

Item 5.**Development Application: 290-294 Botany Road, Alexandria - D/2026/162****File Number: D/2026/162****Summary**

Date of submission:	26 February 2026
Applicant:	Antoniades Architects
Architect/Designer:	Antoniades Architects
Owner:	Angreb Pty Ltd and Sentra Investments Pty Ltd
Planning consultant:	GSA Planning
Heritage consultant:	Weir Phillips Heritage
Cost of works:	\$53,185,000
Zoning:	MU1 Mixed-Use
Proposal summary:	The application is a proposal for concept approval (no physical works) comprising demolition of existing buildings, remediation of land, excavation of one level of basement with vehicular access from Wyndham Street, and an envelope up to 31.65 metres in height. Indicative future land uses comprise basement parking, services, plant, and storage, ground floor retail and co-living, and upper level co-living and services. The indicative reference scheme submitted with the application indicates that approximately 250 co-living rooms, 2 retail tenancies, 20 car parking spaces, 2 motorcycle parking spaces and 281 bicycle parking spaces could be accommodated within the proposed envelope. The development includes an offer to enter into a Voluntary Planning Agreement (VPA) with the City.

The public benefits in the VPA include the dedication of 102.8sqm land along Botany Road with a value of \$20,560.00 for footpath widening, public domain works with a value of \$96,118, and a monetary contribution of \$1,690,047 towards community infrastructure at Green Square. The VPA is currently on public exhibition.

A competitive design process is proposed prior to the lodgement of a detailed design development application. This will seek an additional 10% Floor Space Ratio (FSR). A design excellence strategy is included with the proposal which establishes a design excellence process for future development and sets benchmarks for Environmentally Sustainable Design (ESD) targets.

The height of the proposed envelope is 31.65 metres, representing a 9% exceedance of the SLEP 2012 Height of Buildings standard. The application seeks a variation to the height control under Clause 4.6.

The written Clause 4.6 document demonstrates that compliance is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention of the standard. The reasons outlined in the clause 4.6 variation are acceptable and the variation is supported, subject to conditions.

The application is Integrated Development requiring approval under the Water Management Act 2000. General terms of approval were issued by Water NSW on 19 March 2026.

The application was notified for a period of 21 days between 27 February 2026 and 23 March 2026. No submissions were received.

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

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

- Development controls:**
- (i) Environmental Planning and Assessment Act 1979
 - (ii) Water Management Act 2000
 - (iii) Sydney Local Environmental Plan 2012
 - (iv) Sydney Development Control Plan 2012
 - (v) SEPP (Resilience and Hazards) 2021
 - (vi) SEPP (Transport and Infrastructure) 2021
 - (vii) SEPP (Housing) 2021
 - (viii) SEPP (Sustainable Buildings) 2022

- Attachments:**
- A. Recommended conditions of consent
 - B. Concept drawings
 - C. Reference design scheme drawings, shadow diagrams and GFA calculations
 - D. Clause 4.6 variation - height of buildings
 - E. Public benefit offer
 - F. Design excellence strategy

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 Number D/2026/162 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 is for a concept building envelope for a mixed-use development including indicative retail and co-living uses. The proposal secures public benefits comprising land dedication for footpath widening, public domain works, and a payment of a monetary contribution towards community infrastructure in Green Square. The development is permissible with consent in the MU1 - Mixed-Use zone and is consistent with the objectives of the zone.
- (B) The concept proposal is capable of accommodating development that complies with the floor space ratio controls pursuant to clauses 4.4, 6.14, and 6.21D of the Sydney Local Environmental Plan 2012.
- (C) The concept proposal is capable of satisfying the relevant objectives of the Sydney Development Control Plan 2012.
- (D) The proposed development will be the subject of a competitive design process in accordance with Clause 6.21D of the Sydney Local Environmental Plan 2012. The concept proposal and Design Excellence Strategy establish a loose fit envelope and suitable parameters for the competitive design process. Subject to recommended conditions, the proposed envelope is able to accommodate a detailed building design of an appropriate bulk and scale, that responds to the character of the area and which is capable of achieving design excellence.
- (E) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
 - (i) the applicant has demonstrated that compliance with the Height of buildings development standard in Clause 4.3 of the Sydney Local Environmental Plan 2012 is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012 and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the MU1 Mixed Use zone and the Height of buildings development standard.

Background

Site and surrounding development

1. The site has a legal description of Lot 1 in deposited plan 82006 and lot 1 in deposited plan 85829, known as 290-294 Botany Road, Alexandria. It is irregular in shape being 'L-shaped', with a total area of approximately 2,561.1sqm. It has a primary street frontage of 42 metres to Botany Road and a secondary street frontage of 18.43 metres to Wyndham Street. The site is located close to the intersection of Botany Road, Bourke Road and O'Riordan Street. Levels on the site fall by approximately 3.49m from east to west.
2. The site contains 2 x two storey commercial buildings with frontages to Botany Road, and an outdoor car park that is accessed from Wyndham Street. There are 2 existing trees onsite planted adjacent to the Wyndham Street boundary.
3. The surrounding area is characterised by a mixture of land uses, primarily being commercial and residential.
 - **North:** Directly adjoining the site to the north-west is 2 Mandible Street, a 7-storey residential flat building, and to the north is 6 Mandible Street, a 5-storey residential flat building. A 7-storey mixed-use building containing residential uses and offices is located to the northeast at 282-288 Botany Road.
 - **East:** Opposite the site to the east at 237-271 is Yudi Gunyi School which is also a local heritage item.
 - **South:** Directly adjoining the site to the south, 296-298 Botany Road and 284 Wyndham Street contains a one to 3 storey warehouse and commercial buildings. There is a 2024 approval for a 24-storey mixed-use development on the site.
 - **West:** 189 Wyndham Street contains a 2 and 3 storey development currently occupied by Fire and Rescue NSW. At 177 Wyndham Street there is an 8-storey development occupied by the Rail Operations Centre.
4. The site is not a heritage item, and it is not located within a heritage conservation area. A locally listed heritage item (I2071), known as " Waterloo Public School group buildings including interiors, landscaping and retaining wall", is located opposite the site at 237-271 Botany Road, and currently contains the Yudi Gunyi School.
5. The site is located within the Waterloo Park locality and is not identified as being subject to flooding.
6. A site visit was carried out on 5 May 2026. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds

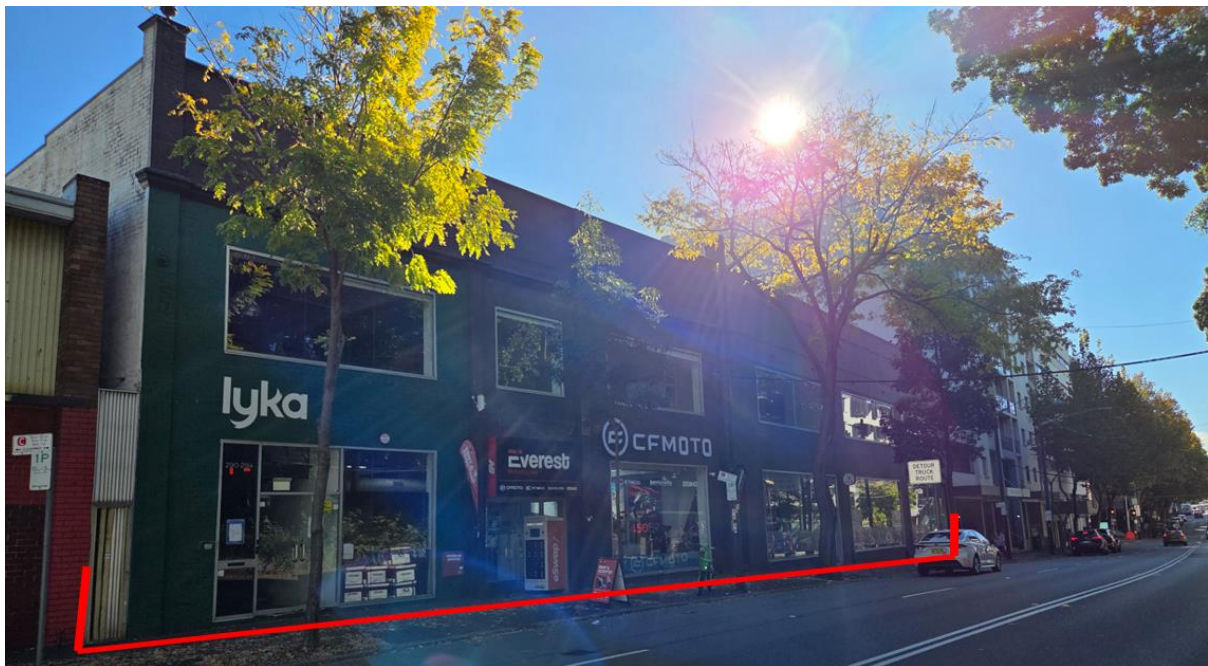


Figure 2: Site viewed from Botany Road facing north-west



Figure 3: Site viewed from Wyndham Street facing north-east

History relevant to the development application

Development applications

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

- **D/2018/1500** – Deferred commencement consent was granted by the Local Planning Panel on 26 June 2019 for concept approval of a 29m building envelope for retail and office uses, vehicular access from Wyndham Street, a through-site link and indicative tree removal. The deferred commencement condition related to a Voluntary Planning Agreement.

The consent was activated on 16 December 2019.

The application was amended on 11 November 2020 under Section 4.55(2) Modification D/2018/1500/A to remove the basement level 2, extend the northeast portion of the building, increase certain setbacks, adjust the front and rear facade, and reduce the floor plate at each level. Figure 9 below shows the proposed envelope of the building, and Figure 10 shows a 3m setback from the southern boundary required under the approval.

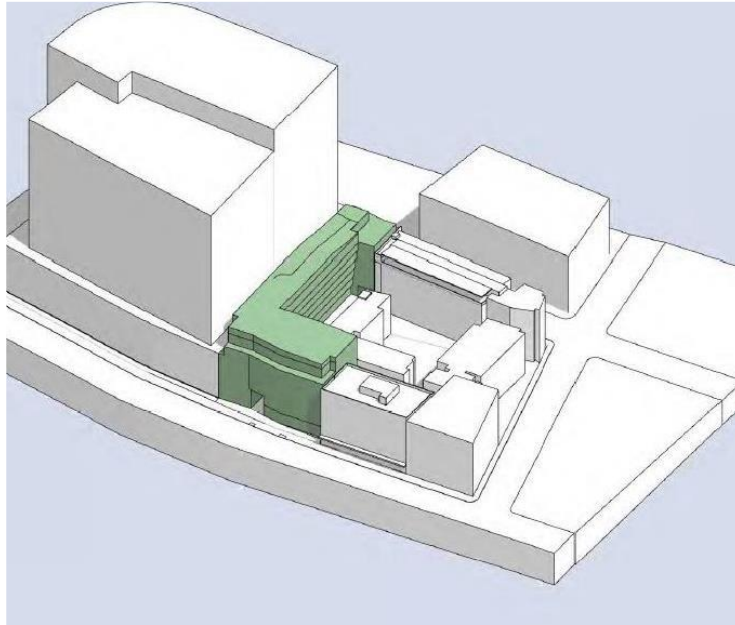


Figure 4: 3D Model of amended envelope proposed under D/2018/1500/A

- **D/2020/420** – Development consent was granted on 27 October 2020 for the demolition of all existing buildings and associated structures, tree removal, excavation and shoring to facilitate the future construction of a new 7-storey mixed-use commercial building proposed under D/2018/1500 and D/2020/421.
 - **D/2020/421** – Deferred commencement consent was granted on 11 November 2020 for a Stage 2 development for construction of a new 7 storey mixed-use commercial development and associated through-site link, carparking and landscaping works.
 - **D/2024/709** – Deferred commencement consent was granted on 11 June 2025 for a concept development application for demolition of existing structures and a concept envelope for a mixed-use development up to a height of RL 46.10, indicative future retail, commercial and build-to-rent housing land uses, vehicular access from Wyndham Street, and 2 indicative basement levels. The application is Integrated Development requiring the approval of WaterNSW under the Water Management Act 2000.
 - **D/2026/934** – Development consent was granted on 23 January 2026 alterations to use the existing premise as a vehicle repair station, vehicle sales and hire premises, including signage.
8. The following applications relating to the adjoining sites are relevant to the proposal:
- **D/2021/319 (296-298 Botany Road, Alexandria)** – Deferred commencement was granted on 8 May 2024 for the construction of a mixed-use development including a 2-storey commercial podium above the existing approved retail podium and 2 residential towers containing 255 residential apartments (including 92 dual-key apartments) with associated communal outdoor space and parking.

- **D/2021/319/A (296-298 Botany Road, Alexandria)** – A Section 4.55 modification application was lodged on 7 November 2024 for the change of use of Tower C (located to the north of the site and adjacent to the subject site) from commercial to residential. The proposal will increase the number of residential units from 255 to 333. Assessment of the modification is underway and at the time of writing the application is yet to be determined.
- **U01-00496 (2-6 Mandible Street, Alexandria)** – Development consent for demolition of existing structures, and construction of 3 buildings containing 176 units including 45 live/work units, a café/convenience store and car parking for 137 vehicles was granted by South Sydney Council on 31 May 2001.

The approved building contained an 'L-shaped' building aligning the eastern and southern boundaries.

In the report, it was noted that the building in the south-eastern corner of the site would not prejudice reasonable development on the adjoining site.

Amendments

9. Following a preliminary assessment of the proposed development by Council officers, a request for additional information was sent to the applicant on 3 March 2026. Additional initial information was requested, including model information and a Preliminary Public Art Plan.
10. The applicant responded to the request on 6 March 2026, and submitted the requested model information and Public Art Plan.
11. Following further assessment of the proposed development by Council officers, a request for additional information and amendments was sent to the applicant on 24 April 2026. The requested information included design amendments, waste amendments, further contaminated land information, and amendments to the submitted Design Excellence Strategy, Public Art Plan, and Statement of Environmental Effects.
12. The applicant responded to the request on 20 May 2026, and submitted the requested information.
13. Following assessment of the additional information by Council officers, a request for amendments was sent to the applicant on 15 June 2026. The requested amendments related to the Design Excellence Strategy, Concept Plans, and Public Art Plan.
14. The applicant responded to the request on 18 August 2026, and submitted updated Design Excellence Strategy, Concept Plans, and Public Art Plan. The applicant also submitted a written Clause 4.6 Variation Request regarding a variation to the Clause 4.3 Height of buildings Development Standard.

Proposed development

15. The application seeks consent for the following:

- demolition of all existing structures
- remediation of land
- dedication of land (102.8sqm along Botany Road) for footway widening
- concept envelope for a mixed-use development to a maximum height of RL46.4 or 31.65m
- indicative future retail and co-living uses
- vehicular access from Wyndham Street
- one indicative basement level for associated car parking, services, storage and plant
- the application is Integrated Development requiring approval under the Water Management Act 2000.

16. Plans and elevations of the proposed development are provided below.

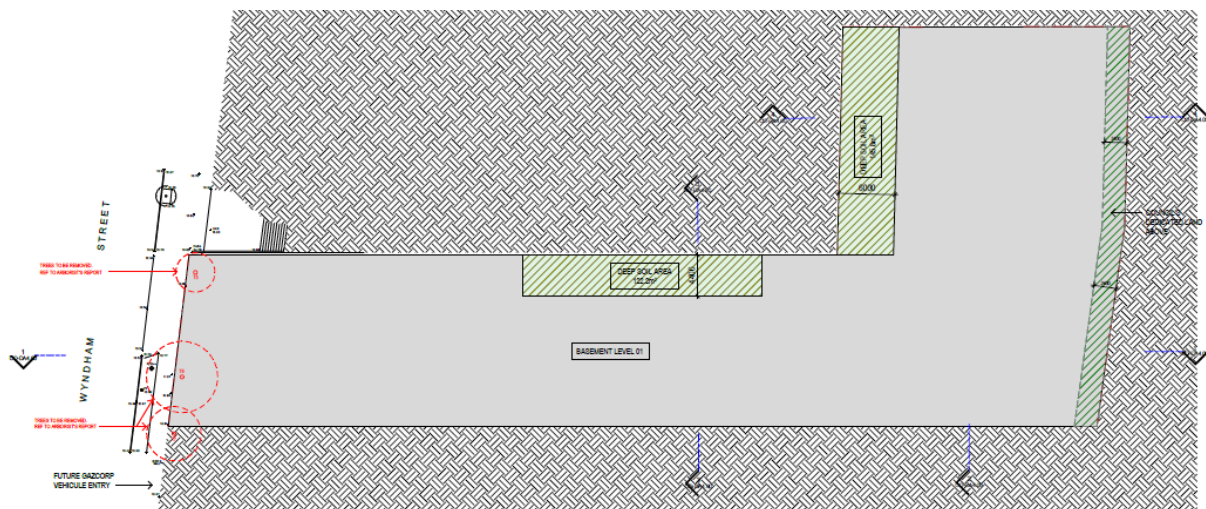


Figure 5: Concept basement plan

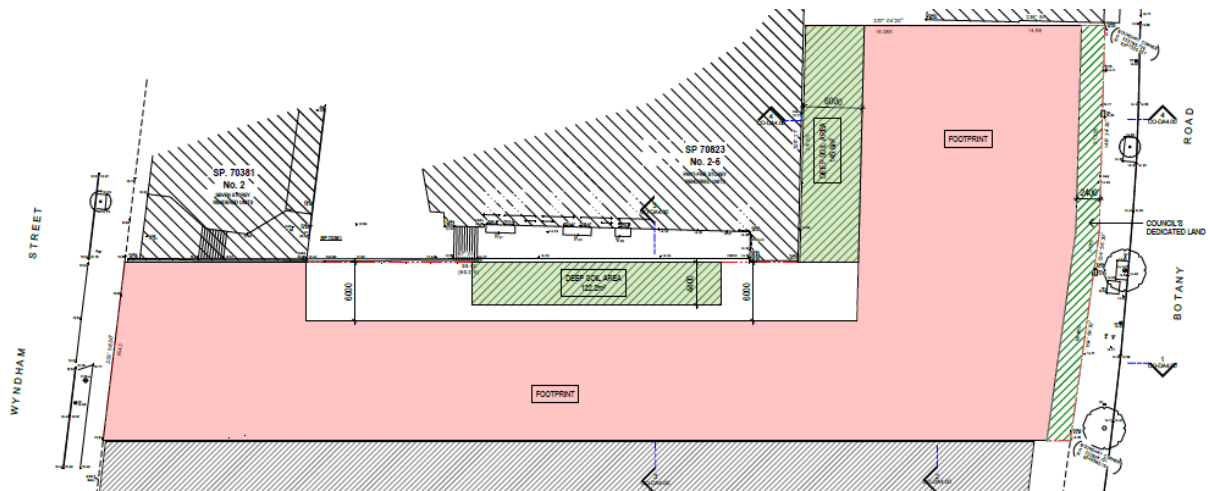


Figure 6: Concept floor plan (approx. 17m RL)

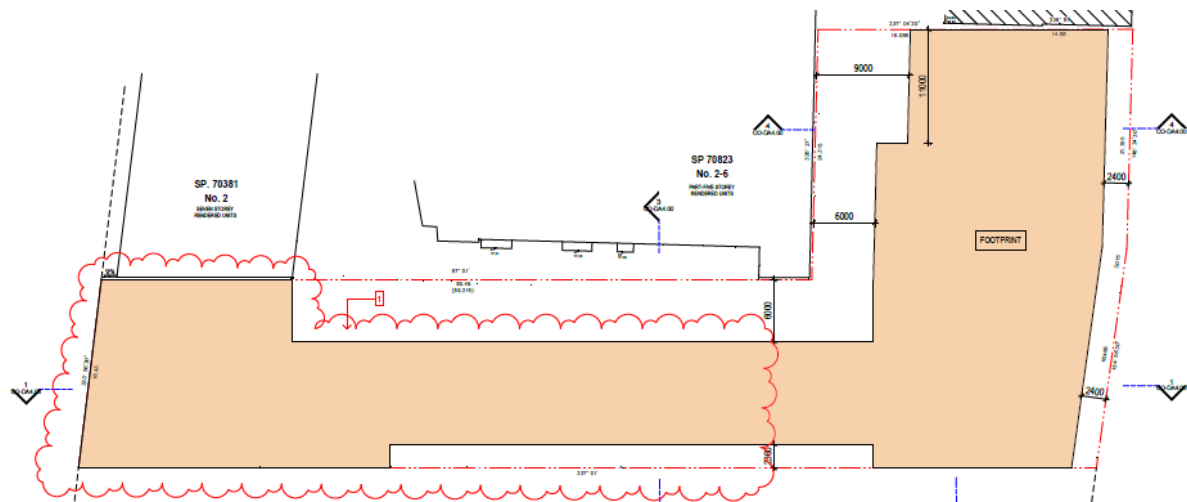


Figure 7: Concept floor plan (approx. 36m RL)

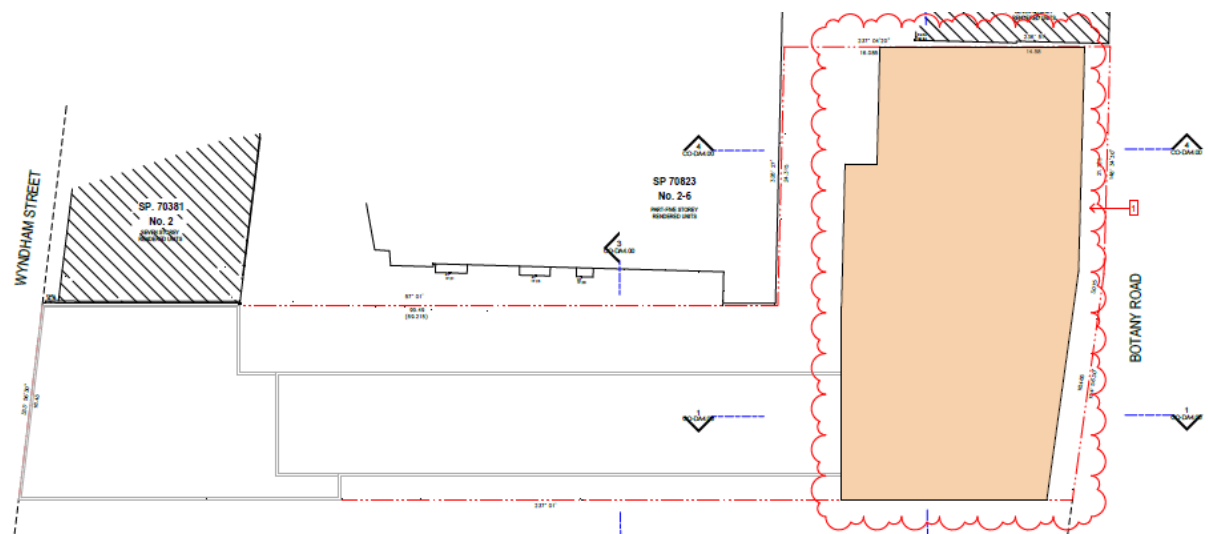


Figure 8: Concept floor plan (approx. 42m RL)

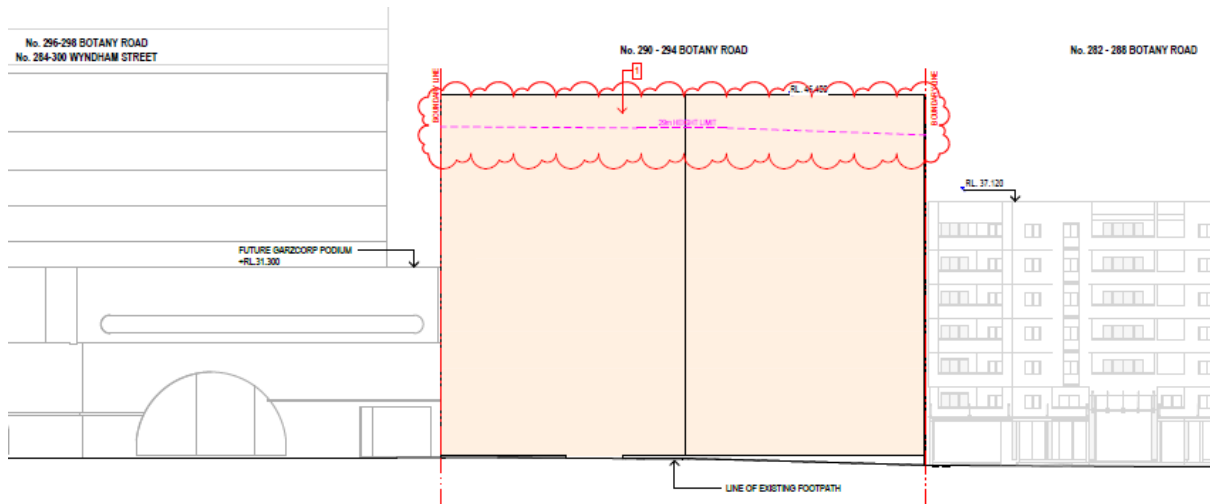


Figure 9: Concept elevation to Botany Road

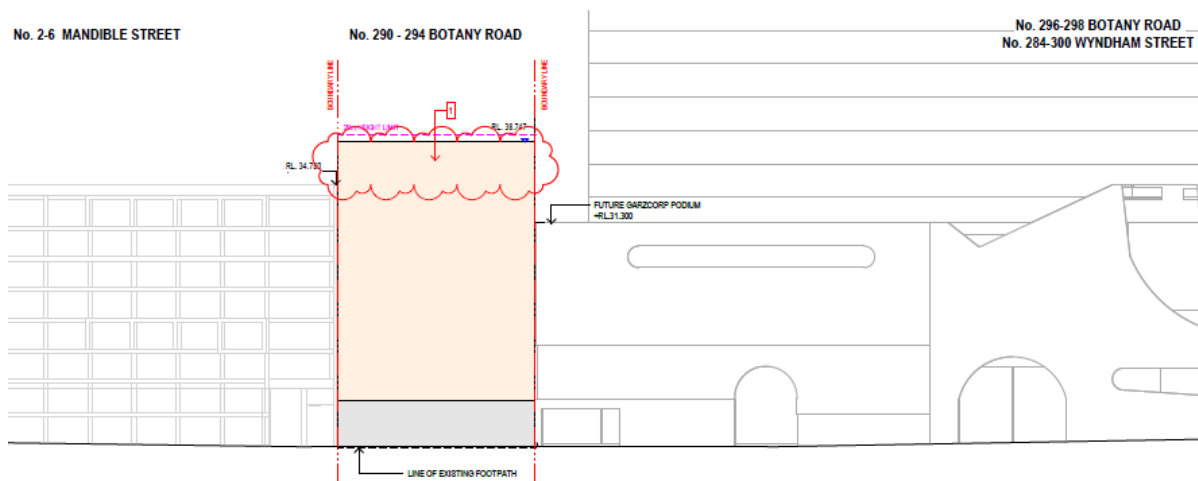


Figure 10: Concept Wyndham Street elevation

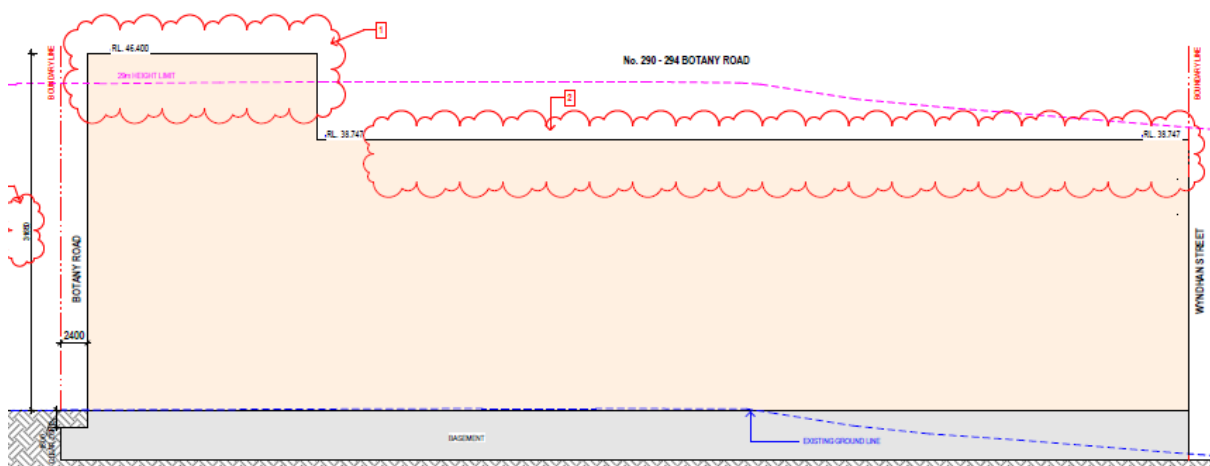


Figure 11: Concept long section



Figure 12: Photomontage of possible design, subject to competitive design process and detailed DA

Assessment

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

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 - Chapter 4 Remediation of land

18. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land 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.
19. Site investigations have identified the following contaminants as present on the site that are associated with fill (soil):
- three underground storage tanks (UST) in the west of the site
 - fill soil impacted by total polycyclic aromatic hydrocarbons (PAHs)
 - copper and zinc
 - groundwater impacted by zinc
20. A Remediation Action Plan (RAP) relating to the site, prepared by JK Environments, dated 30 January 2026 has been submitted with the development application.

21. The RAP proposes excavation and off-site disposal of contaminated fill/soil. This is considered appropriate on the basis that:
 - (a) The UST and associated infrastructure are within the proposed basement footprint and will need to be removed to construct the basement.
 - (b) The basement excavation will remove the majority of the soil from the site by default, including any localised contamination impacts around the UST and associated infrastructure.
22. The RAP concludes by stating that JK Environments are of the opinion that the site can be made suitable for the proposed residential and commercial use, provided that the RAP is implemented.
23. The Council's Environmental Health Officer has reviewed the information provided and has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
24. An amended Acid Sulfate Soils Management Plan has been submitted and has been assessed by the City's Environmental Health Unit to be satisfactory.
25. Council's Environmental Health Officer is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy (Housing) 2021

26. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.
27. Section 7.32 of the EP&A Act and states that where the consent authority is satisfied that the development meets certain criteria, and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
28. Clause 7.13 (Contribution for purpose of affordable housing) of the Sydney Local Environmental Plan 2012 allows for circumstances where an affordable housing contribution may be levied for development of land in the Southern Employment Lands
29. This matter is discussed in further detail under the heading Financial Contributions below.

Chapter 3 Diverse Housing

Part 3 Co-living Housing

30. Under Clause 1.9(2A) of the Sydney Local Environmental Plan 2012, the provisions of Chapter 3, Part 3 of the State Environmental Planning Policy (Housing) 2021 do not apply within the Green Square locality, where the subject site is located.

State Environmental Planning Policy (Sustainable Buildings) 2022

31. Any subsequent DA for the detailed design of the building will be required to satisfy the requirements of the SEPP (Sustainable Buildings) 2022, and the City's LEP and DCP provisions.

32. Conditions of consent are recommended to ensure that any subsequent Stage 2 detailed design DA will be accompanied by a valid BASIX certificate, NABERS certificate, Embodied Emissions form, in accordance with the provisions of the SEPP, and the City's Net Zero development controls.

State Environmental Planning Policy (Transport and Infrastructure) 2021

33. 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

34. The development involves penetration of ground within 2m of an underground electrical power line or an electricity distribution pole, as such the application was referred to Ausgrid for comment. Ausgrid has recommended conditions which have been included in the Notice of Determination.

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

Clause 2.99 – Excavation in, above, below or adjacent to rail corridors

35. The application is adjacent to the Green Square rail corridor and was subsequently referred to Transport for NSW (TfNSW) for comment. TfNSW have recommended conditions which are included in the Notice of Determination.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations

Clause 2.119 – Development with frontage to classified road

36. The application is subject to Clause 2.119 of the SEPP as the site has frontage to Botany Road which is a classified road.
37. The proposed development satisfies the provisions of Clause 2.119 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 2.120 – Impact of road noise or vibration on non-road development

38. The application is subject to Clause 2.120 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.
39. The application satisfies Clause 2.120 subject to conditions of consent and further detailed acoustic information to be provided as part of a detailed development application.

Local Environmental Plans

Sydney Local Environmental Plan 2012

40. 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 MU1 Mixed Use zone. The proposed development includes indicative retail and co-living uses, which are 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	No	A maximum building height of 29m is permitted. A height of 31.65m is proposed. The proposed development does not comply with the maximum height of buildings development standard. A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.
4.4 Floor space ratio	Able to comply	Clause 4.4 of the Sydney LEP 2012 stipulates a base floor space ratio of 2:1 for the site. Clause 6.14 of the Sydney LEP 2012 allows for additional 1.5:1 FSR where community infrastructure is provided. As part of the subject application, the landowner has made an offer to enter into a Planning Agreement with the City. The public benefit offer includes the dedication of 102.804sqm land with a value of \$20,560.00, public domain works with a value of \$96,118, and a monetary contribution of \$1,690,047

Provision	Compliance	Comment
		towards community infrastructure at Green Square. The documentation submitted by the applicant demonstrates that the proposed building envelope is able to accommodate 9,860sqm of gross floor area, which would equate to an FSR of 3.85:1. In order to achieve this FSR, the applicant is reliant on any future architectural design being awarded the entirety of the 10% design excellence floor space bonus under the provisions of clause 6.21 of the Sydney LEP 2012. A deferred commencement condition requiring the VPA to be exhibited, executed and registered on title has been recommended.
4.6 Exceptions to development standards	Yes	The proposed development seeks to vary the development standard prescribed under Clause 4.4. A Clause 4.6 variation request has been submitted with the application. See further details in the 'Discussion' section below.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Able to comply	Yudi Gunyi School, which is a locally listed heritage item under Sydney LEP 2012, is located opposite the site on Botany Road. It is visually and physically well separated from the subject site across a wide road. There are also large trees present that obscures the visibility of the school from Botany Road.
5.21 Flood planning	Yes	The site is subject to flood risks from Botany Road and Wyndham Street. The submitted Flood Assessment report demonstrates that the development is able to comply with the relevant flood planning requirements.

Provision	Compliance	Comment
		Further detailed design is required as part of any future detailed Development Application.

Part 6 Local Provisions - height and floor space

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.14	Yes	Clause 4.4 of Sydney LEP 2012 stipulates a base floor space ratio of 2:1 for the site. Clause 6.14 of the LEP 2012 allows for an additional 1.5:1 FSR where community infrastructure is provided. As part of the subject application, the landowner has made an offer to enter into a Planning Agreement with the City. The public benefit offer includes the dedication of 102.804sqm land with a value of \$20,560.00, public domain works with a value of \$96,118, and a monetary contribution of \$1,690,047 towards community infrastructure at Green Square. The documentation submitted by the applicant demonstrates that the proposed building envelope is able to accommodate up to 9,860sqm of gross floor area, which would equate to an FSR of 3.82:1. In order to achieve this FSR, the applicant is reliant on any future architectural design being awarded the entirety of the 10% design excellence floor space bonus under the provisions of clause 6.21 of the Sydney LEP 2012. A deferred commencement condition requiring the VPA to be exhibited, executed and registered on title has been recommended.

Provision	Compliance	Comment
Division 4 Design excellence		
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 scheme exhibiting design excellence at the detailed design DA stage. The concept envelope has been assessed against the relevant requirements of this clause including site suitability, proposed uses, bulk and massing, street frontage heights and other environmental impacts. The concept envelope demonstrates that a suitable detailed design can be accommodated on the site. Satisfaction of the design excellence requirements, including eligibility for the up to 10% additional floor space, will be considered in the assessment of the future detailed DA.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.7 Retail premises	Yes	A maximum of 1 car parking spaces is permitted in association with the proposed indicative retail use. The proposed development includes 0 car parking spaces for the indicative retail use and complies with the relevant development standards. The LEP does not currently specify a maximum number of car parking spaces for co-living use.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The eastern portion of the site to Botany Road is identified as containing class 5 acid sulfate soils. The western portion of

Provision	Compliance	Comment
		the site to Wyndham Street is identified as having class 3 acid sulfate soils. The indicative scheme includes excavation for basement carparking and is likely to expose acid sulfate soils. The Remedial Action Plan prepared by JK Environments, dated 30 January 2026, contains details of the extent of Acid Sulfate Soils within the site and provides recommendations. It is advised that Acid Sulfate Soils related risks on adjacent lands are unlikely to be exacerbated due to the proposed development. A detailed Acid Sulfate Soils Management Plan dated 14 May 2026 has been provided and is supported by the City's Environmental Health unit.
7.16 Airspace operations	Able to comply	The proposed development will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport. The site is located within an area defined in the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height without prior approval of the Civil Aviation Safety Authority. The height of the proposed development will breach this limit. An approval for the erection of the development to a maximum height of 46.4 metres AHD, being the height of the proposed building envelope, inclusive of all lift overruns, vents, chimneys, aerials, TV antennae, construction cranes was received on 30 March 2026, and updated approval was received on 18 August 2026.
7.23 Large retail development outside of Green Square Town Centre and other planned centres	Able to comply	The subject site is located on land identified as restricted retail development on the Retail Premises map. As such, development consent cannot be granted for shops or markets

Provision	Compliance	Comment
		with a gross floor area greater than 1000sqm. The proposed development includes indicative retail and commercial uses at the ground floor; however the quantum of gross floor area is not approved under this concept DA. Any subsequent future stage 2 DA will need to comply with the requirement.

Development Control Plans

Sydney Development Control Plan 2012

41. 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

42. The site is located within the Waterloo Park locality. The proposed development is in keeping with the unique character and the design principles of the locality as it will provide non-residential uses at ground level and an active frontage along Botany Road, as well as a 2.4m setback to Botany Road to improve the public domain.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements		
3.1.1.4 Footpaths	Yes	A 2.4m setback to enable footpath widening is being provided along Botany Road. The land is being dedicated to the City via the VPA. This is consistent with the Public Domain setbacks map in the Sydney DCP 2012. A basement is proposed to sit 1.5m below the land to be dedicated to the City. This is only considered acceptable in this instance as the narrow shape of the site constrains the ability to adequately service and provide bicycle and car parking facilities. Provision 3.11.5 (2) of the Sydney DCP 2012 provides that where site constraints result in a car park being located under a public street, only

Provision	Compliance	Comment
		common areas are permitted below (such as circulation space or unallocated parking) and the ownership of the street will be in stratum above the waterproofing membrane. These requirements are recommended as conditions on the concept development consent so that the requirements apply to the detailed DA.
3.1.2.2 Through-site link	Able to comply	The original proposal included a through-site link connecting Wyndham Street to Botany Road. The original public benefit offer also sought credit for an easement over the through site link. A through-site link is not identified for this site under SDCP provision 3.2.2.2(1). It is also not required under SDCP Provision 3.2.2.2(2) as the site is not greater than 5000sqm in area. The inclusion of a through-site link is not supported in this instance and is detailed in the "Discussion" section below.
3.1.5 Public Art	Able to comply	A preliminary public art strategy was submitted with the proposal. A condition is recommended requiring the development of a public art plan in accordance with the strategy and to meet the requirements of the City's Guidelines for Public Art.
3.2. Defining the Public Domain	Able to comply	The relationship between the public domain and the subject site will need to be further development as part of any subsequent future competitive design process and detailed DA.
3.2.3 Active frontages	Able to comply	Botany Road is required to have an active frontage. The indicative proposal includes retail premises on the Botany Road frontage. This provides an opportunity to activate the frontage.

Provision	Compliance	Comment
		A condition is recommended to ensure that this forms part of the design brief.
3.3 Design Excellence and Competitive Design Processes	Able to comply	A Design Excellence Strategy (DEX Strategy) has been submitted with the application, and which establishes a design excellence process for the development site. Conditions are recommended to approve the DEX Strategy and for design requirements to be incorporated into any future competitive design process brief. 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.
3.4 Hierarchy of Centres, City South	Able to comply	This is addressed above under section 7.23 above.
3.5 Urban Ecology	Able to comply	The development includes the removal of 1 x Weeping Bottlebrush tree and 1 x London Plane tree. The tree removal was referred to the City's Tree Management unit who raised no objections, due to the trees low retention values. Any subsequent future Stage 2 DA will require a detailed landscape plan which demonstrates that the development will provide the minimum 15% canopy cover across the site.
3.6 Ecologically Sustainable Development	Able to comply	An ESD report was submitted which outlines design initiative for consideration to reduce the environmental impact of the design, construction and operation of the development. The ESD target benchmarks have been incorporated into the DEX Strategy that is recommended for approval.

Provision	Compliance	Comment
3.7 Water and Flood Management	Able to comply	As part of the detailed DA, further details relating to stormwater management will need to be provided to ensure that the development meets the requirements of the City's flood planning controls. Refer to the discussion under section 5.21 above for further details.
3.8 Subdivision, Strata Subdivision and Consolidation	Not applicable	No subdivision is proposed as part of this application. Subdivision will be required to excise off the 2.4m parcel of land to be dedicated to the City. This will form part of any subsequent future detailed DA and conditions of that consent.
3.9 Heritage	Able to comply	Yudi Gunyi School, which is a locally listed heritage item under Sydney LEP 2012, is located opposite the site on Botany Road. It is visually and physically well separated from the subject site across a wide road. There are also large trees present that obscures the visibility of the school from Botany Road.
3.11 Transport and Parking	Able to comply	The proposed development was discussed with Council's transport team who raised no objections to the location of proposed vehicular access, car and bicycle rates, provision of on-site servicing, 2.4m public domain setback to Botany Road, or the pedestrian connection between Botany Road and Wyndham Street. As this is a stage 1 DA the vehicle and bicycle parking numbers will not be determined at this stage. Compliance with the controls will need to be addressed under any subsequent detailed stage 2 DA, and conditions relating to the requirements have been recommended.
3.12 Accessible Design	Able to comply	Conditions have been recommended for any subsequent DA for the detailed design of the building to provide appropriate access and facilities for

Provision	Compliance	Comment
		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. Further details are to be provided as part of any subsequent DA for the detailed design of the building.
3.14 Waste	Able to comply	Conditions have been recommended for any subsequent DA for the detailed design of the building to comply with the relevant provisions of City of Sydney Guidelines for Waste Management in New Development, including the provision of sufficient areas for waste storage.

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	The site is permitted a maximum building height of 9 storeys. The proposed reference scheme includes an indicative height of 9 storeys to Botany Road and 7 storeys to Wyndham Street. The site is not subject to a street frontage height control, and the envelope is compatible with the scale and form of adjacent buildings.
4.2.1.2 Floor to ceiling heights and floor to floor heights	Able to comply	The submitted reference design scheme indicates that a 4.5m floor to floor height at ground level, and 3.2m floor to floor heights above are possible for up to 9 storeys within the proposed building envelope.
4.2.2 Building setbacks	Able to comply	The proposed concept envelope and submitted reference design scheme

Provision	Compliance	Comment
		generally comply with the setback requirements. The proposed encroachment of the basement parking level is reasonable in this instance as outlined above.
4.2.3 Amenity		
4.2.3.1 Solar access	Able to comply	The proposed development retains compliant and reasonable solar access to the neighbouring approved mixed-use development at 284 Botany Road. The proposal provides meaningful and reasonable solar access to 3 aspects of the building and all rooms identified in the reference scheme. As such, it is considered that a detailed design is able to comply with the control.
4.2.3.3 Internal common areas	Able to comply	The common areas, corridors and lift lobbies have access to daylight and an outlook and contain the minimum 2m width in front of lifts in the reference scheme.
4.2.3.5 Landscaping	Able to comply	A detailed landscape design is required as part of any subsequent detailed DA.
4.2.3.6 Deep Soil	Partial compliance	The control requires 10% or 256.1sqm of deep soil to be provided, with a minimum dimension of 10m. The concept development provides a minimum of 268sqm of deep soil, with a minimum dimension of 4.4m and 6m over two zones. The non-compliance with the minimum dimension of the control is considered reasonable in this instance due to the constraints and layout of the site, and to provide a reasonable and usable basement level.
4.2.3.8 Common open space	Able to comply	The submitted reference scheme indicates that suitable common open space can be provided, subject to further design detail in any subsequent detailed

Provision	Compliance	Comment
		DA to ensure the provided common open space is of appropriate size and quality.
4.2.3.11 Acoustic privacy	Yes	An Environmental Noise and Natural Ventilation Report was submitted with the application. Council's Environmental Health unit raised no objections. Acoustic measures to noise-affected units will need to be demonstrated under the future detailed DA.
4.2.6 Waste and recycling Management	Able to comply	The submitted reference scheme has demonstrated that the development is able to comply with the City's waste requirements, including appropriate vehicle access, bin storage, and waste chutes.
4.2.7 Heating and cooling infrastructure	Able to comply	Any subsequent DA for the detailed design of the building will be assessed against the requirements of this control which encourage heating and cooling infrastructure to be consolidated into a centralised basement location near the street frontage.
4.2.8 Letterboxes	Able to comply	Any subsequent DA for the detailed design of the building will be assessed against the requirements of this control which require lockable mailboxes located close to the major street entry to the site.
4.2.9 Non-residential development in the B4 Mixed-Uses Zone	Able to comply	The proposed reference scheme includes indicative retail uses. The suitability of the proposed uses and any amenity impacts will be subject to assessment under future a development application for the uses.

4.4 Other Development Types and Uses

4.4.1 Boarding houses and student accommodation

43. The submitted reference scheme and DA documents have demonstrated that the development is able to comply with the controls of Part 4.4.1 of the DCP.
44. Further design details and information demonstrating compliance with the controls will be required and assessed as part of the future detailed DA.

Section 5 – Specific Areas - Green Square

Provision	Compliance	Comment
5.2.3 Community Infrastructure	Yes	A public benefit offer was submitted with the application to access the additional 1.5:1 community infrastructure floorspace. The offer will contribute to the delivery of community infrastructure for Green Square through the dedication of 2.4m of land along Botany Road for footpath widening, public domain works, and a monetary contribution.
5.2.7 Stormwater management and waterways	Able to comply	Refer to sections 5.21 Flood Planning and 3.7 Water and Flood Management above for further information.
5.2.9 Building design	Able to comply	The height of the building has been designed to relate to the hierarchy of surrounding development. The height of the proposed building will not have an adverse impact on significant views to the city skyline or other views. Aspects of the detailed building design, such as proposed materials, landscaping, building facades, and entrances, will be assessed under any subsequent design competition and detailed DA.
5.2.10 Setbacks	Yes	A 2.4m setback from the public domain is dedicated along the Botany Road site frontage.
5.2.11 Carparks under the public domain	Able to comply	The site includes a carpark under the public domain area required for dedication.

Provision	Compliance	Comment
		The indicative scheme shows parking spaces and storage cages within the area below the 2.4m dedicated public domain setback. The DCP stipulates that where site constraints result in a car park being located under a public street, only common areas are permitted below (such as circulation space or unallocated parking), and the ownership of the street will be in stratum above the waterproofing membrane. These requirements are recommended as conditions on the concept development consent so that the requirements apply to the detailed DA

Discussion

Clause 4.6 Request to Vary a Development Standard

45. The site is subject to a maximum Height of buildings control of 29m. The proposed development has a maximum building height of 31.65m, being a variation of 2.65m or 9%.

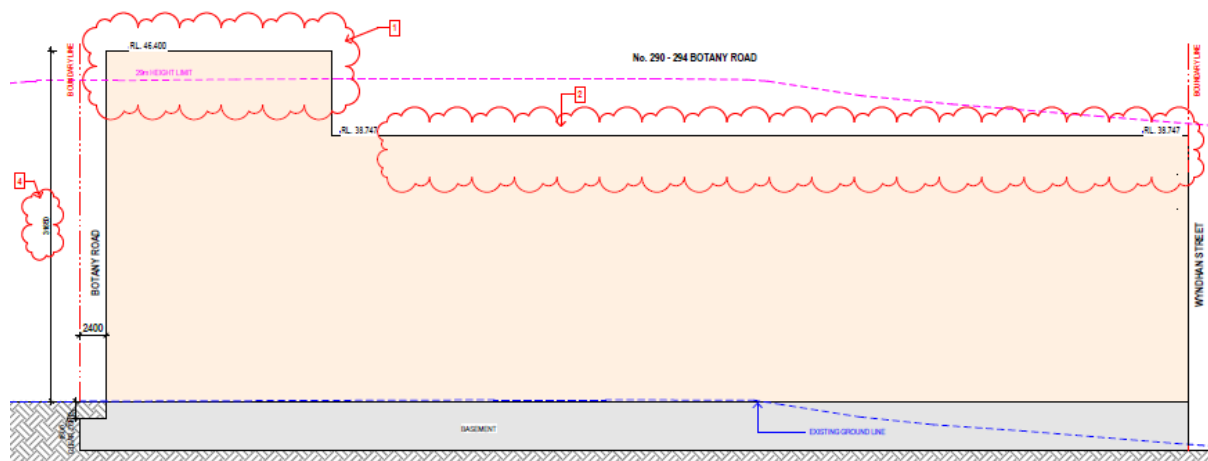


Figure 13: Concept envelope section identifying extent of Height of buildings variation to Botany Road

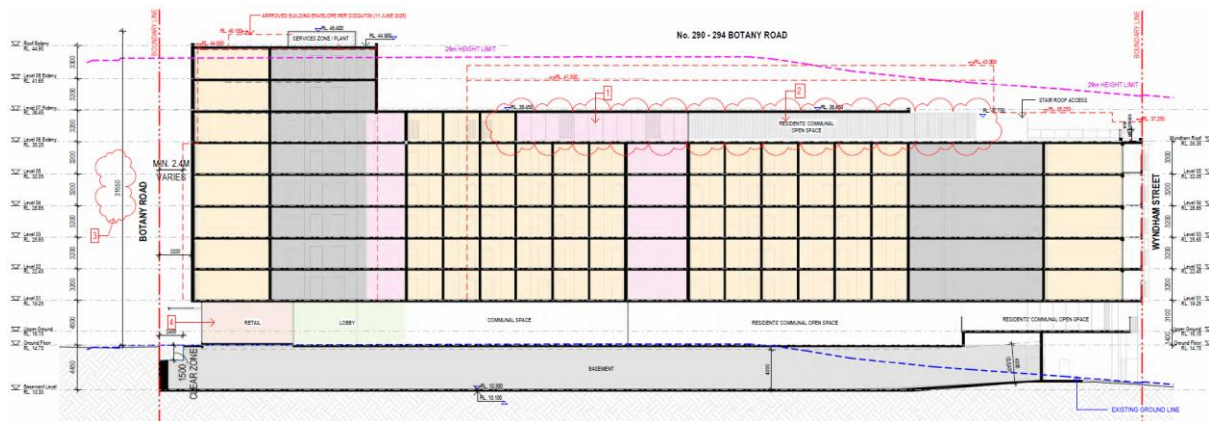


Figure 14: Reference design scheme section identifying extent of Height of buildings variation to Botany Road

46. Pursuant to the requirements of Regulation 35B of the Environmental Planning and Assessment Regulation 2021, the application has been accompanied by a document setting out the grounds on which the applicant seeks to demonstrate:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and
 - (b) that there are sufficient environmental planning grounds to justify contravening the standard.

Applicant's Regulation 35B document

47. The applicant seeks to justify the contravention of the Height of buildings development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) Notwithstanding the non-compliance with the applicable height development standard, the proposal achieves the desired medium density character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls.
 - (ii) The proposed mixed-use development has been carefully designed to provide a building height that is appropriate to the condition of this site and its context. The majority of this development is compliant with the LEP building height standard.
 - (iii) The proposed development is substantially shorter than towers A and B of the approved development at 269-298 Botany Road, and is comparable and slightly shorter than the adjacent tower C.

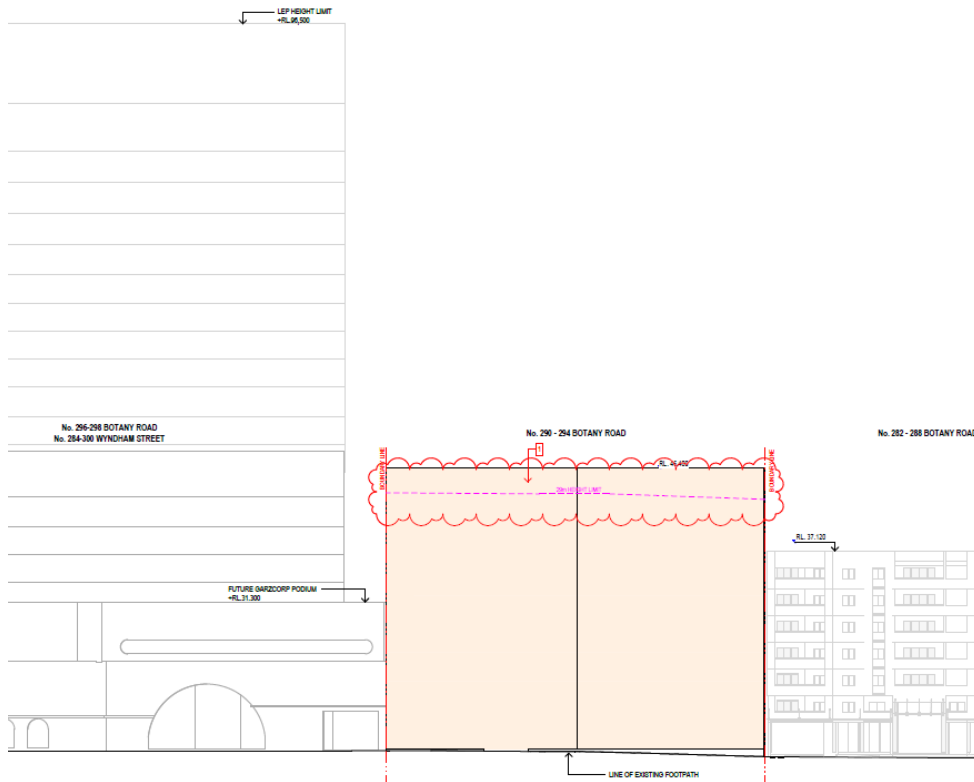


Figure 15: Concept envelope elevation comparing proposed development to neighbouring development

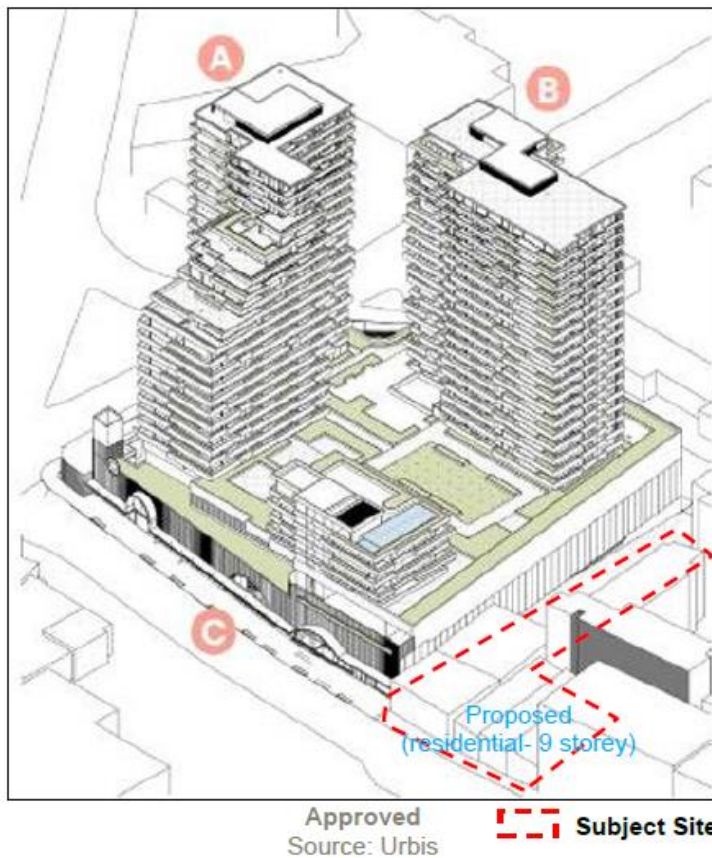


Figure 16: Approved form of 296-298 Botany Road

- (iv) The proposal has been designed with a stepped height and adequate setbacks, which is consistent with the existing and approved developments, and is appropriate to its context.
 - (v) The proposed building height provides an appropriate height transition between new development and heritage items and will significantly improve the streetscape when compared to the existing situation.
 - (vi) The solar access impacts of the development are minimal and unlikely to affect the amenity of the public domain.
- (b) That there are sufficient environmental planning grounds to justify contravention of the standard:

- (i) Consistency in the context is recognised as an environmental planning ground in *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097 where Commissioner O'Neill states at [42] that:

"I am satisfied that justifying the aspect of the development that contravenes the development standard as creating a consistent scale with neighbouring development can properly be described as an environmental planning ground within the meaning identified by His Honour in *Initial Action* [23], because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome (see s 1.3(g) of the EPA Act)."

The proposed development will remain compatible with the desired future character as it complies with the height limit for the entirety of the building envelope, with the exception for a small section of the envelope fronting Botany Road, intended for services.

The proposed development is substantially shorter than towers A and B of the approved development at 269-298 Botany Road, and is comparable and slightly shorter than the adjacent tower C.

The proposed building height aligns with the surrounding context and the desired future character of the area. Additionally, it provides an appropriate height transition from the Green Square Town Centre to the adjacent area and will significantly enhance the streetscape along both Botany Road and Wyndham Street.

- (ii) The proposed Concept Design has been carefully developed to maximise the allowable GFA (subject to a Competitive Design Process) while adhering to the building envelope controls set out in the LEP and DCP. However, site constraints, including the L-shaped configuration, make it challenging to fully achieve the maximum permissible GFA within the 29m building height standard under the LEP. Compliance with DCP setback controls and the ADG separation distance requirements, and the need to provide high-quality amenity, such as cross ventilation, solar access, and outdoor open spaces, further limits the potential for maximising GFA.

- (iii) In response to these constraints and following discussions with Council, the proposal has been refined to optimise the design by improving the built form, enhancing the internal layout and introducing a new level to Botany Road to achieve permissible GFA. These revisions aim to enhance the development's aesthetic appeal, strengthen its relationship with existing and approved neighbouring buildings, and provide better amenity outcomes for future occupants of the site. The proposed height variation has also been strategically designed to minimise visual bulk and scale while accommodating the additional GFA gained through the Competitive Design Process.

The majority of the proposed buildings comply with the height standard, with the non-compliance limited to the upper portion of the building envelope fronting Botany Road. This area is intended to be used for services which are essential for the efficient operation of the buildings and for ensuring high-quality amenity for future occupants.

Strict compliance with the height standard would compromise vertical circulation and internal accessibility, as the removal of service zones (including lift overruns, equipment rooms for air-conditioning units, and potential solar panels which can be accommodated within the service zone) would negatively impact functionality and occupant amenity. The proposed design represents a well-considered outcome with no unreasonable adverse impact on the amenity of adjoining properties.

It is noted that this area of the concept building envelope intended for service zones are reserved as the maximum required space for equipment storage in anticipation of the detailed design in Stage 2, but do not represent the actual utilised space. The final equipment layout may require less space, potentially reducing the height exceedance.

- (iv) The proposal complies with the FSR development standard, incorporating the additional floor space permitted under Clause 6.14 (Community Infrastructure Floor Space at Green Square) and Clause 6.21D (Competitive Design Process) of the LEP. The design competition process, which will take place before lodging the Stage 2 Detailed DA, enables the proposal to benefit from this additional floor space.

The building envelope has been thoughtfully configured to optimise the permitted GFA while maintaining compliance with the LEP and DCP. However, site constraints make it difficult to achieve the full GFA potential within the prescribed 29m building height limit. The proposed height variation has been carefully managed to balance design excellence with minimising visual bulk and scale while incorporating the additional floor space granted through the Competitive Design Process.

Enforcing strict adherence to the height standard would necessitate the removal of a significant portion of the uppermost level, directly impacting the feasibility of the additional GFA and ultimately contradicting the objectives of the Competitive Design Process.

- (v) Strict compliance would unreasonably impact the design integrity of the building and internal amenity for the future occupants of the site, without noticeably benefiting surrounding properties or the public domain. To achieve a fully compliant building height would require either reducing the compliant floor-to-ceiling heights and floor-to-floor heights, and removing the whole reserved service zones, which will result in a poor planning outcome.

Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

Precondition to granting consent where a development standard has been contravened

- 48. Development consent must not be granted unless the consent authority is satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.
- 49. The applicant has demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard for the following reasons:
 - (a) The applicant has demonstrated that, in the specific circumstances of this site and this proposal, strict compliance with the maximum height of 29 metres would be unreasonable and unnecessary.
 - (b) The assessment confirms that the objectives of Clause 4.3 are achieved notwithstanding the non-compliance. The proposed building height is appropriate to the site's context, which is characterised by transition in building densities towards Green Square. The proposed height contributes to a logical height transition from the Green Square Town Centre and is consistent with the emerging character envisaged for the locality.
 - (c) The variation does not result in an unacceptable built form outcome. The additional height does not give rise to excessive bulk or scale when viewed in the context of surrounding and approved developments. The built form has been carefully articulated through podium and tower massing, setbacks and facade articulation to reduce visual impact and protect amenity.
 - (d) Having regard to these matters and noting that strict compliance would constrain the design outcome and amenity to or number of dwellings without delivering a commensurate environmental benefit, compliance with the height of building development standard is unreasonable or unnecessary in the circumstances of the case.

Conclusion

- 50. For the reasons provided above the variation to the Height of buildings standard is supported as the applicant has demonstrated the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

Through-site link

51. The original proposal included a through-site link connecting Wyndham Street to Botany Road. The original public benefit offer also sought credit for an easement over the through site link.
52. A through-site link is not identified for this site under SDCP provision 3.2.2.2(1). It is also not required under SDCP Provision 3.2.2.2(2) as the site is not greater than 5000sqm in area.
53. Advice on the application was received from the City's Design Advisory Panel (DAP) who recommended the removal of the proposed through-site link due to a lack of notable benefit or amenity, and concerns regarding security and safety of residents.
54. The through-site link is not necessary to comply with any planning controls and provides no meaningful amenity or benefit in this instance. A condition is recommended requiring that the detailed design of the building not include a public through site link. Private pedestrian access to Wyndham Street and Botany Road for the users of the building may be provided, subject to appropriate Crime Prevention Through Environmental Design principles.

Consultation**Internal referrals**

55. The application was discussed with:
 - (a) Design Excellence
 - (b) Environmental Health
 - (c) Environmental Projects
 - (d) Heritage and Urban Design
 - (e) Landscaping
 - (f) Planning Agreements
 - (g) Public Art
 - (h) Public Domain
 - (i) Safe City
 - (j) Surveyors
 - (k) Transport and Access
 - (l) Tree Management
 - (m) Waste Management
56. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the recommended conditions of consent.

External referrals

Ausgrid

57. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
58. A response was received raising no objections to the proposed development.

Sydney Airport

59. 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.
60. 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 15.24 above existing ground level.
61. 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).
62. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, provided updated approval for the controlled activity on 18 August 2026.

Transport for NSW

63. Pursuant to Sections 2.48, 2.98, and 2.99 of the SEPP (Transport and infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for concurrence.
64. Concurrence was received on 23 March 2026. Conditions of consent were recommended which are included in the recommended conditions of consent.

Water NSW

65. Pursuant to Section 90(2) of the Water Management Act 2000, the application was referred to Water NSW as integrated development, in accordance with Section 4.47 of the EPA Act.
66. General Terms of Approval were issued by Water NSW on 19 March 2026 and have been included in the schedules within the recommended conditions of consent.

Notification

67. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 27 February 2026 and 23 March 2026. A total of 257 properties were notified and no submissions were received.

Financial contributions

Levy under Section 7.12 of the Environmental Planning and Assessment Regulation 2000

68. The Central Sydney Development Contributions Plan 2020 does not apply to the site.

Contribution under Section 7.11 of the EP&A Act 1979

69. Section 7.11 contributions will be imposed upon any consent granted to the subsequent DA for the detailed design and use of the building.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

70. The site is located within the Green Square affordable housing contribution area.
71. Section 7.32 of the Act outlines that the consent authority may grant consent to a development application subject to a condition requiring dedication of part of the land for the purpose of providing affordable housing, or payment of a monetary contribution to be used for the purpose of providing affordable housing where the section of the Act applies.
72. The Act applies with respect to a development application for consent to carry out development within an area if a State Environmental Planning Policy identifies that there is a need for affordable housing within the area. Clause 14 of the Housing SEPP identifies that there is a need for affordable housing within each area of the State.
73. An affordable housing condition may be reasonably imposed under Section 7.32(3) of the Act subject to consideration of the following:
- (a) the condition complies with all relevant requirements made by a State environmental planning policy with respect to the imposition of conditions under this section, and
 - (b) the condition is authorised to be imposed by a local environmental plan, and is in accordance with a scheme for dedications or contributions set out in or adopted by such a plan, and
 - (c) the condition requires a reasonable dedication or contribution, having regard to the following -
 - (i) any other dedication or contribution required to be made by the applicant under this section or section 7.11.
74. Any subsequent detailed DA will be assessed against the relevant jurisdictional prerequisites in Section 7.32(1) and 7.32(3) of the Act, and an affordable housing contribution may then be imposed upon that consent for the detailed design and use of the building.

Housing and Productivity Contribution

75. A Housing and Productivity Contribution will be imposed upon any consent granted to the subsequent DA for the detailed design and use of the building.

Relevant legislation

- 76. Environmental Planning and Assessment Act 1979.
- 77. Heritage Act 1977.

Conclusion

- 78. The application seeks consent for a concept building envelope for a mixed-use development including indicative retail, and co-living uses, vehicular access via Wyndham Street, basement parking, services, plant and storage, landscaping, and communal open space.
- 79. As an Integrated Development Application requiring approval under the Water Management Act 2000, the application, amendments and any submissions (nil) received were referred to Water NSW over the course of the assessment. On 19 March 2026 Water NSW issued its General Terms of Approval, and which have been included at Schedule 3 of the recommended conditions of consent at Attachment A to this report.
- 80. The draft VPA associated with the application will undergo a 28-day public exhibition period 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.
- 81. The proposal secures public benefits comprising land dedication for footpath widening, public domain works, and a payment of a monetary contribution towards community infrastructure in Green Square. The development is permissible with consent in the MU1 - Mixed-Use zone and is consistent with the objectives of the zone.
- 82. The concept proposal and Design Excellence Strategy establish a concept building envelope and suitable parameters for competitive design process. Subject to the recommended conditions, the proposed envelope is able to accommodate a detailed building design of an appropriate bulk and scale, that responds to the character of the area and which is capable of achieving design excellence.
- 83. A variation to the height standard pursuant to Clause 4.6 of the Sydney Local Environmental Plan 2012 is supported as the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify contravening the development standard.
- 84. It is recommended that deferred commencement development consent be granted subject to the recommended conditions requiring the VPA to be executed and registered on title prior to the consent becoming operative.

GRAHAM JAHN AM

Chief Planner / Executive Director City Planning, Development and Transport

Joel Stuart, Specialist Planner