

Item 5.**Development Application: 158 Botany Road & 158 Wyndham Street, Alexandria
- D/2023/1012**

File No.: D/2023/1012

Summary**Date of Submission:** 7 November 2023

Amended plans and additional information were submitted on 12 April 2024 and 20 September 2024.

Applicant: The Trustee for Blueshore Development Group Trust**Architect:** SJB Architects**Owner/Developer:** Denning Real Estate Pty Ltd**Planning Consultant:** Ethos Urban**DAPRS:** 4 June 2024**Cost of Works:** \$30,160,473

Zoning: The site is located within the MU1 - Mixed Use zone under the Sydney Local Environmental Plan 2012. The proposed development comprises indicative uses including retail and commercial office premises which are permissible with consent in the zone. The proposal utilises the alternative height and floor space ratio controls that apply to the Botany Road Precinct in close proximity to the Waterloo Metro station.

Proposal Summary: Approval is sought for a concept proposal comprising the following:

- a concept building envelope for a commercial development at 158 Botany Road with a maximum height of 35m;
- indicative uses including:
 - ground floor retail premises, commercial lobby, and end of trip facilities; and

- commercial office premises on the levels above.
- indicative temporary vehicle access from Botany Road and future vehicle access from the planned laneway network; and
- endorsement of a Design Excellence Strategy which establishes a design excellence process for future development at 158 Botany Road and sets benchmarks for ESD targets.

The concept proposal is referred to the Local Planning Panel for determination as the application includes an offer to enter into a Voluntary Planning Agreement (VPA) with the City.

The VPA applies to both sites and includes the following public benefits:

- dedication and embellishment of land at the rear of 158 Wyndham Street for the future laneway;
- dedication and embellishment of land at the rear of 158 Botany Road for the future laneway;
- dedication and landscaping of SP2 zoned land on the Botany Road frontage for footpath widening; and
- monetary contribution towards other community infrastructure in Green Square.

The draft VPA is to be publicly exhibited in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

The application was notified for a period of 21 days between 9 May and 31 May 2024. 10 submissions were received raising issues relating to height, setbacks, overshadowing, building design, laneway extension, visual privacy, noise, traffic and landscaping.

The proposed concept envelope sets suitable parameters for a future competitive design process and detailed design development application for land at 158 Botany Road and secures public benefits through the VPA. The envelope is capable of accommodating a building with a bulk and scale consistent with the desired future character of the Botany Road Precinct and the development will contribute employment generating uses and floor space in a highly accessible location.

A deferred commencement condition is recommended requiring the Planning Agreement to be publicly exhibited, executed and registered on title prior to the consent becoming operational.

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

Development Controls:

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) SEPP (Resilience and Hazards) 2021
- (iv) SEPP (Transport and Infrastructure) 2021
- (v) SEPP (Sustainable Buildings) 2022

Attachments:

- A. Recommended Conditions of Consent
- B. Envelope Drawings
- C. Reference Scheme Drawings
- D. Design Excellence Strategy
- E. Public Benefit Offer
- F. Submissions

Recommendation

It is resolved that:

- (A) the Design Excellence Strategy for 158 Botany Road, Alexandria prepared by Ethos Urban on behalf of Blueshore Development Group, dated 25 October 2024, as shown at Attachment D of the subject report, be approved pursuant to Section 3.3.1 of the Sydney Development Control Plan 2012 and Section 1.2 of the Competitive Design Policy; and
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application D/2023/1012 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the recommended conditions of consent, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.
- (B) The development is permissible with consent in the MU1 - Mixed Use zone and is consistent with the objectives of the zone.
- (C) The concept envelope complies with the 35m height of buildings development standard pursuant to clauses 4.3 and 6.60B of the Sydney Local Environmental Plan 2012.
- (D) The concept envelope is capable of accommodating development that complies with the floor space ratio controls pursuant to clauses 4.4, 6.14, 6.60B and 6.21D of the Sydney Local Environmental Plan 2012.
- (E) The concept proposal is capable of satisfying the relevant objectives of the Sydney Development Control Plan 2012 including Section 5.10 relating to the Botany Road Precinct.
- (F) The concept proposal and Design Excellence Strategy establish suitable parameters for a competitive design process and detailed design of the building at 158 Botany Road. Subject to the recommended conditions, the proposed envelope can accommodate a detailed building design of an appropriate bulk and scale that is in keeping with the desired future character of the area and capable of achieving design excellence in accordance with clause 6.21C of the SLEP 2012.
- (G) A deferred commencement condition is recommended to enable the draft VPA to be executed and registered on title.

Background

The Site and Surrounding Development

1. The proposed development relates to two separate allotments known as 158 Botany Road (Lot 1 in Deposited Plan 88622) and 158 Wyndham Street, Alexandria (Lot 1 in Deposited Plan 827390).
2. 158 Botany Road is generally rectangular in shape with a total area of 1,131sqm. It has a street frontage of 30m to Botany Road, which is a classified road. Part of the land fronting Botany Road with an area of 163sqm is affected by a road reservation and is zoned SP2 - Classified Road. When this land excluded, the site area for redevelopment is 968sqm.
3. 158 Wyndham Street is rectangular in shape with an area of 271.8sqm. It has a street frontage of 7.6m to Wyndham Street and adjoins 158 Botany Road at the rear.
4. The collective site has a combined area of 1,239.8sqm (excluding the SP2 zoned land). Both sites are generally flat.
5. The site is located south of the intersection between Botany Road and Buckland Street. Alexandria Park is located directly west of the site and the Waterloo Metro Station is located to the north-east.
6. The site is currently vacant and surrounded by wire fencing. 158 Botany Road previously contained a two storey warehouse building which was demolished as part of an operational consent for residential development (D/2014/201) and has been vacant since 2020. 158 Wyndham Street previously contained an attached single storey dwelling which was demolished following fire damage in 2019.
7. An underground Sydney Water stormwater channel runs along the northern boundary of 158 Botany Road and down the rear of 158 Wyndham Street.

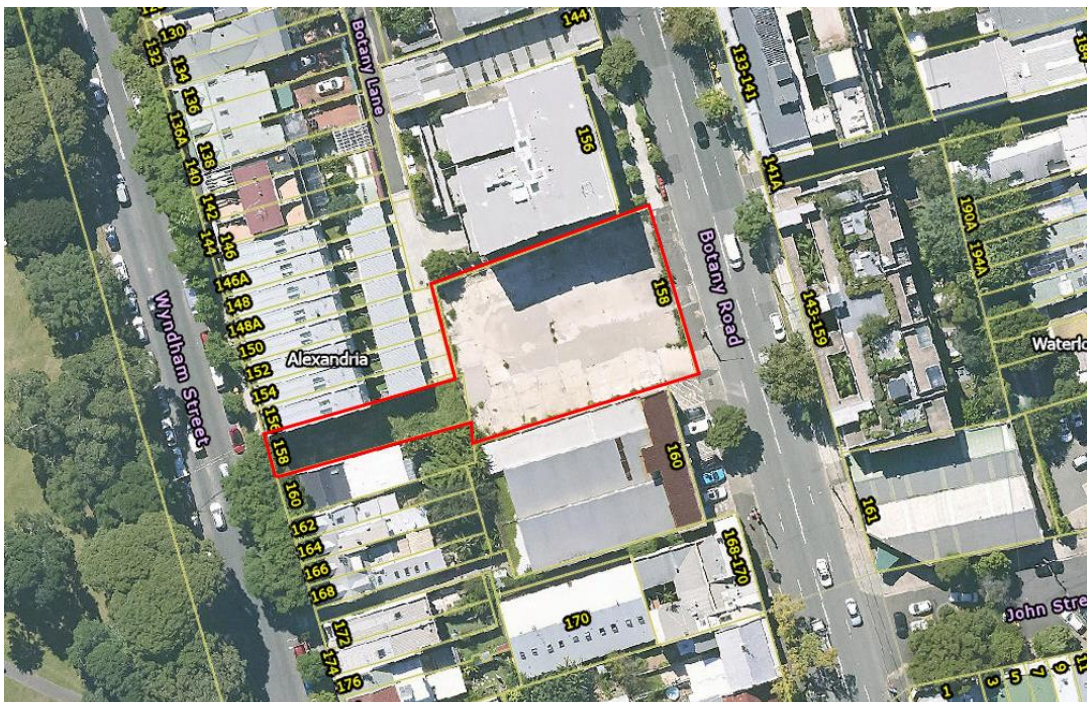


Figure 1: Aerial view of site and surrounds

8. The surrounding area is undergoing significant change within the Green Square urban renewal area and contains a mix of residential, industrial, retail, and commercial uses. The site is also located within the Botany Road Precinct which is subject to new planning controls that encourage employment generating land uses in response to public and private investment in the area including the Waterloo Metro Station.
9. Surrounding development includes:
 - North: Immediately north of the site at 156 Botany Road is a four storey residential flat building with ground floor retail. Along the Wyndham Street frontage at 146-156 Wyndham Street is a row of eight x three storey residential terraces built as part of the redevelopment of 156 Botany Road. Further north along Wyndham Street are predominantly two storey residential terraces.
 - East: On the eastern side of Botany Road at 143-149 Botany Road is a four storey commercial building. This part of Botany Road contains a range of residential and commercial uses generally up to four storeys.
 - South: Directly south of the site at 160 Botany Road is a two storey commercial building. Properties to the south of the site along Wyndham Street include a mixture of residential dwellings generally ranging from one to three storeys.
 - West: Alexandria Park is located on the western side of Wyndham Street.
10. The site is not located within a heritage conservation and does not contain any heritage items. The Alexandria Park Heritage Conservation Area is located immediately west of the site, ending at Wyndham Street. The site is identified as being subject to flooding.
11. A site visit was carried out on 28 May 2024. Photos of the site and surrounds are provided below:



Figure 2: Site viewed from Botany Road, with the site extent outlined in red



Figure 3: Looking south along Botany Road



Figure 4: Looking north along Botany Road



Figure 5: Site viewed from Botany Road, showing the existing through-site link at 156 Botany Road looking towards Botany Lane



Figure 6: Site viewed from the rear looking towards Botany Road



Figure 7: Site viewed from Botany Lane looking south



Figure 8: Looking north towards Botany Lane



Figure 9: Site viewed from Wyndham Street looking east



Figure 10: Site viewed from Wyndham Street looking north



Figure 11: Looking south along Wyndham Street



Figure 12: Alexandria Park viewed from Wyndham Street looking west

History Relevant to the Development Application

History of the site

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

- **D/2014/201** – Development consent was granted by the Land and Environment Court on 16 October 2015 for demolition of the existing structures and construction of a four storey mixed use building comprising ground floor retail fronting Botany Road and 24 residential apartments. This consent comprised both 158 Botany Road and 158 Wyndham Street, with vehicle access provided from Botany Road.

Physical commencement of D/2024/201 occurred with demolition of the existing structures across the site and therefore this consent is operational. The consent will be surrendered upon approval of any future detailed design DA.

- **D/2024/803** – A development application was lodged on 20 September 2024 for site preparation and construction of a six storey residential flat building at 158 Wyndham Street. This application is currently under assessment.

History of the relevant planning controls

13. In 2017, the NSW Department of Planning and Environment began investigations into new planning controls for the Botany Road Precinct (the Precinct) due to public and private investment in the area including the Waterloo Metro station. The City's Local Strategic Planning Statement adopted by Council in 2020 identified the Precinct as an area for investigation where new planning controls could contribute to business and employment growth.
14. In July 2021, the proposed planning controls for the Precinct were endorsed by Council and the Central Sydney Planning Committee (CSPC), to be sent to the Department of Planning and Environment (the Department) for a Gateway Determination and to be publicly exhibited.
15. The planning proposal was granted Gateway Determination on 24 September 2021 with Council being delegated the plan-making authority. The planning proposal and draft DCP were publicly exhibited for 28 days from 15 November to 13 December 2021.
16. On 27 June 2022, Council approved the planning proposal. The amendments to the Sydney LEP 2012 and the Sydney DCP 2012 came into effect on 11 November 2022.
17. The purpose of the new planning controls is to facilitate the renewal of the Precinct by encouraging commercial, enterprise and affordable housing floor space while recognising the strong connection of the Precinct to the Aboriginal and Torres Islander community.
18. The new planning controls allow development within the Precinct to achieve incentive building heights and floor space ratio subject to the satisfaction of prerequisite criteria contained in clause 6.60B of the SLEP 2012. An assessment of the proposed development against the requirements of this clause is outlined in the Discussion section.

19. The Planning Proposal also amended the SDCP 2012 to introduce a new section 5.10 relating to development in the Precinct. An assessment of the proposed development against these provisions is provided in the DCP compliance table below.

Compliance Action

20. The site has previously been subject to compliance actions that have since been resolved and are now closed.
21. In October 2022 Council officers investigated the unauthorised use of 158 Botany Road as a commercial carpark with associated signage and pay machine. Orders to cease the use and remove unapproved structures were issued in March 2023. Secure Parking lodged D/2023/414 for the use as a carpark which was refused by Council on 6 September 2023. The unauthorised use subsequently ceased operating and the structures were removed.
22. In November 2019 Council issued an order in relation to 158 Wyndham Street requiring demolition of the dilapidated building due to safety concerns following fire damage in July 2019. The building was subsequently demolished and remains vacant.

Voluntary Planning Agreement

23. The application includes a written offer to enter into a Voluntary Planning Agreement (VPA) with the City. The VPA applies to both 158 Botany Road and 158 Wyndham Street and contains two parts, one applying to each site.
24. The offer for 158 Botany Road includes the following public benefits:
 - (a) Dedication and embellishment of 120sqm of land at the rear of the site for the future laneway extension;
 - (b) Dedication and landscaping of SP2 zoned land on the Botany Road frontage for footpath widening; and
 - (c) A monetary contribution towards other community infrastructure in Green Square.
25. The offer for 158 Wyndham Street includes the following public benefits:
 - (a) Dedication and embellishment of 34sqm of land at the rear of the site for the future laneway extension;
 - (b) A monetary contribution to community infrastructure in Green Square.
26. The land dedication for the laneway will occur in two stages:
 - (a) The land for the laneway will be subdivided and created as a separate title prior to issue of the first Occupation Certificate and will remain under ownership of the current landowner.
 - (b) The VPA will remain on the titles of the laneway lots until the City triggers the dedication clauses in the VPA.
27. The Public Benefit Offer is set out in Attachment E to this report.

28. The VPA does not affect Section 7.11 development contributions or affordable housing contributions applicable to the development.
29. The draft VPA is to be publicly exhibited in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Design Advisory Panel Residential Subcommittee

30. The application was presented to the Design Advisory Panel Residential Subcommittee on 4 June 2024. The Panel noted that many aspects of the proposal were well considered, however, the following recommendations were provided:
 - (a) The proposed laneway width should assume 160 Wyndham Street is not redeveloped and needs to support future vehicular and pedestrian movement past the rear of this property.
 - (b) A coordinated servicing strategy should be considered for both sites.
 - (c) The proposed bunded ramp to the basement and carpark are relatively inefficient. On-grade access should be considered.
 - (d) Quality deep soil areas should be provided to ensure viability of trees along the lane, targeting 10% deep soil.
 - (e) Landscaping to the western facade rather than narrow balconies would be preferable. Overlooking, noise and light spill to neighbouring residences must be minimised.
 - (f) Consider whether the entrance lobby contributes to GFA by being fully gated.
 - (g) Connecting with Country should be considered as required by SDCP 2.13.13.

Amendments

31. The application was lodged on 7 November 2023, prior to requested pre-lodgement advice being issued to the applicant (PDA/2023/183). As a result, Council Officers sent a Request for Information 'stop the clock' letter on 20 November 2023, requesting the following information:
 - (a) **Planning and urban design:**
 - (i) Shadow diagrams were required;
 - (ii) Consideration of visual privacy impacts to surrounding properties was required;
 - (iii) A portion of the end of trip facilities did not meet the definition of end of journey floor space; and
 - (iv) Clarification as to whether a substation is required.
 - (b) **Transport and access:**
 - (i) Provision of 20 car parking spaces in this location was queried;

- (ii) Vehicular access from Botany Road must be a temporary arrangement only; and
 - (iii) All servicing is to be undertaken in the basement.
 - (c) **Public domain:**
 - (i) A site specific Flood Assessment Report was requested. The proposed flood gates were not supported.
 - (d) **Landscaping:**
 - (i) Reliance on the laneway for deep soil is not supported. 10% deep soil must be targeted within the site.
 - (ii) A green roof is required.
 - (iii) Sufficient canopy cover is to be provided.
 - (iv) Landscape Concept Plan is required.
32. Amended plans addressing the above were submitted on 10 April 2024. The application was subsequently placed on public exhibition and assessment recommenced.
33. Following a preliminary assessment of the amended plans by Council Officers, a request for further additional information and amendments was sent to the applicant on 24 June 2024. The following key issues were raised:
- (a) **Laneway configuration** - The concept plan showed a laneway width that would not be viable if 160 Wyndham Street is not redeveloped. Council officers recommended that the alignment of the laneway be reverted to the width shown in the SDCP 2012.
 - (b) **Vehicle access:**
 - (i) Plans were requested demonstrating the future scenario with vehicle access from the laneway.
 - (ii) Consider on-grade vehicle access along the northern boundary.
 - (iii) Demonstrate how the site will be serviced in the interim and future vehicle access arrangements.
 - (c) **Botany Road pedestrian entrance:**
 - (i) The large security gates and lobby steps were to be amended to provide a more inviting entrance for pedestrians.
 - (ii) Reliance on a chairlift at the entrance was not considered an optimal outcome.
 - (iii) The ground floor entrance lobby was to be included in the calculation of gross floor area if it is enclosed.

- (d) **Balconies** - Proposed balconies on the western facade were considered likely to have visual privacy, acoustic and light spill impacts on adjoining residential properties.
 - (e) **Overshadowing** - Half hourly view from the sun diagrams in midwinter were requested.
 - (f) **Public benefit offer** - An amended Public Benefit Offer was requested to meet the City's requirements.
 - (g) **Landscaping and tree management:**
 - (i) The proposed deep soil zones included land to be dedicated for road widening on Botany Road and land along Botany Lane overhung by building. Increased deep soil provision was required.
 - (ii) Changes were requested to the landscape concept plan.
 - (iii) 15% canopy cover was required.
 - (h) **Waste management** - Confirmation that the clearance height to the basement allows for commercial waste collection was requested.
 - (i) **Public Art** - A Preliminary Public Art Plan was requested.
 - (j) **Design Excellence Strategy** - Changes were recommended.
34. The applicant responded to the request on 20 September 2024 and submitted amended plans and documentation to address the above issues.

Proposed Development

35. The application (as amended) seeks consent for the following:
- (a) a concept building envelope for a commercial development with a maximum height of up to 35m on land at 158 Botany Road; and
 - (b) indicative land uses for the building at 158 Botany Road including:
 - (i) ground floor retail premises, commercial lobby, and end of trip facilities; and
 - (ii) commercial office premises on the floors above.
 - (c) indicative temporary vehicle access from Botany Road and future vehicle access from the planned laneway; and
 - (d) endorsement of a Design Excellence Strategy which establishes a framework for a future competitive design process for 158 Botany Road. The strategy specifies that up to 10% additional floor space is sought in accordance with the design excellence provisions contained in Clause 6.21D of the SLEP 2012 (to be calculated based on the 158 Botany Road site area only).

36. A concept envelope is not specified or required for development at 158 Wyndham Street as it does not trigger the requirements of clause 7.20 of the SLEP 2012.
37. The application also includes a written offer to enter into a Voluntary Planning Agreement (VPA) with the City. The offer includes dedication and embellishment of land at the rear of both sites for the future laneway, dedication and landscaping of SP2 zoned land on the Botany Road frontage for footpath widening and a monetary contribution towards other community infrastructure in Green Square.
38. A reference scheme prepared by SJB has been submitted with the application to demonstrate how a detailed building design may be achieved within the concept envelope. The reference scheme includes:
 - (a) two basement levels with 14 car parking spaces;
 - (b) ground floor café, commercial lobby and end of trip facilities;
 - (c) commercial office premises on levels 1-9; and
 - (d) temporary vehicle access from Botany Road and future vehicle access via the laneway.
39. The reference scheme drawings are not approved as part of any consent granted and are for assessment purposes only.
40. Architectural drawings of the proposed concept envelopes and associated reference scheme are provided below.

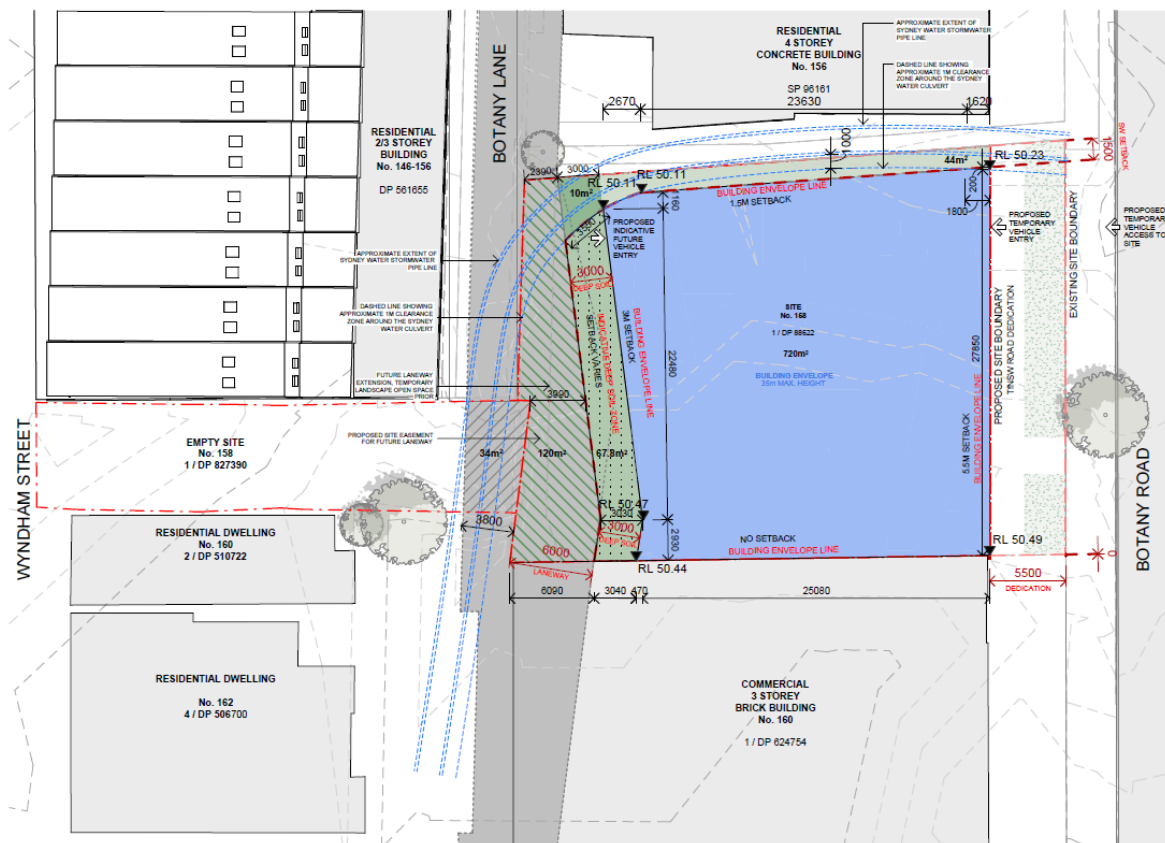


Figure 13: Proposed concept envelope plan

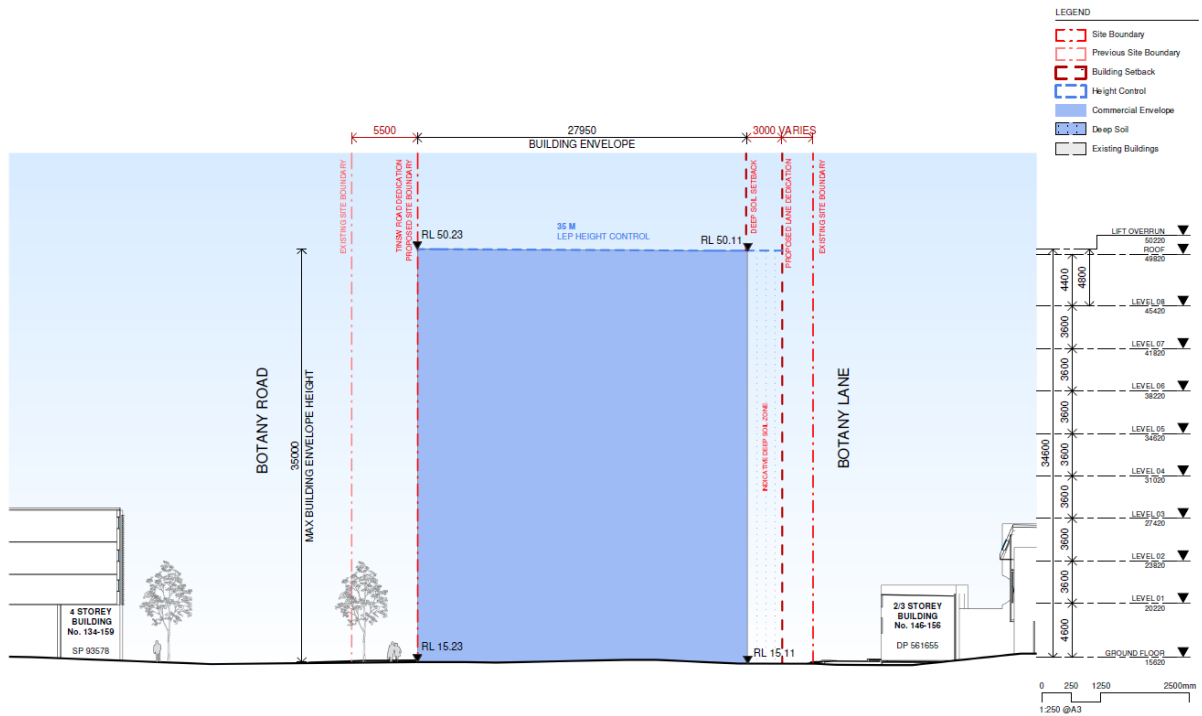


Figure 14: Proposed envelope - northern elevation

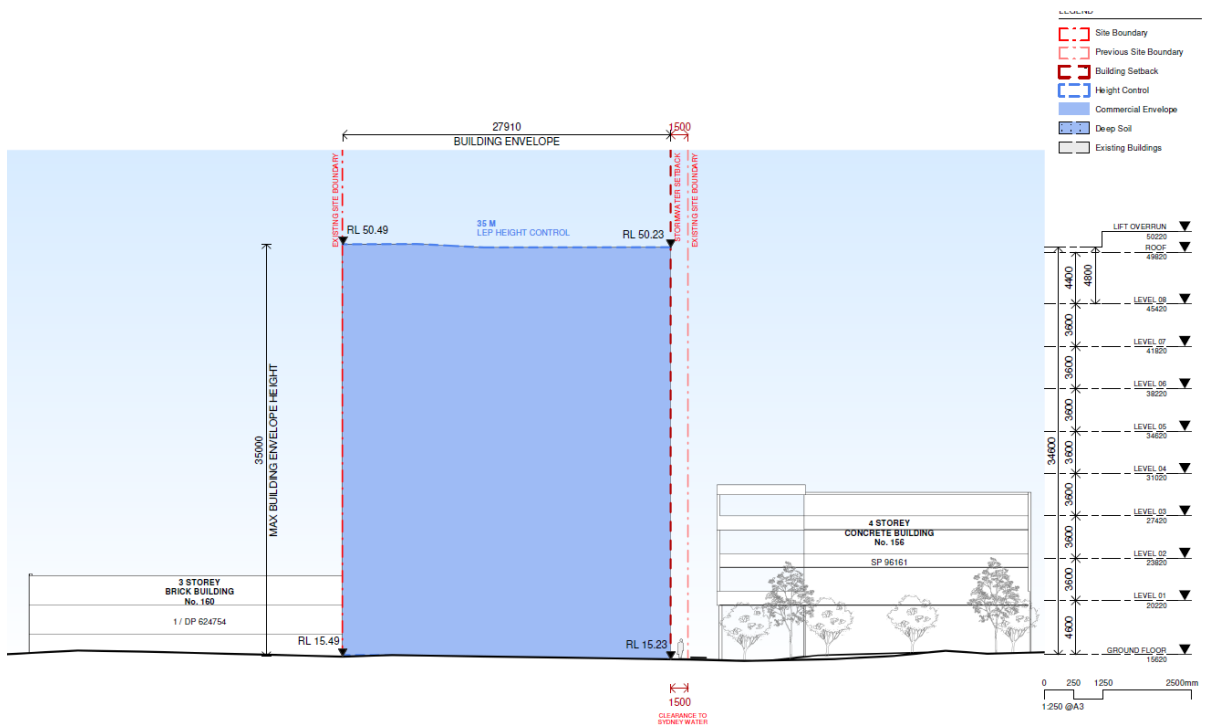
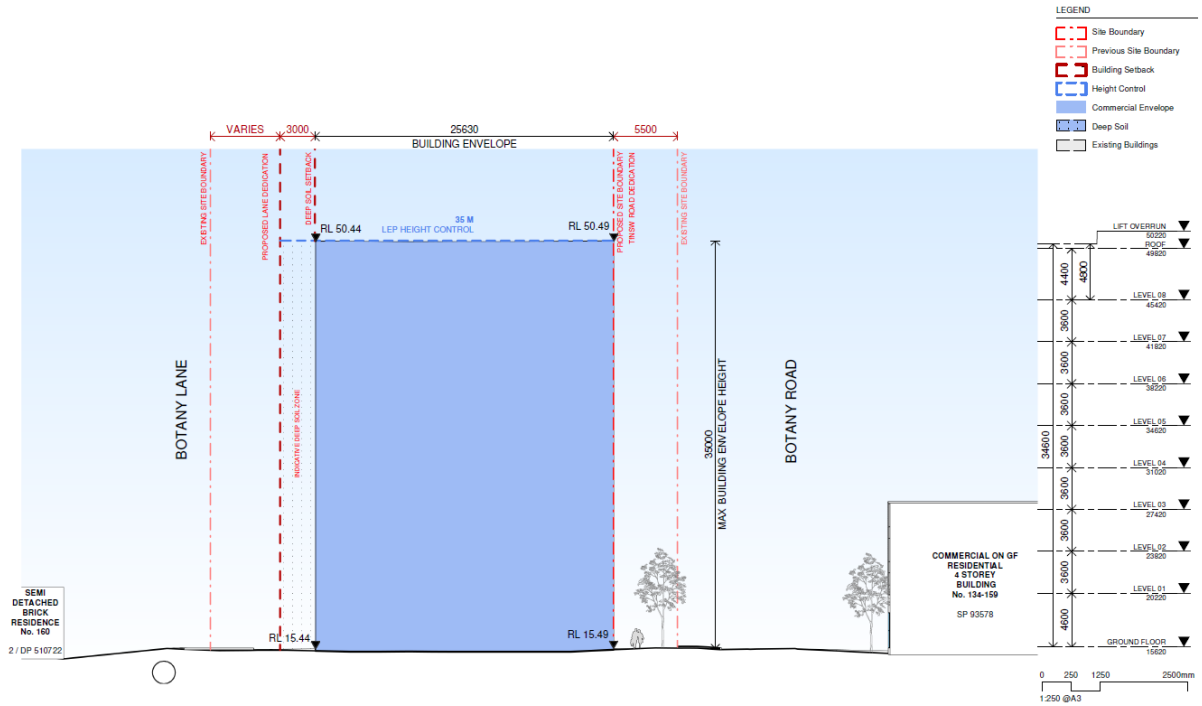


Figure 15: Proposed envelope - eastern elevation (Botany Road)



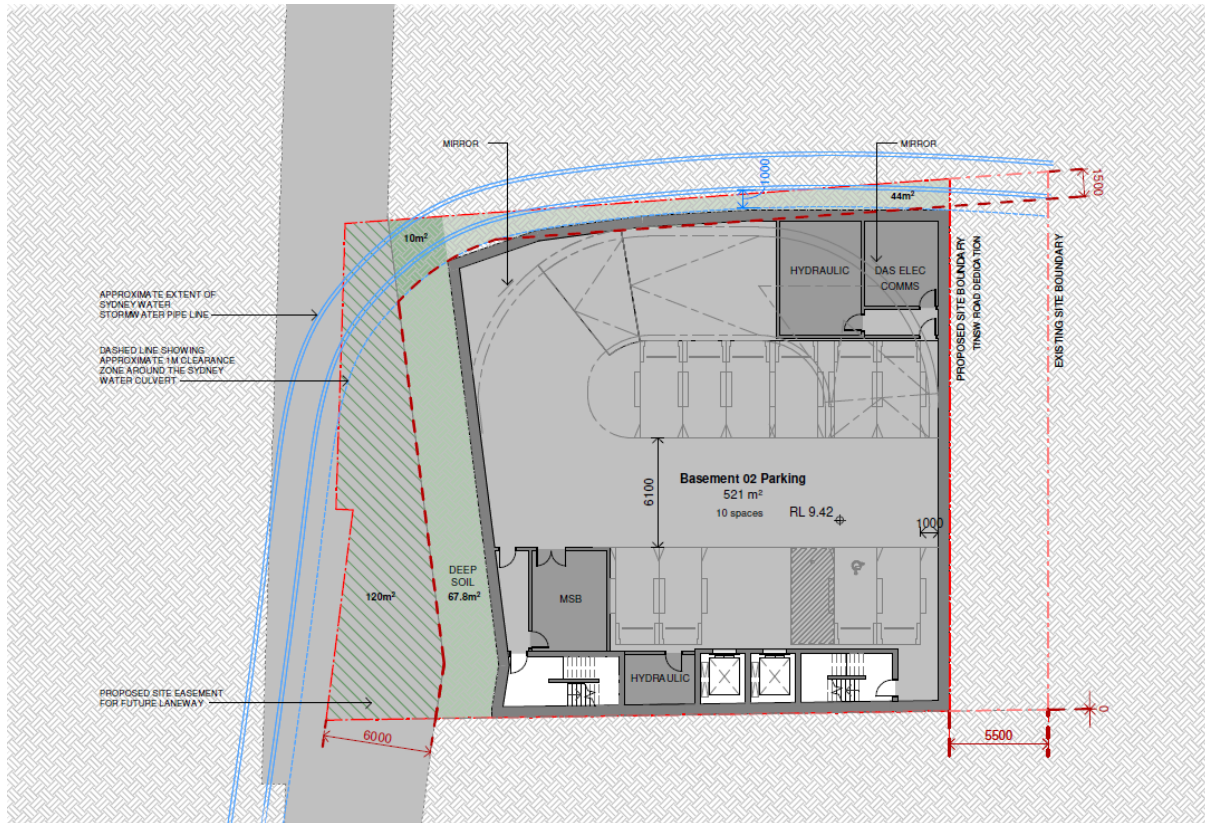


Figure 18: Reference scheme - basement level 2

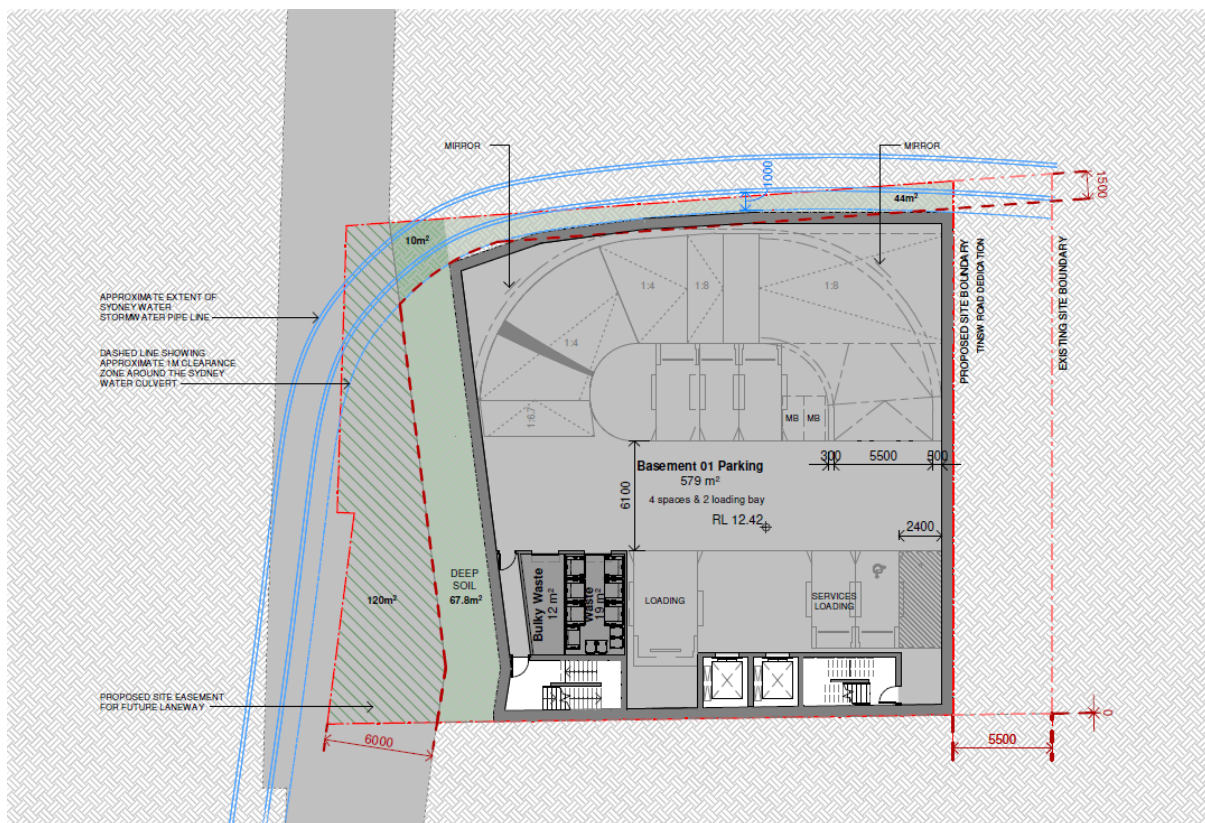


Figure 19: Reference scheme - basement level 1

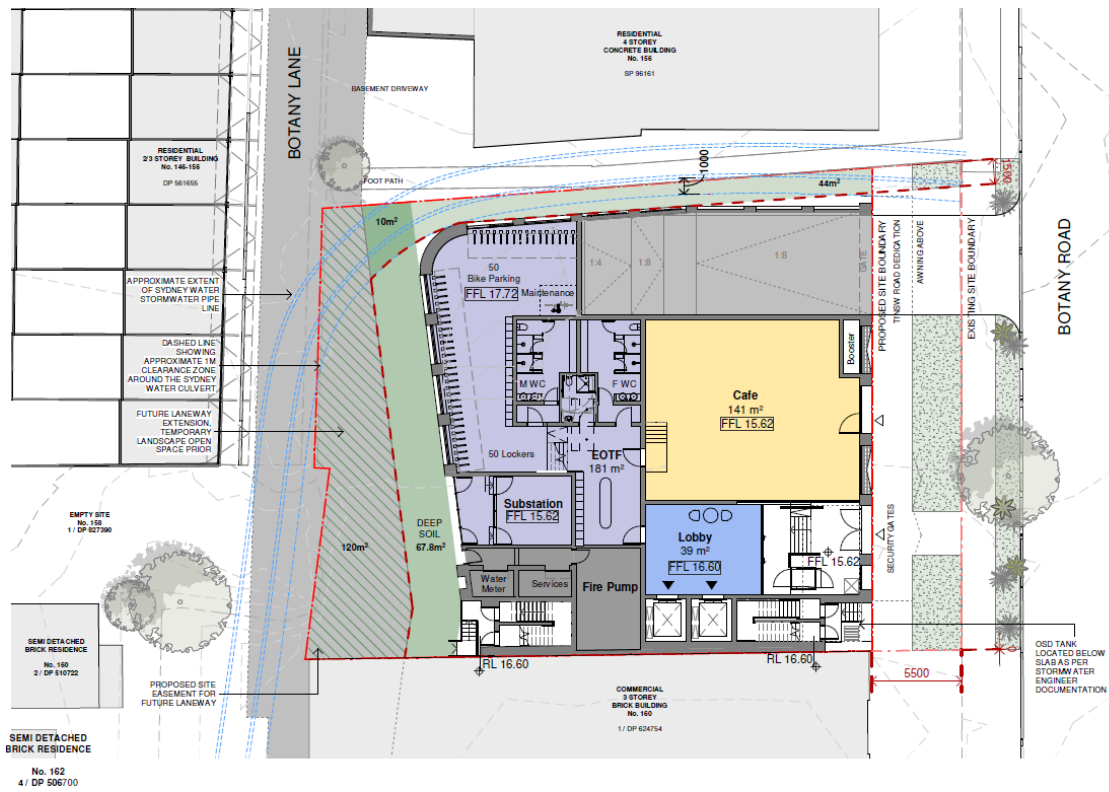


Figure 20: Reference scheme - ground floor

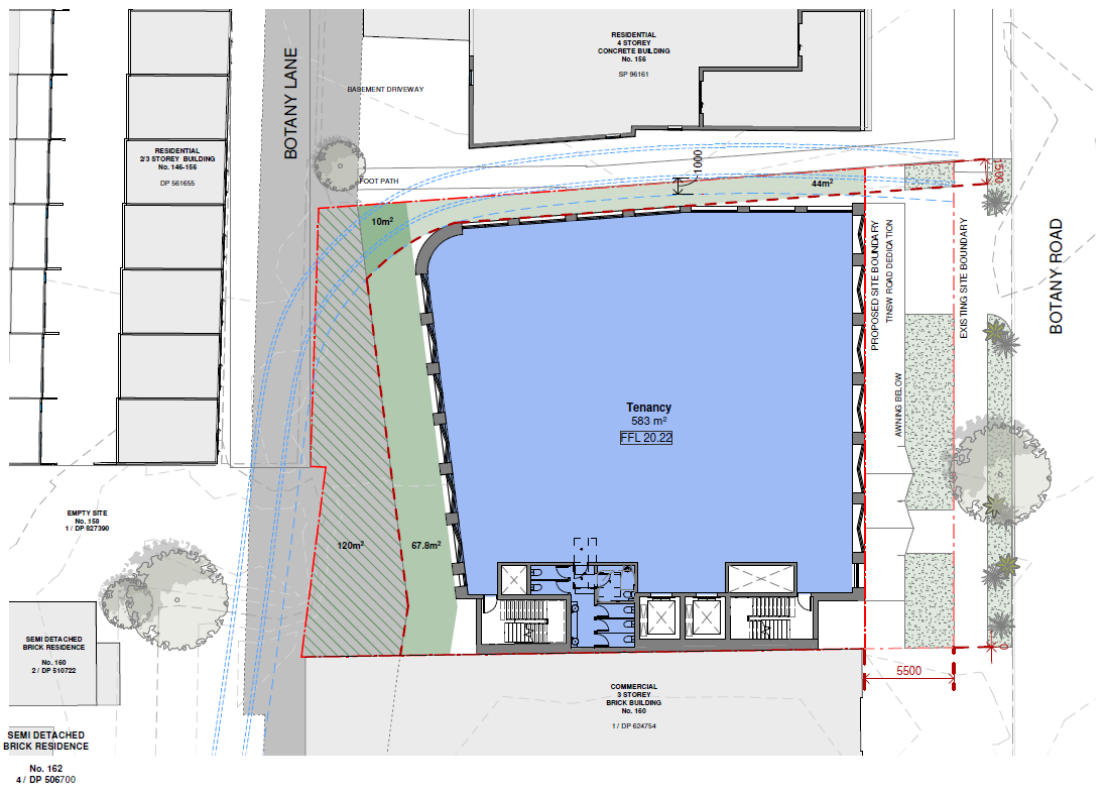


Figure 21: Reference scheme - first floor

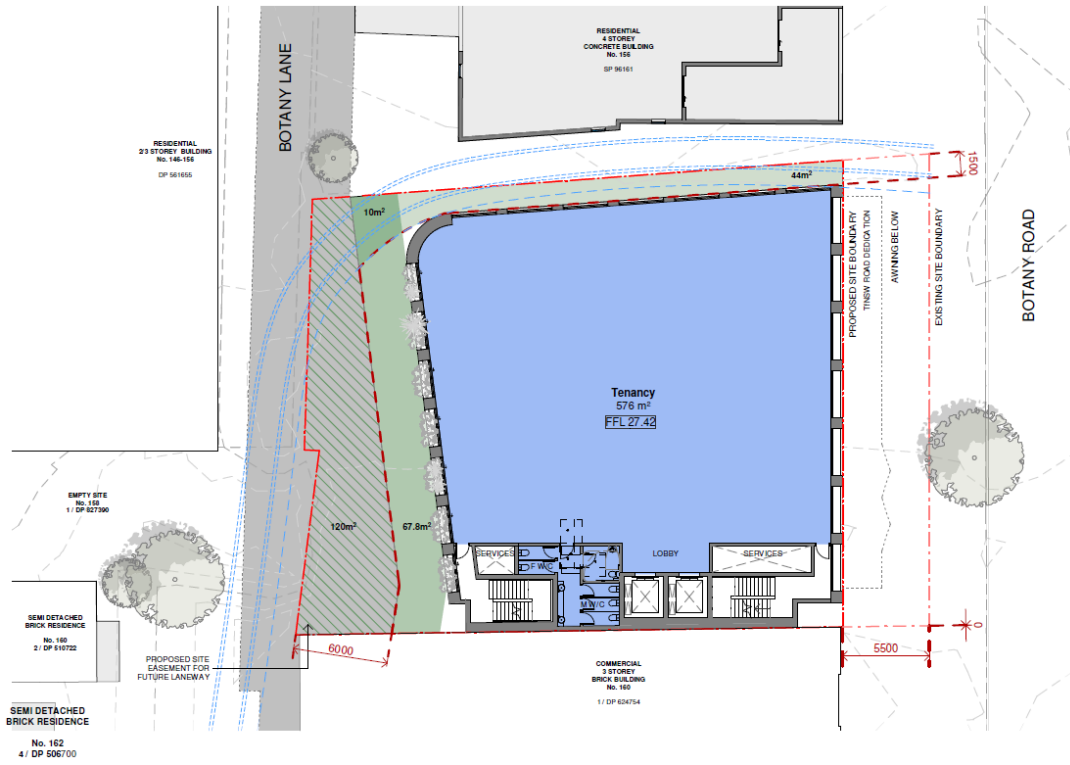


Figure 22: Reference scheme - levels 2-8

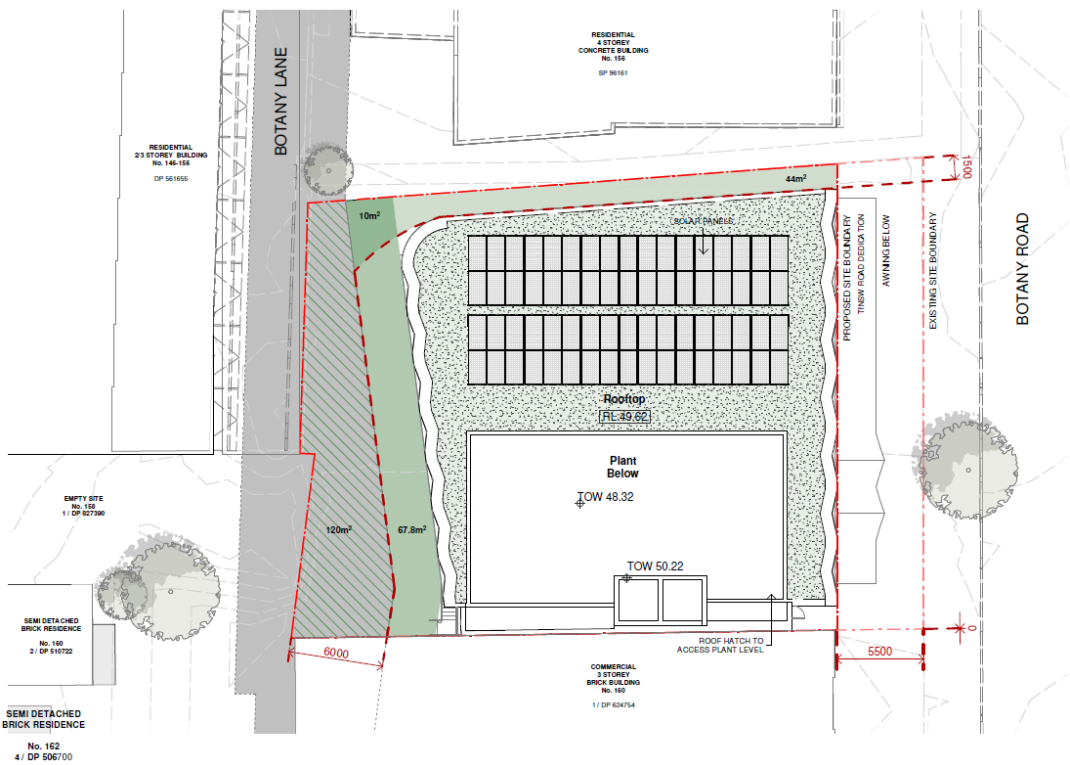


Figure 23: Reference scheme - roof plan

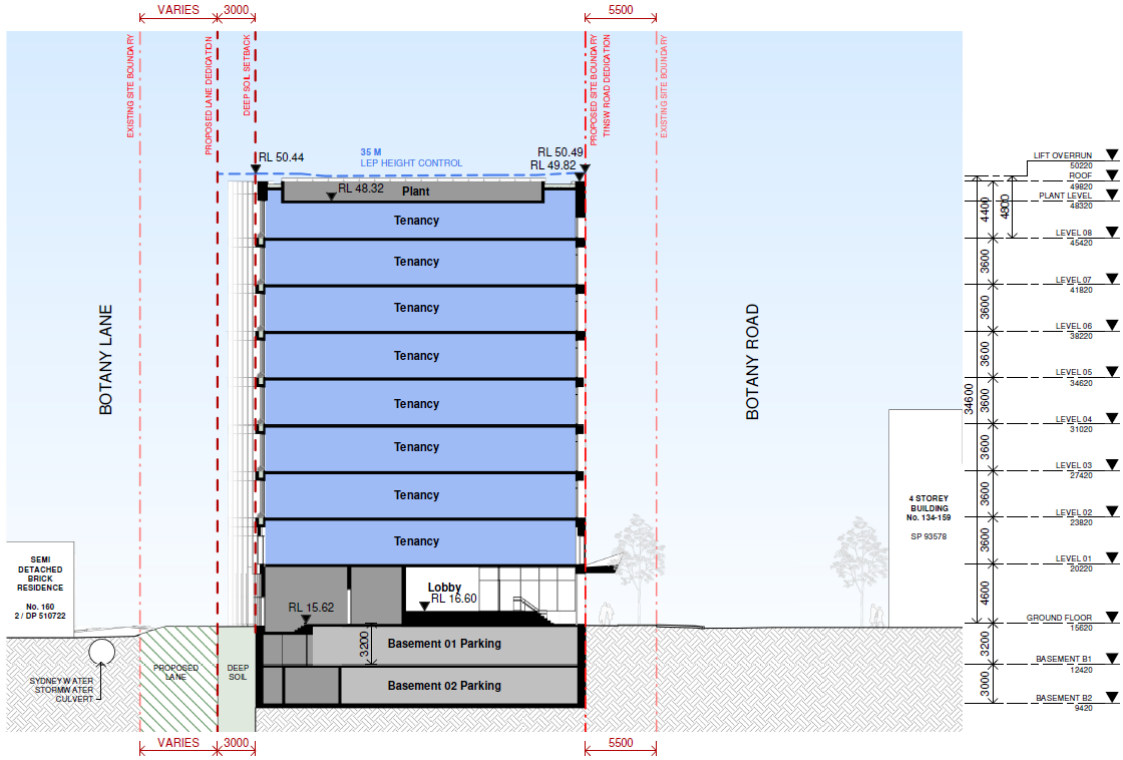


Figure 24: Reference scheme - east/ west section

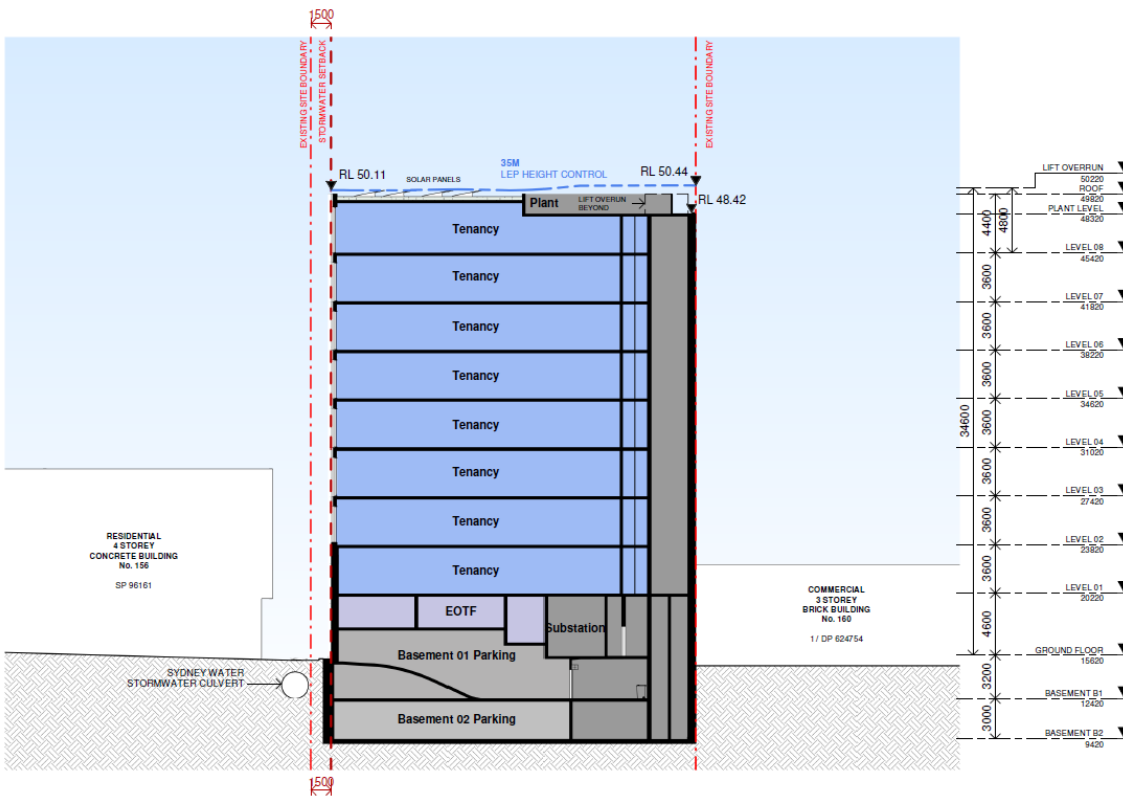


Figure 25: Reference scheme - north/ south section

35. The Council's Health Unit has reviewed the information provided and is satisfied that the site can be made suitable for the proposed use. The issue of contamination will be assessed further as part of the detailed development application. A condition of consent is recommended in Attachment A that requires the detailed design DA to address the requirements of the SEPP.

State Environmental Planning Policy (Sustainable Buildings) 2022

36. Any future detailed design DA will be required to comply with the requirements of the State Environmental Planning Policy (Sustainable Buildings) 2022.
37. The relevant sustainability targets have been included in the Design Excellence Strategy. Conditions of consent are recommended to ensure the proposed ESD commitments are carried through to the detailed design DA.

State Environmental Planning Policy (Transport and Infrastructure) 2021

38. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Clause 2.48 Determination of development applications – other development

39. The application is subject to Clause 2.48 of the SEPP and was referred to Ausgrid for comment. Ausgrid raised no objection to the development application, subject to conditions of consent which are included in Attachment A.

Clause 2.122 - Traffic generating development

40. The application is subject to Clause 2.122 of the SEPP and was referred to Transport for NSW for comment. Transport for NSW raised no objection to the proposed development subject to conditions which have been included in Attachment A.

Section 138 of the Roads Act 1993

41. The application was referred to Transport for NSW for concurrence in accordance with Section 138 of the Roads Act 1993. Transport for NSW advised that it would provide concurrence subject to Council's approval and recommended conditions of consent which have been included in Attachment A.

Local Environmental Plans

Sydney Local Environmental Plan 2012

42. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.
43. This assessment relates to the building envelope proposed on 158 Botany Road as no envelope is sought or required for 158 Wyndham Street.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the MU1 - Mixed Use zone.

Provision	Compliance	Comment
		<p>The concept proposal is for a mixed use development containing indicative retail and commercial office uses.</p> <p>These uses are permissible with consent in the zone. The proposal is consistent with the objectives of the zone.</p>

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	<p>A maximum building height of 15m is permitted under the Height of Buildings map under clause 4.3 of the SLEP 2012.</p> <p>Clause 6.60B(3) - Botany Road Precinct Opportunity Land of the SLEP 2012 permits an Alternative Height of Buildings control of 35m if the building is for the purpose of non-residential uses.</p> <p>The proposed building envelope has a maximum height of 35m and complies with the alternative height control for non-residential uses.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 1:1 is permitted under clause 4.4 of the SLEP 2012.</p> <p>Clause 6.60B(4) of the SLEP 2012 permits an Alternative Floor Space Ratio of 4:1 if the building is for the purpose of non-residential uses.</p> <p>Clause 6.14 - Community Infrastructure Floor Space at Green Square of the SLEP 2012 permits an additional floor space of 0.5:1 if the development includes Green Square community infrastructure.</p> <p>The VPA involves land dedication and monetary contributions for community infrastructure and therefore the additional 0.5:1 floor space applies.</p> <p>The development will also seek up to 10% additional floor space for design excellence in accordance with Clause 6.21D of the SLEP 2012. This is to be</p>

Provision	Compliance	Comment
		<p>calculated based on the site area of 158 Botany Road only.</p> <p>Having regard to the above, the maximum permissible FSR for the 158 Botany Road site, if design excellence is achieved, is 4.95:1 or 4,791.6sqm.</p> <p>The reference scheme has an FSR of 4.8:1 which equates to a GFA of 4,648sqm and complies with the maximum.</p> <p>The development is also eligible for additional end of journey floor space of up to 0.3:1 pursuant to clause 6.13 of the SLEP 2012. The reference scheme includes 181sqm of end of journey floor space, equalling 0.19:1.</p> <p>FSR and GFA are not approved as part of this concept DA. A condition of consent is recommended that requires the FSR of the detailed design DA for 158 Botany Road to not exceed the permissible FSR for the site.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.21 Flood Planning	Able to comply	<p>The site is located within the Alexandra Canal Catchment Area and is identified as being flood affected during 1% AEP and PMF storm events.</p> <p>A Flood Report was submitted with the application and is acceptable for the purposes of this Concept DA. The detailed design DA must comply with the recommended flood planning levels.</p> <p>A condition of consent is recommended to ensure the flood planning levels are complied with in the detailed design DA.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
6.13 End of journey floor space	Able to comply	The proposed development is eligible for additional end of journey floor space for

Provision	Compliance	Comment
		<p>showers, change rooms, lockers and bicycle storage areas.</p> <p>The amount of end of journey floor space cannot be more than 0.3:1, which is equivalent to 290.4sqm.</p> <p>The reference scheme includes end of journey floor space totalling 181sqm, which complies.</p> <p>The total amount of end of journey floor space will be confirmed in the detailed design DA.</p>
6.14 Community infrastructure floor space at Green Square	Yes	<p>This clause permits an additional floor space of 0.5:1 if the development includes Green Square community infrastructure.</p> <p>The landowner has made an offer to enter into a Planning Agreement with the City. This involves the dedication of land to the City and a monetary contribution for community infrastructure provision. Therefore the development is eligible for the additional floor space.</p> <p>See 'Floor Space Ratio' assessment above under clause 4.4.</p>
7.17 Sun access planes	Yes	<p>A sun access plane applies to Alexandria Park to protect solar access between 10am-2pm all year.</p> <p>The consent authority must not grant development consent if the development will result in any building on the land projecting higher than any part of the applicable sun access plane.</p> <p>The City's model team reviewed the proposal and have confirmed that the proposal is below the Sun Access Plane.</p>
6.21 Design excellence	Able to comply	This clause allows up to 10% additional floor space subject to a competitive design process being carried out, a winning scheme being selected and that

Provision	Compliance	Comment
		<p>scheme exhibiting design excellence at the detailed design DA stage.</p> <p>A Design Excellence Strategy was submitted with the application which establishes a design excellence process for the redevelopment of 158 Botany Road.</p> <p>Conditions are recommended to approve the DEX Strategy and ESD targets, and for design requirements to be addressed in any future competitive design process brief and subsequent DA for the detailed design of the building.</p> <p>A competitive design process is to be undertaken prior to lodgement of any future DA for the detailed design of the building. This competitive design process must adhere to the DEX Strategy and conditions of consent for the development to be eligible for up to 10% additional FSR.</p> <p>It is noted that the up to 10% additional floor space is to be calculated based on the site area of 158 Botany Road only.</p>
6.60B Botany Road Precinct Opportunity Land	Able to comply	<p>Clauses 6.60(3) and (4) permit alternative height and floor space ratio controls if the proposal provides non-residential uses.</p> <p>Clause 6.60B(6) specifies that these incentive controls can only be achieved if the consent authority is satisfied that the development provides, or will provide, appropriate public access and laneways.</p> <p>The development satisfies the objectives and provisions of this clause as follows:</p> <ul style="list-style-type: none"> • 6.60B(3) and (4) - The development is eligible for the alternative height of buildings control, being 35m, and the alternative floor space ratio control, being 4:1, as the building is used only for non-residential purposes and the concept

Provision	Compliance	Comment
		<p>envelope does not exceed these controls.</p> <ul style="list-style-type: none"> 6.60B(6)(a) - The development provides the required land dedication for a future laneway as indicated in the SDCP 2012. This is discussed further under the 'Laneway network' subheading below. <p>The concept proposal satisfies the criteria for utilising the incentive controls under clause 6.60B of the SLEP 2012 for the purpose of establishing a building envelope. This will be assessed in further detail under the detailed design DA.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
<p>7.6 Office premises and business premises</p> <p>7.7 Retail premises</p>	Able to comply	<p>The reference scheme includes two basement levels to accommodate 14 car parking spaces.</p> <p>Based on the floor space of the reference scheme, the maximum number of car parking spaces permitted on the site is 21.</p> <p>The reference scheme complies with the maximum. The City's Transport and Access unit raised no objection to the number of car parking spaces indicated on the reference scheme as it complies with the LEP.</p> <p>The maximum number of car parking spaces is established by the amount of commercial floor space provided. As this is not approved as part of the Concept DA, the total car parking provision will be assessed as part of a future detailed development application.</p>
7.14 Acid Sulfate Soils	Able to comply	The site is located on class 5 land. The application proposes works requiring the

Provision	Compliance	Comment
		<p>preparation of an Acid Sulfate Soils Management Plan.</p> <p>An Acid Sulfate Soils Management Plan will be required with the detailed design DA.</p>
7.15 Flood planning	Able to comply	<p>The site is identified as being subject to flooding within the Alexandra Canal Catchment Area.</p> <p>A site-specific flood study has been submitted with the application and recommends flood planning levels (FPLs) for the development.</p> <p>Council's Public Domain unit has reviewed the proposal. The recommendations of the site-specific flood study are supported, and conditions are recommended for the endorsed FPLs to be incorporated into any detailed design DA.</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.</p>
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>As the proposed envelope is above 25m in height, preparation of a site specific DCP is required.</p> <p>Pursuant to Section 4.23(2) of the Environmental Planning and Assessment Act 1979, the lodgement of a concept proposal DA may be considered by the consent authority as satisfying this obligation.</p> <p>The concept proposal adequately addresses the matters for consideration specified under this clause including the suitability of the land for development,</p>

Provision	Compliance	Comment
		land use mix, bulk and massing, streetscape and environmental impacts.
7.33 Sustainability requirements for certain large commercial development	Able to comply	The development meets the definition of 'large commercial development' as it involves the erection of a new prescribed office premises with an estimated cost of \$10 million or more. Relevant ESD targets have been included in the Design Excellence Strategy.

Development Control Plans

Sydney Development Control Plan 2012

44. 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

45. The site is located within the Botany Road Precinct locality under section 2.13.13 of the SDCP 2012. The proposed concept envelope is in keeping with the unique character and design principles of the locality as it:
- proposes non-residential uses to take advantage of the increased accessibility of the area afforded by the Waterloo Metro station;
 - contributes to the growing Redfern and Waterloo area by providing commercial floor space for jobs and services;
 - improves pedestrian access to key public transport nodes by providing the required rear lane network; and
 - prioritises pedestrian movement on Botany Road by offering a future scenario where the vehicle access is relocated to the future lane network.
46. The concept proposal adequately demonstrates that the future detailed design will be capable of achieving the design principles of the Botany Road Precinct locality.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	Land dedication is required for the extension of Botany Lane at the rear of 158 Wyndham Street and 158 Botany Road.

Provision	Compliance	Comment
		The concept plan accounts for this laneway. Refer to the 'Discussion' section for further details regarding the laneway network.
3.1.5 Public art	Yes	<p>A Public Art Strategy was submitted with the application which outlines the proposed public art process and demonstrates that the proposal can comply with the City's public art requirements.</p> <p>A condition of consent is recommended that requires Preliminary Public Art Plan to be submitted with the detailed design DA.</p>
3.3 Design Excellence and Competitive Design Processes	Able to comply	<p>A Design Excellence Strategy was submitted with the application and establishes a design excellence process for future development at 158 Botany Road.</p> <p>The Design Excellence Strategy is recommended for approval and is provided at Attachment D.</p> <p>A competitive design process will be undertaken prior to lodgement of any detailed development application, in accordance with the Strategy. This competitive design process must adhere to the DEX Strategy and conditions of consent for the development to be eligible for up to 10% additional FSR.</p>
3.5 Urban Ecology	Able to comply	<p>The concept proposal does not involve the removal of any trees.</p> <p>At least 15% canopy coverage is to be achieved within the site. The amended Landscape Plan indicates that 15% canopy coverage is achievable within the specified deep soil area. This will be assessed further in the detailed design DA.</p>
3.6 Ecologically Sustainable Development	Able to comply	The detailed design DA will be subject to the requirements of the Sustainable Buildings SEPP.

Provision	Compliance	Comment
		<p>The following ESD targets have been included in the Design Excellence Strategy:</p> <ul style="list-style-type: none"> • A NABERS Office Energy rating of 5.5 stars + 25% in operation; • Water fixtures with 1 star of the highest commercially available WELS rating; • A Net Zero energy outcome in line with the Sustainable Buildings SEPP; and • A quantified assessment of the upfront embodied emissions associated with development. <p>Conditions are recommended to ensure the proposed ESD commitments are carried through the competitive design process to the detailed design DA.</p>
3.7 Water and Flood Management	Able to comply	The site is identified as being on flood prone land. See discussion under section 7.15 above.
3.11 Transport and Parking	Able to comply	Refer to the assessment against transport and car parking provisions above.
3.12 Accessible Design	Able to comply	The detailed design DA will need to demonstrate that the building can provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.
3.13 Social and Environmental Responsibilities	Able to comply	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Able to comply	<p>The Waste Management Plan submitted with the application has been reviewed by Council's Waste Management Team who raised no outstanding objections to the waste arrangements.</p> <p>The detailed design DA will need to demonstrate compliance with the City's</p>

Provision	Compliance	Comment
		guidelines for waste management in new developments.

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	Able to comply	<p>The base control in the DCP allows a maximum height of 4 storeys at 158 Botany Road.</p> <p>The Botany Road Precinct Planning Proposal introduced new height in storeys controls across the Precinct. The alternative height in storeys control pursuant to Section 5.10 of the DCP is 8 storeys for the purpose of non-residential development.</p> <p>Refer to the Section 5.10 compliance table below for details.</p>
4.2.2 Building setbacks	Able to comply	Refer to the assessment against Provision 5.10.4.2 - Building alignment and setbacks of the SDCP 2012 below.
4.2.3.1 Solar access	Able to comply	<p>A solar analysis was submitted with the application demonstrating the solar access impacts of the concept envelope on surrounding residential sites.</p> <p>Solar access impacts resulting from the proposed envelope are to be considered in the context of the objectives for the Botany Road Precinct.</p> <p>Refer to the 'Discussion' section below for further details.</p>
4.2.3.5 Landscaping	Able to comply	A Concept Landscape Plan has been submitted as part of this concept DA and is acceptable.

Provision	Compliance	Comment
		A condition is recommended requiring a detailed landscape plan to be submitted with any detailed design DA.
4.2.3.6 Deep Soil	No but acceptable	<p>The minimum amount of deep soil is to be 10% of the site area with a minimum dimension of 3m.</p> <p>The application as originally lodged relied on the laneway dedication for deep soil, which was not supported as this land will ultimately be paved.</p> <p>The amended Landscape Concept Plan submitted in April 2024 included deep soil areas in the land to be dedicated along Botany Road for road widening and areas facing the laneway overhung by the building and only 2m wide. This resulted in no compliant deep soil within the development site and was not supported.</p> <p>Council officers requested that compliant deep soil be provided with a minimum dimension of 3m, open to the sky and not within land to be dedicated. It was recommended that 10% be demonstrated as a baseline for assessment to understand how this may impact the building envelope. Council officers noted that a minimal non-compliance may be considered given the site constraints including the Sydney Water culvert running through the site and the required land dedication.</p> <p>The applicant has demonstrated investigation of various strategies to address the deep soil target in the context of the site constraints.</p> <p>The final Landscape Concept Plan proposes 8% deep soil based on the post-dedication site area, comprising a 3m wide deep soil setback to Botany Lane co-located with tree planting. This is a significantly improved outcome and achieves an appropriate balance between maximising deep soil provision and maintaining a feasible commercial floor plate. This will be reduced slightly</p>

Provision	Compliance	Comment
		<p>with the long-term provision of driveway access from the laneway, however the 3m setback remains acceptable.</p> <p>The detailed design DA will be required to provide deep soil consistent with the Landscape Concept Plan.</p>
4.2.3.11 Acoustic privacy	Able to comply	<p>A Noise Impact Assessment was submitted with the application. The Assessment has been reviewed by Council's Environmental Health unit and is acceptable for the purposes of this concept DA.</p> <p>Noise impacts from the proposed commercial use will be considered in further detail as part of the detailed design DA.</p>
4.2.6 Waste and recycling Management	Yes	A condition is recommended to ensure that any future detailed design DA complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
4.2.9 Non-residential development in the B4 Mixed Use zone	N/A	This section does not apply to development in the Botany Road Precinct to ensure that existing built form and land uses do not unreasonably constrain growth and change within the Precinct.

Section 5 – Specific Areas

5.10 Botany Road Precinct

Provision	Compliance	Comment
5.10.2.1 Land use diversity	Yes	<p>This clause seeks to reinforce the primacy of commercial and business uses in the Precinct and facilitate appropriate diversity in the land use mix.</p> <p>The reference scheme shows indicative commercial uses, including retail on the ground floor and commercial office uses on the levels above. These land uses are consistent with the vision for the Botany Road Precinct as a vibrant commercial area supporting a range of</p>

Provision	Compliance	Comment
		business and employment generating land uses.
5.10.2.3 Ground and first floor uses, active frontages and awnings	Able to comply	<p>Non-residential uses are provided on the ground and first floor in accordance with the controls.</p> <p>The controls require ground floor uses fronting Botany Road to provide windows and entrances to promote passive surveillance of the public domain and indirect lighting at night. A continuous awning will also be required.</p> <p>These will be considered in the detailed design DA.</p>
5.10.2.4 Managing change	Able to comply	<p>This clause seeks to ensure that existing built form and land uses, including residential uses, do not unreasonably constrain growth and change in the Precinct.</p> <p>Amenity impacts that may arise from non-residential development on existing or possible future residential development, such as loss of daylight or sunlight access, acoustic privacy or visual privacy, are to be considered in the context of the locality statement and objectives for the Precinct.</p> <p>This is considered in the 'Discussion' section below, particularly in relation to overshadowing impacts.</p>
5.10.3.1 Laneway network	Able to comply	<p>The DCP requires land dedication at the rear of both sites for the extension of Botany Lane running north-south through the block.</p> <p>The purpose of this laneway network is to facilitate movement of medium rigid vehicles to enable loading and servicing of buildings from the lane. The laneway is intended to be designed as a shared zone to ensure pedestrian safety.</p> <p>The required land dedication for the laneway is provided on the concept plans. The configuration and width of the laneway departs slightly from that shown on the DCP mapping, however the objectives of the SDCP 2012 are met.</p>

Provision	Compliance	Comment
		This is considered in the 'Discussion' section below.
5.10.3.2 Vehicle access and car parking	Able to comply	<p>Development on a laneway must provide driveways, vehicle access, loading and servicing from the laneway.</p> <p>The DCP allows temporary vehicle access arrangements if a laneway will not provide access at the time of development completion.</p> <p>Temporary vehicle access is proposed from Botany Road as the land to be dedicated for the laneway is currently inaccessible from the existing road network.</p> <p>Drawings have been provided to demonstrate that the temporary vehicle access is capable of future conversion to provide vehicle access from the planned laneway and permanent closure of the temporary access arrangement. This will be considered further in the detailed design DA.</p> <p>Refer to the 'Discussion' section for further details.</p>
5.10.4.1 Building heights	Able to comply	<p>The development seeks to utilise the incentive building heights available under clause 6.60B of the SLEP 2012. Therefore, an alternate maximum height in storeys is available under the DCP, which permits a height of 8 storeys for non-residential development.</p> <p>The concept envelope complies with the overall 35m maximum height of buildings development standard.</p> <p>However, the reference scheme incorporates an additional 9th storey within this envelope. The issue of height in storeys is outlined in the 'Discussion' section below.</p> <p>Development is to minimise overshadowing to parks and open space between 10am and 2pm at the winter solstice. The shadow diagrams</p>

Provision	Compliance	Comment
		<p>demonstrate that there will be no additional shadows cast to Alexandria Park during this period.</p> <p>Where the incentive building heights are utilised, development is to provide the following minimum floor to floor heights:</p> <ul style="list-style-type: none"> • Ground floor: 4.6m • First floor: 3.8m • Second floor and above: 3.6m <p>The reference scheme generally complies, except for the first floor where 3.6m is provided. This may impact the proposal's ability to incorporate 9 storeys into the 35m envelope and will be a matter for consideration in the detailed design DA.</p>
5.10.4.2 Building alignment and setbacks	Able to comply	<p>Upper level setbacks are not specified for non-residential development at 158 Botany Road. Therefore, the building is to present a consistent street wall with no upper level setback to the street frontage. This would result in an 8 storey street wall.</p> <p>The reference scheme includes an indicative additional 9th storey within the permitted LEP height envelope.</p> <p>It is noted that height in storeys is not approved as part of the concept DA.</p> <p>This issue is outlined further in the 'Discussion' section below.</p>
5.10.4.3 Materiality and design	Able to comply	<p>Conditions of consent are recommended that require the detailed design DA to address the materiality and design controls in this section.</p>
5.10.4.4 On-structure plantings	Able to comply	<p>A green roof will be required as per provision 5.10.4.4(1).</p>
5.10.4.5 Public art	Able to comply	<p>As the development cost exceeds \$10 million, public art is required in accordance with City of Sydney Guidelines for Public Art in Private Development.</p>

Provision	Compliance	Comment
		<p>A Public Art Strategy was submitted with the application, which outlines the proposed public art process and demonstrates that the proposal can comply with the City's public art requirements.</p> <p>A condition of consent is recommended that requires a Preliminary Public Art Plan to be submitted with any detailed design DA.</p>
5.10.4.6 Visual and acoustic privacy	Able to comply	<p>This clause seeks to protect the visual and acoustic privacy of dwellings and private open spaces through design and layout of development.</p> <p>The reference scheme has been amended to increase the building setback from the western rear elevation and remove the balconies to minimise visual and acoustic privacy impacts.</p> <p>Visual and acoustic privacy will be considered further as part of the detailed design DA.</p>
5.10.4.7 Energy and water efficiency	Able to comply	The Design Excellence Strategy contains the required ESD targets for future development.
5.10.5.1 Connecting with Country - All development	Able to comply	<p>Development in the Botany Road Precinct must consider Indigenous inclusion, comfort and access and consider opportunities for acknowledging and celebrating Aboriginal and Torres Strait Islander cultures involving the engagement of suitably qualified Indigenous practitioners.</p> <p>A condition of consent is recommended requiring the objectives and provisions of section 5.10.5.1 of the SDCP 2012 to be addressed through the competitive design process and detailed design DA.</p>
5.10.5.3 Aboriginal archaeology	Able to comply	The site is identified as having moderate potential for Aboriginal Archaeology.

Provision	Compliance	Comment
		<p>An Aboriginal Due Diligence Assessment prepared by Unearthed Archaeology and Heritage was submitted with the application, which indicates that there is potential for Aboriginal objects to remain within the site.</p> <p>The assessment contains several recommendations including consultation with the Aboriginal community, preparation of an Aboriginal Cultural Heritage Assessment Report, archaeological test excavations and an Aboriginal Heritage Impact Permit if required.</p> <p>A condition is included in Attachment A that requires the recommendations of the Aboriginal Due Diligence Assessment to be addressed and submitted with the detailed design DA.</p>

Discussion

Laneway network

Laneway width and alignment

47. Provision 6.60B(6)(a) of the SLEP 2012 specifies that the alternative height of buildings and floor space ratio development standards for the Botany Road Precinct are not able to be utilised unless the consent authority is satisfied that 'the development provides, or will provide, appropriate public access and laneways.'
48. The required laneways are specified in Section 5.10.3 of the SDCP 2012, which requires land dedication along the rear of both sites to form a continuation of the existing Botany Lane, as outlined in Figure 27 below.



Figure 27: SDCP 2012 Streets and Lanes Map showing required land dedication in pink

49. Section 5.10.3 of the SDCP 2012 outlines the intention of this laneway network is to improve permeability and connectivity throughout the Precinct and to deliver a continuous laneway network to facilitate rear building servicing and vehicle access.
50. The Streets and Lanes Map in Figure 27 shows an irregular laneway alignment at 158 Botany Road. This is to allow a 6m wide laneway to still be achieved if the adjoining smaller sites at 158 and 160 Wyndham Street are not redeveloped, enabling the laneway to run past the rear of these sites.
51. During the assessment, Council officers noted that because 158 Botany Road and 158 Wyndham Street are under the same ownership, the possibility of narrowing and/ or straightening the laneway at this location could be considered. The applicant was advised that any alternative alignment would need to assume that 160 Wyndham Street remains undeveloped and provide sufficient certainty that both 158 Botany Road and 158 Wyndham Street will be redeveloped.
52. The concept DA was subsequently amended in September 2024 to include land at 158 Wyndham Street, with land dedication secured in a VPA applying to both sites.
53. Various iterations of the alignment of the laneway were discussed with the applicant. The final proposed width of the laneway narrows slightly at the intersection of 158 Botany Road and 158 Wyndham Street compared to the DCP alignment. Figure 28 below shows the proposed laneway alignment on the concept plan and the DCP alignment outlined in yellow.

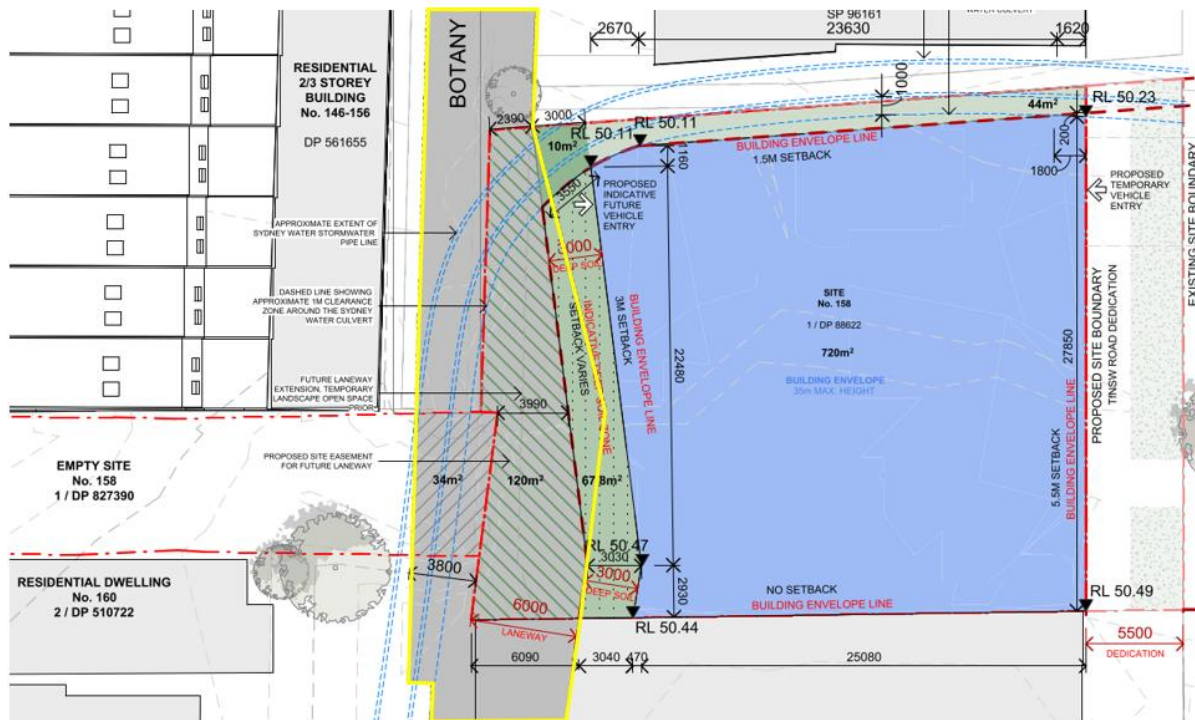


Figure 28: Proposed concept plan and laneway configuration, with the DCP alignment outlined in yellow for comparison

54. The proposed width and alignment of the laneway is supported for the following reasons:
- The Concept DA now includes both 158 Botany Road and 158 Wyndham Street, with a single VPA applying to both sites. This provides sufficient certainty that both sites will be redeveloped, allowing the laneway to be slightly narrowed without needing to steer around the rear of 158 Wyndham Street.
 - The laneway maintains the DCP alignment at the rear of 160 Wyndham Street, allowing a 6m wide laneway to still be achieved if that site is not redeveloped.
 - The proposed laneway is capable of achieving the desired functionality as a 6m wide laneway to facilitate rear building servicing and movement of medium rigid vehicles.
 - Dedication of land to the extent shown in the SDCP 2012 would unnecessarily restrict the land available for the proposed building envelope on 158 Botany Road.

Future connection to the laneway network

55. The existing Botany Lane currently terminates north of the site. Vehicle access is available to 156 Botany Road and the row of terraces at 146-156 Wyndham Street via private land, highlighted in red in Figure 29 below.



Figure 29: Aerial view of Botany Lane showing private driveway access to 160 Botany Road and 146-156 Wyndham Street in red

56. As a result of this private land to the north, the subject site is landlocked and not able to connect to the existing Botany Lane in the short term.
57. The DCP controls for the Botany Road Precinct anticipate sites not being able to access the planned laneway network in the short term and allows for alternative vehicle arrangements from existing streets until access is available from the planned laneway network. This is discussed further under the 'temporary and future vehicle access' heading below.
58. The VPA includes land dedication requirements in two parts:
 - (a) The land for the laneway will be subdivided and created as a separate title prior to the first Occupation Certificate, but will remain in ownership of the current lot owner and can be used and accessed by the landowner in the interim.
 - (b) The VPA will remain on the titles of the laneway lots until the City triggers the dedication clauses in the VPA.
59. The proposal satisfies the requirements of clause 6.60B(6)(a) of the SLEP 2012 by providing the required land dedication for the planned laneway network through the VPA.

Temporary and future vehicle access

60. Section 5.10.3.2 of the SDCP 2012 requires loading and servicing of buildings and vehicle access to be provided from the laneway network.

61. However, the DCP controls permit temporary vehicle access arrangements if a laneway identified in the Streets and Lanes Map will not provide access at the time of development completion. As per provision (3), any temporary vehicle access point must be designed to be capable of future conversion to vehicle access via the planned laneway and for permanent closure of the temporary access arrangement.
62. As discussed above, while this development will provide the required land dedication to contribute to the planned laneway, access to the broader laneway network is not available in the short term.
63. Therefore, the concept plan shows indicative vehicle access from Botany Road as a temporary arrangement. Transport for NSW has provided concurrence for this vehicle access location.
64. The concept plan also shows an indicative future vehicle access location from the laneway. An analysis has been provided with the reference scheme to demonstrate how the temporary vehicle access arrangements could be converted in the future. The analysis is acceptable for the purpose of this concept DA and will be subject to future assessment as part of the detailed design DA.
65. The proposed indicative temporary access from Botany Road and future access via the laneway satisfies the requirements of the SDCP 2012 in relation to vehicle access for the purpose of this concept DA.

Building height in storeys

66. Provision 5.10.4.1(2) of the SDCP 2012 states that on Botany Road Precinct Opportunity Lands, where development utilises incentive building heights available under clause 6.60B of Sydney LEP 2012, the maximum height in storeys for non-residential uses is 8 storeys for the 158 Botany Road site.
67. This concept DA does not approve the number of storeys and only considers the maximum envelope of 35m, which complies with the SLEP 2012.
68. Notwithstanding, the amended reference scheme incorporates an additional 9th storey within the 35m envelope alongside the plant room. Council officers note the following issues in relation to this additional storey:
 - (a) The reference scheme does not comply with the required floor to ceiling height of 3.8m for Level 1, which may impact the overall height of the development; and
 - (b) The 9th storey contains the plant room which may unreasonably restrict the floor to ceiling height, layout and amenity of this floor.
69. Considering the above issues, it has not yet been demonstrated that it is feasible to incorporate an additional 9th storey in the detailed design of the building while maintaining acceptable levels of amenity for future occupants.
70. Given the number of storeys shown in the reference scheme does not form part of the Concept DA approval, it is recommended that the issue of height in storeys be considered further as part of the detailed design DA. This will need to consider, amongst other factors, the floor to ceiling heights, the location of plant and services and any impacts on the amenity of surrounding properties.

Overshadowing

71. An overshadowing analysis, including view from the sun diagrams, was submitted with the application. The analysis considers overshadowing impacts between 9am and 3pm on 21 June for three scenarios:
 - (a) Existing scenario (vacant site);
 - (b) Proposed scenario (proposed envelope with existing surrounding development); and
 - (c) Future scenario (proposed envelope with likely future development on surrounding sites in line with the Botany Road Precinct controls).
72. These scenarios were considered against Section 5.10.4.2 of the SDCP 2012, which seeks to manage change within the Precinct by ensuring existing built form and land uses do not unreasonably constrain growth and change in the Precinct and ensuring development comprising residential development does not constrain non-residential development potential.
73. Specifically, provision 5.10.2.4(5) of the SDCP 2012 states that amenity impacts that may arise from non-residential development on existing or possible future residential development, such as loss of daylight or sunlight access, acoustic privacy or visual privacy, are to be considered in the context of the locality statement and objectives for the Precinct.
74. The locality statement and objectives for the Precinct generally seek to:
 - (a) emphasise the Precinct as an economic connector between surrounding higher order centres;
 - (b) prioritise and incentivise additional development potential for non-residential uses to take advantage of the increased accessibility of the area afforded by the Waterloo Metro station;
 - (c) contribute to the emerging Camperdown-Ultimo Collaboration Area with employment generating uses and floor space;
 - (d) meet the needs of the growing Redfern and Waterloo area with floor space for jobs and services; and
 - (e) ensure residential uses do not impede the delivery and operation of current and future employment generating land uses.
75. Provision 4.2.3.1(2) requires neighbouring developments to achieve a minimum of 2 hours' direct sunlight between 9am and 3pm on 21 June onto at least 1sqm of living room windows and a minimum 50% of the required minimum area of private open space area. However, this provision is to be balanced with the locality statement and objectives for the Botany Road Precinct outlined above.
76. The overshadowing analysis demonstrates that the proposed envelope will cause overshadowing to residential properties to the west, south-west and south of the site. The impacts based on the proposed scenario can be summarised as follows:
 - (a) Wyndham Street properties:

- (i) 154 and 156 Wyndham Street (3 storey terraces) - The proposed envelope will cause overshadowing to the upper-level bedroom glazing between 9-9.30am. However, there are no impacts to the living room glazing or private open space in midwinter compared to existing.
 - (ii) 160-166 Wyndham Street (1-2 storey terraces) - Overshadowing occurs to the living room glazing and private open spaces between 9-11am, however solar access is maintained between 11.30am-2.30pm.
 - (iii) 168 Wyndham Street (single storey terrace) - Overshadowing occurs to the living room glazing and private open space between 9am-12pm. However, solar access is maintained between 12pm-2pm.
 - (iv) 172-174 Wyndham Street (3 storey terraces) - Some solar access is maintained at 9am, with overshadowing occurring to living room glazing and private open space between 9.30-11.30am. Solar access is maintained from 12pm-1.30pm. The private open spaces also receive some solar access between 1.30-3pm.
 - (v) 176-178 Wyndham Street (2 storey terraces) - Some solar access is maintained at 9am, with overshadowing occurring to living room glazing and private open space between 9.30-11.30am. The existing living room glazing is overshadowed throughout the day from the taller buildings at 172-174 Wyndham Street. Private open space receives solar access from 12.30-1.30pm.
 - (vi) 170 Wyndham Street - This building is located directly south of the subject site with private open space and living room glazing facing north and south. The proposal will cause overshadowing to north facing bedroom glazing on the first floor between 10.30am-1.30pm. The ground floor primary open space and living room glazing current does not receive solar access in midwinter.
- (b) Botany Road properties:
- (i) 172-184 Botany Road contains 6 x 1-2 storey residential terraces on Botany Road and additional terraces facing Moores Lane. Shadows are cast to the living rooms and private open spaces of the Moores Lane dwellings between 11.30am-1.30pm, however direct sunlight is maintained outside of these hours. The dwellings on Botany Road will experience overshadowing between 12pm-3pm but receive solar access in the morning.
 - (ii) 168-170 Botany Road contains a residential flat building with 12 units in a former warehouse building. Solar access is maintained between 9am-12pm, with overshadowing to the northern facade and internal courtyard from 12.30pm.
77. Most affected properties will continue to receive varying amounts of solar access to living room glazing and private open space in midwinter. Some of the properties identified above may not achieve the 2 hours' direct solar access required by provision 4.2.3.1(2) of the SDCP 2012.

78. The refinement of the envelope to increase the setback from the western and northern boundaries assists in reducing the overshadowing impacts and as outlined above, the affected properties will continue to receive varying levels of solar access in midwinter.
79. It is noted that surrounding impacted sites are also subject to uplift controls within the Botany Road Precinct and may be redeveloped in the future in keeping with the desired future character of the Precinct. This may change the character and built form of many of the sites affected by overshadowing along Wyndham Street and Botany Road. This is reflected in the view from the sun diagrams prepared for the 'future scenario' which shows indicative future development on surrounding sites in line with the Botany Road precinct controls.
80. Having regard to the locality statement and objectives for the Precinct and the likely future character reflected by the permitted height and floorspace for properties on Wyndham Street and Botany, the proposed overshadowing impacts are acceptable on balance. Any future detailed design DA will further consider solar access impacts to specific properties resulting from the detailed design of the building.

Consultation

Internal Referrals

81. The application was discussed with Council's internal units including:
 - (a) Environmental Health;
 - (b) Urban Design;
 - (c) Public Domain;
 - (d) Landscape Design;
 - (e) Public Art;
 - (f) Environmental Sustainability;
 - (g) Design Excellence;
 - (h) Planning Agreements;
 - (i) Surveyor;
 - (j) Transport and Access;
 - (k) Tree Management; and
 - (l) Waste Management.
82. The recommendations of these internal units have been addressed in this report and have been included in the recommended conditions in Attachment A where relevant.

External Referrals

Ausgrid

83. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
84. Ausgrid raised no objections to the proposed development, subject to conditions which are included in Attachment A.

Sydney Airport

85. 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.
86. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify that the site is subject to a prohibition of the construction of buildings more than 15.24m above existing ground level.
87. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted. The relevant approval body is the Civil Aviation Safety Authority (CASA).
88. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, provided approval for the controlled activity on 16 May 2024.

Transport for NSW

89. The application was referred to Transport for NSW for concurrence in accordance with Section 138 of the Roads Act 1993 and for comment under clause 2.122 of the Transport and Infrastructure SEPP 2021.
90. Concurrence was received on 30 May 2024. Conditions of consent were recommended which are included in Attachment A.

Sydney Water

91. The application was referred to Sydney Water pursuant to Section 78 of the Sydney Water Act 1993.
92. Sydney Water originally objected to the proposal as the building envelope did not achieve the required separation from the stormwater channel. The plans were subsequently amended to remove encroachments within 1m of the stormwater channel.
93. Sydney Water provided revised comments on 9 October 2024 and raised no further objection to the proposal subject to conditions which are included in Attachment A.

Advertising and Notification

94. In accordance with the City of Sydney Community Participation Plan, the proposed development was notified for a period of 21 days between 9 May and 31 May 2024. A total of 264 properties were notified and 10 submissions were received.
95. The submissions raised the following issues:

Issue	Response
Height and setbacks	
<p>35m is too high for the area. This building will be significantly taller than surrounding buildings.</p>	<p>The Botany Road Precinct is subject to new planning controls to encourage commercial and enterprise floor space. Refer to the 'History of the relevant planning controls' section of this report for further background.</p> <p>Clause 6.60B of the SLEP 2012 permits an Alternative Height of Buildings control of 35m if the building is for the purpose of non-residential uses.</p> <p>The prerequisites for utilising the alternative height control outlined in clause 6.60B of the SLEP 2012 have been met as discussed in this report.</p> <p>The proposed building envelope has a maximum height of 35m, which complies with the alternative height of buildings control.</p>
<p>Sufficient setbacks should be provided to 146-164 Wyndham Street.</p>	<p>The rear building setback has increased from approximately 2.3m as originally lodged to approximately 5.7m - 8m, increasing towards the southern boundary. The proposed separation is adequate for the purpose of this Concept DA and will be subject to further assessment in the detailed design DA.</p>
<p>The increased height and density will cause overcrowding in the area.</p>	<p>The proposed height and density are consistent with the planning controls for the site and the desired future character of the area, which seek to provide increased employment generating floor space in the Botany Road Precinct.</p>
Overshadowing	
<p>The development will cause overshadowing to neighbouring residential dwellings.</p>	<p>The proposed overshadowing impacts have been considered and are acceptable on balance, having regard to the objectives of the Botany Road Precinct. Refer to the 'Discussion' section for further details.</p>

Issue	Response
Land uses	
The definition of 'commercial' uses should be clarified so that this does not turn into short term rental accommodation.	<p>'Commercial premises' is defined in the SLEP 2012 as a business premises, office premises or retail premises.</p> <p>The concept envelope includes indicative uses, being ground floor retail uses and commercial office premises on the floors above. The application does not propose short term rental accommodation.</p>
Building design	
The design of the building should be more interesting and incorporate arches and materials from the neighbourhood.	This concept application seeks consent for the building envelope only. The design of the building will be subject to a competitive design process and a detailed design DA.
Laneway extension	
Botany Lane will become a busy thoroughfare.	<p>Land dedication for the planned laneway network is a requirement under the SDCP 2012.</p> <p>The Planning Proposal for the new controls found that the Precinct contains large blocks and few laneways, resulting in a poor pedestrian environment and heavy traffic.</p> <p>New laneways are required within the Precinct to improve permeability and provide vehicle access and servicing. This will assist with traffic flow within the broader precinct.</p>
The extension of Botany Lane cannot be achieved without acquisition of the dwellings at 146-156 Wyndham Street. The development is therefore unable to provide the laneway access required by the SDCP 2012 and cannot access the alternative height and floor space ratio under clause 6.60B of the SLEP 2012.	<p>The proposal includes the dedication of land for the laneway network required by the SLEP 2012 and SDCP 2012.</p> <p>Council's assessment of the application has taken into account the privately owned land directly north of the site at 146-156 Wyndham Street and 156 Botany Road which restricts access to Botany Lane to the north in the short</p>

Issue	Response
<p>It is premature to approve this proposal until all legal rights are obtained.</p>	<p>term. This is not an obstacle for the site satisfying the requirements of clause 6.60B.</p> <p>The requirements of clause 6.60B(6) of the SLEP 2012 are satisfied by the dedication of land to contribute to a future laneway, which is captured in the VPA. There is no expectation in the LEP or DCP that the development site needs to access the broader laneway network in the short term if it is landlocked by surrounding development.</p> <p>The DCP controls anticipate sites not being able to access the planned laneway network in the short term and allows for alternative vehicle arrangements in the interim.</p> <p>It would therefore not be reasonable to prohibit access to uplift controls due to the site not being able to connect to the planned laneway network.</p> <p>The land will form part of the laneway network in the future when surrounding sites are redeveloped, which may involve a connection to the south prior to a connection to the north becoming available.</p>
<p>Botany Lane is not large enough to meet the requirements of this development and would need to be expanded.</p>	<p>Botany Lane north of the site is proposed to be extended and widened under the SDCP 2012, which will be a requirement of any adjoining development seeking to utilise the incentive height and FSR controls.</p>
<p>Some submissions requested that a through-site link be provided to Wyndham Street. Others stated that a through-site link should not be provided due to safety issues.</p>	<p>A through site link between Wyndham Street and Botany Road is not required in this location and is therefore not proposed. Through-block connections to improve permeability are required in other parts of the broader block.</p>

Issue	Response
Visual privacy	
The balconies on the western side of the building will cause overlooking to neighbouring properties.	The balconies have been removed from the reference scheme. Visual privacy will be considered further as part of the detailed design DA.
Noise impacts	
<p>Noise monitoring should be required from Botany Lane to understand effects of this building on residents.</p> <p>There will be noise impacts from the extension of Botany Lane.</p>	<p>An Acoustic Report was submitted with the application which demonstrates that the proposal will be capable of achieving the Council's noise criteria in relation to mechanical services.</p> <p>As an office building, the development is unlikely to have significant adverse noise impacts, particularly when considering the noise generated by surrounding busy roads.</p> <p>Notwithstanding, acoustic impacts from the proposed development including from servicing in the laneway will be considered in the detailed design DA.</p>
Traffic impacts	
<p>The development will cause increased traffic, road gridlock and rat runs.</p> <p>There will be an increase in cars requiring street parking.</p>	<p>The reference scheme provides 14 indicative car parking spaces, which is below the maximum of 21.</p> <p>The site is well serviced by public transport and substantial bicycle parking will also be provided.</p> <p>Overall, the Traffic and Parking Report indicates that the proposal is unlikely to result in adverse traffic impacts.</p> <p>The final number of car parking spaces and traffic impacts will be considered further as part of the detailed design DA.</p>
Landscaping	
Increased greening should be provided.	15% tree canopy is achievable on the site in accordance with the SDCP 2012.

Issue	Response
	The development will also need to provide a green roof.
New trees should be more unique and less generic.	Tree planting will be provided in accordance with the City of Sydney tree species list.
Other issues	
The drawings are incorrect as they show 160 Wyndham Street as 'semi-detached' rather than freestanding.	This has been updated on the concept plan.
The development will cause increased pressure on infrastructure such as local schools.	<p>The development capacity of the Botany Road Precinct and the availability of local infrastructure was assessed as part of the Planning Proposal.</p> <p>The proposed envelope is consistent with the controls for the site, which were developed in accordance with infrastructure capacity.</p>

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

96. The assessment of the future detailed design DA will consider whether a Section 7.11 contribution is required for the proposed development.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

97. The assessment of the future detailed design DA will consider whether a Section 7.13 contribution is required for the proposed development.

Housing and Productivity Contribution

98. The assessment of the future detailed design DA will consider whether a Housing and Productivity contribution is required for the proposed development.

Relevant Legislation

99. Environmental Planning and Assessment Act 1979.

Conclusion

100. The proposed development seeks consent for a concept building envelope for a commercial development with a maximum height of 35m, land dedication for the laneway network and footpath widening and indicative uses including:
 - (a) ground floor retail, commercial lobby and end of trip facilities; and
 - (b) commercial office uses on the levels above.
101. The Public Benefit Offer has informed a draft VPA associated with the application which will undergo public exhibition in accordance with the requirements of section 7.5 of the Environmental Planning and Assessment Act 1979. A deferred commencement condition is recommended to enable the draft VPA to be executed and registered on title.
102. The concept envelope and supporting Design Excellence Strategy establish suitable parameters for a future competitive design process. The concept envelope can accommodate a detailed building design of an appropriate bulk and scale that is in keeping with the desired future character of the Botany Road Precinct and capable of achieving design excellence, subject to the recommended conditions of consent.
103. As a result of public notification, 10 submissions were received. Issues raised in the objections have been addressed as discussed within this report.
104. All matters raised by internal and external referrals have been adequately addressed as discussed within this report.
105. Subject to conditions, the development is in the public interest and is recommended for approval.

ANDREW THOMAS

Executive Manager Planning and Development

Samantha Kruize, Senior Planner