p> <p>9m between habitable and non-habitable rooms</p> <p>6m between non-habitable rooms</p>	Yes	<p>For the purpose of an assessment against the provisions of the ADG, Towers A and B comprise a united building, as they form part of the same development application and share a single basement.</p> <p>A minimum separation of 5.1m from the edge of the northernmost balcony to the property boundary between the subject site and 290-294 Botany Road is provided. It is noted that the site to the north is currently operated as commercial and is approved for redevelopment for commercial use. Where a 5.1m distance to the site boundary is provided, a blank wall is approved on the site to the north.</p>
<p>Five to eight storeys (approximately 25 metres):</p> <p>18m between habitable rooms / balconies</p> <p>12m between habitable and non-habitable rooms</p>	Yes	<p>Minimum separation distances of 16m are achieved between buildings, however, habitable areas and accessible balconies are provided with a minimum 18.2m separation distance between the narrowest gap between Towers A and B.</p>

2F Building Separation	Compliance	Comment
9m between non-habitable rooms		
<p>Nine storeys and above (over 25m):</p> <p>24m between habitable rooms / balconies</p> <p>18m between habitable and non-habitable rooms</p> <p>12m between non-habitable rooms</p>	Partial compliance	<p>Appropriate building separation between Towers A and B is generally achieved except between 3 apartments on each level from Level 15 and above where minimum separation is 17m.</p> <p>Privacy screening solutions have been integrated into balcony design where separation distances cannot be achieved and is discussed in further detail under the heading 'Discussion' below.</p>
At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.	Yes	The site-specific building envelope controls require a minimum setback above the retail podium of 5m.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	The proposal provides 3 individual areas of communal open space on Levels 3, 7 and 22. Communal open space dedicated for residential use represents approximately 44% of the site area.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	Due to the orientation and location of the proposed outdoor communal spaces, particularly the spaces on Level 7 and 22, more than 50% of communal open space receives a minimum of two hours of direct sunlight at midwinter.

3E Deep Soil Zones	Compliance	Comment
<p>Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m</p>	<p>No but acceptable</p>	<p>The design guidance in the ADG states that achieving deep soil zones may not be possible on some sites including where:</p> <p>The location and building typology have limited or no space for deep soil at ground level (e.g. central business districts, constrained sites, high density areas); and</p> <p>There is 100% site coverage or the development comprises non-residential uses at ground level.</p> <p>The provision of deep soil zones is constrained as the building footprint of the approved retail podium occupies the whole site.</p> <p>The proposal provides landscaped elements throughout the development including at the ground floor, within communal open spaces and integrated into balconies with a range of appropriate plantings and is acceptable.</p>

3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <p>6m between habitable rooms / balconies</p> <p>3m between non-habitable rooms</p>	<p>Yes</p>	<p>The proposal generally complies. Minimum separation distances between balconies are 11.4m.</p>
<p>Five to eight storeys (25 metres):</p> <p>9m between habitable rooms / balconies</p> <p>4.5m between non-habitable rooms</p>	<p>Yes</p>	<p>The proposal generally complies. Minimum separation distances between balconies are 12m.</p>

3F Visual Privacy	Compliance	Comment
<p>Nine storeys and above (over 25m):</p> <p>12m between habitable rooms / balconies</p> <p>6m between non-habitable rooms</p>	Yes	The proposal generally complies. Minimum separation distances between balconies are 18m.
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	The proposal complies.

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	<p>A total of 74.5% (190 of 255) of apartments receive 2 hours or more of direct sunlight to living rooms and private open space at midwinter.</p> <p>When considering a post-converted scheme where all convertible apartments are converted to smaller dwellings, 70.8% (246 of 347) of apartments receive 2 hours of direct sunlight and is acceptable.</p>
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	<p>A total of 27 of 255 (10.6%) apartments receive no direct sunlight at midwinter.</p> <p>When considering a post-converted scheme, 35 of 347 (10%) receive no direct sunlight at midwinter.</p>

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms throughout the development are naturally ventilated.

4B Natural Ventilation	Compliance	Comment
		Plenum systems are also provided throughout the development to ensure that natural ventilation can be maintained to habitable rooms, alongside internal acoustic amenity.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	61.5% (48 of 78) of apartments within the first nine storeys of the development in both a pre- and post-converted scheme are naturally cross ventilated.
Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	Yes	All residential apartments within the proposed development above ten storeys are considered to be naturally cross ventilated, as all balconies: <ul style="list-style-type: none"> • Have been designed in accordance with the provisions in Section 4.2.3.13 of the Sydney DCP 2012; • Allow adequate natural ventilation; and • Cannot be fully enclosed.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	All 10 cross over apartments on level 18 to 22 are triple aspect that provide openings on three frontages. Of the cross over apartments that do exceed 18m in depth, openings are provided on a second aspect before 18m.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	Floor to floor heights of at least 3.1m are provided which achieve 2.7m floor to ceiling heights.
Non-habitable rooms: 2.4m	Yes	Floor to floor heights of at least 3.1m are provided which can achieves 2.4m floor to ceiling heights.

4C Ceiling Heights	Compliance	Comment
Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.	Not applicable	The proposal does not include any two storey apartments.
Attic spaces – 1.8m at edge of room with a 30 degree minimum ceiling slope	Not applicable	The proposal does not include any attic spaces.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Not applicable	The proposal does not include any residential uses at the ground floor. It is noted the ground floor provides a floor to floor height of 5.05m and is consistent with this requirement.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Yes	The proposed development achieves the minimum unit sizes.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	All habitable rooms throughout the development are naturally ventilated.

4D Apartment Size and Layout	Compliance	Comment
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	No habitable rooms exceed a depth to ceiling height ratio of 2.5, except for open plan layouts. Open plan apartments generally have a depth of 7.4m in accordance with 4D-3 of the ADG.
8m maximum depth for open plan layouts.	Yes	The clear majority of apartments have a maximum depth of 8m.
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	All apartments achieve the minimum areas and dimensions prescribed for bedrooms.
Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m 	Yes	The development results in all dwellings having a living area with a minimum width consistent with the provisions of the ADG.
4m minimum width for cross over and cross through apartments.	Yes	All cross over apartments are greater than 4m in width.
Apartment layouts allow flexibility over time, design solutions may include: <ul style="list-style-type: none"> • dimensions that facilitate a variety of furniture arrangements and removal • spaces for a range of activities and privacy levels between different spaces within the apartment 	Yes	The proposed development is designed to allow flexibility to respond to market demands. 92 apartments are proposed as dual key/convertible apartments that require minor works to create additional separate dwellings to be operated under a build-to-rent model. The flexibility of the design of apartments is appropriate for the locality and meets the objectives of objective 4D-3 of the ADG.

4D Apartment Size and Layout	Compliance	Comment
<ul style="list-style-type: none"> • dual master apartments • dual key apartments <p>Note: dual key apartments which are separate but on the same title are</p> <ul style="list-style-type: none"> • regarded as two sole occupancy units for the purposes of the Building Code of Australia and for calculating the mix of apartments • room sizes and proportions or open plans (rectangular spaces (2:3) are more easily furnished than square spaces (1:1)) • efficient planning of circulation by stairs, corridors and through rooms to maximise the amount of usable floor space in rooms 		

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments are to have a minimum balcony area of 4m² with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8m² with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.</p>	Yes	<p>All proposed apartment balconies meet the minimum size and dimension requirements specified for the number of bedrooms per apartment.</p> <p>Some three-bedroom apartments are provided with two separate balconies that are over 12sqm when combined. This non-compliance is acceptable on balance.</p> <p>This is due to the very minor numerical variation of the controls and that the balconies are designed as usable outdoor areas adjacent to internal living areas, in addition to being protected</p>

4E Private Open Space and Balconies	Compliance	Comment
Three bed apartments are to have a minimum balcony area of 12m ² with a minimum depth of 2.4m.		from wind effects in accordance with Section 4.2.3.13 of the Sydney DCP 2012.
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	Apartments located on podium level 3 are provided with balconies between 20sqm and 120sqm.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	The proposal complies with this requirement.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	No but acceptable	Residential Tower A has 145 apartments sharing 3 lifts (average 48 each). A lift service report has been submitted with the application which demonstrates that all 241 apartments can be safely serviced by the proposed lift arrangement.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	No living room or bedroom windows open directly onto circulation spaces.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Natural light and ventilation are generally provided with windows at the ends of each corridor.

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ <p>(Minimum 50% storage area located within unit)</p>	Yes	<p>Studio and 1 bedroom apartments generally achieve storage requirements within the apartment.</p> <p>2 bedroom and 3 bedroom apartments make use of 50% of their storage volume in secure storage enclosures on car parking levels.</p>

4J Noise and Pollution	Compliance	Comment
<p>Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?</p>	Yes	<p>The design groups similar uses and services together to ensure the acoustic privacy of the dwellings are maintained. This includes various facade treatments and acoustic plenums.</p> <p>The application has also been accompanied by an acoustic report which states that the proposal will achieve acceptable residential amenity within each dwelling.</p> <p>The proposed plenum systems are also provided throughout the development to ensure that natural ventilation can be maintained to habitable rooms, alongside internal acoustic amenity.</p> <p>The application is considered acceptable subject to conditions requiring the adoption of the recommendations contained in the assessment for appropriate acoustic mitigation.</p>

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

65. A BASIX Certificate has been submitted with the development application 1167021M
66. 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 (Transport and Infrastructure) 2021 (previously State Environmental Planning Policy (Infrastructure) 2007)**Chapter 2 Infrastructure**

67. The provisions of SEPP (Transport and Infrastructure) 2021 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 2.48 Determination of development applications – other development***

68. The application is subject to Clause 2.48 of the SEPP as the development will be carried out immediately adjacent to an electricity substation.
69. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations***Clause 2.118 – Development with frontage to classified road***

70. The application is subject to Clause 101 of the SEPP as the site has frontage to Botany Road which is a classified road.
71. The proposed development satisfies the provisions of Clause 2.118 subject to conditions of consent, as access to the site is not provided from the classified road and the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development, subject to the recommended conditions of consent.

Clause 2.119 – Impact of road noise or vibration on non-road development

72. The application is subject to Clause 2.119 of the SEPP as the site is adjacent to Botany Road which has an annual average daily traffic volume of more than 20,000 vehicles and the development is likely to be adversely affected by road noise or vibration.
73. The application satisfies Clause 2.119 subject to conditions of consent.

Clause 2.121 – Traffic generating development

74. The application is subject to Clause 2.121 of the SEPP as the proposed development comprises a commercial premises with a gross floor area of over 2,500sqm and a residential use containing more than 75 dwellings with a frontage to a classified road.
75. The application was referred to TfNSW who raised no objection to the proposal subject to conditions included in Attachment A.

Local Environmental Plans

Sydney Local Environmental Plan 2012

76. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 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 residential and commercial and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings 6.37 296-298 Botany Road and 284 Wyndham Street, Alexandria	Yes	<p>The maximum height of the building is defined in the SLEP 2012 by a series of RL's including RL 20m and RL 33.5m at podium level and RL 87.5m to RL 96.5m at the tower level.</p> <p>Pursuant to clause 6.37(3)(b) of the SLEP 2012, the maximum height applicable to any part of a building located on land identified as "Area 8" on the Height of Buildings Map must not project higher than an incline plane extending from RL 87.5m along the land's northern boundary to RL 79m along the land's southern boundary.</p> <p>The proposed development complies with the height of buildings development standard.</p>
4.4 Floor space ratio 6.12 Additional floor space outside Central Sydney 6.14 Community infrastructure floor space at green Square 6.21D Competitive design process (design excellence)	Yes	<p>A maximum floor space ratio of 2:1 is permitted under Clause 4.4 of the Sydney LEP 2012.</p> <p>In accordance with clause 6.14(4), the site is also subject to the following floor space bonuses:</p> <ul style="list-style-type: none"> 1.5:1 on the northern lot (previously 296-298 Botany Road)

Provision	Compliance	Comment
6.37 296-298 Botany Road and 284 Wyndham Street, Alexandria		<ul style="list-style-type: none"> • 2.2:1 on the southern lot (previously 284 Wyndham Street) <p>The site is also subject to the following floor space bonuses:</p> <ul style="list-style-type: none"> • Additional 10% the sum of maximum permissible floor space if the building exhibits design excellence <p>This enables a maximum gross floor area of 35,631.4sqm across the sites.</p> <p>Pursuant to clause 6.37 of the SLEP 2012, in calculating the available quantum of additional design excellence floor space:</p> <ul style="list-style-type: none"> • a BASIX affected building on the subject land is not eligible for an amount of additional floor space unless the building exceeds the BASIX commitment for energy for the building by not less than 5% of the energy target score (as per clause 6.37(6) of SLEP 2012). • any floor space for which there is a current active development consent is to be excluded regardless of whether that floor space is converted or modified to facilitate the redevelopment of the site – a total GFA of 7,318sqm was approved under D/2012/1021 (as amended). <p>Therefore, in accordance with the relevant provisions of SLEP 2012, the maximum gross floor area allowable by this proposal is 31,145sqm.</p> <p>A total gross floor area of the proposed development is 31,144sqm.</p>

Provision	Compliance	Comment
		<p>Clause 6.37(3)(c) of the SLEP 2012 restricts all structures on site to a maximum GFA of 39,194.54sqm. The proposed development will result in a maximum GFA of 38,462sqm, inclusive of the 7,318sqm GFA approved under the lower-level podium DA - D/2012/1021/G.</p> <p>The proposed development complies with the maximum floor space ratio development standard.</p>

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	<p>The proposed development is eligible for the following floor space bonuses:</p> <ul style="list-style-type: none"> • 1.5:1 on the northern lot (previously 296-298 Botany Road) • 2.2:1 on the southern lot (previously 284 Wyndham Street) <p>The bonus FSR is achievable upon the provision of public benefits including the dedication of land for footpath widening and the provision of monetary contributions as provided in the public benefit offer and in accordance with the City of Sydney Development Guidelines for Community Infrastructure in Green Square 2012.</p> <p>The proposal satisfies the matters for consideration in subclause (3) of this section and is acceptable.</p>

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposal exhibits design excellence as required by Clause 6.21C(2) and is recommended to be awarded an additional 10% floor space in accordance with Clause 6.21D(3), given it is the winner of an 'invited' architectural design competition and has retained the key elements of the winning scheme.</p> <p>The amended scheme adequately addresses recommendations made by the competition jury for improvements. These recommendations are addressed in detail below under the Discussion heading.</p> <p>The proposal responds appropriately to the planning controls where required. The built form is compatible with the character of the locality and providing an appropriate relationship with the adjacent developments.</p> <p>The proposal achieves the principles of ecologically sustainable development (ESD) and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The proposal presents a high standard of architectural design and the overall materiality, articulation and architectural expression of the development is in keeping with the relevant planning controls and reflecting the desired future character of the area.</p> <p>The proposal will have a positive contribution to the public domain through the provision of footpath widening, introduction of active frontages and the retention, protection and planting of street trees.</p>

Provision	Compliance	Comment
		Overall, the proposal satisfies the considerations in Clause 6.21C(2) of the Sydney LEP 2012 and the development is considered to exhibit design excellence.
Division 5 Site specific provisions		
6.37 296-298 Botany Road and 284 Wyndham Street, Alexandria	Yes	<p>The clause relates to additional permitted building heights, gross floor area, maximum number of car parking spaces and the provision of a development that exceeds the target energy score for BASIX affected development.</p> <p>The proposed development is generally consistent with the requirements of this clause, including the provision of a development that exceeds the target energy score for BASIX affected development by 5%.</p> <p>It is noted that a portion of the lower-level podium exceeds the maximum height of building control of RL 20m along Bourke Road and RL 33.5m for the remainder of the site's frontages. However, this non-compliance was approved under D/2012/1021/G and is not proposed to be amended within this application.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing 7.6 Office premises and business premises	Yes	<p>A maximum of 190 car parking spaces are permitted for residential use and 25 car parking spaces for commercial use.</p> <p>The proposed development includes 215 car parking spaces as follows:</p> <ul style="list-style-type: none"> 173 resident spaces (including 39 accessible)

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • 17 residential visitor spaces (including 1 accessible) • 25 commercial spaces (including 2 accessible) <p>The proposal complies with the relevant development standards.</p> <p>The proposal also includes amendments to the approved public carpark to increase parking spaces by 3 to a total of 205 spaces. The increase is minor in nature and is generally consistent with the previous approved car parking rates for the retail podium.</p>
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	<p>The site is located on land within Green Square and proposes the erection of a new building with a gross floor area of more than 200sqm and as such is subject to the provision of affordable housing.</p> <p>The proposed development does not include the provision of any floor space dedicated for affordable housing. Pursuant to clause 7.13(2), a condition is recommended requiring a contribution equivalent to the affordable housing levy contribution as follows:</p> <ul style="list-style-type: none"> • 3% of the total floor area of the development that is intended to be used for residential purposes, and • 1% of the total floor area of the development that is not intended to be used for residential purposes. <p>Affordable housing contributions are discussed further under the heading Financial Contributions below.</p>

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.15 Flood planning	Yes	<p>The site is identified as being subject to flooding. All works responding to flooding are approved under the previous retail podium consent D/2012/1021 (as amended).</p> <p>The proposed design modifications to the lower ground and ground levels are not likely to impact the approved flooding mitigation works.</p>
7.16 Airspace operations	Yes	<p>The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport.</p> <p>The concurrence of Sydney Airport Corporation, as a proxy for the Civil Aviation Safety Authority, has been received subject to conditions of consent.</p>
7.18 Car parks	Yes	<p>The site includes an approved car park associated with the retail podium use approved under development application D/2012/1021 (as amended). The proposed amendments to the approved car park are generally minor in nature and satisfy the requirements of this provision.</p>
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>As the proposed development is outside of Central Sydney and exceeds a height greater than 25m and is located on land that has a site area of more than 5,000sqm a site-specific Development Control Plan is required to be prepared.</p> <p>A site specific DCP (section 6.3.10 of the Sydney Development Control Plan 2012) applies to the site which satisfies this requirement.</p>
7.26 Public art	Yes	<p>The proposal includes public art which will be integrated with the detailed design of the development.</p>

Provision	Compliance	Comment
		<p>The preliminary public art plan submitted with the application has been reviewed by the City's Public Art Unit.</p> <p>It is considered acceptable, subject to a condition included in Attachment A, which requires final details to be provided prior to the issue of a construction certificate.</p>

Development Control Plans

Sydney Development Control Plan 2012

77. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

78. 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 Waterloo Park locality. Specifically, subject to the recommended conditions of consent, the proposal:

- (a) encourages an active frontage along Botany Road and Bourke Streets with ground floor retail uses;
- (b) provides adequate setbacks from the public domain to provide improved pedestrian experience through widened footpaths;
- (c) incorporates appropriate street wall heights to reinforce the pedestrian scale and maintain good levels of solar access to the public domain; and
- (d) introduces an appropriate mix of commercial and residential uses.

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. Public Domain elements are being delivered under the terms of the VPA.

Provision	Compliance	Comment
		<p>Public Domain works, including the provision of widened footpaths along Botany Road and Bourke Street will be delivered in accordance with the site-specific provisions for the site in Section 6.3.10 of the SDCP 2012 and to the City's specifications.</p> <p>Further, the proposed development will not impact the existing approved through site link between Botany Road and Bourke Street as approved in the retail podium consent.</p> <p>The proposal is generally in accordance with the DCP's public domain requirements.</p>
<p>3.2 Defining the Public Domain</p>		
<p>3.2.1 Improving the public domain</p> <p>3.2.2 Addressing the street and public domain</p>	<p>Yes</p>	<p>The proposal satisfactorily addresses the public domain, given that it:</p> <ul style="list-style-type: none"> • Minimises the overshadowing effects of the new building on public places; • Will not result in unacceptable adverse wind impacts within the public domain; • Does not impede on any significant views from the public domain to any public places, park, heritage buildings or monuments; • Incorporates high quality materials and finishes and public art in publicly accessible locations; and • Provides multiple points of entry into the development along Botany Road and Bourke Street. <p>Subject to conditions recommended by the City's Public Domain Unit, the proposed development will be designed to appropriately interface and integrate with the public domain.</p>

Provision	Compliance	Comment
3.2.3 Active frontages	Yes	<p>The site is identified as requiring an active frontage on Botany Road, Bourke Street and Wyndham Street.</p> <p>The retail podium was approved under a previous consent D/2012/1021 (as amended) and was considered acceptable in providing an active frontage on Botany Road and Bourke Street, while back of house functions including loading dock and car park entries would occupy part of the Wyndham Street frontage.</p> <p>The proposed development does not reduce the active frontages provided by the retail podium and is considered acceptable.</p>
3.2.4 Footpath awnings	Yes	<p>The proposed development will provide footpath awnings along Botany Road and part of Bourke Street as per previously approved under D/2012/1021 (as amended) and will make a positive contribution to the public domain and pedestrian amenity.</p>
3.2.6 Wind effects	Yes	<p>The application was accompanied by a wind report confirming that the proposed development will not have an adverse impact on public safety and comfort at ground level in regard to wind.</p> <p>The proposal satisfies the requirements of this provision.</p>
3.2.7 Reflectivity	Yes	<p>A condition is recommended in Attachment A to ensure that light reflectivity from the building facades in the proposed development does not exceed 20%.</p>
3.2.8 External lighting	Yes	<p>No external lighting is detailed as part of the proposed development beyond generalised references in the application documentation and integration in public art opportunities.</p>

Provision	Compliance	Comment
		<p>A condition is recommended in Attachment A to require the lodgement of a separate application for any external illumination of the building or site landscaping.</p>
<p>3.3 Design Excellence and Competitive Design Processes</p>		
<p>3.3.1 Competitive design process</p>	<p>Yes</p>	<p>As noted above under the History Relevant to the Development Application heading, the proposed development has been subject to an architectural design competition and is consistent with the winning scheme by SJB Architects.</p> <p>The competition was carried out prior to the lodgement of the subject application, in accordance with the City of Sydney Competitive Design Policy and a Design Excellence Strategy.</p>
<p>3.3.3 Award for design excellence</p> <p>3.3.5 Awarding additional floor space</p>	<p>Yes</p>	<p>In accordance with Clause 6.21D of the Sydney LEP 2012, the proposal seeks an additional 10% floor space on the basis that design excellence has been achieved through a competitive design process.</p> <p>The proposal has addressed the recommendations made by the competition jury and, as a consequence of the architectural design competition, the amended development is considered to be a "building demonstrating design excellence".</p> <p>As such, it is recommended to be awarded up to an additional 10% floor space.</p> <p>The additional floor space is pro-rated by the area covered by the competitive design process, as a proportion of the total developable site area.</p> <p>The competitive design process applies to the entire site and therefore the 10% floor space is calculated across the entire site.</p>

Provision	Compliance	Comment
3.4 Hierarchy of Centres, City South	Yes	<p>The site is located in the Green Square Town Centre Primary Trade Area and provides approved supermarket and retail floor space on the ground floor within walking distance of future residents within the subject site and surrounding developments.</p> <p>The proposal satisfies the requirements of this provision.</p>
3.5 Urban Ecology	Acceptable	<p>The proposed development will have an impact on the existing trees within the site and street trees surrounding the site. See further details in the 'Discussion' section below.</p>
3.6 Ecologically Sustainable Development	Yes	<p>The development seeks to achieve a:</p> <ul style="list-style-type: none"> • minimum 5.5 star rating on operation under the NABERS energy scheme for commercial office uses; and • minimum 5% exceedance of the BASIX target energy score for residential uses. <p>Appropriate conditions are recommended in Attachment A requiring the development to meet the energy commitments as above.</p>
3.11 Transport and Parking		
3.11.1 Managing transport demand	Yes	<p>The proposal comprises a mixed-use development including a non-residential development exceeding 1,000 square metres of GFA and more than 25 dwellings. As such, it generates a requirement for a Transport Impact Study, Green Travel Plan and Transport Access Guide under the relevant provisions of Section 3.11.1 of the Sydney DCP 2012.</p>

Provision	Compliance	Comment
		<p>A Transport Impact Assessment report has been submitted with the application in accordance with these requirements, which has been reviewed by Transport for New South Wales and the City's Access and Transport Unit.</p> <p>The latter has advised that it is acceptable with regard to the controls in Section 3.11.1 of the Sydney DCP 2012.</p> <p>Conditions are recommended in Attachment A to ensure the development of a Green Travel Plan and Transport Access Guide for the development.</p>
3.11.2 Car share scheme parking spaces	Yes	The proposal includes the provision of 3 car share vehicle spaces located within level 2 and is consistent with the requirements of this provision, subject to conditions.
3.11.3 Bike parking and associated facilities	Yes	<p>The DCP requires a minimum total of 327 bicycle parking spaces for the residential and commercial office uses within the site. It is noted that the retail podium consent has approved bicycle and end of journey facilities that are not proposed to be amended in this application.</p> <p>The proposed development provides the following facilities:</p> <ul style="list-style-type: none"> • 258 residential bicycle spaces • 26 residential visitor bicycle spaces • 32 commercial staff bicycle spaces • 12 commercial visitor bicycle spaces • 4 showers for commercial staff use • 50 personal lockers for commercial staff use

Provision	Compliance	Comment
		<p>Bicycle parking and end of journey facilities are located on Levels 2 and 3 of the podium and satisfactorily meets the requirements of this provision.</p> <p>A condition is recommended in Attachment A to ensure compliance with the minimum requirements set out above.</p>
3.11.6 Service vehicle parking	No but acceptable	<p>The provision at Section 3.11.6(1) of the Sydney DCP 2012 requires service vehicle parking to be provided in accordance with the requirements set out in Schedule 7.</p> <p>Schedule 7.8.1(1) of the Sydney DCP 2012 requires the provision of at least 6 service vehicle spaces for the residential and commercial offices uses within the site.</p> <p>The proposed development provides 2 service spaces as a mix of Medium Rigid Vehicle (MRV) parking spaces and Small Rigid Vehicle (SRV) parking spaces within Level 1.</p> <p>Subject to the conditions recommended in Attachment A requiring the submission of plans to confirm the location of parking spaces within the site and the further development of a loading and servicing management plan, the proposed service vehicle parking provision is acceptable.</p>
3.11.7 Motorbike parking	Yes	The application proposes 28 motorbike parking spaces for resident and commercial uses.
3.11.9 Accessible parking	Yes	Appropriate accessible parking spaces for residential and commercial uses are provided within Levels 1 and 2 of the development.

Provision	Compliance	Comment
3.11.10 Vehicle access for developments greater than 1000sqm GFA	Yes	Vehicle access to the site is provided via a ramp on Botany Road located approximately 100m from the intersection of Botany Road and Bourke Street and satisfies the requirements of this provision.
3.11.11 Vehicle access and footpaths	Yes	<p>The proposed driveway location along Botany Road is designed to minimise impacts on pedestrian movements and amenity.</p> <p>Conditions are recommended in Attachment A requiring the preparation of a detailed loading and servicing management plan that will outline access arrangements for delivery vehicles, garbage collection, resident/tenant move in/move out arrangements to prevent disruption to public streets and pedestrian movements.</p>
3.11.13 Design and location of waste collection points and loading areas	Yes	<p>Proposed waste storage and collection points are appropriately located close to the loading area on Level 1.</p> <p>Suitable access is provided for collection vehicles and the proposal is suitable, subject to compliance with an approved Operational Waste Management Plan.</p>
3.11.14 Parking area design	Yes	Conditions are recommended in Attachment A to require all loading to be carried out on site, parking design in accordance with Australian Standard AS 2890.1, and a parking, loading and servicing management plan to be developed.
3.12 Accessible Design	Yes	<p>The building has been designed to provide accessible entry into retail uses at the ground floor, to residential lobbies and throughout the commercial lobby and offices areas</p> <p>The proposal also includes 40 adaptable apartments (15.5%).</p>

Provision	Compliance	Comment
		The proposed development meets the requirements of this provision.
3.13 Social and Environmental Responsibilities	Yes	<p>The safety and security of the public domain is enhanced by the proposed increase in activity within the site and casual surveillance of the surrounding streets from the development.</p> <p>The proposal provides separate and secure entrances to the different building uses, adequate passive surveillance and a range of other security measures.</p>
3.14 Waste	Yes	<p>The development includes waste chutes serving each floor and waste rooms and bulky storage areas within the basement. The proposal also includes the provision for on-site waste collection by Council waste vehicles.</p> <p>A range of waste management conditions are recommended in Attachment A to ensure waste is managed on the site in accordance with Section 3.14 of the Sydney DCP 2012.</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	<p>The proposed development is 22 storeys in height with a street frontage height of 3 storeys to Bourke Street, Botany Road and Wyndham Street. As discussed above, the maximum height of the building is defined in the SLEP 2012 by a series of RL's including RL 20m and RL 33.5m at podium level and RL 87.5m to RL 96.5m at the tower level.</p> <p>The proposed development complies with the relevant height and storey controls applicable to the site.</p>

Provision	Compliance	Comment
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	<p>The residential component of the development achieves the following floor to ceiling heights:</p> <ul style="list-style-type: none"> • Habitable rooms have 2.7m ceiling height • Non-habitable rooms have 2.4m ceiling height <p>Commercial floors have a minimum floor to ceiling height of 5m.</p>
4.2.2 Building setbacks	Yes	<p>The above street frontage height setback of the residential towers is at least 4 metres, greater than the required minimum setbacks within the DCP.</p>
4.2.3 Amenity	Yes	<p>The proposal is generally acceptable with regard to residential apartment amenity considerations, subject to the conditions recommended in Attachment A.</p>
4.2.3.4 Design features to manage solar access	Yes	<p>The design of shading design features throughout the development is generally acceptable.</p>
4.2.3.5 Landscaping	Yes	<p>The landscaping design is acceptable, subject to the landscape and facade planting conditions recommended in Attachment A.</p>
4.2.3.10 Outlook	Yes	<p>All apartments are provided with adequate outlook and views and outlook from surrounding developments has been considered in the site planning and massing of the development.</p>
4.2.3.11 Acoustic privacy	Yes	<p>An acoustic report was submitted with the application.</p> <p>The report has been reviewed by the City's Health and Building Unit. Advice received is that the recommendations of the report are acceptable.</p>

Provision	Compliance	Comment
		<p>Conditions are recommended in Attachment A to require acoustic control and noise management measures are implemented in relation to the proposed plenum systems and the proposed mix of land uses.</p>
4.2.3.12 Flexible housing and dwelling mix	Yes	<p>Section 4.2.3.12 of the Sydney DCP 2012 requires the following dwelling mix:</p> <ul style="list-style-type: none"> • Studio: 5-10%; • 1-bedroom: 10-30%; • 2-bedroom: 40-75%; and • 3-bedroom: 10-100%. <p>The proposal provides the following dwelling mix when no apartments have been converted to a dual-key arrangement:</p> <ul style="list-style-type: none"> • Studio: 11% (28 apartments); • 1-bedroom: 4.3% (11 apartments); • 2-bedroom: 69.8% (178 apartments); and • 3-bedroom: 14.9% (38 apartments). <p>The proposed pre-conversion scheme is consistent with the recommendations of the DCP.</p> <p>As discussed above, 90 2-bedroom apartments are designed to act as dual-key apartments allowing minor works to be carried out to convert larger apartments into smaller, studio and 1-bedroom apartments. Under the proposed scheme, should all apartments be converted at any one time, the proposed apartment mix is as follows:</p> <ul style="list-style-type: none"> • Studio: 34.6% (120 apartments);

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • 1-bedroom: 29.7% (103 apartments); • 2-bedroom: 24.8% (86 apartments); and • 3-bedroom: 11% (38 apartments). <p>Although not consistent with the recommendations of the DCP, the proposed build-to-rent model and the provision of dual-key, convertible apartments, allows for greater flexibility to respond to market demands and meets the objectives of this section of the DCP.</p> <p>It is noted that the proposed number of 3-bedroom apartments remain unaffected and the proposed mix of apartments is still able to provide dwelling options to encourage a diverse population and achieve social diversity.</p>
4.2.3.14 Apartments with setback bedrooms	Yes	The proposed development does not include any apartments with setback bedrooms.
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The proposal adopts a number of architectural strategies to achieve a fine grain, built form and varied architectural character. These include:</p> <ul style="list-style-type: none"> • Each tower has two segments that are offset in plan to reduce bulk and create more corner apartments. The towers also vary in height to further articulate each tower and transition in scale from Green Square down towards Waterloo Park. • Provision of a consolidated residential and commercial lobby on Botany Road and Bourke Road to articulate the building according to differing uses.

Provision	Compliance	Comment
		<ul style="list-style-type: none"> Retention of existing retail pedestrian entries, and construction of additional entries to increase permeability of the facade. <p>These architectural strategies are consistent with the winning SJB scheme from the Design Competition Process and are considered to achieve design excellence.</p>
<p>4.2.5 Types of development</p> <p>4.2.5.1 Tall buildings</p>	Yes	<p>The proposed residential towers exhibit design excellence and feature an aesthetic using scalloped concrete and the use of and landscaping as an integral design feature of residential tower to help break up the solid concrete elements.</p> <p>The floor plates of each residential tower do not exceed 750sqm and as such minimises building bulk and scale.</p>
<p>4.2.5.3 Development on busy roads and active frontages</p>	Yes	<p>Bourke Road, Botany Road and Wyndham Street are all identified as major traffic noise sources. There are a number of apartments where compliant noise levels will be exceeded in habitable rooms if the effective open area of operable windows are provided at the compliant 5% of floor area.</p> <p>The acoustic report submitted with the application includes an assessment which further concludes that the noise criteria for open windows cannot be achieved without an appropriate design solution.</p> <p>The proposed development has incorporated a mix of operable and non-operable facades, along with a detailed plenum design to mitigate acoustic impacts while maintaining natural ventilation.</p> <p>The proposed plenum system has been reviewed and is acceptable, subject to a condition recommended in Attachment A.</p>

Provision	Compliance	Comment
		This condition will ensure that the detailed plenum design provides appropriate residential acoustic privacy and natural ventilation amenity and is carried through to certification and construction.
4.2.6 Waste and recycling Management	Yes	<p>A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p> <p>The proposal has been reviewed by the City's Waste Services Unit and was found to be acceptable, subject to conditions.</p>
4.2.7 Heating and cooling infrastructure	Yes	The proposed heating and cooling infrastructure is generally consolidated within centralised locations throughout the development, achieving energy efficiency outcomes consistent with ESD targets and allowing for the accommodation of future technologies.
4.2.8 Letterboxes	Yes	The letterboxes are provided within the lobby of the building and a condition is recommended to ensure that they are installed with non-master key locks for security.
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	<p>Some apartments on Levels 3 to 6 in Tower B are closer to the proposed commercial areas than the prescribed separation distances due to the buildings being connected, however they do not face each other directly and privacy screening is provided for visual privacy on balconies and internal living spaces.</p> <p>Subject to conditions, the development will not adversely impact the amenity of residential uses in the subject site or potential future surrounding residents.</p>

Section 5 – Specific Areas

Provision	Compliance	Comment
5.2 Green Square		
5.2.3 Community infrastructure	Yes	<p>The proposed development seeks to utilise a community infrastructure floor space bonus as provided in clause 6.14 of the SLEP 2012.</p> <p>The bonus FSR is achievable upon the provision of public benefits including the dedication of land for footpath widening, the embellishment of privately owned land for the purposes of footpath widening (and provision of an easement for public access) and the provision of monetary contributions as provided in the public benefit offer and in accordance with Schedule 10.5 of the SDCP 2012 and the City of Sydney Development Guidelines for Community Infrastructure in Green Square 2012.</p> <p>The proposal satisfies the requirements of this provision.</p>
5.2.5 Pedestrian and bike networks 5.2.5.2 Through-site links	Yes	<p>The previously approved retail podium (D/2021/1021) is designed as an arcade style retail shopping centre with entrances on Botany Road and Bourke Road. These access ways will be open to the public during normal business hours and are not proposed to be amended by the subject development application.</p>
5.2.7 Stormwater management and waterways	Yes	<p>The proposed development satisfactorily addresses stormwater management considerations including the integration of water sensitive urban design principles in the design of the development and complying with approved flooding recommendations in the retail podium consent and the updated flood assessment submitted with the subject application.</p>
5.2.8 Highly visible sites	Yes	<p>The subject site is nominated as a high visibility site in the DCP.</p>

Provision	Compliance	Comment
		<p>A design competition was undertaken in accordance with the relevant design excellence documentation and satisfies the Design Excellence considerations in Division 4 of the SLEP 2012 and Section 3.3 of the SDCP 2012. The proposed development is considered to exhibit design excellence that is consistent with the desired character of the area.</p>
5.2.9 Building design	Yes	<p>The proposed development for two mixed-use towers will be integrated into the approved retail podium below, therefore there will be no ground floor residential apartments and the ground floor design along the street front is generally consistent with the approved development under D/2012/1021 with only minor modifications to facilitate the works subject of this DA.</p> <p>The facade design of the towers incorporates a variety of materials and textures including stacking pop-out planters to exaggerate new vertical breaks made in the facade. The planter and balcony projections create variation across the facade and provide varying intensities of greenery.</p> <p>Further, the size, scale and design of the mixed-use towers will be compatible with the streetscape and hierarchy.</p> <p>The proposed vehicle entrance on Botany Road is separated from the common lobby entrances to minimise vehicle and pedestrian conflict.</p>
5.2.10 Setbacks	Yes	<p>A widened footpath of 2.4 metres is provided along Botany Road and Bourke Road in accordance with the community infrastructure requirements and the Public Domain Setbacks Map.</p>

Provision	Compliance	Comment
		The approved retail podium granted consent under development application D/2012/1021 (as amended) provides active frontages to comply with the Active Frontages Map, and the proposal seeks to retain active frontages along all three street frontages through retail entries, lobbies and pedestrian entries.
5.2.12 Above ground parking spaces and adaptable car parking spaces	Yes	<p>The proposed development provides two levels of car parking on Levels 1 and 2 for residential and commercial office use.</p> <p>The location of the car parking on Levels 1 and 2 are appropriately screened and integrated well into the overall design of the tower structures.</p> <p>The proposed development and design of the upper-level podium and car park is consistent with the winning scheme which was endorsed by the design competition Selection Panel. In the absence of active uses, the proposal provides scalloped concrete facades and landscaping to provide screening and visual interest to the streetscape.</p>
5.2.13 Daylight access to circulation space within shopping centres in Green Square	Yes	<p>Provisions for daylight access to shopping centres were considered in the previous approval for the retail podium in application D/2012/1021.</p> <p>The proposal will not negatively impact the amount of daylight accessed by the retail uses on the ground floor.</p>

Section 6 – Specific Sites

Provision	Compliance	Comment
6.3.10 296-298 Botany Road and 284 Wyndham Street, Alexandria		
Objectives	Yes	The proposal features two high quality residential towers on top of the commercial podium that exhibits design excellence and is of an appropriate bulk and scale for its location.

Provision	Compliance	Comment
		<p>The proposed residential towers provide a high level of amenity through the provision of communal open space and shared amenities to cater to the future residential population.</p> <p>The proposal provides adequate setbacks for widened areas of the footpath and the approved retail podium enhances the public domain.</p>
6.3.10.1 Built form and design	Yes	<p>The proposed two residential towers are situated on the western and south-western part of the site, whereas the commercial podium which is lower in height is situated at the eastern and north-eastern portion of the site, providing a transition from the lower scale of the commercial podium to the higher scale provided by the residential towers.</p> <p>The proposed forms comply with the nominated envelope controls applicable to the site including street wall heights, setbacks above street wall and maximum height requirements.</p> <p>Part of the Levels 1 and 2 exceed the DCP envelope controls at the southern portion of the site fronting Bourke Street by approximately 5.6m in height. This exceedance was previously considered in the retail podium consent D/2012/1021 (as amended) and was deemed acceptable as the design achieved an appropriate urban design outcome. The subject application does not propose to significantly amend the built form at the lower levels and the minor departure from the envelope control is still considered acceptable.</p>
6.3.10.2 Lower level podium design	Yes	<p>A widened footpath of 2.4 metres is provided along Botany Road and Bourke Road in accordance with the DCP and to satisfy the requirements to achieve the community infrastructure floor space.</p>

Provision	Compliance	Comment
6.3.10.3 Upper level podium design	No but acceptable	<p>The proposed upper level car parking on Levels 1 and 2 are to extend to the external walls of the podium and are not proposed to be screened by active uses.</p> <p>Rather, the parking is screened by the retail podium walls with integrated scalloped concrete facades and landscaping to provide visual interest to the streetscape. This feature was considered by the design competition Selection Panel and was considered appropriate.</p>
6.3.10.4 Tower design	Acceptable	<p>The proposed design of the residential towers is generally compliant with the requirements stated within the Apartment Design Guide. An assessment of the proposed against the SEPP 65 design quality principles and the Apartment Design Guide is provided above.</p>
6.3.10.5 Overshadowing	Acceptable	<p>Overshadowing diagrams have been prepared to assess the impacts on solar access to neighbouring properties between 9am and 3pm on June 21 period and on nominated public places within Green Square Town Centre between 12midday and 2pm on June 21.</p> <p>The amended tower envelope ensures all areas nominated as consolidated areas of direct sunlight within Green Square Plaza are protected between 12midday and 2pm and is acceptable.</p> <p>Further, overshadowing diagrams suggest parts of the residential development known as Infinity (301-303 Botany Road, Zetland) is overshadowed by the development from 2pm onwards on the winter solstice.</p> <p>It is noted that the proposed overshadowing by the DA is less than anticipated by the Planning Proposal scheme, partly due to the reduced height, bulk and scale of the built form along Botany Road.</p>

Provision	Compliance	Comment
		<p>The proposal therefore results in an improved situation to this building compared to what could be achieved if the DCP envelope was fully utilised.</p> <p>As demonstrated in the solar study, the proposals impact to the Infinity Development is limited to the lower levels of the building fronting Botany Road after 2pm in mid-winter.</p> <p>Having regard to the limited overshadowing impact the proposal has to the Infinity Development together with the proposed reduction in overshadowing compared to what was assessed and deemed acceptable at the time of the Planning Proposal, the proposed overshadowing impact is considered appropriate.</p>
6.3.10.6 Wind impact	Yes	<p>The proposed residential towers are setback from the podium in accordance with the Height and Setback provisions within the DCP.</p> <p>An Environmental Wind Tunnel Study has been prepared utilising wind tunnel testing. The report concludes that the overall effect of the proposed development on the local wind microclimate, with the wind mitigation treatments recommended, is predicted to be “non-significant.”</p>
6.3.10.7 Access and circulation	Yes	<p>The proposed development provides vehicular entry to the commercial and residential uses of the building in accordance with Figure 6.140 of the DCP while the approved retail car park entry is located on Wyndham Street.</p> <p>The location of driveways is separated from pedestrian entries to the building and are considered to maintain pedestrian safety and amenity.</p>

Provision	Compliance	Comment
6.3.10.8 Design Excellence Strategy	Yes	A design competition was undertaken in accordance with the relevant design excellence documentation and the proposal satisfies the requirements of this provision.

Discussion

Building separation and privacy

79. Part 2F of the ADG requires minimum building separation distances between buildings to contribute to the urban form of an area and the amenity with apartments and open spaces areas. The proposed development generally complies with the requirements of the ADG with the exception of non-compliant separation distances on Levels 15 to 22 where balconies are provided with a minimum 17m distance.
80. This issue was raised with the applicant who responded with a design solution of restricting access to parts of balconies for maintenance purposes only and the provision of fixed angled screens to address overlooking and privacy considerations. Figures 52 and 53 provide illustrations of proposed angled screens that direct views away from neighbouring apartments whilst still maintaining access to daylight and outlook.
81. Further, screens on Tower A are hinged to allow residents to completely close to provide additional shading to balconies and glazing. The hinged screens do not allow residents to open screens any more than 90 degrees to ensure visual privacy is maintained.

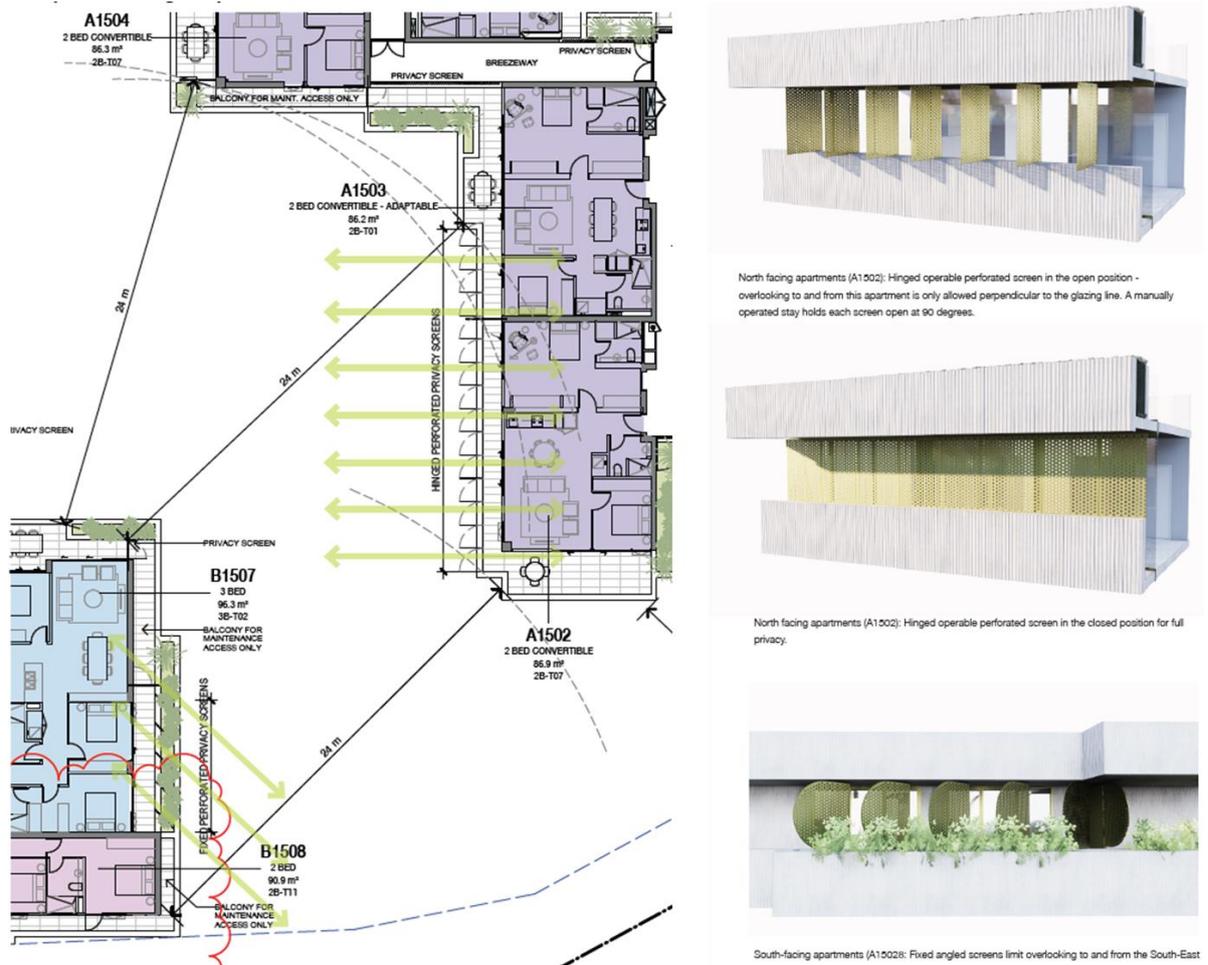


Figure 52: Example of screening between apartments with less than 24m separation



Figure 53: Level 18 design solutions to provide 24m separation between balconies

82. This design solution is provided in all affected apartment balconies on Levels 15 to 22 and is considered to meet the objectives of the ADG. Acoustic amenity is achieved and the non-compliant separation is not considered to negatively impact daylight access, natural ventilation or outlook to residential apartments or communal open spaces areas within the development.

Street tree loss

83. The proposed development impacts 13 street trees surrounding the site along Botany Road, Bourke Street and Wyndham Street. During the assessment of the application, an updated Arborist Report was requested to provide details on the current conditions of the 13 street trees surrounding the site and current proposed design.
84. It is noted that trees numbered N2 and N8 have been previously approved for removal through the retail podium approval D/2012/1021 (as amended) and that the subject proposal for construction of the new tower buildings for commercial and residential uses are generally consistent with the previous approved podium DA in regard to street tree impacts.
85. Several trees on the Wyndham Street front will require extensive pruning to allow for demolition and construction to proceed. This pruning was approved by the Tree Management team through 'Tree Pruning Permit 2019/393352'. However, the applicants did not undertake the pruning within the permit timeframe. The amended report has been reviewed and the extent of pruning is a similar amount to that previously approved and is accepted.
86. Additional trees along Botany Road are likely to be impacted by the development as extensive road works are required to facilitate car park entry at the north-eastern corner of the site. In accordance with technical requirements from Transport for NSW, a new median is required to be installed between northbound and southbound lanes to prevent right-hand turning into and out of the site. This median requirement will result in minor lane adjustments and public domain modifications that are likely to affect the street trees numbered N10, N11, N12 and N13.
87. Subject to final road design and approval by the Local Pedestrian and Traffic Calming Committee and the approval of a public domain plan, conditions are recommended requiring the replacement of any removed street tree resulting from conditions imposed by Transport for NSW to be planted in accordance with Council's Street Tree Master Plan 2011.

Consultation

Internal Referrals

88. The application was referred to, or discussed with the following panel, Council units and City officers:
- (a) Design Advisory Panel (DAP);
 - (b) City Access and Transport Unit;
 - (c) Cleansing and Waste Unit;
 - (d) Construction and Building Services Unit;

- (e) Environmental Projects Unit;
 - (f) Health and Building Unit;
 - (g) Heritage and Urban Design Unit;
 - (h) Landscape Assessment Officer;
 - (i) Model Unit;
 - (j) Planning Agreement Unit;
 - (k) Public Art Unit;
 - (l) Public Domain Unit;
 - (m) Specialist Surveyor; and
 - (n) Tree Management Unit.
89. These panels, units and officers generally advised that the proposal is acceptable, subject to conditions.
90. Where appropriate, these conditions have been included in Attachment A. Comments provided by the DAP have been addressed elsewhere in this report.
91. Where concerns were raised with the proposed development, these matters are either addressed in the table sections provided throughout the body of this assessment report or outlined in detail under the Discussion heading above.

External Referrals

Ausgrid

92. Pursuant to Section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
93. A response was received raising no objections to the proposed development, subject to conditions.

NSW Police

94. The application was referred to NSW Police for comment.
95. A response was received raising no objections to the proposed development, subject to conditions.

Sydney Airport

96. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.

97. Clause 6(1) of the Civil Aviation (Building Control) Regulations 1988 identify that 'prescribed airspace' includes 'the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services - Aircraft Operations (PANS-OPS) surface for the airport'.
98. The Outer Horizontal Surface of the OLS above the subject site is at a height of 51 metres above the Australian Height Datum (AHD) and the prescribed airspace above the site commences at RL51 AHD. At a maximum proposed height of RL 95.45 AHD, the building will penetrate the OLS by 44.45 metres and any construction of a building to this height constitutes a 'controlled activity'.
99. Section 183 of the Airports Act, 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted.
100. Clause 14 of the Civil Aviation (Building Control) Regulations 1988 provides that a proposal to carry out a controlled activity must be approved unless carrying out the controlled activity interferes with the safety, efficiency or regularity of existing or future air transport operations into or out of the airport concerned. Clause 14(1)(b) provides that an approval may be granted subject to conditions.
101. Under the Regulations, the Secretary of the Department is empowered to make decisions in relation to the approval of controlled activities and impose conditions on the approval. The Director, Demand Management and Protection of Airspace, Aviation and Airports, as the delegate of the Secretary for the purposes of the Regulations, provided approval for the controlled activity on 13 July 2021.

Transport for NSW

102. Pursuant to Clauses 2.118, 2.119 and 2.121 of the State Environmental Planning Policy (Transport and Infrastructure) 2021, the application was referred to Transport for NSW for concurrence and comment.
103. Conditions of consent were recommended which are included in Attachment A.

Advertising and Notification

104. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 30 days between 20 August 2021 and 19 May 2021. A total of 874 owners and occupiers were notified and one submission was received.

105. The submission raised the following issues:

- (a) **Issue:** The development should prioritise the southern frontage as being its primary facade and the road network needs to be redesigned with more green open space.

Response: Each building frontage appropriate responds to the built character of the surrounding area. Building entrances to the ground floor retail areas are provided on both Botany Road and Bourke Street and provide an active frontage on the majority of the street frontages. The tower forms are considered to appropriately respond to the locality, particularly being located directly north of Green Square Town Centre. With regards to the road network being redesigned to accommodate more green open space, this is outside the scope of works of this application and would need to be pursued at the State Government / TfNSW level.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

106. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.
107. Credits for the previous use of the site were taken into account during the assessment of the retail podium development application D/2012/1021 (as amended) and contributions for retail uses have been paid.
108. Further, as the development proposal several convertible apartments, the site has the potential of accommodating 347 separate residences. As such, contributions for residential dwellings have been calculated based on the maximum amount of apartments.
109. A condition relating to this development contribution has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

110. The site is located within the Green Square affordable housing contribution area. As the proposed development includes additional floor space, an affordable housing contribution is required. When considering the affordable housing contributions applied to the retail total floor area under consent D/2012/1021 (as amended) the remaining commercial floor space as proposed in this application will have affordable housing contributions applied.
111. As such, a rate of \$11,599.74 per square metre of 3 per cent of total residential floor area being 34,607sqm, and 1 per cent remaining commercial floor area being 4,932.8sqm will result in a total monetary contribution of \$12,615,160.46. A condition of consent is recommended requiring payment prior to the issue of a Construction Certificate.

Relevant Legislation

112. Environmental Planning and Assessment Act 1979.
113. Roads Act 1993.
114. Sydney Water Act 1994.
115. Airports Act 1996 (Cth).

Conclusion

116. The application for the construction of a 22 storey mixed use development comprising residential and commercial office uses above a previously approved retail podium has been assessed in accordance with the relevant planning controls.
117. The proposed development is considered to be appropriate within its setting and is generally compliant with the relevant planning controls the SLEP 2012, the SDCP 2012 and SEPP 65, particularly the site-specific provisions of the SLEP 2012 and the SDCP 2012.
118. Proposed variations to the controls are generally considered to be acceptable and have been discussed throughout the report. The proposal has been amended to address Council officers' concerns regarding compliance with the ADG and to improve residential amenity. The amended proposal is considered to be satisfactory, subject to conditions.
119. The proposed development does not pose any significant or unreasonable impacts upon the existing or likely future development surrounding site. The proposed development will improve the interface between the private and public domain and exhibits design excellence in accordance with Part 6 Division 4 of the SLEP 2012.
120. The proposal will provide new residential and commercial office land uses on a site which is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities.
121. Subject to the recommendation of this report, and the imposition of the conditions in Attachment A, the proposal responds appropriately to the site constraints and contributes positively to the existing and desired future character of Green Square.
122. The proposed detailed design of the development is therefore in the public interest and is recommended for approval by the CSPC.

GRAHAM JAHN, AM

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