

Item 12.**Development Application: 923-935 Bourke Street, Waterloo - D/2024/1208****File Number: D/2024/1208****Summary****Date of Submission:** 9 January 2025**Applicant:** Oliver McGeachie/ James Colling**Architect/Designer:** Bates Smart Architects**Developer:** Fabcot Pty Ltd**Owner:** Triton Atlas Corporation Pty Ltd**Planning Consultant:** Ethos Urban**DAP:** 28 November 2024**Cost of Works:** \$165,856,000

Zoning: The site is in the MU1 Mixed-Use Zone under Sydney Local Environmental Plan 2012. The proposal comprises a mixed-use development including residential, commercial, supermarket and retail premises, which are all permissible land uses within the zone.

Proposal Summary: Approval is sought for demolition of the existing building, excavation and redevelopment of the site for a part 6 and part 8 storey mixed-use building with 3 basement levels. The mixed-use development comprises a retail ground plane, below ground supermarket, employment space and residential (110 units) above. The proposal includes the provision of affordable housing units (15 units).

The proposal also seeks consent for the specific use of the supermarket (Woolworths) and new associated signage. The proposed hours of operation of the supermarket are between 6.00am and 12.00 midnight. The specific fit-out of the supermarket, retail and commercial premises will be the subject of future separate applications.

The application is for Integrated Development, requiring approval from Water NSW under the Water Management Act 2000. General Terms of Approval have been issued by Water NSW.

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

Voluntary Planning Agreement

A Voluntary Planning Agreement (VPA) was entered into between the Proponent and the City as part of the Planning Proposal. The VPA secured the delivery of onsite affordable housing, electric vehicle infrastructure and sustainability initiatives for energy, water and waste.

The proposed development seeks to enter into a second VPA to deliver community infrastructure at Green Square and includes the dedication of footpath widening along McEvoy and Bourke Streets as well as a publicly accessible through-site link.

The draft VPA is required to be publicly exhibited for 28 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979. The exhibition of the VPA has not yet commenced.

Competitive Design Process

A competitive design alternative process was held for the site in accordance with Clause 6.21D of Sydney Local Environmental Plan 2012.

The Bates Smart Architects scheme was selected as the preferred scheme. The proposed development is consistent with this scheme and the recommendations of the selection panel have been addressed in this report.

Notification

The proposal was notified for a period of 28 days between 17 January 2025 and 15 February 2025. As a result of the notification, eleven (11) individual submissions were received, of which eight (8) were in objection, one (1) was in support and two (2) submissions provided comments on the proposal. Submitters raised concerns in relation to:

- transport related issues including increased traffic density, insufficient number of residential parking, reduced availability of on street parking
- supermarket management, hours of operation, litter, trolley and loading dock management

- environmental impacts associated with increased density and visual impacts from surrounding developments
- construction noise and congestion
- light pollution
- placement of signage for people with an intellectual disability, low literacy and or mental health challenges.

Assessment

The Design Advisory Panel (DAP) reviewed the proposal on 28 November 2024 as part of the Pre-Development Application (pre-DA) process to streamline the assessment of the development.

Issues raised by council officers and the DAP from the pre-DA were considered in the documents submitted as part of the Development Application. The proposal was amended through the course of assessment to address design issues raised by DAP and council officers' comments on 21 March, 4 April and 7 May. The amended proposal adequately addresses the issues raised, as detailed in this report, subject to the recommended conditions of consent.

Two separate written requests pursuant to Clause 4.6 of the Sydney Local Environmental Plan 2012 have been submitted by the applicant to seek variations to the:

- (i) Floor Space Ratio development standard under Clause 4.4 of Sydney Local Environmental Plan 2012 (variation of FSR 0.11:1 or 4%); and
- (ii) Ceiling Height non-discretionary development standard under Clause 148 of the State Environmental Planning Policy (Housing) 2021, pertaining to the first floor of the Young Street terraces (variation of 0.3m) and level 1 units (variation of 0.6m within the mixed-use area).

These separate written requests adequately address the matters required to be demonstrated by Clause 4.6(3) of the Sydney Local Environmental Plan 2012 and demonstrate that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case notwithstanding the numerical non-compliance, and that there are sufficient planning grounds to justify departing from the development standards.

The proposed development is consistent with the design quality principles contained within the State Environmental Planning Policy (Housing) 2021, and the provisions within the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

The proposed development responds appropriately to the surrounding development and provides a built form that is consistent with the desired future character of the Waterloo Park locality, reflected by the general and site-specific development controls that apply to the site. The development achieves a high standard of architectural design that demonstrates design excellence in accordance with Clause 6.21C of the Sydney Local Environmental Plan 2012 and will contribute significant public benefits captured by the Planning Agreements.

Summary Recommendation: It is recommended that authority be delegated to the Chief Executive Officer to determine the application following consideration of additional groundwater testing and environmental reports, conclusion of the public exhibition of the VPA and consideration of any public submissions received in response. Consideration should be given to granting deferred commencement consent requiring the Voluntary Planning Agreement to be executed and registered on the title of the land, and a concept wastewater design to be approved in-principle by Sydney Water to protect Sydney Water assets prior to the consent becoming operative.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021
- (ii) Water Management Act 2000
- (iii) Sydney Water Act 1994
- (iv) Sydney Airport Referral Act 1996
- (v) State Environmental Planning Policy (Precincts - Central River City) 2021
- (vi) State Environmental Planning Policy (Resilience and Hazards) 2021
- (vii) State Environmental Planning Policy (Industry and Employment) 2021
- (viii) State Environmental Planning Policy (Transport and Infrastructure) 2021

- (ix) State Environmental Planning Policy (Biodiversity and Conservation) 2021
- (x) State Environmental Planning Policy (Housing) 2021
- (xi) Sydney Local Environmental Plan 2012
- (xii) Sydney Development Control Plan 2012
- (xiii) City of Sydney Interim Floodplain Management Policy 2012
- (xiv) City of Sydney Guidelines for Waste Management in New Developments
- (xv) City of Sydney Community Engagement Strategy and Community Participation Plan 2024
- (xvi) City of Sydney Development Contributions Plan 2015
- (xvii) City of Sydney Affordable Housing Program 2023

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Floor Space Ratio
- D. Clause 4.6 Variation Request - Floor to Ceiling Heights
- E. Competitive Design Alternatives Report
- F. Supermarket Plan of Management
- G. Environmentally Sustainable Development Report
- H. Submissions

Recommendation

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer to determine Development Application No. D/2024/1208 following:
 - (i) consideration of additional groundwater sampling within currently accessible soil areas, around retained street trees and future land to be dedicated to the City;
 - (ii) submission of a revised Remediation Action Plan outlining an appropriate remediation strategy, including details of any Long-term Environmental Management Plans to manage any residual soil contamination on site/contaminated ground water;
 - (iii) submission of a Section B Site Audit Statement prepared by a Site Auditor confirming the site is suitable or will be made suitable for the use upon the implementation of the Remediation Action Plan and, if required, any Long-Term Environmental Management Plans;
 - (iv) conclusion of the public exhibition of the VPA and consideration of any public submissions received in response;
- (B) the request made in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 to vary the floor space ratio development standard in Clause 4.4 be upheld;
- (C) the request made in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 to vary the ceiling height non-discretionary development standard under Clause 148 of the State Environmental Planning Policy (Housing) 2021 be upheld; and
- (D) if the Chief Executive Officer determines to approve Development Application No. D/2024/1208, then consideration be given to imposition 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 Central Sydney Planning Committee.

- (B) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney Local Environmental Plan 2012, that compliance with the floor space ratio development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.4 Floor Space Ratio of the Sydney Local Environmental Plan 2012.
 - (ii) the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney Local Environmental Plan 2012, that compliance with the Ceiling Heights non-discretionary development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 148 of the State Environmental Planning Policy (Housing) 2021 and Part 4C of the Apartment Design Guide.
- (C) The development is permissible with consent in the MU1 mixed-use zone and is consistent with the objectives of the zone.
- (D) The proposed development complies with the maximum height of buildings development standard contained in Clause 4.3 of Sydney Local Environmental Plan 2012.
- (E) The proposed development is consistent with the Voluntary Planning Agreement between The Council of the City of Sydney, Fabcot Pty Ltd, Triton Atlas Corporation Pty Ltd and The Owners Strata Plan No. 22322.
- (F) The proposed development is consistent with the design intent of the selected scheme of the competitive design alternatives processes for the site, held in accordance with the City of Sydney Competitive Design Policy.
- (G) The proposed development is consistent with the aims and objectives of relevant planning controls including the State Environmental Planning Policy (Housing) 2021, Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances or are resolved by the recommended conditions of consent.
- (H) The proposed development provides a positive contribution that is suitable in terms of its context, scale and building form which is consistent with the desired future character of the area. The proposed development exhibits design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21C of the Sydney Local Environmental Plan 2012.
- (I) The proposed development has a form, bulk and massing that is suitable for the site and its context and is appropriate in the setting of the Waterloo Park locality.

Background

The Site and Surrounding Development

1. The site has a legal description of Lots 1-3 SP22322, known as 923-935 Bourke Street Waterloo. The site is irregular in shape with a total area of 6,534sqm and a perpendicular average depth of 58m. It is bounded by McEvoy Street to the north, Bourke Street to the east, Young Street the west, and adjoins properties to the south. The allotment has significant street frontages, measuring approximately 62m to McEvoy Street, 108m to Bourke Street and 108m to Young Street. It has a relatively flat topography with a slight fall from north-east to south-west.
2. The site currently contains an existing two-storey building comprising a mix of commercial and light industrial tenants including a car showroom and commercial wholesalers. Vehicular access to the site is provided along Young Street. Numerous at-grade parking spaces supporting the existing occupants are accommodated along the Young Street frontage, accessible via two existing driveways positioned at the north and southern end of the site.
3. The site is encumbered by several Sydney Water assets including a trunk watermain, wastewater carrier and wastewater maintenance structures which run in a north-south direction across the western portion of the lot. There are no easements benefitting or burdening the lot.
4. The subject allotment is lined by numerous dense mature trees on the north, west and eastern frontages which are required to be preserved as part of the redevelopment of the site. McEvoy and Bourke Streets are identified as classified roads. The south-west corner of the northern neighbouring development at No. 903-921 Bourke Street is identified for acquisition by the relevant road authority (Transport for New South Wales) for future road widening of McEvoy Street.
5. The site is not identified as a heritage item, nor located within a heritage conservation area. It is however located in the vicinity of several local and State heritage items situated to the north and south-east of the site, the closest of which are located on the site to the north at 903-921 Bourke Street Waterloo, known as the 'Former Sydney Water pumping station and valve house interiors and associated underground pipework' (Local Item No. I2073) and underground Pressure Tunnel and Shafts (State Item No. 01630). Other local heritage items within the vicinity are the 'Commercial Building part of "Federation Business Centre (222 Young Street)" at 198-222 Young Street (Item No. I2103), 'Electrical substation including interior' at 241 Young Street (Item No. I2104), 'Federation warehouse with art deco additions' at 866-882 Bourke Street (I2072), and the 'Former "Chubb Pty Ltd" including interior' at 830-838 Elizabeth Street (I2082).
6. The subject property is situated within the Alexandra Canal floodplain and is identified as being flood affected in 1% Annual Exceedance Probability along Young and Bourke Streets.
7. The site has a high level of accessibility and is located within the broader Green Square Urban Renewal Area, approximately 800m to the north-east of the Green Square Train Station and Town Centre, as well as 900m north-west of the new Waterloo Metro Station. There is a bus stop located on the Bourke Street frontage which provides services to Green Square, Central and Redfern. It is also connected to an extensive cycleway network, with Bourke Street providing an off-road shared path along the site, which provides a connection through to the Sydney CBD.

8. The immediate context of the site is undergoing significant renewal, with the construction of several mixed-use developments currently underway. These developments include the Danks Street South Precinct to the north, Waterloo Estate (South) to the west, and Lachlan Precinct to the east.
9. To the north across McEvoy Street is the Danks Street South Precinct, which contains the redevelopment of the former Sydney Water site (at 903-921 Bourke Street), City West Housing site (at 895-899 and 901 Bourke Street), and the Coronation redevelopment (former Lawrence Dry Cleaning site) at 207-299 Young Street 881-885 and 887-893 Bourke Street. Works are soon to commence on the former Sydney Water site to construct six new mixed-used buildings containing 376 units above commercial uses and basement levels. On the Coronation site, concept approval was granted for a mixed-use building comprising several buildings up to a height of approximately 7 storeys, however, is now subject to a rezoning / State Significant Development application with the Department of Planning & Environment. A five-storey mixed-use building comprising 72 affordable housing apartments is near completion on the Citywest site.
10. On the opposite eastern side of Bourke Street, is the Lachlan Precinct (840 Bourke Street) which contains several large mixed-use developments containing residential apartments over commercial tenancies. The Lachlan Precinct (formerly industrial lands which have been redeveloped into a mixed-use precinct) comprise 6-12 storey buildings, set on either side of Archibald Avenue.
11. To the south and south-west of the site are 1-2 storey light industrial and retail showroom premises along Young and Powell Streets, within older brick and masonry buildings.
12. Directly to the west of the site across Young Street, is a contemporary 4-storey residential flat building fronting McEvoy and Hunter Streets (10-20 McEvoy Street).
13. To the south-west of the site, 242-258 Young Street is subject to a Planning Proposal seeking amendments to the Sydney LEP 2012 to enable construction of a K-12 independent school for 800 students, integrated film school and café. Gateway determination for the Planning Proposal issued by the Department of Planning, Housing and Infrastructure on 23 October 2024. The Planning Proposal was placed on public exhibition between 7 February 2025 to 7 March 2025.

14. A site visit was carried out on 17 February 2025. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



Figure 2: Site and surrounds (Source: Google Earth)



Figure 3: Site viewed from McEvoy Street



Figure 4: Site viewed from Bourke Street



Figure 5: Site viewed from McEvoy Street



Figure 6: Site viewed from Young Street

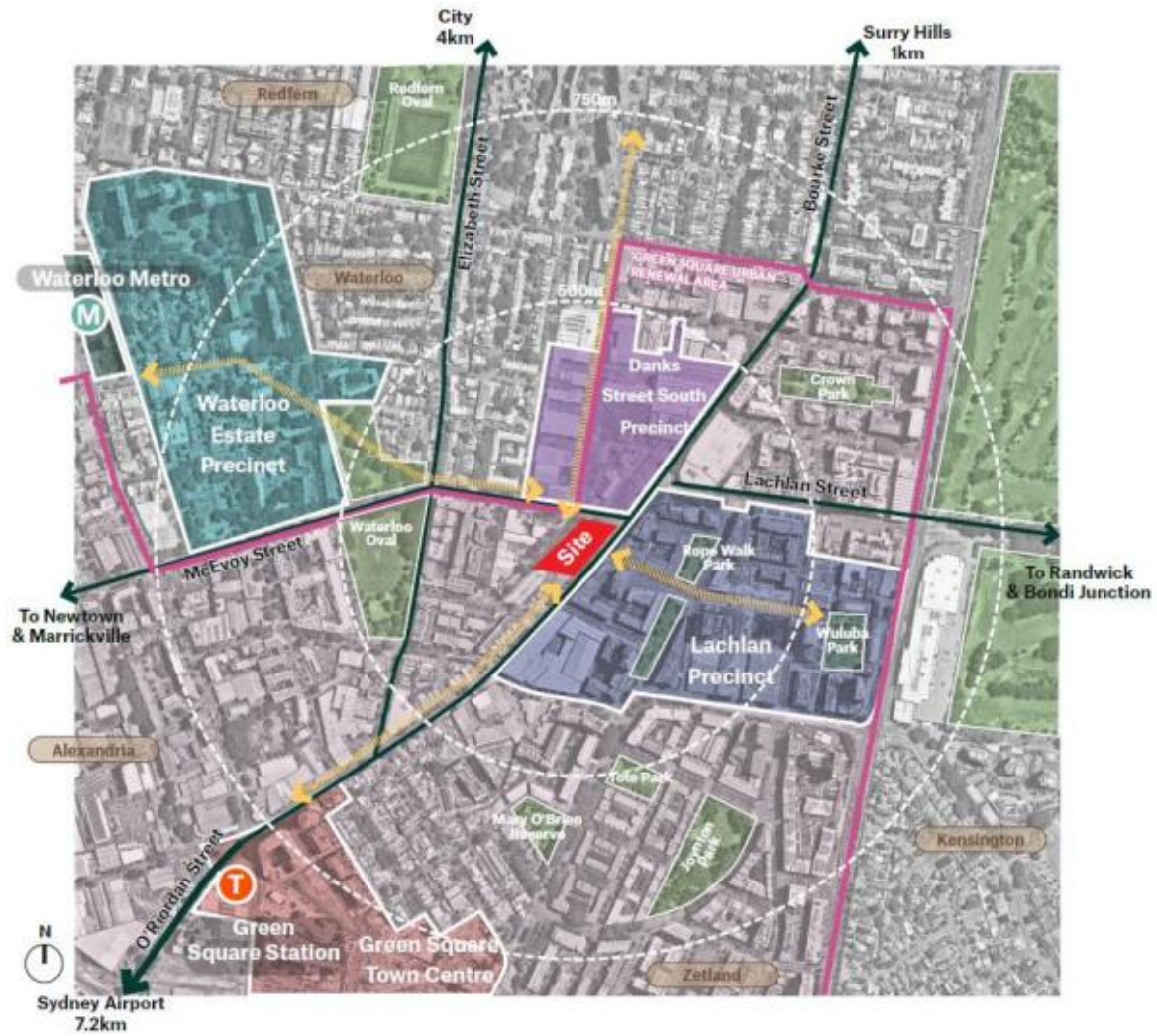


Figure 7: Site context (Source: Planning Proposal CSPC Report, 17 November 2022 and Bates Smart Urban Design Report)



Figure 8: Existing developments 941-953 and 937-939 Bourke Street to the south of the site



Figure 9: 903-921 Bourke Street Waterloo (former Sydney Water site to the north of McEvoy Street)



Figure 10: Photomontage of the future Danks Street South Precinct redevelopment, looking north from the site



Figure 11: City West Housing site at 895-899 and 901 Bourke Street



Figure 12: 830- 834 Bourke Street within the Lachlan Precinct to the east of the site



Figure 13: View facing east from the site to the mixed-use buildings within the Lachlan Precinct and Archibald Avenue



Figure 14: Existing residential flat building at No. 10-20 McEvoy Street to the west of the site

History Relevant to the Development Application

Site History

15. In 2012, the City introduced in its planning controls a hierarchy of centres with the Town Centre being established as the primary commercial, retail and civic centre. The hierarchy of centres stipulated in the planning controls only allow larger retail premises in the Town Centre and permits smaller retail tenancies outside of centres. These provisions ensure that major retail (specifically supermarkets), continue to locate in the Town Centre and other planned centres, as to support their viability and role as a place of economic and community focus.
16. As the site was not located in any planned centre in the City's planning controls, and as such restriction on the size of retail tenancies applied.
17. In late 2021, the City commissioned SGS Economics and Planning to undertake the Green Square and Southern Areas Retail Review (the Review). The objective of the review was to understand the changes to demand and supply of retail area since the planning requirements were introduced in 2012, and to recommend any required changes to planning controls to ensure the retail needs of the community were being met. The Review identified a net shortfall of about 9,000 square metres of supermarket floor space in the eastern parts of Waterloo, the Town Centre and North Alexandria areas, close to dense residential communities.

Planning Proposal and Voluntary Planning Agreement (VPA/2022/14)

18. In November 2021, the City received a request to amend the planning controls that apply to 923-935 Bourke Street, Waterloo.
19. A Planning Proposal was prepared to enable the redevelopment of the site for a mixed-use development comprising residential, commercial and retail uses, including a large format supermarket below ground level. The Planning Proposal sought to amend the controls to allow for a supermarket of up to 3,200sqm to be provided on the site. This was consistent with the Review, which identified an undersupply of supermarket floor space in Waterloo.
20. The Planning Proposal included the following amendments to the Sydney Local Environmental Plan 2012 (LEP 2012) and associated introduction of a site-specific provision in the Sydney Development Control Plan 2012 (DCP 2012):
 - (a) increased maximum permissible building height to facilitate a development of 5 to 7 storeys
 - (b) an additional 0.5:1 floor space ratio, but only where a supermarket is provided below ground level
 - (c) enables the application of the maximum car parking rate for the supermarket to mitigate impacts on the surrounding road network
 - (d) ensures a high environmentally sustainable development, through energy, water and waste targets including electric vehicle charging
 - (e) applies landscape and public domain setbacks to protect existing high and medium value trees forming the existing mature canopy around the site
 - (f) increase affordable housing provision.
21. An indicative reference scheme was prepared by Bates Smart Architects as part of the proposal to test, at a concept level, that a development can be provided within the proposed controls while achieve the requirements of other existing planning controls and the Apartment Design Guide (ADG).
22. The reference scheme urban design study tested building heights of up to 5-storeys along Bourke Street, 7-storeys along Young Street and 6-storeys along McEvoy Street.
23. The scheme included a supermarket within the below ground level (3,200sqm), commercial development on the north-west corner (2,025sqm), specialty fine grain retail and commercial uses at ground (1,670sqm) with residential apartments above (10,680sqm, approximately 121 dwellings). The full line supermarket was proposed to be located below ground to reduce overall bulk and scale, as well as enable activation to street frontages with smaller retail tenancies at the ground plane. Loading and servicing facilities were included at ground level via Bourke Street to support medium and heavy ridged vehicles, with an additional car parking access from Young Street.



Figure 15: Indicative Reference Scheme - Ground Floor Plan, Bates Smart Urban Design Report

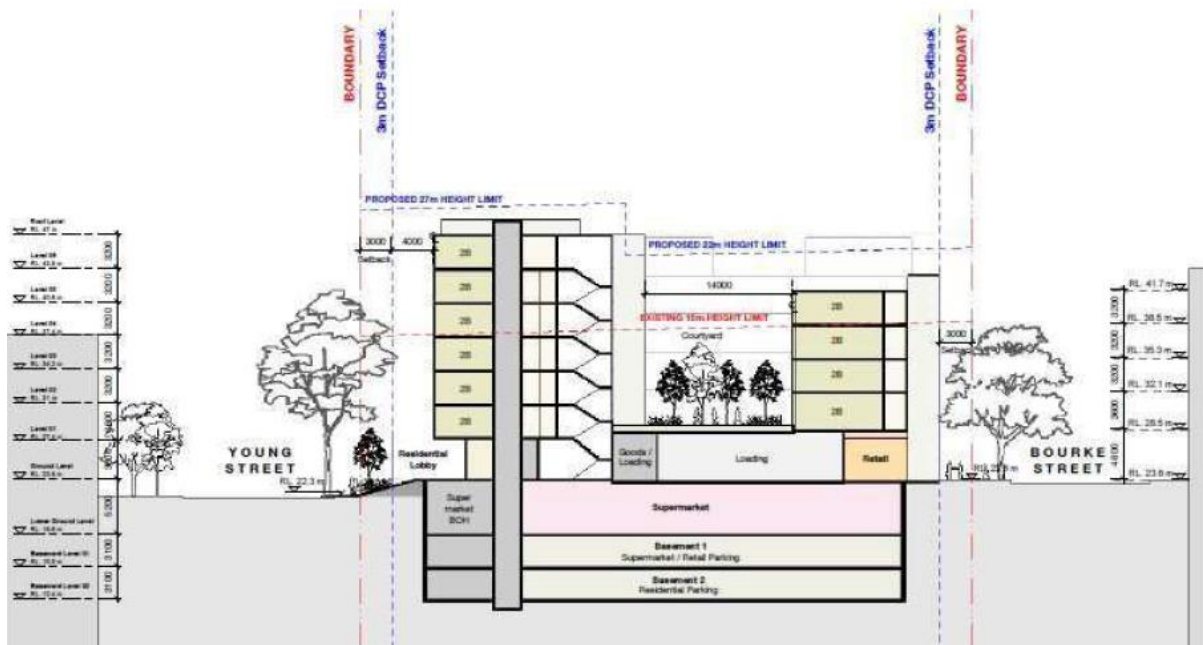


Figure 16: Indicative Reference Scheme - East-west Section, Bates Smart Urban Design Report



Figure 17: Indicative Reference Scheme - McEvoy Street elevation, Bates Smart Urban Design Report



Figure 18: Indicative Reference Scheme view facing south-east from the corner of Young and McEvoy Streets, Bates Smart Urban Design Report



Figure 19: Indicative Reference Scheme view facing west from Bourke Street, Bates Smart Urban Design Report

24. On 11 November 2022, in conjunction with the Planning Proposal, the City received a public benefit offer letter from Fabcot Pty Ltd (Woolworths Property Group) offering to enter into a Planning Agreement. The letter of offer included a commitment to:
 - (a) implement in the development sustainability targets and measures consistent with the City's Net Zero Energy provisions;
 - (b) provide electric vehicle charging infrastructure; and
 - (c) deliver onsite affordable housing.
25. On 17 November 2022, Council approved the Planning Proposal for submission to the Department of Planning and Environment with a request for Gateway Determination. Council further resolved to delegate authority to the CEO to prepare a draft Planning Agreement in accordance with the public benefit offer letter. Gateway determination of the Planning Proposal was granted by the Department of Planning and Environment on 31 January 2023. The proposed amendments to the LEP 2012 were publicly exhibited for a period of six weeks from 12 April to 24 May 2023, with notification letters sent to landowners and occupants of the surrounding properties.
26. On 31 March 2023, the draft Voluntary Planning Agreement (VPA) was approved by the CEO and exhibited for 28 days.
27. Following the exhibition period of the Planning Proposal and consideration of submissions received, minor amendments were recommended to the draft site-specific control in the LEP (Clause 7.35) and DCP to provide further guidance on access arrangements, active frontages, retention of trees and the residential development to the north-east corner of the site (within the Lachlan Precinct). The Planning Proposal (as amended following public exhibition) was later approved by the CSPC on 17 August 2023, subject to the execution of the draft VPA.

28. On 18 January 2024, the City executed the VPA with the developer (VPA/2022/14).
29. On 22 March 2024, the Planning Proposal was formally gazetted and the amended Sydney LEP 2012 and Sydney DCP 2012 controls came into force.
30. A detailed assessment of compliance against the site-specific controls is provided within this report.

Competitive Design Alternatives Process

31. An invited competitive design alternatives process is required to be undertaken for the development site pursuant to Section 6.3.27.5 of Sydney DCP 2012.
32. A competitive alternatives competition was held for the site between 11 March and 1 May 2024. Four architectural firms were invited to participate in the competition:
 - Bates Smart
 - Furtado Sullivan
 - Koichi Takada
 - SJB Architects
33. The Bates Smart scheme was selected as the preferred scheme of the competition for its resolved architectural design and place-making identity, with holistic consideration of the Waterloo context. The scheme was considered capable of achieving design excellence by the Jury, due to its resolution in building forms that optimised solar access, integration with tree protection constraints, logical and function public domain with an open space and commercial-retail relationship.



Figure 20: Photomontage from the Competitive Design Alternatives Report - McEvoy Street Frontage, Bates Smart



Figure 21: Photomontage from the Competitive Design Alternatives Report - Young Street Frontage, Bates Smart

34. Several matters were identified by the Selection Panel for the design development phase of the selected scheme. A summary of these matters is provided below:
- (a) Refinement of the built form to improve ecologically sustainable development, in relation to the extent of glazing, solid to void ratio and performance of the façade.
 - (b) Optimise the function of the ground floor retail tenancies with the ground plane and ground level entry experience of the supermarket, and architectural clarity for the kiosk to balance acoustic protection and invite visitation at the McEvoy Street frontage.
 - (c) Further resolution of the loading dock and 'Direct to Boot'.
 - (d) Refinement of the façade and materials, such as brick type, plenum requirements, internal brick treatment of the plenum void element, and resolution of ongoing maintenance of façade planting.
 - (e) Activation of the laneway, operation and interaction of the retail, public art, residential lobby and mezzanine access, including the consideration of a street-address entry to the southern residential apartments.
35. The above matters have been further developed and addressed in the subject application. Refer to details under the Discussion heading below.

Pre-Development Application - PDA/2024/210

36. A pre-Development Application (pre-DA) request was received on 9 October 2024 for the subject mixed-use development. The pre-DA sought feedback on the proposed variations to building height and Floor Space Ratio (FSR), tree retention, setbacks, Young Street site access, acoustic strategy, affordable housing, waste collection strategy and response to the laneway.

37. Several meetings between council officers and the applicant were held on 30 September, 16 October and 12 November 2024. Preliminary feedback on the proposed tree retention, waste collection strategy, acoustic strategy and setbacks of the built form was provided:
- (a) The applicant was advised tree root investigations would be required in relation to trees 4 -7, 25 and 26 to provide detailed information on the extent of the tree root system adjacent to the proposed vehicular entry driveways.
 - (b) The design of the dual chute system, loading dock and waste storage areas. The dual chute design should not be accessible to residents, loading dock area to accommodate a 10.6m residential waste collection vehicle, and waste storage areas to be increased to incorporate sufficient area for manoeuvrability of bins.
 - (c) Further investigation was recommended on the proposed acoustic strategy that comprised the use of plenums (along the Bourke Street frontage) and wintergardens (at the south-east corner of the site on Bourke Street and northern elevation along McEvoy Street). The proposed exceedance in FSR resulting from wintergardens is not supported.
 - (d) The varied landscape setback along the Young Street frontage is supported in-principle, subject to the retention of trees which are required to be retained.
38. On 13 November 2024, a further meeting was held with the applicant and Council's Executive Director City Planning, Development & Transport. A summary of the matters discussed at the meeting is provided below. It was also recommended that the proposal be reviewed by the City's Design Advisory Panel (DAP) at the pre-DA stage (rather than DA stage) to accelerate the assessment of application.
- (a) Architectural expression, facade glazing and passive shading. Passive shading and sun protection is to be incorporated into the façade, with the capability to adjust shading devices for summer sun and off seasons. The proposal could incorporate tinted, coloured, translucent/opaque or reeded glass.
 - (b) Landscaped communal rooftops should be a native garden and social space, as well as a lush environment for building occupants.
 - (c) Proximity of Young and Bourke Street apartments, and relationship between the commercial building. The landscape design is to create a sense of privacy and prevent cross-views across apartments and mixed uses.
 - (d) Interface of the ground level Young Street apartments with the pedestrian footpath to balance privacy and streetscape activation.
 - (e) Proposed wintergardens contribute towards the proposed exceedance in FSR and should be removed. Alternate options are to be explored to achieve the required acoustic levels for living rooms.

Design Advisory Panel

39. A revised pre-DA scheme was presented to the DAP on 28 November 2024. The revised scheme included adjustments to the acoustic strategy (replacement of the wintergardens with a low-height operable sash window with a timber batten soffit to balconies) and incorporation of passive shading canopies to the Young Street (western) facade. The above design issues were discussed at the meeting on 13 November 2024 was presented to the DAP.

40. The DAP supported the recommendations made by the Design Competition Jury and council officers. The applicant's revised acoustic strategy was also supported from a design perspective. The recommendations made by the DAP is summarised as follows:
- (a) Further architectural refinement of the commercial building and relationship to the residential buildings on Bourke and Young Streets
 - (b) The materiality of the façade is to include canopy blinds that operate outwards, in particular on north-west facing residential units.
 - (c) Consider pedestrian desire lines on the ground plane and through-site links.
 - (d) Further design development on the interface between public and private open space areas, as well as privacy across the courtyard of the Bourke and Young Street buildings.
 - (e) Refine the depth of the deep soil to support tree retention.
41. The proposal has been amended through the course of assessment to address the above recommendations. Refer to details under the 'Amendments' heading below.

Compliance Action

42. The site is not subject to any ongoing compliance actions.

Amendments

43. Following a preliminary assessment of the proposed development by council officers, a request for additional information and amendments was sent to the applicant on 4 March 2024 to seek:
- (a) Design Amendments in relation to the building façades, passive shading, basement setbacks, interface of the Young Street terraces with the public domain, separation between proximate units across the podium (within the Bourke and Young Street buildings):
 - (i) Reduce reliance on high performance glazing through incorporation of passive shading to the north and west façades, increase the solid to void ratio on the Bourke Street elevation
 - (ii) Demonstrate how privacy is achieved between the Young Street and the public domain, showing the detailed design of the palisade fence and bin storage areas. A minimum internal floor to ceiling height of 2.4m is to be achieved
 - (iii) Mirror the orientation of units Nos. Y01.08 and B01.08 stacked across levels 1 to 5, to improve visual privacy and separation distances
 - (iv) Increase the setbacks of the basement levels to remove encumbrances under the proposed widened footpaths along Bourke and McEvoy Streets
 - (b) Voluntary Planning Agreement, clarification on the land to be dedicated to the City, if an easement for public access with an associated positive covenant is proposed, and calculation of community infrastructure contribution

- (c) Detailed Environmental Site Investigation, Remediation Action Plan in relation to land contamination
 - (d) Revised Design Environmental Performance Report to demonstrate full compliance with the requirements of the VPA in relation to EV Charging and energy commitments
 - (e) General coordination of the architectural plans with supporting documents including traffic report, waste management plan, landscape report and landscape plans. Provision of additional landscape drawings including details confirming soil depth to support proposed tree planting
 - (f) Further refinement of the vehicular crossovers and egress points on Young Street to minimise conflicts with pedestrians, allow sufficient vertical clearance for entry into the basement levels, truck access and servicing of the substation located in the through-site link
 - (g) Provision of a draft Loading Dock Management Plan to demonstrate how servicing for all retail, commercial and residential uses will be organised, and ensure there will be no queueing along Bourke Street
 - (h) Survey, Wind Report, Reflectivity Report, Civil plans, BASIX Certificate, Preliminary Public Art Plan and Signage Strategy
44. The applicant partially responded to the request on 31 March and 2 April 2025. The partial submission included amended plans, revised public benefit offer, revised landscape drawings, an addendum traffic assessment and draft loading dock plan. The following amendments were made to the proposed design:
- (a) energy reduction through increased solid to void ratio and passive shading to the commercial building facades and canopy blinds to the residential building
 - (b) mirroring of units Y1.08 (stacked) to improve visual privacy and separation between proximate units
 - (c) revised basement design with increased setbacks (reducing encroachments into future land to be dedicated to the City)
 - (d) refinement of the interface between the public domain and the Young Street terraces to balance visual privacy for occupants and streetscape activation to the public domain
 - (e) further refinement of vehicular egress on Young Street and egress for service vehicles to the through-site link
45. The remaining outstanding documents were received on 21 May, with the exception of the Detailed Site Investigation, updated Remediation Action Plan and Interim Audit Advice.
46. The assessment provided in this report is based on the amended application received on 31 March, 2 April, 7 May and 21 May outlined above.

Proposed Development

47. The application seeks consent for the following:

- (a) Demolition of all existing on-site structures.
- (b) Site remediation and excavation to a depth of approximately 12m (RL 11.9m).
- (c) Construction of a part 6-storey and part 8-storey mixed-use building (with a maximum height of RL 49.57) with three (3) basement levels:
 - (i) 110 residential apartments, of which 15 are proposed as affordable housing (total residential gross floor area of 11,507.8sqm) comprising:
 - (i) 21 x 1-bed units (including 6 affordable housing units)
 - (ii) 68 x 2-bed units (including 8 affordable housing units)
 - (iii) 21 x 3-bed units (including 1 affordable housing unit)
 - (ii) Commercial and retail premises (total gross floor area of 6,849sqm) comprising:
 - (i) Woolworths supermarket (3,200sqm)
 - (ii) Retail premises (1,584sqm)
 - (iii) Commercial premises (2,065sqm)
 - (iii) 3 basement levels comprising a supermarket at basement level 1 and two car parking levels (total of 224 car parking spaces).
 - (iv) Ground floor loading dock, plant and turntable accessed via Bourke Street, Woolworths Direct-to-Boot pick up facility with 6 spaces accessed via Young Street.
 - (v) Mezzanine level with bicycle parking, end of trip and bin store facilities.
 - (vi) Stratum subdivision of the commercial, retail and residential components.
 - (vii) Public domain and landscaping works including:
 - (i) A new public plaza and through-site pedestrian link connecting Bourke Street to Young Street and McEvoy Street.
 - (ii) Footpath and landscape widening and upgrades to the street frontages.
 - (iii) Tree removal, protection and new planting landscaping works.
 - (viii) New signage including:
 - (i) Two (2) x building identification signs along the McEvoy and Bourke Street frontage.
 - (ii) Four (4) x lobby identification signs.
 - (iii) Six (6) x Young Street terrace entry signage
 - (iv) Six (6) x illuminated business identification signs for Woolworths.
 - (v) Fourteen (14) x retail premises identification signs
 - (vi) Eight (8) x directional and wayfinding signs associated with direct to boot, car parking, loading dock and through-site link signage.

48. Second Voluntary Planning Agreement (VPA/2024/11)
- (a) The proposed development includes a letter of offer to enter a second Planning Agreement to deliver community infrastructure at Green Square. The second VPA seeks to dedicate the following land to the City:
 - (i) 6m wide through-site link along the southern boundary of the site;
 - (ii) 2.4m wide footpath along McEvoy Street; and
 - (iii) 3m wide footpath along Bourke Street.
49. Supermarket Operational Management
- (a) Proposed trading hours of 6.00am to 12.00am, Monday to Sundays inclusive.
 - (b) Deliveries between 6.00am to 8.00pm, Mondays to Sundays inclusive, with exceptional out-of-hours deliveries subject to approval from the building manager.
 - (c) The proposal includes an active management process in relation to the management of supermarket trolleys which includes training staff, staff surveillance, employees/contractors actively collecting unused trolleys on and off the premises, signage, and providing a phone number for the public to contact should trolleys be identified off the premises. Woolworths will collect the trolleys and bring them back to the premises.
 - (d) Supermarket waste collection will be undertaken by private contractor, three (3) times a week.
50. The fit-out and specific use of the ground floor retail tenancies and commercial premises is not sought and will be subject of a separate application.
51. Photomontages and selected floor plans of the development are provided below. Additional drawings are included in Attachment B.



Figure 22: Proposed Photomontage - view from McEvoy Street looking into the retail courtyard



Figure 23: Proposed Photomontage - view from Bourke Street showing commercial building at the north-east corner of the site



Figure 24: Proposed Photomontage - view from Young Street showing terraces



Figure 25: Proposed photomontage of the communal open space area on level 1 and ground retail plaza below through the open void



Figure 26: Proposed perspective

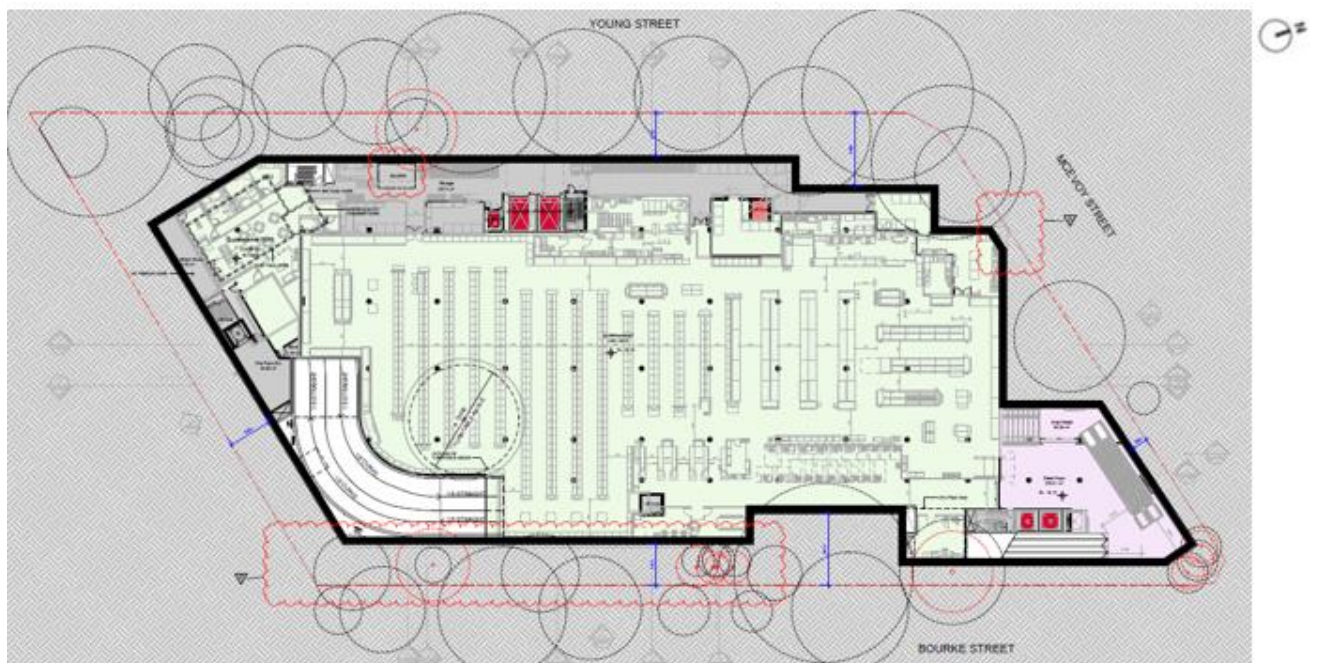


Figure 27: Proposed Lower Ground Plan (supermarket)

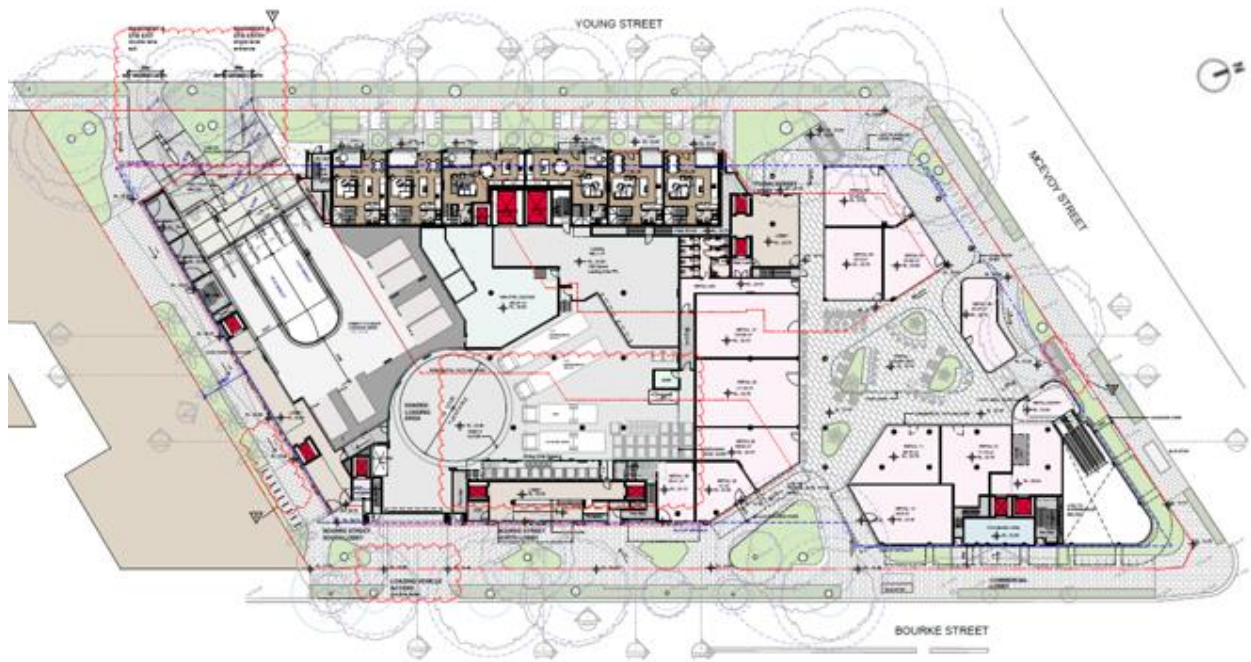


Figure 28: Proposed Ground Floor Plan



Figure 29: Proposed Mezzanine Floor Plan

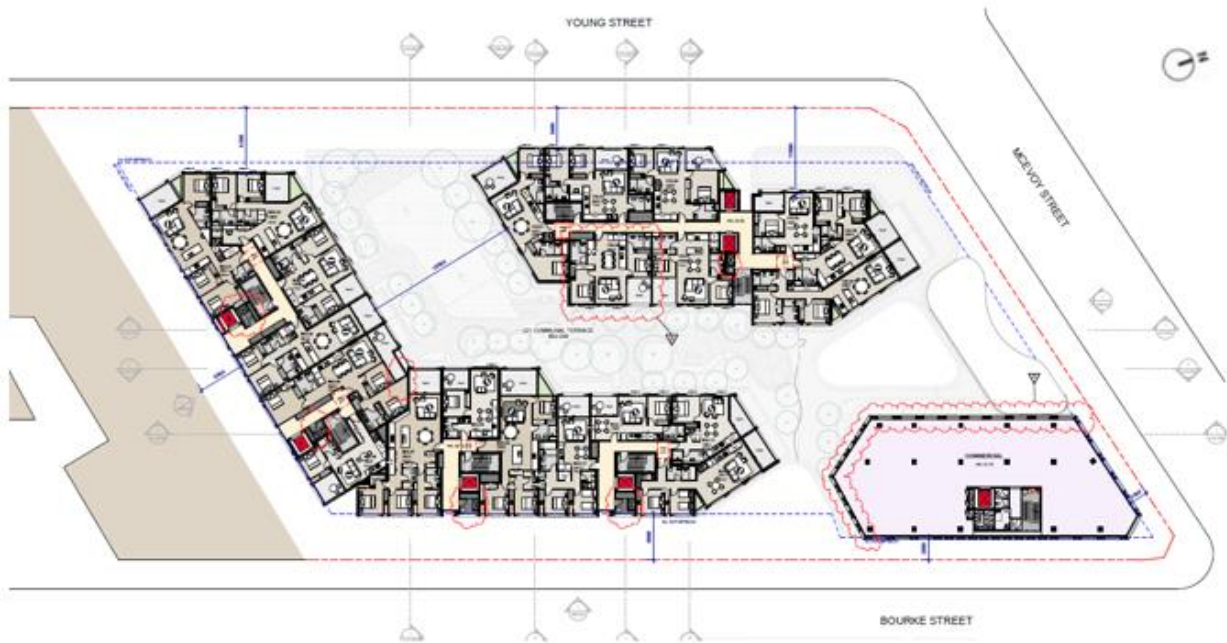


Figure 30: Typical floor plan (Level 2 shown)



Figure 31: Proposed signage

Assessment

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

Water Management Act 2000

53. In accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, the application was forwarded to Water NSW as Integrated Development, as the proposed basement levels will have an impact on groundwater levels. A dewatering activity requires a Water Supply Work approval under the Water Management Act 2000.
54. The proposal seeks to excavate to a depth of approximately 12m below ground surface. Groundwater is expected to be encountered at a depth of between 2m and 4m below ground level.
55. Water NSW provided General Terms of Approval on 11 March 2025, which have been included at Attachment A of this report., On 3 April 2025, the amended scheme was referred to Water NSW pursuant to Section 38 of the Environmental Planning and Assessment Regulation 2021. On 14 April 2025, Water NSW advised no objections to the proposed amendments and that the General Terms of Approval issued on 11 March 2025 are still current.

Airports Act 1996

56. Section 182 of the Commonwealth Airports Act 1996 stipulates that constructing a building, or other structure that intrudes into the prescribed airspace, is a controlled activity. The proposal seeks approval to erect a development with a maximum building height of 49.57m Australian Height Datum (AHD).
57. 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).
58. The location lies within an area defined in the Schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 45.72m AHD without approval of the CASA.
59. The proposal exceeds the 45.72m height limit, and approval from CASA, to carry out controlled activities in prescribed airspace, has been provided.

State Environmental Planning Policies

State Environmental Planning Policy (Precincts – Central River City) 2021

60. Part 6.2 of the SEPP identifies the subject site as being located within the Redfern-Waterloo potential urban renewal precinct.
61. Section 6.8 of the SEPP applies to a development application on land that comprises a potential precinct, if the development involves subdivision, or has an estimated development cost of more than \$5 million. Subclause (2) specifies that the consent authority must not grant development consent unless it is satisfied that the proposed development is consistent with the objective of developing the potential precinct for the purposes of urban renewal. In considering whether the proposal is consistent with this objective of developing the potential precinct for the purposes of urban renewal, the consent authority is to take into account matters outlined in subclause (3).

62. The proposed development of the site involves urban renewal of a site and is consistent with the relevant provisions of Section 6.8, in that it:
- (a) will not restrict or prevent development of the potential precinct for higher density housing or commercial or mixed development
 - (b) will not restrict or prevent the future amalgamation of sites for the purpose of any such development within the potential precinct
 - (c) will not restrict or prevent access to, or development of, infrastructure, other facilities and public domain areas associated with existing and future public transport in the potential precinct.

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

32. 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.
33. Section 4.6 of the SEPP stipulates that the consent authority must not consent to the carrying out of any development if the land is contaminated, unless it is satisfied the land is suitable in its contaminated state (or will be suitable, after remediation).
34. The site has a history of industrial use including foundry and printing works. The Preliminary Site Investigation has identified the following potential contamination sources and associated contaminants of potential concern as present on the site:
- fill material associated with levelling, demolition of former buildings on the site and potential burying of waste, such as metals, phenols and asbestos.
 - underground storage tank.
 - metals associated with historic printing, textile, tyre workshop uses.
 - asbestos, synthetic material fibres, lead and PCB associated with former buildings.
35. A preliminary Remediation Action Plan (RAP) relating to the site, accompanied by a draft letter of interim advice has been submitted with the development application. The current RAP sets out a proposal to conduct further site investigations to be carried out to investigate potential contamination of groundwater and soils, noting that the site is 300m from the Lawrence Dry Cleaners remediation site (source site) which is being remediated and is currently regulated by the NSW EPA.
36. The NSW EPA advised that the remediation of the impacted groundwater at the adjacent sites, other than the source site, has been completed. The onsite treatment of contaminants of the source site is expected to be completed by the end of 2025. The migration of contaminants from the source site onto adjoining sites is considered to be controlled via hydraulic containment and is regularly monitored. The NSW EPA considers it unlikely that the contaminants are impacting on the subject site.

37. At present, further groundwater sampling within the development site boundaries has not been undertaken to confirm the above hypothesis. The supporting environmental studies accompanying the application are limited and has not fully defined the land contamination status of the site.
38. It is therefore recommended that authority be delegated to the CEO to determine the application following further consideration of environmental sampling and studies to confirm that the site will be suitable after remediation for the use to meet the requirements of the SEPP.
39. Further testing of the site is to be undertaken by the applicant prior to determination of the application to confirm contamination levels and confirm the appropriate remediation strategy, particularly for the retained deep soil around the edges of the site. A detailed environmental site investigation report and a revised RAP must be prepared and peer reviewed by the Site Auditor, with a Section B Site Audit Statement (SAS) obtained. This will confirm from the Site Auditor that the nature and the extent of the contamination has been fully determined, and the site can be made suitable upon implementation of the revised RAP as referenced in the SAS.

State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage

40. The aim of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage is to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high-quality design and finish.
41. The proposed signage has been considered against the objectives of the policy and an assessment against the provisions within the assessment criteria set out in Schedule 1 is provided in the table below.

Provision	Compliance	Comment
1. Character of the area	Yes	The proposed signage is generally consistent with the character of the area, subject to conditions.
2. Special areas	Yes	The proposed signage generally does not detract from the amenity or visual quality of the locality, subject to conditions.
3. Views and vistas	Yes	The proposed signage does not obscure or compromise any important views. It does not dominate the skyline and has no impact on the viewing rights of other advertisers.
4. Streetscape, setting or landscape	Yes	The proposed signage is generally of an appropriate scale, proportion and form and provides a positive contribution to the streetscape and setting of the area.

Provision	Compliance	Comment
		Refer to further discussion under Section 3.16 of Sydney DCP 2012 and the discussion section below.
5. Site and building	Yes	The scale of the proposed signage is acceptable, and the materiality is compatible with the finishes and colours of the building. It is noted that the positioning of several Woolworths business identification signs are inconsistent with Section 3.16 of Sydney DCP 2012. Refer to further assessment under the discussion heading below.
6. Associated devices and logos	Not applicable	Not applicable. The proposed signs are not advertising signs.
7. Illumination	Yes	Conditions of consent are recommended to ensure that the illumination does not result in unacceptable glare, affect safety or detract from the amenity of any residential accommodation.
8. Safety	Yes	The proposed signage will not reduce the safety for pedestrians, cyclists or vehicles on public roads or areas.

42. The proposed signage is consistent with the objectives of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage as set out in Clause 3.1 and satisfies the assessment criteria specified in Schedule 5.

State Environmental Planning Policy (Housing) 2021

43. 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.
44. 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.
45. 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 Green Square.
46. This matter is discussed in further detail under the heading Financial Contributions below.

Chapter 2 Affordable Housing

Part 2 Development for affordable housing

47. Chapter 2, Part 2 of the SEPP (Housing) 2021 does not apply to the Green Square Area in which the subject site is located in accordance with Clause 1.9(2A)(a) of the Sydney LEP 2012.

Chapter 4 - Design of Residential Apartment Development

48. The aim of Chapter 4 is to improve the design quality of residential apartment development in New South Wales.
49. When determining an application for a residential flat development of three or more floors and containing four or more apartments, the SEPP requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 9.
50. The applicant has submitted a design verification statement and design report prepared by Bates Smart Architects, Guy Lake (NSW Architect Registration Number 7119). The design verification statement and design report address the design quality principles and the objectives of Parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.
51. An assessment of the proposal against the design quality principles is provided as follows:
- (a) Principle 1: Context and Neighbourhood Character
 - (i) The site is located within the MU1 Mixed Use zone, which permits mixed commercial, retail and residential developments. It is in proximity to the Green Square and Waterloo Stations, with bus routes provided along the Bourke Street frontage. The site is also connected to an extensive cycleway network, with Bourke Street providing an off-road shared path along the site that connects through to the Sydney CBD.
 - (ii) The development is consistent with the City's Strategic vision for significant renewal. The proposal generally conforms with the site-specific planning controls which envisage mixed use buildings, comprising a retail ground plane, activated streetscapes, subterranean supermarket, commercial tenancies and high-quality residential units above.
 - (b) Principle 2: Built Form and Scale
 - (i) The proposed form, scale, height and massing of the proposed building is contextually appropriate to the site location, which responds to new developments in the Danks Street South Precinct and residential developments within the Lachlan Precinct. The proposal complies with the height of building standard for the site.
 - (ii) The built form steps in plan to accommodate the retention of existing trees. The buildings are separated into three buildings above ground and are articulated to break up the visual mass when viewed from the surrounding streets.

- (iii) Whilst the proposal exceeds the maximum floor space ratio for the site, the non-compliance of 714.8sqm (FSR 0.11:1) is considered acceptable as it primarily results from the provision of the end of trip facilities and waste storage areas on the mezzanine level. The additional floor space does not contribute towards additional bulk or scale (refer to further assessment under the Clause 4.6 heading of this report).
 - (iv) The proposed development optimises solar access for units within the site by orientating units towards the northern aspect and does not result in significant environmental impacts for the neighbouring units within the Lachlan Precinct. Upper levels of the building are setback to reduce bulk, scale and overshadowing to the existing residential development at No. 840 Bourke Street. The proposal is consistent with Objective 3B-2 of the ADG, which requires overshadowing of neighbouring properties to be minimised during mid-winter.
- (c) Principle 3: Density
 - (i) The proposed density is considered appropriate given the local context and proximity to public transport, infrastructure, community and recreational facilities.
 - (ii) The development is consistent with the desired future character and scale envisaged by the site-specific planning controls and responds to housing targets and the Green Square and Southern Areas Retail Review, which identified an undersupply of supermarket floor space in Waterloo. The proposal seeks to deliver a new full-line supermarket to support the retail needs of the community. It provides a suitable number and variety of apartment types with appropriate amenity for occupants.
- (d) Principle 4: Sustainability
 - (i) As required under the VPA and site-specific controls under Section 5.3.27.10 of the DCP 2012, the proposal seeks to deliver a highly environmentally sustainable development to meet the sustainability targets and measures of the City's Net Zero Energy Provisions. The proposal aims to be Net Zero Operational Carbon ready by 2035, with renewable procurement equivalent to Net Zero Emissions for all retail and office (base building) energy demands.
 - (ii) The revised proposal has been designed to achieve energy efficiency performance to reduce the need for active heating and cooling. The development incorporates passive shading to the north and western facades of the development, as well as external canopy blinds to apartments providing users the capability to adjust shading devices for summer sun and cooler seasons.
 - (iii) The residential component of the development exceeds the BASIX requirements of the Sustainable Buildings SEPP in terms of water commitments. The development targets a 5.5 star NABERS Office Energy Commitment Agreement for base building commercial uses.

(e) Principle 5: Landscape

- (i) The landscape design of the ground plane, podium and rooftop areas seeks to create a modern Australian residential setting through the planting of native species, to provide privacy, shade and visual interest in the development. The diverse selection of plants is proposed to reflect the microclimate of the built form, robust and low-water demanding and low-maintenance.
- (ii) The landscaped areas support the diverse range of communal open space and amenities that are distributed throughout the site. The proposal provides a deep soil area of 1,095sqm (15.9%) on the ground plane of the development which complies with Objective 3E-1 of the ADG. The development preserves the majority of existing mature trees which line the boundary of the site and seeks to incorporate additional tree planting on structures that will contribute to achieving the tree canopy targets.

(f) Principle 6: Amenity

- (i) The proposal provides a high level of amenity for the residential occupants of the development and neighbouring properties, as outlined in the ADG assessment tables of this report.
- (ii) The number of single aspect units within the site is limited. Overall, 70% of residential apartments within the building will receive direct sunlight in mid-winter, and 62% will be cross-ventilated. Living areas are positioned to maximise solar access to both the internal living room and private open space areas and oriented to obtain views to the landscaped communal courtyard and retained tree canopies.
- (iii) The communal open space courtyard on level 1 is designed as a social space and provides a lush native garden for building occupants. It offers a range of communal activities, including outdoor kitchens, sheltered areas, seating and recreational uses.

(g) Principle 7: Safety

- (i) The safety and security of the public domain and site is enhanced by the proposal, which provides increased activation through ground level retail uses, and improved opportunities for casual surveillance of the surroundings streets from offices and residential apartments.
- (ii) The proposal is designed in accordance the principles of Crime Prevention through Environmental Design (CPTED) and is consistent with this design quality principle. The ground level has been designed with visible and inviting entries into the building. Separate lifts are provided for access to the commercial and residential levels to maintain privacy and security.

- (h) Principle 8: Housing Diversity and Social Interaction
 - (i) The proposal seeks a total of 110 units, of which 15 are provided as affordable housing and 14 are adaptable. The development has the following unit mix and includes terrace typologies along the Young Street frontage:
 - (i) 21 x 1-bed units (19%)
 - (ii) 68 x 2-bed units (62%)
 - (iii) 21 x 3-bed units (19%)
 - (ii) The unit mix is consistent with that envisaged by Section 4.2.3.12 of Sydney DCP 2012 and ADG and is acceptable.
 - (iii) The proposal promotes social interaction between residents through its variety of communal outdoor spaces on level 1, rooftop terraces, public plaza on ground and a through-site link along the southern frontage. The level 1 communal outdoor area is designed to encourage interaction between residents and support social activities, including gardening and composting facilities, a variety of outdoor seating, barbeque areas, and vegetable gardens.
 - (i) Principle 9: Aesthetics
 - (i) The design of the building is inspired by the urban context and Country, utilising colours and materials reminiscent of coastal landscapes, Australian Native flora (Banksias and Melaleucas) and colonial heritage. The façade seeks to reflect elements that evoke the structure of these native plants through angular fins and deep masonry reveals, as well as present warm sandy tones and earthy colours similar to Sydney sand stone bricks.
 - (ii) Amendments to the façade strategy have been made to balance solid and void ratios, privacy and views, and reduce the need for active heating and cooling. The commercial provides a prominent built form expression and distinct identity at the corner of Bourke and McEvoy Streets. The expression of the residential components of the building along Bourke Street feature splayed brickwork blades which incorporate natural ventilation and acoustic treatment.
 - (iii) The proposed design maintains the architectural aesthetic and integrity of the competition winning scheme, which was considered by the Selection Panel to be the scheme most capable of achieving design excellence.
52. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

2E Building Depth	Consistency	Comment
12-18m (glass to glass)	Yes	The proposal achieves a compliant building depth. The cross-over apartments have a depth of: • 17m for west facing apartments (fronting Young Street), • 15.7m for east facing apartments (facing Bourke Street); and • 16.2m for south facing apartments (facing the new through-site pedestrian link).

3B Orientation	Consistency	Comment
Minimise overshadowing of neighbouring properties during mid-winter • Where an adjoining property does not currently receive the required hours of solar access, solar access is not reduced by more than 20%	Yes	The proposal results in additional overshadowing to existing units in the Lachlan Precinct (840 Bourke Street). Refer to discussion section below.

2F Building Separation and 3F Visual Privacy	Consistency	Comment
2F Building Separation Up to four storeys (approximately 12 metres): • 12m between habitable rooms / balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms	No, but acceptable	A 6m wide through site link separates the development and the adjoining site at Nos. 937-939 Bourke Street and 283 Young Street. For the first 4 storeys, west facing apartments are offset by 10.6m -11.9m from east facing apartments. The habitable rooms and balconies between the north-west and south-east facing apartments are separated by 19.4m, which exceeds the requirements of Objective 2F of the ADG.

2F Building Separation and 3F Visual Privacy	Consistency	Comment
3F Visual Privacy Up to four storeys (12 metres): 6m between habitable rooms / balconies (12m between habitable rooms/ balconies on the same site) 3m between non-habitable rooms (6m between non-habitable rooms on the same site)		The separation between the commercial building, north and east facing units (Unit Nos. B01.11, Y01.06 and stacked above) have separation distances of 9.2 - 15.6m.  Figure 32: Typical Floor Plan, Levels 1 to 3 Although varied separation distances of Objectives 2F and 3F between west and east facing apartments and proximate units to the commercial building are proposed, the aims of the provisions are achieved and spacing is considered acceptable as: - The proposal is of an appropriate scale as envisaged by the site-specific planning controls and achieves a high level of residential amenity with respect to sunlight, outlook, natural ventilation and acoustic privacy (as discussed elsewhere in this report). - The units are angled to direct primary views away from the commercial building whilst orientating the unit north to maximise solar access into these apartments. - Views across units will be obscured by landscape vegetation on level 1 podium. To further ameliorate issues of overlooking, it is recommended that sliding louvred privacy screens are provided to the vertical stack of apartment balconies, B.01.10 and

2F Building Separation and 3F Visual Privacy	Consistency	Comment
		B.01.11 to meet the Objective 3F of the ADG.
2F Building Separation Five to eight storeys (approximately 25 metres): 18m between habitable rooms / balconies 12m between habitable and non-habitable rooms 9m between non-habitable rooms 3F Visual Privacy Five to eight storeys (25 metres): 9m between habitable rooms / balconies (18m between habitable rooms/ balconies on the same site) 4.5m between non-habitable rooms (9m between non-habitable rooms on the same site)	No, but acceptable	Above four storeys, a 11.9m - 12m separation is provided between the habitable rooms and balconies of east and west facing units. The penthouse unit Y06.05 on level 6 overlooks the eastern wing rooftop. North facing units Y04.06 and Y05.06 and the commercial building is offset by 15.5m. On level 6, unit Y06.04 obtains views over the rooftop of the commercial building. The south-west and north-east facing units have a compliant separation distance of 19.4m. A separation of 6m is provided between the site and southern adjoining sites at Nos. 937-939 Bourke Street and 283 Young Street.  Figure 33: Level 4 Floor Plan  Figure 34: Level 5 Floor Plan As above, the development provides a suitable scale with regard to the site-

2F Building Separation and 3F Visual Privacy	Consistency	Comment
		specific planning controls and achieves a high level of residential amenity. Appropriate conditions are recommended to ensure adequate visual privacy is achieved between apartments and the commercial building in accordance with Objective 3F of the ADG: • provision of sliding louvred privacy screens to habitable rooms and balconies facing the southern boundary, as well as east and west facing units on level 4. • require obscure glazing to the kitchen and dining windows of Y04.06 and Y05.06. • require obscure glazing to bathrooms of vertically stacked units Y01.06 to Y06.04.
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas	Yes	Kitchens and non-habitable areas (bathrooms) are generally located close to corridors in the building. The residential component of the building is serviced by five (5) cores, each providing access to a small number of apartments.

3D Communal and Public Open Space	Consistency	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	A communal open space area of 1,633.5sqm is required. The proposal provides an appropriate amount of communal open space area of 1,640sqm (25%) dispersed across levels 1, 5 and 6.
Developments achieve a minimum of 50% direct sunlight to the principal usable	Yes	The level 1 communal area will receive direct sunlight to a minimum of 50% of the principal useable areas between

3D Communal and Public Open Space	Consistency	Comment
part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).		9.00 to 10.00am and between 12.00 to 3.00pm at mid-winter. The roof level communal open spaces on levels 5 and 6 will receive solar access for the majority of the day on 21 June.

3E Deep Soil Zones	Consistency	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Yes	A minimum deep soil area of 7% of the site area is required under Objective 3E, which equates to an area of 457.38sqm. The design guidance of this provision also notes that on some sites which are greater than 1,500sqm it may be possible to provide a deep soil area of 15% (980.1sqm). The application complies and includes a deep soil area of 1,095sqm (15.9%).

4A Solar and Daylight Access	Consistency	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	77 out of 110 units (70%) will receive a minimum of 2 hours direct sunlight to living areas and private open space between 9.00am and 3.00pm at mid-winter.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	16 out of 110 units (15%) will receive no direct sunlight at mid-winter.

4B Natural Ventilation	Consistency	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.

4B Natural Ventilation	Consistency	Comment
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	62% or 68 out of 110 apartments are naturally cross ventilated.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	All cross-over and cross-through apartments have a maximum depth of 9.2m, measured glass line to glass line.

4C Ceiling Heights	Consistency	Comment
Habitable rooms: 2.7m	Partial	With the exception of the first floor of the Young Street terraces, all habitable rooms are provided with a minimum floor to ceiling height of 2.7m. A floor to ceiling height of 2.4m is proposed for the first floor of the Young Street terraces. The non-discretionary development standards under Chapter 4, Section 148(2)(c) of the Housing SEPP stipulates that ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the ADG. A Clause 4.6 variation request has been provided to this effect. Refer to assessment under the Discussion section below.
Non-habitable rooms: 2.4m	Yes	All non-habitable rooms are provided with a floor to ceiling height of at least 2.4m.
Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.	No but assessed as acceptable	As noted above, the first floor of the terrace units along Young Street do not meet the minimum floor to ceiling height of 2.7m. The second floor of the terrace units exceeds 50% of the apartment area. The proposal is accompanied by a Clause 4.6 variation request on the non-

4C Ceiling Heights	Consistency	Comment
		discretionary development standards under Chapter 4, Section 148(2)(c) of the Housing SEPP. Refer to assessment under the Discussion section below.
Attic spaces – 1.8m at edge of room with a 30-degree minimum ceiling slope	Not Applicable	The proposal does not include any attic spaces.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Partial	The site is located within a mixed-use zone and as such, a minimum floor to ceiling height of 3.3m is required for ground and first floor to promote future flexibility of use. The proposal provides the following floor to ceiling heights: - at ground, a varied height of 3.8m to 4.5m for retail and commercial uses 3.2m for the first level units. The minor variation of 0.1m is considered acceptable for the first level units. As noted above, a Clause 4.6 request seeking variation to the non-discretionary development standards under Chapter 4, Section 148(2)(c) of the Housing SEPP accompanies the application. Refer to assessment under the Discussion section below.

4D Apartment Size and Layout	Compliance	Comment
Minimum unit sizes: - Studio: 35sqm 1-bed: 50sqm 2-bed: 70sqm 3-bed: 90sqm	Yes	The apartments comply with the minimum apartment sizes, including where an additional bathroom is provided. The proposal provides minimum areas of: 1-bed: 50sqm - 61sqm

4D Apartment Size and Layout	Compliance	Comment
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.		2-bed: 75sqm - 98sqm and 100sqm - 110sqm for terrace units along Young Street 3-bed: 96sqm - 140sqm The development does not include any 4 bed apartments.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	Every habitable room is provided with a window in an external wall and meets the minimum glass area of 10% of the floor area of the room.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Partial	The majority of habitable rooms within the building have depths less than 6.75m as measured from external windows and comply with the control. Several habitable rooms in the eastern building wing (facing Bourke Street and the through-site link) have depths that exceed the 2.5 x the ceiling height of 2.7m (ranging 8.4-9.5m compared to 6.75m). The minor exceedance in room depths is considered acceptable as these rooms are primarily orientated facing north where natural light is maximised. Additional natural light is provided via other east facing rooms (shown by the blue arrows below).

4D Apartment Size and Layout	Compliance	Comment
		 Figure 35: Habitable room depths
8m maximum depth for open plan layouts.	No but assessed as acceptable	As noted above, the habitable rooms with depths greater than 8m are considered acceptable having regard to the northerly aspects and additional natural light provided from bedrooms.
Minimum area for bedrooms (excluding wardrobes): • master bedroom: 10sqm • all other bedrooms: 9sqm Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	The development provides compliant bedroom areas. Master bedrooms exceed 10sqm and all other bedrooms exceed 9sqm. Bedrooms have minimum dimensions of 3m.
Living and living/dining rooms minimum widths: • Studio and 1-bed: 3.6m • 2-bed or more: 4m	Yes	The development provides minimum compliant living and dining room widths of 3.6m for 1-bed units and 4m for 2-bed units.
4m minimum width for cross over and cross through apartments.	Partial	The majority of cross over and cross through units meet or exceed the minimum width of 4m (ranging 4m - 12.4m).

4D Apartment Size and Layout	Compliance	Comment
		A minor non-compliance of 0.2m is proposed for 1-bed apartment on level 1 (1B07) which has a width of 3.8m. Notwithstanding the varied width, the layout of the unit is efficiently planned to maximise the useable space of rooms and can accommodate a variety of household activities to meet the objectives of this provision.

4E Private Open Space and Balconies	Compliance	Comment
Studio apartments are to have a minimum balcony area of 4sqm with a minimum depth of 1m.	Not applicable	The proposal does not include any studio apartments.
One bed apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2m. Two bed apartments are to have a minimum balcony area of 10sqm with a minimum depth of 2m. Three bed apartments are to have a minimum balcony area of 12sqm with a minimum depth of 2.4m.	Yes	The proposal provides complaint minimum balcony areas and depths of: 1-bed: 8 -18sqm, 2 -2.4m depth 2-bed: 10 - 18sqm, 2-2.5m depth 3-bed: 12 - 32sqm, 2.4- 4.8m depth
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15sqm and a minimum depth of 3m.	Yes	The ground level terraces on Young Street have minimum private open space areas of 35-49sqm and depth of 4m, which complies with this control.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	The maximum number of apartments off a circulation core on a single level is eight (8).
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Not applicable	The building is not 10 storeys or greater.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	There are no primary living room or bedroom windows that open directly onto common circulation spaces.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Corridors are provided with daylight and are able to be naturally ventilated. A condition is recommended to require these common circulation windows to be operable.

4G Storage	Compliance	Comment
Minimum storage provision facilities: • Studio: 4m³ • 1-bed: 6m³ • 2-bed: 8m³ • 3-bed: 10m³ (Minimum 50% storage area located within unit)	Yes	A minimum of 50% of the required storage area is provided within the units. The remaining required storage area is located within Basement level 2, adjacent to residential parking bays and lifts. A condition is recommended requiring a storage schedule and plans to be submitted prior to the issue of a Construction Certificate to ensure storage areas remain compliant through construction level design documentation.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	The design of east and northern façades facing Bourke and McEvoy Streets incorporates measures to provide acoustic attenuation to achieve the relevant noise criteria for habitable rooms. These measures include treated balcony soffits, low-level windows below the balustrade height and active acoustic ventilators (plenums to bedrooms facing Bourke Street). Conditions are recommended to ensure these measures are detailed and implemented. Noise generating sources including air conditioning condensers and plant equipment are proposed on the rooftops or within the basement levels, to reduce noise transmission to apartments.

Clause 148 - Non-discretionary development standards for residential apartment development

53. If the following non-discretionary development standards are complied with the consent authority cannot require more onerous standards for the matters.

Provision	Consistency	Comment
(a) Car parking Must be equal to or greater than the recommended minimum amount of car parking specified in Part 3J of the ADG	Yes	The minimum car parking requirements for residents and visitors is the car parking requirement prescribed by the relevant Council. As the car parking rates stipulated in the Sydney LEP 2012 are maximum's, there is no minimum, and the proposal complies.
(b) Internal area for each apartment Must be equal to or greater than the recommended minimum internal area for the apartment type in Criteria 4D of the ADG	Yes	Each apartment complies with the minimum internal area for the apartment type.
(c) Ceiling heights Must be equal to or greater than the recommended minimum ceiling heights	No, but Clause 4.6 supported	The proposal complies with the 2.7m ceiling height development standard for habitable rooms and 2.4m ceiling height

Provision	Consistency	Comment
specified in Part 4C of the ADG		development standard for non-habitable rooms. As the site is located within a mixed-use zone, a minimum floor to ceiling height of 3.3m is required for ground and first floor to promote future flexibility of use. The applicant has submitted a Clause 4.6 request relating to the ceiling heights for the Young Street Terraces and ceiling heights of the first-floor apartments. This is discussed further under the Discussion heading below.

State Environmental Planning Policy (Sustainable Buildings) 2022

54. The aims of this Policy are as follows—

- (a) to encourage the design and delivery of sustainable buildings,
- (b) to ensure consistent assessment of the sustainability of buildings,
- (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored,
- (d) to monitor the embodied emissions of materials used in construction of buildings,
- (e) to minimise the consumption of energy,
- (f) to reduce greenhouse gas emissions,
- (g) to minimise the consumption of mains-supplied potable water,
- (h) to ensure good thermal performance of buildings.

Chapter 2 Standards for residential development - BASIX

55. A BASIX Certificate has been submitted with the development application (Certificate No. 1777893M_03).
56. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

Chapter 3 Standards for non-residential development

57. Chapter 3 of the SEPP applies to development, other than development for the purposes of residential accommodation, that involves:-
- (a) the erection of a new building, or
 - (b) alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10 million or more.

Section 3.2 Development Consent for non-residential development

58. Section 3.2 Development consent for non-residential development provides that:

(1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—

- (a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials
- (b) a reduction in peak demand for electricity, including through the use of energy efficient technology
- (c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design
- (d) the generation and storage of renewable energy
- (e) the metering and monitoring of energy consumption
- (f) the minimisation of the consumption of potable water.

(2) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.

59. With regards to the above matters the applicant has submitted a City of Sydney Design for Environmental Performance report template to address the above. The template identifies design and technology responses for environmental performance that the applicant proposes to be incorporated in the development. This includes:

- (a) A Renewable Energy Procurement equivalent to Net Zero Emissions for all retail and office (base building) energy demands
- (b) 5.5 Star NABERS Energy Commitment Agreement (+25%) for Office uses greater than 1,000sqm NLA
- (c) 4.0 Star NABERS Water for Office uses greater than 1,000sqm NLA
- (d) Maximum energy use intensity (EUI) of 45kWh/yr/m² GFA for retail uses (base building only)
- (e) Maximum energy use intensity (EUI) of 45kWh/yr/m² GFA for supermarket

60. With regards to section (2) above the applicant has adequately quantified the embodied emissions attributable to the development. Section 35B of the Environmental Planning and Assessment Regulation determines the form in which embodied emissions are to be quantified. The embodied emissions attributable to the development have been appropriately quantified using the NABERS embodied energy form published on the NSW Planning Portal and certified by an appropriately qualified person as required by the regulations.

Section 3.3 Other Considerations for Large Commercial Development

61. Section 3.3 Other considerations for large commercial development applies to development defined as prescribed office premises, prescribed service apartments and prescribed hotel or motel accommodation.
62. The proposal includes a prescribed office premises which is defined as an office premises with a net lettable area of at least 1,000sqm.
63. Section 3.3 provides that:
 - (1) In deciding whether to grant development consent to large commercial development, the consent authority must consider whether the development minimises the use of on-site fossil fuels, as part of the goal of achieving net zero emissions in New South Wales by 2050.
 - (2) Development consent must not be granted to large commercial development unless the consent authority is satisfied the development is capable of achieving the standards for energy and water use specified in Schedule 3.
 - (3) For the purposes of subsection (2), development is capable of achieving a standard specified in Schedule 3 if there is a NABERS commitment agreement in place to achieve the standard.
64. The above, to the extent it relates to energy use, does not apply to large commercial development, except serviced apartments, on land to which the following local environmental plans apply—
 - (a) Sydney Local Environmental Plan 2012,
 - (b) Sydney Local Environmental Plan (Green Square Town Centre) 2013,
 - (c) Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013.
65. The proposed development is subject to (a) Sydney Local Environmental Plan 2012 and is for a prescribed office premises. The proposal seeks to achieve a 4.0 Star NABERS water rating and exceeds the standards for water use (being 3-star NABERS water rating). Refer to energy use provisions in the LEP compliance table below.
66. Conditions of consent are recommended to ensure that the development achieves the required energy and water use standards.

State Environmental Planning Policy (Transport and Infrastructure) 2021

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

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network**Clause 2.48 Determination of development applications – other development**

68. The application is subject to Clause 2.48 of the SEPP as the development is proposed within proximity to overhead electricity networks assets on Bourke Street and involves the penetration of ground within 2m from existing underground electricity network assets in Bourke Street, McEvoy Street and Young Street.

69. As such, the application was referred to Ausgrid for a period of 21 days. A response was received on 24 January 2025, which raised no objection, subject to recommended conditions of consent.

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

Clause 2.119 – Development with frontage to classified road

70. The application is subject to Clause 2.119 of the SEPP as the site has frontage to Bourke and McEvoy Streets which are identified as classified roads.
71. The objectives of Clause 2.119 of the SEPP aim to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, as well as reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.
72. The proposed development is able to satisfy the provisions of Clause 2.119 subject to conditions of consent, providing safe and practicable vehicular access to ensure that the ongoing operation of the classified road will not be adversely affected by the development. Although access to the loading dock is proposed via Bourke Street, primary vehicular entry and egress is provided by a road other than the classified road (on Young Street) for Direct to Boot, residential, retail and commercial car parking. No vehicular access is provided from McEvoy Street which is identified as the key State classified road.
73. It is noted that Bourke Street at this location, is a regional classified road which is under the care and control of Council. The applicant was referred to Transport for New South Wales (TfNSW) and a response was received on 12 February 2025. TfNSW advised that any proposed or conditioned works on Bourke Street would require a consent from Council and concurrence from TfNSW pursuant to Section 138 of the Roads Act 1993. Subject to Council's satisfaction of the proposed design, TfNSW would issue its concurrence under Section 138 of the Roads Act 1993.
74. A left in/left out vehicular movement to the Loading Dock is proposed. The application is accompanied by a Traffic Impact Assessment including swept path analysis and a Preliminary Loading Dock Management Plan (LDMP). The Preliminary LDMP outlines the safeguards that will be built into the development in the event that the turntable malfunctions. This includes, back up battery power supply, backup rotation motors and dual system/manual usage when there is a failure to ensure vehicles can always enter and exit the site in a forward direction.
75. The application was discussed with the City's Access and Transport Unit, who advised the proposed loading and waste collection from Bourke Street is acceptable, subject to conditions. These conditions require the width of the Bourke Street driveway (between the loading dock door and the splay) to be reduced as far as practicable to increase safety of pedestrians and cyclists. The swept path analysis confirms that a slight reduction can be achieved.



Figure 36: Swept path analysis for Heavy Rigid Vehicles

76. The loading dock accommodates two (2) HRV parking bays, a single (1) parking bay for a 10.6m long Council waste collection vehicle and a single (1) Medium Rigid Vehicle (MRV) space. The Preliminary LDMP states that the loading dock will be managed by an on-site building manager and a booking system will be employed to control access to the dock and spread the demand profile over the day. The on-site building manager will ensure the loading dock (including designated safe walking routes) are kept clear of goods at all times and ensure delivery vehicles strictly adhere to their allotted booking slot.
77. The submitted 'Output from TfNSW Urban Freight Forecasting Model' and Preliminary LDMP confirms that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of vehicular access to the land, or the nature, volume or frequency of vehicles using the classified road to gain access to the land. The TfNSW Urban Freight Model shows that the proposed loading dock achieves a performance efficiency of 98%. The Preliminary LDMP is acceptable and satisfies the requirements of Clause 2.119 of the SEPP. Conditions are recommended to require submission and approval of a Detailed LDMP prior to the issue of any Occupation Certificate.

Clause 2.120 – Impact of road noise or vibration on non-road development

78. The application is subject to Clause 2.120 of the SEPP as the site is adjacent to Bourke and McEvoy Streets, which have an annual average daily traffic volume of more than 20,000 vehicles.
79. Subclause (3) of Clause 2.120 stipulates that consent authority must not grant consent to development unless it is satisfied that appropriate measures will be taken to ensure the following LAeq levels are not exceeded:
 - (a) bedrooms in the residential accommodation - 35dB(A) at any time between 10pm and 7am; and
 - (b) anywhere else in the residential accommodation - 40dB(A) at any time.

80. The noise criteria outlined by the Development Near Rail Corridors and Busy Roads - Interim Guideline provides guidance on designing residential developments which are adjacent to busy roads. The Guideline notes a maximum internal noise level criteria of 45dB(A) for bedrooms and 50dB(A) for living rooms in a windows open position.
81. An Acoustic and Vibration Assessment prepared by E-Lab Consulting accompanies the application. The Acoustic Report includes a 'windows closed' and 'windows open' assessment based upon the modelled incident façade noise levels and architecturally documented room/ glazing dimensions for the worst-case scenario. The apartment with the loudest incident façade noise level is located on level 1 Unit B01.11 (positioned in the eastern wing of the building fronting Bourke Street) and Unit Y01.05 (located in the western wing of the building fronting McEvoy Street).
82. The proposal incorporates passive noise mitigation measures to ensure internal noise level requirements are satisfied. These measures include treated balcony soffits, low-level windows below the balustrade height and active acoustic ventilators (plenums to bedrooms facing Bourke Street).
83. The findings of the assessment confirms that an internal LAeq level of 32.9dB(A) will be achieved to bedrooms and 38.5dB(A) for the living room of Unit B01.11 (windows closed). While internal LAeq levels of 43.7dB(A) to bedrooms and 49.1dB(A) to the living room of Unit Y01.05 (windows open).
84. Council's Environmental Health Unit advised the proposed acoustic attenuation strategy is acceptable subject to conditions. The application satisfies Clause 2.120 subject to conditions of consent and adherence to the acoustic report and plenum construction details.

Clause 2.122 – Traffic Generating Development

85. The proposal is traffic generating development and was referred to TfNSW pursuant to Clause 2.122 of the SEPP.
86. A response was received from TfNSW on 12 February 2025, advising no objections to the proposal, subject to the imposition of recommended conditions. These conditions are included in Attachment A.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non-Rural Areas) 2017

87. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP.
88. The SEPP states that the Council must not grant consent for the removal of vegetation within heritage sites or heritage conservation areas unless Council is satisfied that the activity is minor in nature and would not impact the heritage significance of the site.
89. The subject site is not a heritage item. Eleven street trees are proposed to be removed from the site. The trees are not associated with any heritage buildings. The site-specific provisions under Section 6.3.27.3 of Sydney DCP 2012 permits the removal of several street trees within the site. The City's Tree Management Unit support the removal of the proposed trees. Refer to further discussion under Section 6.3.27.3 of Sydney DCP 2012.

Local Environmental Plans

Sydney Local Environmental Plan 2012

90. 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. Proposed land uses comprising commercial and retail development, residential accommodation, supermarket, public domain works, landscaping works and public art are all permissible within the zone. The proposal is consistent with the objectives of the MU1 Zone as it provides a diversity of business, retail and office uses which will stimulate economic activity, generate job opportunities, contribute towards housing supply and vibrant communal public spaces.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 22m along Bourke Street and 27m along Young Street is permitted. The proposal seeks a maximum building height of: • 27m along Young Street (RL 49.57 to lift overrun on Young Street, Level 6 rooftop RL 48.6). • 22m along Bourke Street (RL 45.67 to the lift overrun on Bourke Street, Level 5 rooftop RL 45.2). • 22m for the commercial building fronting McEvoy and Bourke Streets (RL 45.68 to the commercial building lift overrun, Level 5 rooftop RL 44.9).

Provision	Compliance	Comment
		The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio 6.14 Community infrastructure floor space at Green Square 6.21D Competitive design process 7.35 Development at 923-935 Bourke Street Waterloo	No	Clause 4.4 of Sydney LEP 2012 stipulates a base floor space ratio (FSR) of 1.5:1 for the site. The site is located within 'Area 6' within the floor space ratio map, pursuant to Clause 6.14 of Sydney LEP 2012 an additional quantum of floor space equating to 0.5:1 can be awarded, subject to the provision of community infrastructure within the Green Square locality. The proposed works associated with the second Voluntary Planning Agreement (VPA) involving the dedication of land for public roads is considered to provide appropriate community infrastructure within Green Square (refer to details under Clause 6.14 below). Clause 7.35 of Sydney LEP 2012 stipulates that development on the site, that exhibit design excellence, is not eligible for additional building height under Clause 6.21 of Sydney LEP 2012. As such, up to 10% additional floor space ratio only, may be approved in accordance with Clause 6.21 as the proposed scheme is a winner of a competitive design process and exhibits design excellence. In addition, Clause 7.35(3) also permits the development to exceed the maximum permissible FSR by up to 0.5:1 if the floor space is used for the purpose of shops or markets, 90% of this floor space is below ground level, and part of the building used for commercial premises will (for at least the first 5 years of operation) only use electricity provided by renewable energy generated on or off-site. Considering all the relevant FSR provisions contained within the Sydney LEP 2012, including 10% additional design excellence uplift, subterranean supermarket of 3,200sqm and proposed

Provision	Compliance	Comment
		renewable energy use for the commercial premises, the maximum FSR for the site is 2.7:1 (Gross Floor Area of 17,641.8sqm). The proposed development seeks a FSR of 2.81:1 (Gross Floor Area of 18,356.8sqm) and exceeds the maximum floor space ratio development standard. The Applicant has submitted a request to vary the Clause 4.4 FSR development standard in accordance with Clause 4.6, justifying variation to the maximum floor space ratio development standard. The proposed variation to the FSR development standard is supported. Refer to the 'Discussion' section within this report.
4.6 Exceptions to development standards	Yes	The proposed development seeks to vary the development standard prescribed under Clause 4.4 Floor Space Ratio (FSR). An exceedance of 714.8sqm GFA (FSR 0.11:1) is proposed for End of Trip facilities, bin and waste storage areas on the mezzanine level. A Clause 4.6 variation request has been submitted with the application. As discussed above, the proposal also seeks to vary the non-discretionary standards under Clause 148(2)(c) of the Housing SEPP relating to first floor to ceiling height of the Young Street terraces and first level apartments. A Clause 4.6 variation request has also been submitted to this effect. See further details in the 'Discussion' section below.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.1 and 5.1A Development on land intended to be acquired for public purposes	Not applicable	The site is not identified as land for acquisition for public purposes.

Provision	Compliance	Comment
5.6 Architectural roof features	Not applicable	The proposal does not include an architectural roof feature.
5.10 Heritage conservation	Yes	The site is not a heritage item but is located within the vicinity of several local and State heritage items, the closest of which is across the site at 903-921 Bourke Street, known as the former Sydney Water pumping station and valve house interiors and associated underground pipework' (Local Item No. I2073) and underground Pressure Tunnel and Shafts (State Item No. 01630). The proposal was discussed with Council's Heritage Specialist. The development is outside the curtilage of the item, physically separated from the site (noting the future approved development on the site), and does not result in any overshadowing on the valve or pump house. The proposed development will not have a detrimental impact on the heritage significance of the heritage item.
5.21 Flood planning		The site is identified as being subject to flooding within the Alexandra Canal flood study. The site is flood affected in the 1% Annual Exceedance Probability (AEP). The slope of the site falls from the north-east corner (24.70m) to the south-west corner (21.82m). The 1% AEP flood map shows local sag points in McEvoy Street and Hunter Street, which may impact the subject property in major storms exceeding 1% AEP. The peak 1% AEP flow depth in Young Street is approximately 0.13m- 0.14m, and 0.12m on the southern portion of Bourke Street. The flood mapping shows insignificant flooding along the north-east side at the corner of McEvoy and Bourke Street compared to Young Street. The site is likely to be affected by overland flooding along Bourke and Young Streets, given limited stormwater infrastructure to the north and north-east of the site.

Provision	Compliance	Comment
		The application proposes development above the minimum 1% AEP flood planning level. A flood report accompanies the application demonstrating that the development complies with the City's Interim Floodplain Management Policy and satisfies the provisions of the standard. The proposed building floor levels, egress points and basement car park crest levels comply with the Policy and is supported by Council's Public Domain Unit.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.14 Community infrastructure floor space at Green Square	Yes	The proposed development is eligible for an additional floor space ratio of 0.5:1, subject to the provision of community infrastructure within the Green Square locality. Green Square community infrastructure is defined under the Clause 6.14 of Sydney LEP 2012 as development in Green Square for the purposes of recreation areas, recreation facilities (indoor or outdoor), public roads, drainage or flood mitigation works. The proposal achieves consistency with Clause 6.14 through the proposed second VPA, which involves the following dedication of land: - Publicly accessible through-site link (TSL) along the southern boundary of the site connecting Young and Bourke Street (width of 6m equating to an area of 440sqm). - Footpath widening along McEvoy Street (width of 2.4m equating to an area of 160sqm). - Footpath widening and publicly accessible landscape

Provision	Compliance	Comment
		embellishment works along Bourke Street (width of 3m equating to an area of 315sqm). The above proposed Green Square community infrastructure is considered commensurate with the intensity of development and contributes towards infrastructure for the desired character of the locality. The Green Square community infrastructure is necessary at Green Square, having regard to the area which is currently undergoing significant renewal. The proposed dedication of land for public roads will improve pedestrian amenity, connectivity from Bourke to Young Street and will support the greater densities in the locality. The proposal achieves the objectives of Clause 6.14. The draft VPA is required to be publicly exhibited for 28 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979. The exhibition of the VPA has not yet commenced.
Division 4 Design excellence		
6.21 Design excellence 6.21D Competitive Design Process	Yes	The proposed design was selected as the as the preferred scheme within the competitive design alternatives process. The design of the development is of a high standard and uses materials and detailing which will contribute positively to the character of the Waterloo Park locality. The proposed form, scale, height and massing responds to new developments in the Danks Street South Precinct and surrounding residential developments. The built form is split into three buildings and steps in plan to reduce bulk and minimise overshadowing to the surrounding developments. The proposed form and external appearance of the development will improve the quality and amenity of the

Provision	Compliance	Comment
		public domain and includes a mix of land uses that provides for a development that is suitable for the site. The bulk, massing and modulation of buildings provides a distinct site identity with active street frontages, which enhance the public domain. The proposal includes well integrated landscaped areas and maximises provision of deep soil. The buildings and basement levels are designed to retain the existing street tree canopy surrounding the site. The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The proposal provides for pedestrian, cycle, vehicular, service access and provides a permeable link between Bourke and Young Street. The development, subject to conditions, achieves design excellence. A building demonstrating design excellence is eligible for an amount of additional floor space, to be determined by the consent authority, up to 10%. The proposed development is the subject of a competitive design competition.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.3 Car parking spaces not to exceed maximum set out in this Division 7.5 Residential flat buildings, dual occupancies and multi dwelling housing	Yes	The site is located on Category B and F land. The maximum car parking rate for the development is 224, breakdown as follows: 97 residential car spaces (comprising 86 residential spaces)

Provision	Compliance	Comment
7.6 Office premises and business premises 7.7 Retail premises		and 11 visitor spaces) pursuant to Clause 7.5. 28 office and business premises car spaces pursuant to Clause 7.6. 96 retail car spaces pursuant to Clause 7.7. 3 car share spaces. The proposed development complies with the relevant development standards, providing a total of 97 residential, 28 commercial and 96 retail spaces.
Division 3 Affordable housing		
7.13 Affordable housing 7.13B Additional affordable housing contribution for certain development on Planning Proposal land	Yes	The site is located within Green Square and involves the erection of a new building. An affordable housing levy contribution of 3% for residential total floor area (TFA) and 1% for non-residential TFA applies. Total floor area plans were submitted calculating 14,587sqm of residential TFA and 5,662sqm of non-residential TFA. It is noted that the applicant's TFA plans excludes the supermarket in the non-residential TFA. The total non-residential TFA is 9,828.8sqm. Accordingly, a contribution of \$6,147,181.04 is required to be imposed. Section 7.13(2) satisfies Section 7.32 of the EP&A Act. The application includes a total of 15 affordable units in accordance with the first Voluntary Planning Agreement (VPA/2022/14). The affordable housing contribution may be offset by the obligations under the VPA, and the recommended condition has been written to reflect this.
Division 4 Miscellaneous		

Provision	Compliance	Comment
7.14 Acid Sulfate Soils	Yes	The site is located on land with Class 5 Acid Sulfate Soils (ASS) and is approximately 600m from Class 3 ASS land. The accompanying Geotechnical and ASS Report prepared by Douglas Partners includes testing for ASS and concludes that the tested samples do not trigger the preparation of an Acid Sulfate Soils Management Plan.
7.16 Airspace operations	Yes	The proposed development will penetrate the prescribed airspace of 45.72m AHD for Sydney Airport. The concurrence of Sydney Airport Corporation, as a proxy for the Civil Aviation Safety Authority, has been received subject to conditions of consent.
7.17 Development in areas subject to airport noise	Not Applicable	The subject site is located outside of the ANEF Contour area.
7.19 Demolition must not result in long term adverse visual impact	Yes	Clause 7.19 stipulates development must not be granted to development involving the demolition of a building unless the consent authority is satisfied that the land affected by the demolition is subject to a site-specific development control plan, and that adequate measures will be taken to assist in mitigating any adverse visual impacts that may arise as a result of demolition. The site is subject to a site-specific development control plan (Clause 7.35 of Sydney LEP 2012 and Section 6.3.27 of Sydney DCP 2012). The site will be comprehensively redeveloped under the subject proposal. The proposed demolition works, will not have any significant impacts for the streetscape and the Green Square area.
7.20 Development requiring or authorising preparation of a development control plan	Yes	As discussed in the 'History section of this report, a site-specific DCP was prepared for the site through a Planning Proposal which introduced site-specific

Provision	Compliance	Comment
		amendments to the Sydney LEP and DCP (Clause 7.35 of LEP and 6.3.27 of DCP). The site-specific DCP guides future redevelopment of the site and includes controls on building form, massing, modulation, environmental impacts, sustainability, quality and amenity of the public domain.
7.23 Large retail development outside of Green Square Town Centre and other planned centres 7.35 Development at 923-935 Bourke Street Waterloo	Yes	The site is identified as Restricted Retail Development on the 'Retail Premises' map. The objectives of Clause 7.23 seek to promote the economic strength of Green Square Town Centre and limit large-scale retail development to those centres, as well as support the provision of community facilities and infrastructure in Green Square. Clause 7.23(3) stipulates development consent must not be granted for the purposes of shops or markets with a gross floor area greater than 1,000sqm. Site specific Clause 7.35(2) overrides the above prohibition if the proposed gross floor area used for shops or markets is 3,200sqm or less. Refer to further details in Clause 7.35 below.
7.27 Active Street Frontages	Yes	McEvoy Street and Bourke Street are identified as being active street frontages. The proposal development comprises a retail plaza on ground orientated towards Bourke and McEvoy Streets. Refer to further details under Section 3.2 of Sydney DCP 2012 below.
7.33 Sustainability requirements for certain large commercial development	Yes	The proposal includes a large commercial development, which comprises the erection of a new prescribed office premises. Section 7.33(2) requires the consent authority to consider whether the development is designed to optimise

Provision	Compliance	Comment
		energy efficiency and the use of renewable energy generated on-site. The development satisfies the requirements of the sustainability requirements for large commercial development. Refer to SEPP (Sustainable Buildings), Sections 3.6 and 6.3.27.10 of Sydney DCP 2012 and discussion section.
7.35 Development at 923-935 Bourke Street Waterloo	Yes	As discussed above, Clause 7.35(2) overrides Clause 7.23 for this site, and enables the provision of a shop or market with a maximum GFA of 3,200sqm. An additional FSR of 0.5:1 also applies to a building on this site, if the floor space that exceeds the permissible FSR will be used for shops or markets, 90% of the floor space will be located below ground level and part of the building used for commercial premises will (for at least 5 years of operation) only use electricity provided by renewable energy generated on/off-site.

Development Control Plans

Sydney Development Control Plan 2012

91. 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

92. The site is located within the Waterloo Park locality. The proposed development is in keeping with the unique character and the design principles of the Waterloo Park locality in accordance with Section 2.5.11 of Sydney DCP 2012, on the basis that:
- (a) the development is consistent with the medium density scale of mixed use and residential developments within the locality;
 - (b) the development provides non-residential development and active frontages at ground level along Bourke and McEvoy Streets to enhance pedestrian activity contributing to the public domain, whilst providing a buffer for traffic noise to residential uses above;

- (c) the development recognises and supports the future function of Waterloo Park as a community node, encouraging an appropriate mix of uses through the retail plaza, supermarket and commercial office and residential uses; and
- (d) the development has been designed to maintain a good level of solar access to the public domain and reinforce the pedestrian scale with a series of public laneways to provide permeable connections into and across the site.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements 3.1.1.4 Footpaths 3.1.2.2 Through-site links	Yes	The proposal provides a through-site link along the southern boundary which connects Bourke and Young Streets. The through-site link is designed to be direct and accessible, is predominately 6m wide and open to the sky. The through-site link is proposed to be dedicated to the City, and will be publicly accessible 24 hours. Similarly, footpaths widening areas along Bourke and McEvoy Streets will be embellished in accordance with Council's technical specifications outlined in the Public Domain Manual and Sydney Streets Design Code, in accordance with the terms of the second VPA. The proposal was discussed with Council's Public Domain Unit who advised the development is acceptable subject to recommended conditions. Concerns were raised on the detailed design of the future public domain land, in relation to the proposed stair on McEvoy Street, visitor bicycle parking and ramp adjacent to the commercial lobby. Unless demonstrated in exceptional circumstances, new developments are not to rely on the public domain to achieve the minimum flood planning levels and equitable access. Conditions are recommended to require submission of concept and detailed Public Domain Plans prior to the issue of any Construction Certificate.
3.1.5 Public Art	Yes	The revised Preliminary Public Art Plan prepared by Barbara Flynn is considered acceptable by the City's Public Art Unit.

Provision	Compliance	Comment
		Refer to further discussion under Section 6.3.27.6 of Sydney DCP 2012 below.
3.2. Defining the Public Domain 3.2.1.1 Sunlight to publicly accessible spaces 3.2.2 Addressing the street and public domain 3.2.3 Active frontages	Yes	The proposal does not result in any overshadowing impacts on surrounding future public accessible spaces or impede views to or from highly utilised public places or heritage buildings (former Sydney Water site). Active frontages are required to McEvoy and Bourke Streets pursuant to Clause 3.2.3 of Sydney DCP 2012. The development contributes to the activity, safety and amenity of both streets through the provision of the retail plaza. The retail plaza introduces interest and liveliness of the streets, maximising entries and display windows to shops with transparent glazing and a predominately unobstructed view from the adjacent footpath. Apart from the supermarket use, the development does not include the specific use or fit-out of the retail tenancies, which will be subject to separate future applications. The development positively addresses the public domain and is consistent with the requirements of this provision.
3.2.4 Awnings	Yes	The site is not nominated as requiring a continuous awning under Section 3.2.4 or within the site-specific DCP provisions under Section 6.3.27 of Sydney DCP 2012. Notwithstanding, the proposal includes several awnings over the Bourke Street and McEvoy Street frontages. The awnings seek to provide pedestrian weather protection to the retail premises commercial and residential lobbies. The awnings are generally consistent with the design requirements of Section 3.2.4, in terms of height (2.8m above the footpath), width (2.5m), and wraps around the corner of Bourke and McEvoy Streets. The contemporary design of the awnings and placement of the awnings relate to the architectural

Provision	Compliance	Comment
		features and rhythm of the host building, aligned to the bays of each retail tenancy. A typical drawing for awning around the commercial building show that the awnings will be sloped towards the building elevation with recessed downpipes and gutters into the ground floor frontage. Conditions are recommended to require further 1:50 detailed drawings to ensure the provision of high-quality awnings including the material finish, design and integration with the façade. It is also recommended that the gap between the awnings be infilled with translucent glazing as to maximise weather protection whilst maintaining the design rhythm and relationship with the bays of the façade.
3.2.7 Reflectivity	Yes	Section 3.2.7 stipulates that the light reflectivity from building materials used on facades must not exceed 20%. A Reflectivity Report prepared by RWDI accompanies the application and confirms the reflectivity of glazing will be under 20%. Three areas of the glazing (along Bourke Street, and north-west corner of the site at the McEvoy/ Young Street intersection) were identified as requiring specular reflectivity values no greater than 14% or 17%. A condition is recommended to ensure reflectivity values meet the recommendations of the reflectivity analysis, and to ensure a consistent value be extended to entire façade to avoid variability in appearance.
3.2.8 External lighting	Yes	The proposal does not include any external lighting. A condition is recommended to require a separate application to seek any external lighting.

Provision	Compliance	Comment
3.3 Design Excellence and Competitive Design Processes	Yes	The proposed development was the subject of a competitive design process and is eligible for an additional 10% floor space pursuant to Clause 6.21D(3)(d) of the Sydney LEP 2012.
3.4 Hierarchy of Centres, City South	Yes	The site is not identified as being located within a major centre, local village or small village in the Hierarchy of Centres, City South map. Section 3.4 stipulates that retail development is permissible outside centres provided it does not have a negative impact on the viability and economic role of planned centres in the Southern areas, and it will result in a net community benefit. An Economic Impact Assessment prepared by Ethos Urban accompanies the proposal. It concludes that the proposed development results in significant benefits for the local community and will act as a catalyst for Waterloo, increasing activation, walkability and promoting an integrated community. The development aligns with community needs, findings of previous studies and overarching strategic policies. The proposal includes twelve (12) retail tenancies with a consolidated gross floor area of 1,584sqm, as well as a full line supermarket. The retail GFA has been reduced since that proposed at the time of the Planning Proposal. The proposal will not have an adverse trading impact on the surrounding retail centres, nor threaten the continued operation or ongoing viability of any centre. In accordance with Section 3.4(2) an operational waste management plan has been submitted for the proposed supermarket (as it exceeds 2,000sqm). Refer to further discussion under Sections 3.14 and 6.3.27.11 of Sydney DCP 2012 below.
3.5 Urban Ecology	Yes	The proposal includes landscaping on the ground plane, level 1 podium and rooftop areas which contribute towards

Provision	Compliance	Comment
		the biodiversity of the site. The development includes native vegetation on both ground and planted on structure with a deep soil area of 15% (15.9%) and exceeds the minimum required canopy coverage of 20% (25.6%). The landscape plans are well detailed and confirm the provision of sufficient soil volume and drainage for the landscaped podium and inaccessible green roofs (minimum of 1000mm depth for trees, 450mm for shrubs and 200mm for groundcovers excluding mulch and drainage layers). Council's Landscape Specialist recommends that the revised Landscape plans prepared by Oculus form part of the approved set of drawings. In addition to standard landscape conditions, a condition is recommended to require incorporation of a screening fence within the raised planter between the level 1 communal rooftop and commercial terrace. This will ensure a sufficient level of privacy is provided between uses, as well as safety to prevent users climbing between the uses. A total of eleven (11) street trees are proposed to be removed. The proposed development will not have an adverse impact on the local urban ecology. Refer to discussion under Section 6.3.27.3 of Sydney DCP 2012.
3.6 Ecologically Sustainable Development	Yes	The proposal meets BASIX and environmental requirements. The architectural plans have been stamped by the NatHERS consultant, E-LAB Consulting. Refer to discussion under the heading SEPP (Sustainable Buildings), Section 6.3.27.10 and discussion section below.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under Clause 5.21 of Sydney LEP 2012 above.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	The proposed development involves stratum subdivision of the site into four (4) lots. The new allotments are regular

Provision	Compliance	Comment
		in shape and relate to the residential, retail, commercial and land to be dedicated to the City. The application was referred to Council's Specialist Surveyor, who supports the proposed subdivision, subject to appropriate conditions of consent. In addition to standard surveyor conditions, a revised plan of subdivision to align with the requirements of the second VPA will be required to be submitted and approved by the City.
3.9 Heritage	Yes	Refer to assessment under Clause 5.10 of Sydney LEP 2012 above.
3.11 Transport and Parking 3.11.1 Managing transport demand 3.11.2 Car share scheme parking spaces 3.11.3 Bike Parking and associated facilities 3.11.6 Service vehicle parking 3.11.7 Motorbike parking	Partial compliance	The development includes 224 car parking spaces inclusive of three (3) car share spaces within two basement levels for residents, visitors and commercial uses. The number of parking spaces is consistent with the City's maximum permissible parking rates pursuant to Clause 7.3, 7.5, 7.6 and 7.7 of Sydney LEP 2012 as outlined above. Based on the total proposed parking spaces, a minimum of four (4) car share spaces are required pursuant to Section 3.11.2. Having regard to the high level of accessibility of the site, it is considered that the provision of three (3) car share spaces is acceptable. A total of six (6) direct to boot (DTB) parking spaces are located on ground accessed via Young Street. Three of these spaces are also proposed as service spaces to accommodate deliveries for all site users outside of the peak operating hours of the DTB service. The DTB spaces are proposed to be managed by the supermarket operator. The proposal achieves an average efficiency of 98% in the TfNSW Urban Freight Forecasting Model, which confirms the proposal accommodates a suitable number of service parking to meet demands. Council's Transport and Access Unit advised the proposed

Provision	Compliance	Comment
		development is acceptable, subject to recommended conditions. It is recommended that a detailed Loading Dock and Direct to Boot Management Plan be prepared and submitted to Council prior to the issue of any Occupation Certificate. The proposal exceeds the minimum required bicycle parking spaces of 209 under Section 3.11.3 of Sydney DCP 2012. A total of 219 spaces are proposed, breakdown of 125 residential spaces and 39 commercial spaces are included in the mezzanine level and 55 spaces in the public domain. 19 motorbike spaces are provided in the basement levels. The development meets the required rates under Schedule 7.8.4 of Sydney DCP 2012. In accordance with the terms of the first VPA, 29 electric vehicle charging spaces inclusive of 2 rapid charging spaces are proposed in the basement. Waste collection is proposed to be undertaken via the loading dock accessed from Bourke Street. A turntable is provided to allow the vehicle to enter and exit in a forward direction. The loading dock has been designed to accommodate Council's Waste vehicles, with a length of 10.6m and vertical clearance exceeding 4.5m (4.7m).
3.12 Accessible Design 3.12.2 Adaptable dwelling mix	Yes	Section 3.12.2 of Sydney DCP 2012 requires adaptable dwellings to be spread amongst all unit sizes to accommodate various household sizes. As the proposed development seeks 30 or more dwellings, a minimum of 17% of units are required to be adaptable (rate of 15% of dwellings). The proposal provides a total of 17 adaptable units spread across the various unit sizes (2 x 1bed units, 12 x 2bed and 3 x 3bed units) and complies with this provision.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is

Provision	Compliance	Comment
		generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	Refer to discussion under Section 6.3.27.11 of Sydney DCP 2012.
3.15 Late Night Trading Management	Yes	The site is not located within a Late Night Trading Area and is within the 'Other areas' locality. The proposed supermarket is considered as a Category C premise. Section 3.15 stipulates permissible indoor hours of 7.00am to 12.00midnight for Category C premises within other areas. The proposed seeks to operate between 6.00am to 12.00midnight, Mondays to Sundays inclusive. The proposal does not include the specific use or fit out of other retail and commercial premises, which will be subject to separate future applications. Refer to discussion section below.
3.16 Signage and Advertising 3.16.1 Signage Strategy 3.16.3 General requirements for signage 3.16.4 Illuminated signage 3.16.5 Building identification signs 3.16.6 Business identification signs 3.16.6.3 Flat mounted wall signs 3.16.6.4 Projecting wall signs 3.16.6.8 Window signs and top hamper signs 3.16.6.11 Free standing signs	Partial compliance	The proposal seeks 2 building identification signs, 6 business signs associated with the supermarket, Woolworths, 14 retail premises identification signs, and an array of directional and wayfinding signs. The type of signs proposed include top hamper signs, wall signs, projecting wall signs and free-standing signs. In accordance with Section 3.16.1 of Sydney DCP 2012, a Signage Strategy prepared by The Blueprint accompanies the application. The site is not located within a signage precinct. Refer to assessment under the discussion heading below.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed-Use Developments

93. In accordance with Clause 149 of the SEPP (Housing) 2021, any DCP provisions pertaining to visual privacy, solar and daylight access, common circulation and spaces, apartment size and layout, ceiling heights, private open space and balconies, natural ventilation and storage are of no effect, if the Apartment Design Guide also specifies a requirement, standard or control in relation to the same matter. The remaining provisions are addressed in the following table:

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	No	Refer to discussion under site-specific provision 6.3.27.4 of Sydney DCP 2012 below.
4.2.2 Building setbacks	Partial compliance	The site-specific public domain and landscape setback provisions under Section 6.3.27.2 prevails over Section 4.2.2 of Sydney DCP 2012. Refer to discussion below.
4.2.3 Amenity		
4.2.3.4 Design features to manage solar access	Yes	The proposal was amended to provide operable canopy fabric awnings to north and west facing windows. Additional metal side panels have been integrated into the revised Young Street façade, to increase solidity and reduce the overall extent of glazing.
4.2.3.5 Landscaping 4.2.3.6 Deep Soil	Yes	Refer to discussion in Section 3.5 of Sydney DCP 2012 above. Landscape plans were provided with the application and have been assessed by Council's Landscape Specialist, which are acceptable subject to conditions.
4.2.3.10 Outlook	Yes	All apartments are provided with a pleasant outlook from windows, across the site and surrounds.
4.2.3.11 Acoustic privacy	Yes	The proposal incorporates passive noise mitigation measures (plenums and treated balconies) to ensure the required internal noise level requirements are satisfied.

Provision	Compliance	Comment
		Section 4.2.3.11 of Sydney DCP 2012 stipulates a maximum LAeq level of 35dB for bedrooms, 45dB for living rooms (windows closed) and 45dB for bedrooms and 55dB for living areas (windows open). The submitted Acoustic Report prepared by E-Lab Consulting confirms compliant internal LAeq levels in windows closed and window open positions. Refer to discussion under Clause 2.120 of the SEPP (Transport and Infrastructure) 2021. Conditions are recommended to require the recommendations of the submitted Noise Impact Assessment to be implemented at construction.
4.2.3.12 Flexible housing and dwelling mix	Yes	The proposed dwelling mix complies with this provision, as follows: • 21 x 1-bed units (19%) • 68 x 2-bed units (62%) • 21 x 3-bed units (19%)
4.2.4 Fine grain, architectural diversity and articulation	Yes	The building locations and typologies reflect those commended during the design excellence processes and provide a fine grain-built form and varied architectural character. The development utilises a variety of materials reminiscent of coastal landscapes, Australian Native flora (Banksias and Melaleucas) and colonial heritage.
4.2.5 Types of development 4.2.5.3 Development on busy roads and active frontages	Yes	The accompanying submitted Acoustic Report confirms that noise affected apartments fronting McEvoy Street and Bourke Streets will achieve acceptable acoustic amenity. Refer to discussion under Clause 2.120 of the SEPP (Transport and Infrastructure) 2021.

Provision	Compliance	Comment
4.2.5.4 Residential uses on the ground and first floor	Yes	The design of the six (6) ground floor apartments along Young Street have a similar appearance as a two-storey terrace house with individual entries. The terraces are sufficiently setback from Young Street to balance visual privacy for occupants and streetscape activation to the public domain. A condition is recommended to setback the bin enclosure by 800mm to screen the bins and provide a consistent landscaped edge across the units.
4.2.7 Heating and cooling infrastructure	Yes	Heating and cooling infrastructure is located at suitable centralised locations in the basement and roof levels of the building.
4.2.8 Letterboxes	No	Letterboxes are not shown as being provided within the Bourke Street North or Young Street residential lobbies. A condition is recommended to ensure that letterboxes are installed within private entry lobbies, with non-master key locks for added security.
4.2.9 Non-residential development in the MU1 Mixed Use Zone	Yes	As discussed elsewhere in this report, the development will not adversely impact the amenity of neighbouring residential properties in relation to traffic generated noise impacts, solar access and noise. The future occupation of the proposed commercial and retail tenancies will form the subject of future development applications to Council, at which time, the operating hours and noise impacts will be considered.

Section 5 – Specific Areas

Provision	Compliance	Comment
5.2 Green Square	Yes	The development is generally consistent with the objectives for Green Square, as it provides a mix of uses, employment

Provision	Compliance	Comment
		opportunities and housing choices to support a socially diverse community.
5.2.3 Community infrastructure	Yes	Refer to discussion under Clause 6.14 of Sydney LEP 2012 above.
5.2.5.2 Through-site links	Yes	Subject to conditions, the proposal provides a 6m wide through-site link along the southern site boundary which connects Young Street and Bourke Street. Refer to further discussion under Section 6.3.27.2 below.
5.2.7 Stormwater management and waterways 5.2.7.1 Water channels and setbacks 5.2.7.2 Water sensitive urban design principles	Yes	The existing water channel open space link runs along Young Street and connects to the Alexandra Canal. The development provides a minimum of 3m landscaped setback along Young Street adjacent to the water channel. This setback does not contain any encroachments and meets Section 5.2.7.1 of Sydney DCP 2012. The on-site detention (OSD) tank is integrated into the development at the basement level over the supermarket back of house area at the south-west corner of the site.
5.2.7.3 Flood risk management	Yes	Refer to discussion in Clause 5.21 of Sydney LEP 2012 above.
5.2.9 Building design	Yes	The proposal satisfies the objectives of this provision. The development maximises pedestrian amenity and enhances quality of the Bourke, Young and McEvoy streetscapes, through retention of significant street trees and landscaping. The building facades incorporate a variety of materials and textures and entries are designed to provide clear transitions from the street, whilst minimising vehicular and pedestrian conflicts.
5.2.11 Carparks under the public domain	No	The development includes a basement comprising an underground supermarket and car park under future public domain areas to be dedicated to Council. This is

Provision	Compliance	Comment
		generally not permitted under this provision except for certain circumstances, such as constrained sites. Section 5.2.11(2) denotes that in such circumstances, these encroachments are to be limited to common areas such as circulation space or unallocated visitor spaces. The proposed encroachments along the TSL, Bourke and McEvoy Streets relate to the thickness of basement walls, limited to common property. The basement encroachments vary in width, encroaching 500-900mm on McEvoy Street, 547mm on Bourke Street and 700mm on the TSL. Council's Public Domain Unit advised the encroachments are acceptable subject to a condition requiring that the ownership of the land (to be dedicated to the City) shall be in stratum above the water-proofing membrane, and to a minimum depth of 1.5m for clearance for services as measured from the road levels. Appropriate conditions are recommended to require a detailed cross section to be submitted and approved in the revised stratum subdivision plans.

Section 6 – Specific Sites

Provision	Compliance	Comment
6.3.27 923-935 Bourke Street Waterloo 6.3.27.1 Land uses	Yes	The proposal includes retail and commercial uses at the north-east corner of the site. The supermarket is proposed below ground, accessible via a clear lobby on ground level. The retail tenancies along the active frontages on Bourke and McEvoy Streets exceed the minimum depth of 6m. The majority building services are provided away from the active street frontages and is consistent with this provision.
6.3.27.2 Public domain	Yes, subject to conditions	In addition to a 6m wide TSL, Section 6.3.27.2 stipulates minimum public domain setbacks of:

Provision	Compliance	Comment
		- landscaped setback of 3m on Young Street - footpath setback of 3m on Bourke Street - footpath setback of 2.4m on McEvoy Street The development includes a predominantly 6m wide TSL along the southern boundary (building elements encroach into the 6m width by 400mm). The provided TSL is clear to the sky. A varied public domain setback of 3-6m is proposed along Bourke Street, in which columns of the commercial building project into the 3m setback by 200mm and façade elements encroach into the 6m setback by 400mm. A 2.4m public domain setback is provided along McEvoy Street. Above ground, the kiosk roof and expressed horizontal slab edge seeks to encroach into the 2.4m setback by 665mm. Through the course of assessment, further clarification of the encroachments was requested from the applicant. The applicant advised the building is not intended to encroach into future dedicated land. The applicant requested that this be addressed via a condition to remove all above ground encroachments over the TSL and 3m footpath widening setback on Bourke Street. It is considered that these elements can be slightly setback to provide the minimum clearance without disrupting the architectural design and language of the development. The minor encroachments on the first floor and above over the future through-site link are considered acceptable having regard to Schedule 4 of the Sydney DCP 2012, which permits minor projections for decoration, building elements or sun shading where the projection does not exceed 450mm. These architectural elements comprise non-combustible materials, masonry

Provision	Compliance	Comment
		vertical brick piers, expressed concrete slab edge and columns. Refer to additional discussion under Section 3.8 of Sydney DCP 2012 above in relation to stratum subdivision plans.
6.3.27.3 Trees, deep soil and landscaping	Partial compliance	Section 6.3.27.3 permits the significant pruning of several street trees labelled 5, 7, 20, 21, 22, 23 and 32. In addition to the public domain setbacks, a minimum landscape setback of 7m is required to Young Street. The proposal provides a varied landscape setback of 5-7m along Young Street. The varied setback is considered acceptable having regard to the objective of the control, which seeks to improve opportunities for landscaping, retain and protect trees. The proposal retains the majority of the street trees along Young Street and provides a commensurate amount of landscaping along this frontage (within private open space terrace courtyards and planter beds adjoining the pedestrian footpath). The development seeks to retain tree 5 but remove eleven trees labelled 7,10, 21, 22, 23, 32, 36, 37, 38 and 39. Council's Tree Management Unit support the removal of these trees given the low to medium retention value of trees. Street trees 20-22 are considered low retention value and of poor health, whilst the remaining medium value trees are supported for removal due to the impact from redevelopment and the required scaffolding zone. The proposal compensates for the reduced street trees through the extensive landscaping on the ground, podium and rooftop areas, which includes new tree planting on structure and in deep soil. The development provides a deep soil area of 15% and canopy coverage of 25.6%. Conditions are recommended to ensure the retained street trees are adequately protected during construction.

Provision	Compliance	Comment
		As noted above, an air spade root investigation was requested for Trees 4, 6, 25 and 26 to confirm the presence of structural roots beneath the foundation slabs of the existing building. The applicant experienced difficulties with undertaking this investigation and requested this requirement to be deferred to a later stage. It is considered that the proposed setback (approximately 8m) from the stump of Trees 25 and 26 would allow for part of the existing slabs to be retained in situ, in the event future investigations confirm the presence of structural roots. As for trees 4 and 6, conditions are recommended to require air spade investigations to be undertaken with findings and recommendations to be submitted to the City's Tree Management Unit prior to the issue of any Construction Certificate. If determined that these trees will not remain viable due to the new Young Street driveway crossing, a separate condition is recommended to allow the planting of replacement trees capable of achieving similar canopy dimensions.
6.3.27.4 Height, massing and amenity	No but acceptable	The development exceeds the building height in storeys requirements, by an additional storey. The proposal seeks 8 storeys on Young Street (7 storeys is permitted) and 6 storeys on Bourke Street (5 storeys is permitted). Notwithstanding, the development does not exceed the maximum permissible height, as discussed under Clause 4.3 of Sydney LEP 2012 above. The buildings have been massed to reduce overshadowing impacts to the Lachlan Precinct to the east of the site. The habitable rooms fronting Bourke Street are naturally ventilated and achieve compliant internal LAeq levels in windows closed and window open positions. Refer to further discussion below.

Provision	Compliance	Comment
6.3.27.5 Design excellence strategy	Yes	A competitive alternative design process was held for the site between 11 March and 1 May 2024. In accordance with Section 6.3.27.5(2), four architectural firms were invited to participate in the competition, Bates Smart, Furtado Sullivan, Koichi Takada and SJB Architects. The proposal was awarded an additional 10% floor space pursuant to Clause 6.21D(3)(d) of the Sydney LEP 2012. Refer to details under the heading 'Competitive Design Alternatives Process above'.
6.3.27.6 Public art	Yes	The Preliminary Public Art Plan nominates the following opportunities for LED neon works: • south-east corner of the building on Bourke Street • south-west corner of the building on Young Street • Young Street lobby entrance at the corner of Young and McEvoy Streets. The proposal meets the objectives of Section 6.3.27.6 and will contribute towards the identity and amenity of the development. Appropriate conditions are recommended to ensure public art will be implemented in accordance with the Preliminary Public Art Plan.
6.3.27.7 Vehicular access	No but acceptable	The development seeks two driveway crossovers on Young Street, where one lane in each direction is permitted under the control. The two crossovers are required to accommodate and manage conflicts between circulation for the supermarket direct to boot services and underground car parking. Council's Access and Transport Unit raised no objection to the additional crossover.

Provision	Compliance	Comment
		As discussed in Section 2.119 of the SEPP (Transport and Infrastructure) 2021, Bourke Street is a classified road. The width of the Bourke Street driveway is recommended to be reduced as far as practicable to improve pedestrian and cyclist safety. The reduced width will minimise pedestrian conflict and improve the public domain, whilst providing adequate access for Council's waste vehicles and delivery trucks. Notwithstanding, the development is consistent with the objectives of this provision and creates a high-quality interface between vehicles, pedestrians and the public domain.
6.3.27.8 Sustainable transport and infrastructure	No but acceptable	The majority of bicycle parking spaces for residents, visitors and commercial uses are proposed in the mezzanine level (164 spaces). However, 55 visitor bicycle spaces are proposed adjacent in the public domain. These spaces are located within the TSL, along the Bourke and McEvoy Street frontages of the site. Section 6.3.27.8 requires the provision of weather protected end of trip facilities on-site for all site users, noting that facilities are not to be located in the TSL or footpath widening areas. Notwithstanding the requirements of the control, the proposed visitor parking spaces are considered to be conveniently located to encourage cycling and sustainable transport option, in keeping with the objectives of the provision. Noting that the development exceeds the required residential spaces by 4, a condition is recommended to relocate 4 visitor spaces from the public domain to the mezzanine level.
6.3.27.9 Water and flood management	Yes	The proposal achieves the required flood planning levels. Refer to further discussion under Clause 5.21 of Sydney LEP 2012 above.

Provision	Compliance	Comment
6.3.27.10 Ecologically sustainable development and green infrastructure	Yes	The proposal has been designed to achieve: • Renewable Energy Procurement equivalent to Net Zero Emissions for all retail and office (base building) energy demands. • 5.5 Star NABERS Energy Commitment Agreement (+25%) for the commercial office base building • 4.0 Star NABERS Water for Office uses greater than 1,000sqm NLA • NABERS Agreement to Rate for the commercial office base building for energy and water. • Maximum of 45kWh/yr/m² GFA energy use intensity for retail uses (base building) and supermarket (base building). The building design, as amended, also includes passive design measures and shading devices to the north and western facades of the commercial and residential buildings. The proposal satisfies BASIX and environmental requirements. In accordance with the requirements of the first VPA, 29 electric vehicle charging spaces and including 2 rapid charging bays are proposed in basement level 1 and 2. Conditions are recommended to require these spaces to be retained in common property ownership, be individually metered, with the rapid charging spaces to be publicly accessible during supermarket/ retail/ commercial operating hours. Council's Environmental Sustainability Specialist advised that the sustainability reporting requirements have been provided to a high-quality and the

Provision	Compliance	Comment
		development is acceptable subject to recommended conditions.
6.3.27.11 Circular economy and waste management	Yes, subject to conditions	This control requires developments to demonstrate best practice site-wide resource recovery for operational waste and recycling systems. The supermarket is to achieve minimum targets of more than 50% recovery of food organics, 80% resource recovery rate from all waste streams and Australia's 2025 National Packaging Targets. A Supermarket Operational Waste Management Plan (OWMP) prepared by MRA Consulting Group accompanies the application to meet subclause (2) of this provision. The OWMP includes a statement by the proponent, Fabcot (Woolworths) that existing data was used to determine waste generation rates, and Woolworths is committed to achieving the targets in the detailed operational documentation phase of the development. Council's Cleansing and Waste Unit support for the proposed waste strategies and consider the design of waste storage areas are generally sufficient, subject to waste conditions. Conditions are recommended to clearly mark the residential bulky/ organic waste room and commercial waste storage areas and ensure clear paths of travel are provided to/ from the lifts on the mezzanine level. An additional condition is recommended to require a 'return and earn' machine to be provided in the basement of the development as to encourage public recycling of containers, and small household problem waste such as batteries, light bulbs, mobile phones and small electronics, in accordance with subclause (2)(e) of this control.
6.3.27.12 Contamination	Yes	Refer to discussion under the SEPP (Resilience and Hazards) 2021. A condition is recommended to ensure that all future land to be dedicated to the

Provision	Compliance	Comment
		City will not be subject to a long-term environmental management plan.

Discussion

Clause 4.6 Request to Vary a Development Standard - Floor Space Ratio

94. The site is subject to a maximum floor space ratio (FSR) of 2.7:1 pursuant to Clause 4.4, 6.14, 6.21D(3) and 7.35 of Sydney LEP 2012. The proposed development has a FSR of 2.81:1 and gross floor area (GFA) of 18,356.8sqm, equating to a variation of 4%.
95. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard.

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

96. The applicant seeks to justify the contravention of the Clause 4.4 Floor Space Ratio development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The applicant's statement refers to the first of the five tests established in *Wehbe v Pittwater Council* (2007) NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The test seeks to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the numerical standard.
 - (ii) The applicant's written request indicates that the objectives of the standard have been achieved for the following reasons:
 - (i) Objective (a): to provide sufficient floor space to meet anticipated development needs for the foreseeable future
 - i. The site has been designed with the interests of future-proofing Waterloo in anticipation of continued future growth and development, as well as subsequent demand for residential and commercial development.
 - ii. As established through the planning proposal, there is a substantial existing unmet future demand for supermarket floor space and infill residential dwellings, where Green Square is forecasted to house 70,000 people by 2036.

- iii. Providing commercial space will facilitate employment opportunities close to housing and transport, and will add to the diversity of the area, spreading activation and economic activity throughout the day.
 - iv. The development delivers affordable dwellings in perpetuity, through the Voluntary Planning Agreement, and responds to the housing crisis and demand of well-located and affordable housing.
- (ii) Objective (b): to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic
 - i. The appropriate level of density for the site was carefully established through a thorough planning proposal process and Competitive Design Alternative Process. Together, these established the appropriate built form massing and level of intensity for the subject site.
 - ii. The site benefits from transport infrastructure including proximity to Green Square Station, Waterloo Metro Station, and located along a cycling route connecting to the Sydney CBD.
 - iii. The additional GFA over the total quantum allowable on the site is equivalent of End of Trip (EOT) facilities for residential/ non-residential uses, waste bin storage areas and circulation on the mezzanine. It does not increase the apparent bulk and scale of the building envelope.
 - iv. The additional FSR does not increase the intensity of the use, as it is limited to waste storage and EOT on the mezzanine level and thus will not increase vehicle or pedestrian traffic over what is already anticipated for the site.
- (iii) Objective (c): to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure
 - i. The proposal provides an acceptable quantum of floor space, matched to the capacity of the site from a servicing and infrastructure aspect. Apart from the waste storage areas and EOT facilities, the proposal is consistent with the FSR for the site enforced under the Sydney LEP 2012.
 - ii. The additional floor space does not increase the capacity or intensity of the development.
 - iii. The development is well-positioned to meet the demands of the growing population. It integrates infrastructure considerations, including active street frontages and foliage dominant landscaping. The minor exceedance in floor space is therefore considered in keeping with the City's Strategic objectives of sustainable intensification in areas of high accessibility.

- (iv) Objective (d): to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.
 - i. The Green Square locality statement promotes the use of employment generating land uses, ensuring that any residential use in the area does not impede on the delivery of non-residential uses. Additionally, the character statement speaks to serving the worker, resident and visitor population of Green Square. The proposed development has been designed to align with the desired future character and strategic intent of the locality. The building massing is designed with sufficient setbacks to retain the existing trees around the site and is reflective of existing and future surrounding development height, in line with the controls of the Sydney LEP 2012.
 - ii. The minor FSR exceedance supports necessary ancillary facilities without adding perceptible bulk or scale to the development. This approach minimizes impacts such as overshadowing, overlooking, and congestion. By adhering to design excellence standards and leveraging sustainable practices, the proposal upholds and enhances the amenity of the locality, fostering a vibrant and cohesive urban environment.
- (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
 - (i) The proposed FSR and built form does not cause adverse environmental impacts which would render it incompatible with the surrounding land uses. Apart from the EOT facilities and waste storage areas (714.8sqm), the proposal provides a compliant quantum of floor space allowable for the site. The additional floor area is located within the loading dock and vehicle entry volume and is not readily perceivable.
 - (ii) The proposed built form is compliant with the height of building controls, and will not result in significant additional overshadowing, view or privacy impacts to the surrounding public realm or receivers surrounding the site.
 - (iii) The mezzanine level is located within an area which would otherwise be a void space within the building. The height of the loading dock is necessary to obtain sufficient head height clearance for the servicing of the site, which caters for heavy rigid vehicles.
 - (iv) Clause 6.13 of the Sydney LEP 2012 allows for additional FSR for end of journey floor space (for the provision of showers, change rooms, lockers and bicycle storage areas) for buildings that are used only for the purpose of commercial premises. As the development also includes residential uses, it is not applicable for end of journey space of up to FSR 0.3:1 under Clause 6.13. However, the office and retail components of the development will operate akin to the kind of development anticipated under Clause 6.13. If the development were a wholly commercial building, the additional floor space sought (0.11:1) would otherwise be compliant under this provision.

- (v) The definition of GFA under the Sydney LEP 2012 excludes the area of bike storage and garbage/waste storage and management areas in GFA, if included in the basement. While the exceedance constitutes as GFA, rearranging this GFA from the basement to the mezzanine represents a logical and superior outcome for the functionality and operation of the development without comprising the built form.
- (vi) The development is consistent with the objects of the EP&A Act, notwithstanding the variation.

Consideration of Applicant's Written Request - Clause 4.6 (3)

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

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

98. The applicant has referred to the five tests established by Preston CJ in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. The applicant's statement has demonstrated that the development meets the objectives of Clause 4.4 of Sydney LEP 2012 in accordance with the first test, notwithstanding non-compliance with the numerical standard.
99. The applicant statement notes that the increase in gross floor area is limited to the mezzanine level and accommodates waste storage areas and EOT facilities. This additional floor space seeks to support the proposed uses and will not result in an intensification of the use of the development. The mezzanine level is located within an area which would otherwise be a void space within the building due to the required clearance height of the loading dock.
100. The applicant has adequately demonstrated that the proposed built form and intensity of the development is commensurate with that envisaged by the planning proposal. It will not place any additional demands on the capacity of planned infrastructure within the Green Square locality. The development is consistent with forecasted housing projections in the locality as well as the City's Green Square and Southern Areas Retail Review, which identified and undersupply of supermarket floor space in Waterloo.
101. The contravening floor area does not increase vehicle or pedestrian traffic envisaged through the planning proposal for the site. Its use as EOT and waste storage areas provides the necessary ancillary facilities to support the mixed uses of the development. The quantum of floor space of the development for supermarket, commercial, retail and residential uses is otherwise compliant with the provisions of the Sydney LEP 2012.
102. The proposal does not result in any adverse impacts on the amenity of the location, including in terms of overshadowing, view loss or visual privacy, as discussed elsewhere in this report.

103. The applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Primarily, the written statement has demonstrated that the proposed development meets the objectives (a), (b), (c) and (d) of the development standard notwithstanding non-compliance with the numerical standard.

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

104. The statement provides environmental planning grounds specific to the circumstances to justify the extent of non-compliance with the floor space ratio development standard.
105. The FSR exceedances arise from the waste storage and EOT facilities in the mezzanine level. The additional floor space will accommodate waste storage areas and improve the overall functionality and amenity of the development, without resulting in adverse overshadowing, visual or other environmental impacts. The additional FSR does not however change the perceived density of the development and does not result in additional environmental impacts than a development which complies with the permitted maximum FSR applying to the site.
106. The additional floor space is internalised within a predominately compliant envelope. The FSR exceedance utilises the volume of the loading dock. The height of the loading dock is dictated by the minimum head height clearances to enable on-site servicing and caters for heavy rigid vehicles. This area would otherwise be a void. If the floor space was made strictly compliant, there would be no change to the building envelope. As such, the perceived visual or amenity impacts created by the non-compliance is insignificant or nil. The development complies with the maximum permissible height of buildings development standard under Clause 4.3 of Sydney LEP 2012.
107. The additional FSR does not increase the density or intensify the proposed mixed uses but rather supports the needs of future occupants. The non-compliance created by the end of trip facility provides a direct amenity benefit to the future occupants of the building, as it encourages sustainable modes of transport. The storage of bicycles on the mezzanine floor prevents conflicts between cyclist and supermarket vehicles in the basement. If relocated to the basement levels, the area would not constitute as GFA in accordance with the GFA definition under the Sydney LEP 2012.
108. The contravening floor area of 0.11:1 is less than the end of journey floor area which would otherwise be permitted if the development were wholly a commercial building pursuant to Clause 6.13 of Sydney LEP 2012.
109. The applicant has demonstrated there are sufficient environmental planning grounds to support the extent of variation proposed.

Conclusion

110. For the reasons provided above the requested variation to the floor space ratio development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney Local Environmental Plan 2012.

Clause 4.6 Request to Vary a Development Standard - Ceiling heights

111. Section 148 of the Housing SEPP contains development standards for particular matters relating to residential development that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. This includes the recommended ceiling heights specified in Part 4C of the Apartment Design Guide (ADG), which is described as a 'non-discretionary development standard'.

112. If non-discretionary development standards are not complied with, Section 4.15(3) of the EP&A Act 1979 allows the consent authority to apply Clause 4.6 when determining the development.
113. Part 4C of the ADG requires minimum floor to ceiling heights of:
- (a) 2.7m for habitable rooms and 2.4m for non-habitable rooms.
 - (b) for two-storey apartments: 2.7m for the main living floor and 2.4m for the second floor, where its area does not exceed 50% of the apartment area.
 - (c) development in mixed-use areas: 3.3m for ground and first floor to promote future flexibility of use.
114. The first floor of the Young Street terraces exceeds 50% of the apartment area. A floor to ceiling height of 2.4m is proposed, which results in a variation of 0.3m (11%). In addition, a floor to ceiling height of 2.7m is proposed to all residential units on the first-floor level, which results in a variation of 0.6m (18%).
115. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard;

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

116. The applicant seeks to justify the contravention of the ceiling heights development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The applicant's statement refers to the first of the five tests established in *Wehbe v Pittwater Council* (2007) NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The test seeks to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the numerical standard.
 - (ii) The applicant's written request indicates that the objectives of the standard have been achieved for the following reasons:
 - (i) Objective 4C-1: Ceiling height achieves sufficient natural ventilation and daylight access
 - i. The reduced floor to ceiling height does not restrict the penetration of natural light and airflow into the apartments.
 - ii. All terraces subject of this variation request accord with the provisions under Objectives 4A-1 and 4B-1 of the ADG and achieve solar access and cross ventilation.

- iii. Apartment depths have been limited to enhance ventilation and airflow, with kitchens positioned near large sliding door windows to maximise natural ventilation.
- (ii) Objective 4C-2: Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms
 - i. The areas of non-compliance remain consistent with the design guidance of this objective. Apartments are designed with an open plan arrangement of habitable living spaces and optimises spatial perception and outlook.
 - ii. The Young Street terraces have been designed with an open plan layout to facilitate flexible movement.
 - iii. The floor to ceiling height of first floor units are not compromised regarding sense of space in apartments.
- (iii) Objective 4C-3: Ceiling heights contribution to the flexibility of building use over the life of the building
 - i. The minor non-compliances still enable flexibility for potential alternative uses at these levels without compromising amenity or spatial requirements.
- (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
 - (i) All kitchens within the terraces are located adjacent to an open plan living and dining layout at the ground floor with minimum 2.7m ceiling heights, which benefit from adjacent daylight, ventilation and outlook.
 - (ii) All first-floor units are consistent with the standard minimum 2.7m ceiling height, outside of mixed-use areas and present across all other floors of the building.
 - (iii) The depths of terraces are limited to maximise ventilation and airflow. Kitchens are positioned near large sliding doors to maximise natural ventilation.
 - (iv) All apartments, both terrace-style and first floor units, are consistent with the minimum internal areas and room dimensions of the ADG demonstrating function use of spaces.
 - (v) The non-compliance at mezzanine and first floor area minor and do not significantly inhibit flexibility in use at these levels.
 - (vi) The likelihood of non-residential conversion of the terraces is considered unlikely given extensive retail and commercial floorspace provided elsewhere within the development, in more prominent, desirable and publicly active streetscape locations for such uses.
 - (vii) The likelihood of conversion of the first-floor apartments is considered even more unlikely, having regard to the double height ceilings already provided for in the extensive retail provision across the site. Furthermore, the structure of the development in terms of stratum subdivision of residential and non-residential components would render any conversion unviable.

Consideration of Applicant's Written Request - Clause 4.6 (3)

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

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

118. The applicant has referred to the five tests established by Preston CJ in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case.
119. The applicant's statement has demonstrated that the development meets the objectives of Part 4C in accordance with the first test, notwithstanding non-compliance with the numerical standard.

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

120. The applicant has sufficiently demonstrated that there are sufficient environmental planning grounds to justify contravening the standard. The proposed floor to ceiling heights of the level 1 units and Young Street terraces will provide acceptable amenity for future occupants.
121. The floor to ceiling heights of the first-floor apartments would otherwise be compliant, if not located within the mixed-use zone.
122. The development maximises its provision of non-residential uses (supermarket, specialty retail and commercial floor space) in desirable locations on the ground plane and on basement level 1. These uses are orientated towards Bourke and McEvoy Streets, and clustered within a retail courtyard. It is unlikely that the terraces (facing a local road) and first level units (in a less prominent location for retail uses) will be converted to facilitate additional retail or commercial floor space.

Conclusion

123. For the reasons provided above the requested variation to the ceiling heights development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

Response to Competitive Design Alternatives Report Recommendations

124. The design competition jury selected the Bates Smart scheme as the winning scheme. The Bates Smart scheme was deemed by the Jury as the most capable of achieving design excellence, subject to nine recommendations.
125. The following table summarises the key principles of the design that were identified to be maintained and further refined by the Selection Panel. The development application retains the design integrity and key aspects of the winning scheme.

Key principles of design to be maintained and refined	
Recommendation	Comment
1. Further resolution of the built form is required to improve ecologically sustainable development performance as follows: - Reconsider and refine the extent of glazing for both the residential and commercial buildings. - Consideration should be given to the solid to void ratio and the explicit performance of the façade depth to optimise passive shading while retaining solar access when desired. - Consider the tectonic elements of the commercial façade to provide an integrated design where all façade components contribute to performance while also generating architectural character.	Through the course of assessment, the design of the development was refined to improve the ecologically sustainable performance. These amendments include: - Incorporation of operable passive shading elements to west and north facing apartments. - Increased solid to void ratio in both the residential and commercial facades through expressed slab edges providing horizontal shading and reducing the size of glazing. - Two-layer horizontal awning shading is provided to the revised western elevation of the commercial façade to achieve summer shading. The revised façade also features a window box element comprising an internal metal upstand between floors to optimise the solid to void ratio.
2. Opportunities to positively integrate and optimise the function of the ground floor retail tenancies with the ground plane and further consideration of the supermarket ground level entry experience.	The ground plane is optimised through integration of fine grain retail tenancies, positioning of active uses fronting McEvoy Street and creation of links through the retail courtyard from the west, north and east. The entry of the supermarket is located on the highly visible corner of the site and encourages movement between the surrounding streets to the retail plaza.
3. Further resolution of the loading dock and 'Direct to Boot' was noted as required to ensure it meets operational requirements of the brief.	The Traffic Impact Assessment and addendum Traffic statement confirm that the loading dock and direct to boot functions meets the operational requirements of the development.
4. Increased architectural clarity is required for the kiosk and ground plane at the McEvoy frontage in order to provide sight lines and visibility into the plaza, with attention required to balance acoustic protection and openness to invite visitation.	Acoustic testing was undertaken at the Pre-DA stage to clarify the acoustic benefits of retaining the ground floor kiosk to assist in buffering noise from the McEvoy Street frontage. The findings confirmed that retaining the kiosk provided minor improvements to the

Key principles of design to be maintained and refined	
	acoustic conditions of the site. The City recommended at the Pre-DA stage that the kiosk be retained. The design of the kiosk has been further refined to optimize sightlines and visibility into the plaza with increased transparency to provide an active frontage and increase visitation from McEvoy Street.
5. The proposed public art in the through site link should be reconsidered to not rely on the neighbouring wall.	Public art opportunities have been relocated to the external walls of the proposed building bookending TSL entry on Bourke and Young Streets, as well as the Young Street lobby entrance. Council's Public Art team support the revised public art locations.
6. The facade and materials are supported, however further refinement of elements such as brick type, plenum requirements and internal brick treatment of the plenum void element is required.	The façade and materials inspired by the urban context and Country are retained from the winning scheme. The proposal seeks to utilise concrete masonry with recycled aggregate natural bricks in the treatment of the residential facades. Metal operable louvres for air intake into the acoustic ventilators are positioned between the splayed brick piers on the Bourke Street façade and have been designed in accordance with acoustic modelling and input.
7. The timber structure for the commercial building was not considered as an essential component of the scheme and could be revisited.	A timber structure for the commercial building is no longer proposed.
8. Whilst the planters and facade planting are positive aspects of the design, the longevity and maintenance were flagged as considerations for further design resolution.	A condition is recommended to require the submission of a Landscape maintenance plan to be submitted and approved by Council prior to the issue of any Construction Certificate for any above ground works.
9. The activation of the laneway was supported, however further resolution is needed for the operation and interaction of the retail, public art, residential lobby and mezzanine access, including the consideration of a street-address entry to the southern residential apartments.	The Bourke Street lobby and including entry to the EOT facilities has been extended to provide a clearly defined street address. Public art opportunities, landscaping and design of the through-site link has been further refined to

Key principles of design to be maintained and refined	
	encourage its use, activation and interaction between future occupants.

Building massing and height in storeys

126. Section 6.3.27.4 of Sydney DCP 2012 stipulates a maximum height in storeys of 5 storeys along Bourke Street and 7 storeys along Young Street. The objective of this provision is to achieve an appropriate massed form to minimise overshadowing impacts to surrounding neighbouring developments, primarily the Lachlan Precinct at 840 Bourke Street which is located to the east of the site.
127. The development exceeds the maximum building height in storeys control by an additional storey, proposing 6 storeys on Bourke Street and 8 storeys on Young Street. The proposed variation results from the double storey height required by the loading dock, incorporation of a two-storey terrace typology on Young Street and communal area and rooftop terrace on top of the commercial building.
128. An additional setback from the street wall is proposed to the residential uppermost storeys to minimise overshadowing to surrounding developments and reduce the overall bulk and scale of the buildings.

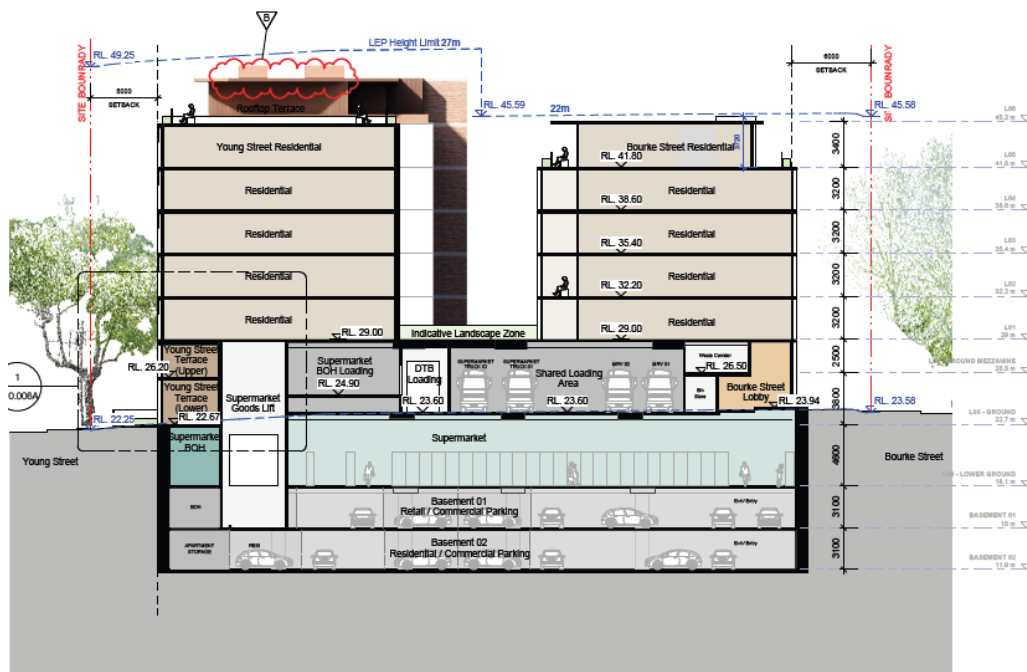


Figure 37: East-west cross section showing variation to the height of storeys control

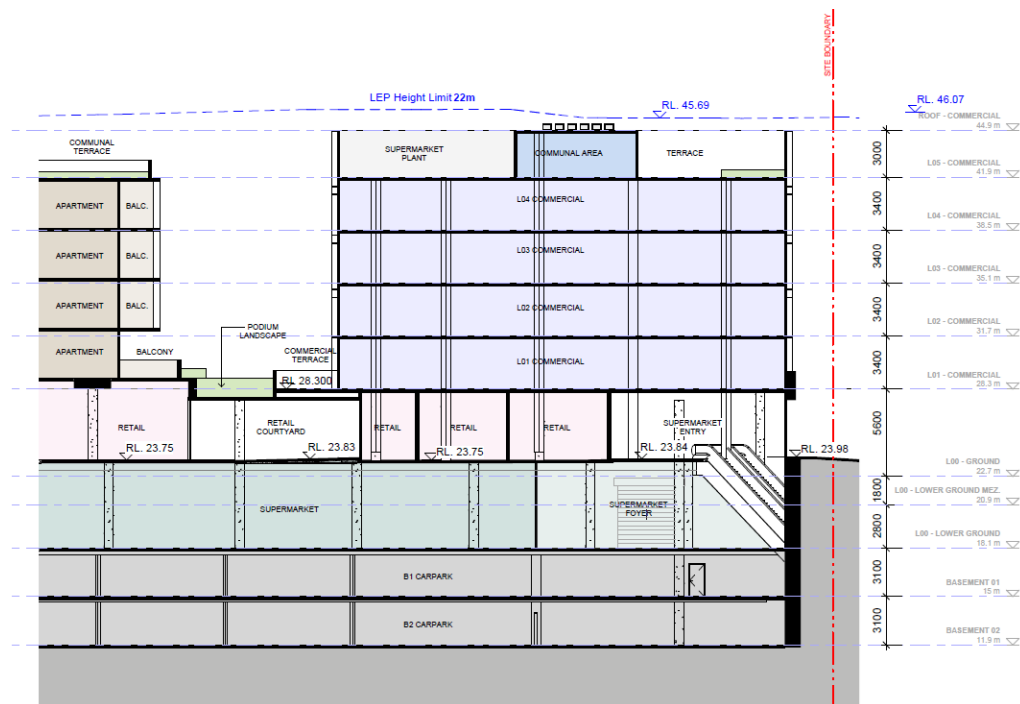


Figure 38: Commercial cross section showing variation to the height of storeys control

129. The non-compliance with the maximum height in storeys control is considered acceptable, and is justified as follows:
- the proposal is compliant with the maximum permissible building heights under Clause 4.3 of Sydney LEP 2012.
 - the development complies with the minimum floor to ceiling heights required under Part 4C of the ADG and would meet the minimum ceiling height for level 1 units if not for the mixed-use zone (as justified under the discussion heading Clause 4.6 Ceiling heights above).
 - The additional storey is recessed from the street wall and will largely be screened by landscaped planting to minimise the visual appearance of bulk and scale when viewed from the street.
 - The proposal maintains an acceptable level of solar access and minimises overshadowing to the surrounding developments, as further assessed under the next discussion heading below. As such, the development meets the objectives of this provision notwithstanding non-compliance with the numeric control.
 - The variation to the height of storeys control was included in the Bates Smart scheme at the competitive design alternatives process. The Jury considered the general massing and built form was contextually appropriate for the site. The building appropriately responds to the broader surrounding area, where building heights are up to 72.9m within the Danks Street South Precinct and up to 68.5m within the Lachlan Precinct.

Solar access and overshadowing - neighbouring residential developments

130. The proposed development will cast the following shadows at mid-winter (as shown in the hourly shadow diagrams below):

- (a) Surrounding developments to the south:
 - (i) Nos. 289- 293 Young Street - 1 hour, between 9.00am and 10.00am
 - (ii) No. 287 Young Street - 2 hours, between 9.00am and 11.00am
 - (iii) No. 285 Young Street - 3 hours, between 9.00am and 12.00pm
 - (iv) Nos. 941 - 953 Bourke Street - 3 hours, between 9.00am and 12.00pm
 - (v) No. 937-939 Bourke Street - 6 hours, between 9.00am to 3.00pm
- (b) Surrounding developments to the east:
 - (i) No. 840 Bourke Street (Lachlan precinct) - 2 hours, between 1.00pm to 3.00pm
- (c) Surrounding developments to the west and north:
 - (i) Danks Street South precinct - No additional shadows
 - (ii) 10-20 McEvoy Street - No additional shadows
 - (iii) 242-258 Young Street - No additional shadows



Figure 39: Surroundings sites

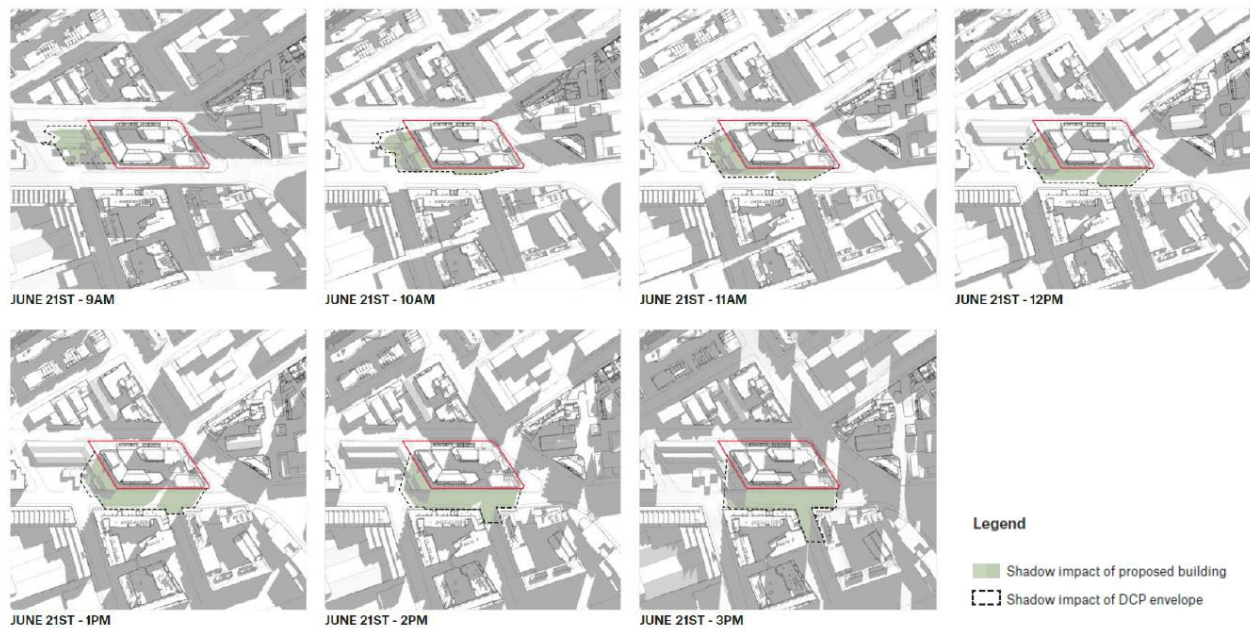


Figure 40: Proposed overshadowing diagrams

131. With regards to the non-residential development to the south, the proposed development has been designed in accordance with the permitted planning controls, as established by the recently gazetted planning proposal. Given the site orientation, overshadowing impacts to the existing non-residential properties to the south are unavoidable. The shadows predominately fall over the roofs of existing commercial and industrial development and thus the overshadowing impact is negligible. The shadows cast by the proposed development are created by a predominantly compliant building envelope established by the planning proposal and as such, any overshadowing impact is considered acceptable.
132. The proposal does not restrict the potential for redevelopment of the southern adjoining properties. Should these sites be redeveloped to provide residential accommodation in the future, it is likely that multiple sites or the entire block will need to be amalgamated to achieve a sufficient area for redevelopment. This would enable future development to receive solar access throughout the day at mid-winter, as to meet the requirements of relevant planning controls and the ADG.
133. A detailed solar access analysis including sun eye diagrams and modelling was undertaken to compare the existing and proposed impacts to 840 Bourke Street.



- 11:00 AM



- 11:15 AM



- 11:30 AM



- 11:45 AM



- 12:00 PM



- 12:15 PM





Figure 41: Sun eye diagrams (15-minute intervals) 840 Bourke Street

134. The existing mixed-use development at 840 Bourke Street includes ground floor retail and five storeys of apartments above. 57.6% (133 of 231 units) currently receive a minimum of 2 hours solar access between 9.00am and 3.00pm at mid-winter. The proposal results in a slight reduction in units receiving the minimum 2 hours solar access to 55.8% (129 of 231 units).
135. The proposal does not change the existing level of solar access received to units on level 2 and above.
136. Four existing units on level 1 fronting Bourke Street (Nos. C102, C103, C104 and C105) will be subject to additional overshadowing impacts between 2.30 and 3.00pm. These four units currently receive 2 hours of direct solar access to both living areas and private open space between 1.00 and 3.00pm. The living areas of these units currently receive solar access between 1.00- 3.00pm, whilst private open space areas receive solar access between 11.00am - 3.00pm. The reduction in half an hour of direct solar access is caused by the upper part of unit B05.07, rooftop, and lift overrun.

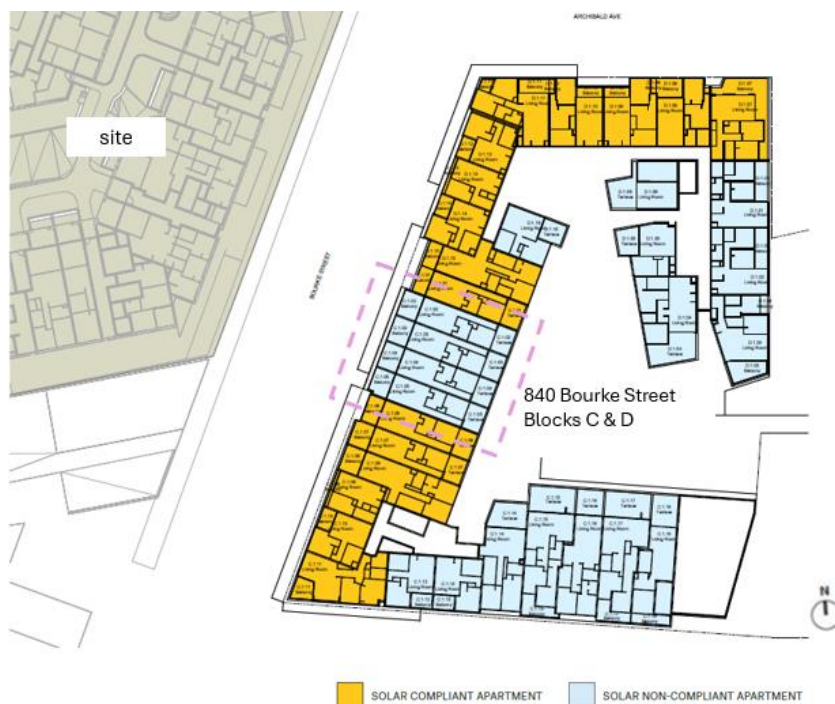


Figure 42: Affected level 1 apartments within 840 Bourke Street, outlined in pink

137. The overshadowing impacts to the first-floor apartments at 840 Bourke Street are considered acceptable for the following reasons:
- (a) The proposed reduction of 1.8% overall is minor and the affected units are located on level 1. Given the dense urban context, separation between developments (across Bourke Street in addition to a 6m setback) and predominately compliant proposed building envelope, a degree of overshadowing impact is unavoidable.
 - (b) The proposal complies with Part 3B of the ADG, where 70% of the existing apartments at 840 Bourke Street does not currently receive the minimum required 2 hours of solar access, and the development does not result in a reduction of more than 20%.
 - (c) The proposal provides a largely compliant building envelope and has been designed to minimise overshadowing to surrounding developments through the stepped building form. The proposal is compliant with the maximum permissible height under Clause 4.3 of Sydney LEP 2012. In this regard it is considered to meet the objectives of Section 6.3.27.4 of Sydney DCP 2012.
 - (d) The apartments will continue to have an acceptable level of amenity and solar access, as private open space areas will receive direct sunlight for 3.5 hours from 11.00am to 2.30pm.

Operation of the Supermarket

138. The proposal seeks approval for the use of the underground tenancy at basement level 1 as a Woolworths supermarket. The general layout is included on the plans, but no specific details of the fit-out of has been provided. The supermarket is proposed to operate between 6.00am to 12.00midnight, Mondays to Sundays inclusive, with deliveries to occur between 6.00am to 8.00pm, Mondays to Sundays inclusive via the loading dock on Bourke Street. The specific fit-out of the supermarket will be subject to a future separate application.
139. The site is located outside of a Late-Night Trading Area, within the 'Other areas' locality. The proposed supermarket is considered as a Category C premise. Section 3.15 of Sydney DCP 2012 permits base indoor trading hours of 7.00am to 12.00 midnight for Category C premises within other areas. The proposed hours of operation are generally consistent with the overall range of permissible hours of operation, with the exception of an additional hour in the morning between 6.00am to 7.00am.
140. It is noted that other supermarkets within the Waterloo vicinity commence trading from 7.00am (including Coles Waterloo and IGA Waterloo).
141. Section 3.15.3 of Sydney DCP 2012 outlines a number of matters for consideration in determining appropriate operating hours for the supermarket. This includes consideration of a Plan of Management, specific nature of the premise, and associated acoustic impacts. Section 3.15.4(3) states that premises seeking extended trading hours beyond the base hours may be permitted subject to a trial period. Subclause (9) outlines the duration of trial periods, where the first trial is 2 years, with second and subsequent trials for a period of 5 years.

142. The application is supported by an Acoustic Report prepared by E-Lab Consulting. The acoustic report concludes that the supermarket and operation of the loading dock can comply with the night-time noise criteria for units directly above. The overall sound pressure level within the supermarket and back of house area is 70dB(A). The acoustic report recommends specific construction specifications for the ceiling/floor separating the supermarket and Young Street terrace apartments, as well as the floor above the loading dock. The slab of the loading dock is recommended to be vibration isolated to ensure structure-borne noise vibrations are controlled. Vehicle engines are to be switched off wherever possible whilst using the loading dock.
143. An Operational Plan of Management (POM) and Preliminary Loading Dock Management Plan (LDMP) also accompanies the application. These plans include an outline of measures to manage noise complaints, access and security, delivery patterns, trolleys, pedestrian and vehicle safety, use and operation of the loading dock, and complaint management procedures in relation to the loading dock. The loading dock will be managed by an on-site building manager who will coordinate deliveries via a booking system. These documents satisfactorily address the matters for consideration under Section 3.15.5.
144. It is noted that both the Operational POM and LDMP note that the hours of operation of the loading dock will be between 6.00am to 8.00pm, but the Preliminary LDMP also states exceptional out-of-hours deliveries may also occur subject to approval from the building manager.
145. The proposed hours of operation of the supermarket are supportable on planning merits in this instance as:
- (a) An additional hour in the morning from 6.00am to 7.00am is unlikely to have an adverse amenity impact on surrounding sensitive developments, by virtue of its location below ground and nature of the use as a supermarket (which is considered a low impact retail premises which does not sell, supply or allow the consumption of liquor on or off premises).
 - (b) The POM and Preliminary LDMP are sufficiently detailed and will ensure the responsible management of the premise. Conditions are recommended to require a detailed LDMP to be submitted and approved by Council prior to the issue of an Occupation Certificate. Exceptional out-of-hours deliveries are not supported and must not be included in the detailed LDMP. It is unclear how frequent, when or what type of deliveries would be categorised as exceptional and the noise impact associated with deliveries beyond 8.00pm have not been assessed within the accompanying Acoustic Report. Additional conditions will also require the supermarket to be operated in accordance with the POM.
 - (c) The accompanying Acoustic Report concludes that the proposal will not result in an adverse noise impact on the surrounding noise-sensitive receivers and compliance will be achieved with the required night-time noise criteria for units directly above. Council's Environmental Health Specialist raised no objections to the proposed operating hours of the supermarket or loading dock, subject to recommended conditions. Conditions are recommended to ensure the development is constructed in accordance with the specifications for the ceiling and floors separating the loading dock, supermarket and residential units.
 - (d) The application was referred to the NSW Police for comments, and no response was received which infers no objection.

- (e) The application was also received by the City's Late-Night Trading and Transport and Access teams, who advised the proposal is acceptable, subject to recommended conditions.
146. In light of the above, it is recommended that the supermarket and loading dock be restricted to the following hours of operation:
- Supermarket - 7.00am to 12.00midnight, Mondays to Sundays inclusive; with an extension between 6.00am to 7.00am, Mondays to Sundays inclusive for a trial period of 2 years.
 - Loading dock - 6.00am to 8.00pm for the loading dock, Mondays to Sundays inclusive, with no exceptional out-of-hours deliveries.
147. Noting that other nearby supermarkets within Waterloo commence trading at 7.00am, the trial period will allow Council to review the management performance of the supermarket for the additional hour in the morning.

Signage Strategy

148. A signage strategy prepared by The Blueprint accompanies the application. It is noted that there are inconsistencies between the location of business identification signage for Woolworths shown within the signage strategy and that which is shown on the photomontages.

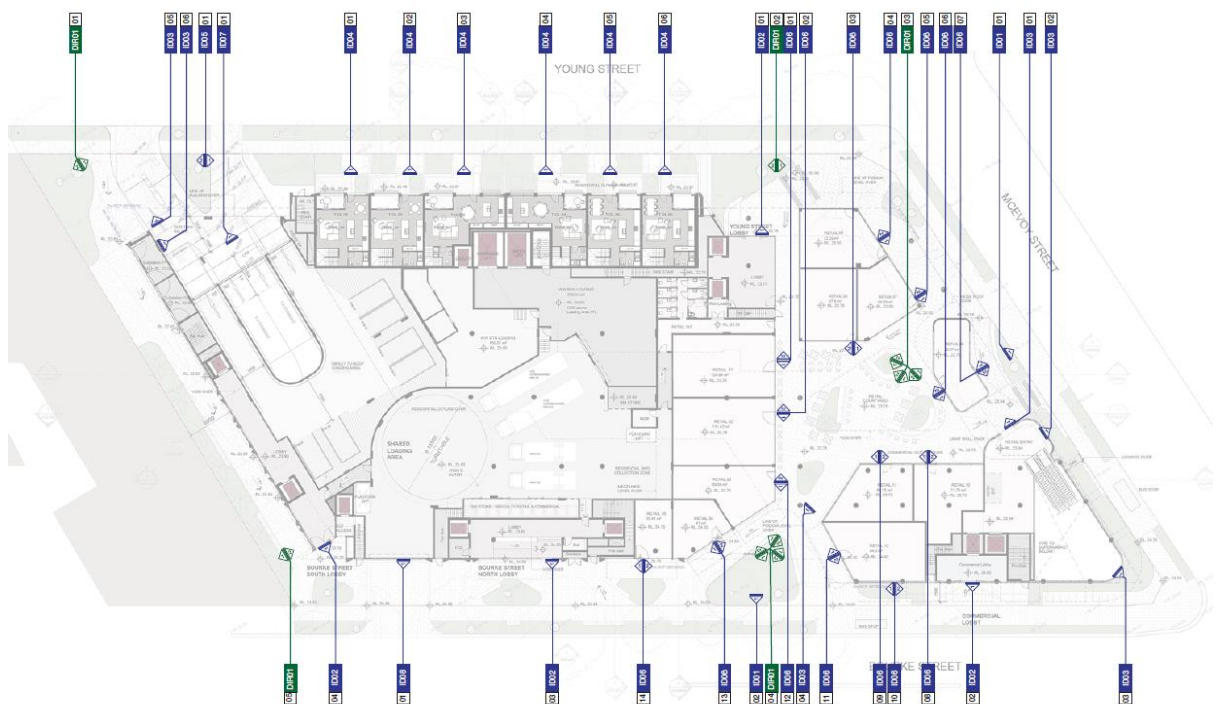
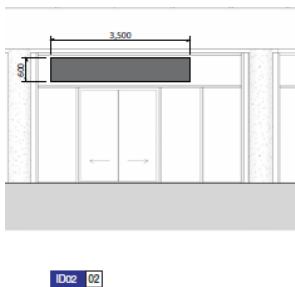
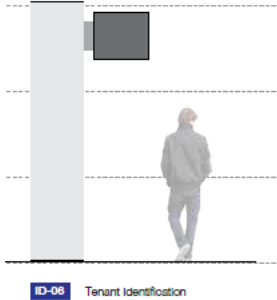


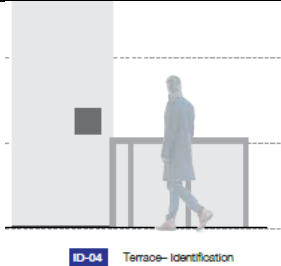
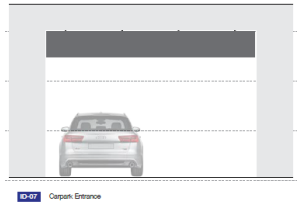
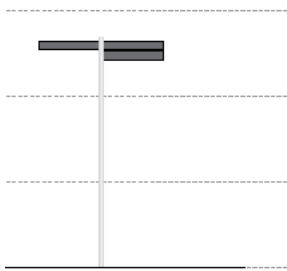
Figure 43: Signage Allocation Plan

149. The proposed signage is summarised in the table below.

Signage Type	Quantity	Location	Comment
Building identification signs (Signs ID01)  Figure 44: Building identification signs	2	Bourke Street and McEvoy Street frontage	Section 3.16.5 of the Sydney DCP requires building identification signs to be designed to fit within the architectural elements of the building and located near the major pedestrian entries. Whilst these signs are positioned close to the entry to the retail courtyard on McEvoy and Bourke Streets, the signs are proposed within the footpath widening setback, within future land to be dedicated to the City. Building identification signs are to be relocated within the boundary of the site. Furthermore, apart from the length and height of these signs, there is insufficient information included in the signage strategy with regard to the depth, materiality, illumination, colour or finishes. These signs are not supported.
Top hamper signs Lobby signs (Sign ID-02)  Figure 45: Indicative lobby signs	4	Bourke Street Commercial lobby Bourke Street North and Bourke Street South Residential lobbies Young Street lobby	The location of the top hamper signs above the residential and commercial entrance serve to demarcate the lobby entries and will assist with wayfinding. These signs do not result in adverse visual clutter. Although supported in-principle, there are insufficient details contained within the signage strategy in terms of illumination, materiality, colour and finishes. It is also unclear whether the Bourke Street lobby sign is proposed above the awning which is not permitted pursuant to Section 3.16.6.6 of Sydney DCP 2012.

Signage Type	Quantity	Location	Comment
Top hamper sign Woolworths entry (Sign ID-03)  Figure 46: Woolworths top hamper sign	1	McEvoy Street over main entrance	The top hamper sign above the Woolworths entry is acceptable. Although this sign exceeds the maximum height of 3.5m for top hamper signs under Section 3.16.6.8 of Sydney DCP 2012, the sign appropriately demarcates the entry into the supermarket and is located directly above the shopfront glazing.
Flat mounted wall signs (Signs ID-03)  Figure 47: Woolworths wall sign facing McEvoy Street  Figure 48: Woolworths wall sign at the intersection of McEvoy and Bourke Streets	6	McEvoy Street, Bourke Street and Young Street	Section 3.16.6.3 of Sydney DCP 2012 stipulates that flat mounted wall signs are to improve the elevation of the building, enhance the public domain and not contribute to sign clutter. Flat mounted wall signs are to relate to the ground plane, typically at a maximum height of 4.5m above ground and below the level of the awning. The Woolworths signs labelled ID03-02, ID03-03, ID03-04 are proposed at the first-floor datum of the development above the awning. The square shape of the signs exceeds the thickness of the slab and does not relate to the architectural elements of the building. The signs are not considered to enhance the building elevations or its presentation to the street meet Section 3.16.6.3(1). The sign ID03-05 exceeds a height of 4.5m and is positioned directly above sign ID03-06. The duplication of the Woolworth logo signs at this location is considered unnecessary and

Signage Type	Quantity	Location	Comment
 Figure 49: Woolworths wall sign facing Bourke Street			contributes towards visual clutter. In addition, both signs are immediately adjacent to one of the locations for public art. The general location of the proposed wall signs and relationship to the proposed development is not supported. It is recommended that the position of these signs, size and quantity of Woolworth signs are further refined within a revised signage strategy.
Projecting wall signs (Signs ID-06)  Figure 50: Typical retail tenancy projecting wall signs	14	Retail signs	The double-sided projecting wall signs are nominated to have a width of 1.2m and height of 0.8m (2sqm). Whilst the location of these signs are generally in keeping with Section 3.16.6.4 of Sydney DCP 2012 (associated with the ground plane and no higher than 5m), the size and area of signage is inconsistent with subclause (4) and (5) of the control, which require signs to project no more than 1m from the wall and have a maximum area of 0.5sqm. The signage strategy does not include any top hamper signs for the retail tenancies which are indicated on the photomontages. It is recommended that the signs be amended to conform with the signage provisions.
Terrace identification wall signs (Sign ID-04)	6	Young Street	Individual signs are proposed for each terrace, measuring 0.3 wide by 0.3 high. The size and general location is supported in-principle. Further

Signage Type	Quantity	Location	Comment
 Figure 51: Typical terrace wall signs			details are required in a revised signage strategy.
Carpark entrance and loading dock signs (Sign ID05, ID-07, ID-08)  Figure 52: Car park and loading dock signage	3	Young Street and Bourke Street	Apart from the free-standing sign ID05, the car park entry and loading dock signs do not result in adverse visual clutter and are considered acceptable. The site is located in the MU1 Mixed Use zone. Section 3.16.6.11 of Sydney DCP 2012 does not permit free-standing signs within this zone.
Through-site link directional signage (Sign DIR-01)  Figure 53: Wayfinding directional signage	5	Retail courtyard, TSL entry on Bourke and Young Streets	The directional TSL wayfinding signage is supported and will assist with wayfinding across the site.

150. Whilst the location of the proposed directional, lobby and some wayfinding signage is supported in-principle, the overall level of information contained within the signage strategy is insufficient.
151. Conditions are therefore recommended to require a revised signage strategy to be submitted and approved by the City prior to the issue of any Construction Certificate for above ground works to include additional details of the depth, materials, colour and finishes of all signage. Inconsistent supermarket signage must be revised to accord with flat mounted wall signage provisions of Section 3.16 of Sydney DCP 2012. Conditions will also require the deletion of the free-standing sign ID-05 and relocation of building identification signs ID-01.

Sustainable Buildings

152. The development consists of a large commercial development (prescribed office premises) and retail uses and is subject to the sustainable building's provisions of:
- (a) SEPP (Sustainable Buildings) 2022
 - (b) Sydney Local Environmental Plan 2012
 - (c) Section 3.6.1 Energy Efficiency in non-residential buildings of Sydney Development Control Plan 2012
 - (d) Section 6.3.27.10 Ecologically sustainable development and green infrastructure of Sydney Development Control Plan 2012.
153. The development complies with the requirements of these provisions.

Section 3.3 Other considerations for large commercial development

154. As discussed under the SEPP (Sustainable Buildings) 2022 section, the SEPP requires the development to be subject of a 4 star NABERS Water Rating, which the development proposes.
155. Sections 3.6 and 6.3.27.10 of Sydney DCP 2012 requires the development to satisfy the following energy performance standards:

In relation to the office uses over 1,000sqm of Net Lettable Area (base building only):

- (a) Minimum 5.5 star NABERS energy commitment agreement + 25 per cent; or
- (b) A maximum 45 kWh/yr/sqm of Gross Floor Area; or
- (c) a certified Green Star Building rating with an "exceptional performance" in Credit 22: Energy Use (or equivalent).

In relation to the retail uses (base building only):

- (a) minimum 5 star NABERS energy commitment agreement, or
- (b) certified Green Star Buildings rating with an "exceptional performance" in Credit 22: Energy Use (or equivalent); or

- (c) A maximum 45 kWh/yr/sqm of Gross Floor Area.
156. In this regard the applicant has demonstrated the mixed-use development can achieve:
- (a) Renewable Energy Procurement equivalent to Net Zero Emissions for all retail and office (base building) energy demands.
 - (b) a 4 star NABERS Water Rating.
 - (c) a 5.5 star NABERS energy commitment agreement (+25%) for the commercial office greater than 1,000sqm NLA (base building).
 - (d) a maximum 45 kWh/yr/sqm of Gross Floor Area energy use intensity for the retail uses (base building) and supermarket (base building).
157. The proposal seeks to achieve the above targets through implementation of the following initiatives, as set out in the accompanying ESD Report prepared by E-Lab Consulting:

Energy:

- (a) Renewable Energy - to generate renewable electricity, the proposal includes an array of photovoltaic cells on the rooftop to offset demand and minimise stress on the grid (combined generation capacity of 60kWp). Remaining energy demands will be procured from a renewable energy source for retail and office uses equivalent to net zero emissions.
- (b) Net zero transition plan - the development is proposed to become fully electrified to enable operational net zero through procurement of renewable electricity after remedial electrification works are undertaken. The net zero transition strategy involves appropriate substation sizing based upon maximum demand calculations (two 1,000 kVA substations have been incorporated), riser space and capping off gas points. A small portion of gas is proposed for use in the retail tenancies commercial kitchens (specific use and fit out subject to separate applications), the gas connections will be designed with shut-off points to enable all electric operations by 2035.
- (c) Efficient lighting systems - high efficiency LED lighting is proposed throughout the development; common areas will include efficiency controls with motion and daylight sensors to reduce unnecessary energy consumption.
- (d) Controls, Energy Metering and Monitoring - energy meters and monitoring systems are proposed to comply with Section J, Part J8 of the NCC and NABERS sub-metering and validation requirements. Sub-metering will be installed for power to each tenancy, lighting and HVAC. Applicable centralised systems will be equipped with automated control to further reduce unnecessary energy consumption and allow energy demands to be better managed across the development.
- (e) Passive Design - vertical and horizontal passive shading has been incorporated into the building design to optimise the energy performance the development.

- (f) Hot Water - provided by energy efficient heat pump systems and individual instantaneous three phase units, which will allow users to reduce their energy consumption. Showers and taps with high WELS rating will be used.
- (g) Appliances and Equipment - only high energy efficiency and performance appliances and equipment will be used in the development.
- (h) Low emission transportation - the site is highly accessible and includes end of journey facilities and bicycle parking to encourage the use of low-emission transport alternatives and public transport options. In addition, electric vehicle charging infrastructure is provided to meet the requirements of the first VPA.

Water

- (a) Sanitary fixtures - all fixtures will achieve the highest WELS rating to reduce consumption.
- (b) Landscape irrigation - the proposed landscape irrigation includes sub-surface drip systems, motion sensors, and will prioritise native plants. Native species are more resilient than other exotic species and typically require less water and more likely to survive in drought conditions due to climate change.
- (c) Rainwater - rainwater will be captured from the roof areas to reduce reliance on mains water for irrigation and non-potable applications.
- (d) Recycled Water - a dual reticulation water system for connection to a recycled water supply network is proposed to all toilets, washing machine taps, car wash bays, cooling towers and irrigation usage.
- (e) WSUD and Stormwater Management - stormwater quality and volume discharged from the site will be considered in future design stages to ensure the development minimises environmental impacts on local waterways, ecology and Council infrastructure when compared to the pre-development baseline.

158. Conditions of consent are recommended to ensure that development will achieve the relevant water and energy use standards.

Consultation

Internal Referrals

159. The application was discussed with Council teams;

- (a) Building Services
- (b) Environmental Health
- (c) Heritage and Urban Design
- (d) Public Domain
- (e) Surveyors
- (f) Transport and Access

- (g) Landscape and Tree Management
- (h) Planning Agreements
- (i) Public Art
- (j) Late Night Trading and Licensed Premises
- (k) Waste Management

160. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Recommended Conditions of Consent as discussed elsewhere in this report.

External Referrals

Ausgrid

- 161. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
- 162. A response was received raising no objections to the proposed development, subject to the imposition of recommended conditions. These conditions require care to be undertaken to the existing underground electrical network

Sydney Airport

- 163. 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.
- 164. 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 45.72m AHD. The proposal has a maximum height of 49.6m AHD and is a controlled activity.
- 165. 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).
- 166. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, provided approval for the controlled activity on 6 February 2025, subject to conditions. It is noted that the amended scheme was re-referred to Sydney Airport on 3 April 2025. The amended scheme does not include any changes to the building height and previous approval from CASA can be relied upon.

Transport for NSW

- 167. Pursuant to Section 2.122 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for comment.
- 168. Comments were received on 21 January and 3 April 2025. Conditions of consent were recommended which are included in Attachment A.

Water NSW

169. The application is integrated development pursuant to Section 4.46 of the EP&A Act because an approval is required under Sections 89 and 90(2) of the Water Management Act 2000.
170. The original and amended scheme was re-referred to Water NSW for concurrence on 20 January and 3 April 2025.
171. General Terms of Approval were issued by Water NSW on 11 March and 14 April 2025. The General Terms of Approval are included in the recommended conditions of consent in Attachment A.

Sydney Water

172. The site is encumbered by Sydney Water assets (wastewater and watermain) which transverse the site. The application is subject to the requirements of Section 78 of the Sydney Water Act 1994 and was referred to Sydney Water for comment.
173. Sydney Water responded on 18 February 2025 and requested that the application be deferred until a concept wastewater strategy for development has received in principle approval from Sydney Water under an anticipated Section 73 Application, or other Sydney Water Application.
174. The revised basement design was re-referred to Sydney Water for comments on 3 April 2025. Sydney Water advised that previous comments remain applicable. The applicant has provided evidence that initial discussions have commenced with Sydney Water (Case No. 181001). This includes four potential options to deviate Sydney Water assets around the development.
175. A deferred commencement condition is recommended to require in-principle approval from Sydney Water for a concept wastewater design under a Section 73 application, or other Sydney Water Application, prior to the consent becoming operative.

NSW Police

176. The application was referred to NSW Police for comment.
177. No response was received, which is taken to be no objection.

Advertising and Notification

178. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 17 January 2025 and 15 February 2025. A total of 1167 properties were notified and 11 submissions were received.

179. The submissions raised the following issues:

- (a) **Issue:** Insufficient number of residential parking spaces and limited on street parking

Response: The proposal is compliant with the maximum car parking rates permitted under the Sydney LEP 2012. The site situated in a dense urban city environment where limited on street parking is reasonably expected. The site has a high level of accessibility, and within walking distance to a range of public transport options. The development includes EOT facilities and encourages patronage to and from the site via sustainable modes of transport. The maximum rates stipulated by the Sydney LEP 2012 align with the City's strategic aim to encourage a shift from private car use to active sustainable transport.

- (b) **Issue:** Traffic Impacts, increased congestion on local roads and cumulative traffic impacts associated with the proposed K-12 school

Response: The proposed development will increase the traffic flow along Young Street by around 94 trips/hr in the weekdays (PM peak) and 112 trips/hour during weekends, which is consistent with that envisaged by the Planning Proposal for the site. The traffic modelling for the Planning Proposal was undertaken in consultation with both Transport for NSW (TfNSW) and Council. The modelling indicates that the level of service along Young Street will generally remain either unchanged or within acceptable range. The development is supported by the City's Transport and Access Unit, subject to recommended conditions. As noted above, the proposal includes the maximum number of car parking spaces permitted under Clause 7.3, 7.5, 7.6 and 7.7 of the Sydney LEP 2012. The proposal is not considered to result in adverse traffic impacts as assessed elsewhere in this report. The traffic impacts associated with each development is assessed at the time of each development application. It is noted that the proposed K-12 school is currently subject to a Planning Proposal. Should the Planning Proposal be supported, the associated cumulative traffic impacts resulting from the school will be assessed following lodgement of a development application.

- (c) **Issue:** Supermarket management, hours of operation, litter, trolley and loading dock management

Response: An Operational Plan of Management and Preliminary Loading Dock Management Plan accompanies the application. These documents include details on complaint management procedures for the supermarket, access and security, delivery patterns, trolleys management, litter management, graffiti management, pedestrian and vehicle safety, and operation of the loading dock. Refer to additional details under the discussion heading, Operation of the Supermarket, above.

- (d) **Issue:** Light pollution

Response: The site is located within a dense urban city environment. The proposal will not result in an unreasonable level of light pollution.

- (e) **Issue:** Increase in density, view loss and reduced apartment value. The development should be left as a low-rise building.

Response: The proposed development is of a built form and that is commensurate with that envisaged by the planning proposal. The Planning Proposal included amendments to the LEP 2012 for increased height and floor space and was publicly exhibited for a period of six weeks between 12 April to 24 May 2023. The amended controls for the site came into force on 22 March 2024. Refer to further details under the heading 'Planning Proposal and Voluntary Planning Agreement' above.

The current views obtained from existing units within the Lachlan Precinct does not include water or iconic views (as described in Tenacity Consulting v Waringah [2004] NSWLEC 140). Maintaining the existing district views and outlook over the existing site that has not been developed to its maximum development potential is unrealistic and unavoidable in an urban context. The proposal has been carefully designed and is subject of a competitive alternatives design process. The development maintains an acceptable level of amenity to surrounding developments as assessed elsewhere in this report. Limiting the development to a low-density scale would not be consistent with the type of development envisaged by the gazetted planning controls and will not promote the orderly, economic use and development of land to meet the objects of the Environmental Planning and Assessment Act 1979.

- (f) **Issue:** Construction noise and congestion

Response: Conditions are recommended to ensure noise and congestion associated with construction is appropriately managed to reduce impacts on the surrounding locality.

- (g) **Issue:** Signage placement for people with an intellectual disability, low literacy and/or mental health challenges

Response: A signage strategy accompanies the application and includes way finding signage. The signage strategy considers the optimal placement and accessible tactile zones. It aims to provide legible and simple signage to ensure the development is accessible to all users. As discussed under the heading Signage Strategy above, conditions are recommended to require a revised signage strategy to be submitted and approved by the City.

- (h) **Issue:** Request for onsite servicing and Construction Pedestrian and Traffic Management Plan to be endorsed by Transport for New South Wales

Response: The application was referred to TfNSW for comment pursuant to Clause 2.122 of SEPP (Transport and Infrastructure) 2021. Conditions are recommended to require preparation of a detailed Loading Dock Management Plan and Construction Pedestrian and Traffic Management Plan (CPTMP) to be prepared and approved prior to issue of any Construction Certificate. The CPTMP is to locate construction zones away from the Bourke Street bus stop to mitigate conflicts with the transport network.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

180. The City of Sydney Development Contributions Plan 2015 applies to the site. The development is subject to a Section 7.11 local infrastructure contribution under this Plan.
181. Credits have been applied for the most recent past use of the site.
182. A condition relating to this local infrastructure contribution has been included in the recommended conditions of consent in Attachment A. The condition requires the contributions to be paid prior to the issue of a Construction Certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

183. 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.
184. 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 and:
- (a) the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, or
 - (b) the consent authority is satisfied that the proposed development will create a need for affordable housing within the area, or
 - (c) the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or
 - (d) the regulations provide for this section to apply to the application.
185. The proposal is consistent with part (c) that is, the proposed uses are permissible under the initial zoning of the site.
186. Clause 222B of the Environmental Planning Assessment Regulation 2021 provides that section 7.32 of the Act applies to a development application to carry out development in the City of Sydney local government area.
187. 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) the extent of the need in the area for affordable housing,
 - (ii) the scale of the proposed development,
 - (iii) any other dedication or contribution required to be made by the applicant under this section or section 7.11.
188. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable.
189. The site is located within the Green Square affordable housing contribution area. The site is subject to a Voluntary Planning Agreement which requires the provision of affordable housing.
190. A condition of consent is recommended requiring the affordable housing contribution to be provided in accordance with the requirements and obligations in the Voluntary Planning Agreement between The Council of the City of Sydney, Fabcot Pty Ltd, Triston Atlas Corporation Pty Ltd and The Owners Strata Plan No. 22322 dated 18 January 2024.

Housing and Productivity Contribution

191. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024.
192. The site is located with the Greater Sydney region, the development is a type of residential and commercial development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.
193. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

Relevant Legislation

194. Environmental Planning and Assessment Act 1979.
195. Sydney Airport Referral Act 1996.
196. Water Management Act 2000.
197. Sydney Water Act 1994.

Conclusion

198. The proposal seeks consent for the demolition of the existing building, excavation and redevelopment of the site for a part 6 and part 8 storey mixed-use building with 3 basement levels. The mixed-use development comprises residential, commercial, retail and supermarket use, and includes the provision of affordable housing.

199. The development has been subject of an alternative competitive design process and the Bates Smart scheme was selected as the winning scheme. The proposal maintains the design integrity of the winning scheme and has been refined through the course of assessment to satisfactorily address the Design Advisory Panel and Selection Panel comments.
200. The proposal meets the requirements of Chapter 4 of the Housing State Environmental Planning Policy 2021 and is consistent with the design quality principles and objectives of the NSW Apartment Design Guide. The application has been assessed against and meets the relevant provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
201. The application is Integrated Development, requiring approval of Water NSW under the Water Management Act 2000. General Terms of Approval have been issued by Water NSW and form part of the recommended conditions in Attachment A.
202. The separate written requests seeking to vary the Clause 4.4 Floor Space Ratio development standard and non-discretionary Ceiling Height development standard are well founded. The proposal satisfies the objectives of the Floor Space Ratio development standard as well as the objectives of the Ceiling Heights non-discretionary development standard pursuant to Part 4C of the Apartment Design Guide. The written statements demonstrate that compliance with these development standards is unreasonable or unnecessary in this circumstance and that there are sufficient environmental planning grounds to justify the variations.
203. The development achieves a high standard of architectural design, materials and detailing, well integrated landscaping and will contribute positively to the public domain. The proposal is appropriate in its setting and surrounding context. Overall, the proposed development demonstrates design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21C of the Sydney Local Environmental Plan 2012.
204. Matters raised by internal and external referrals have been adequately addressed, as discussed within this report.
205. The application was notified in accordance the requirements of the EP&A Regulations 2021 and the City's Public Participation Plan. Eleven submissions were received. These submissions have been considered in the assessment of this application.
206. For the reasons detailed in this report, it is recommended that authority be delegated to the CEO to determine the application, following consideration of additional environmental investigation, and conclusion of the public exhibition of the VPA and consideration of any public submissions received. It is recommended that the CEO consider granting deferred commencement development consent subject to the recommended conditions included in Attachment A.

GRAHAM JAHN AM

Chief Planner / Executive Director City Planning, Development and Transport

Jessica Joseph, Senior Planner