



IRF23/55

## Gateway determination report – PP-2021-6962

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Proposed Supermarket, 923-935 Bourke Street,  
Waterloo

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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**Table 1: Reports and plans supporting the proposal**

Relevant reports and plans
Request for Gateway, City of Sydney, November 2022

Planning Proposal, City of Sydney, November 2022

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Resolution of City of Sydney Council, 21 November 2022

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Transport, Heritage and Planning Committee Report, City of Sydney, 14 November 2022

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Evaluation Criteria for Delegation of Plan Making Functions

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Draft Development Control Plan, City of Sydney, November 2022

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Retail Needs and Economic Impact Assessment, Ethos Urban, 31 August 2022

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Retail Needs Analysis Peer Review, SGS Economics and Planning, July 2022

---

Planning Proposal Justification Report, Ethos Urban, November 2021

---

Urban Design Report, Bates Smart, September 2022

---

Indicative Concept Scheme Drawings, Bates Smart, 29 October 2021

---

Traffic and Transport Assessment, JMT Consulting, 2 September 2022

---

Social Assessment and Strategy, Ethos Urban, 30 August 2022

---

Landscape Concept Plan, Turf Design, 31 August 2022

---

Arboricultural Development Impact Assessment Report and Pruning Specification, Birds Tree Consultancy, 31 August 2022

---

Design Excellence Strategy, Ethos Urban, 9 September 2022

---

Flood Assessment, Capital Consulting Engineers, 14 October 2021

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Flood Assessment, Capital Consulting Engineers, 31 August 2022

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Geotechnical Investigation and Acid Sulphate Soil Assessment, Douglas Partners, October 2019

---

Engagement Outcomes Report, JOC Consulting, 15 November 2021

---

Infrastructure Analysis, Newman MEP Services, 31 August 2022

---

Sustainability Strategy, Floth, 31 August 2022

---

Social Assessment and Strategy, Ethos Urban, 30 August 2022

---

Public Art Statement, Amanda Sharrad Consulting, October 2021

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Noise Impact Assessment, Acoustic Logic, 31 August 2022

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Public Benefit Offer, Woolworths Limited, 19 November 2021

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Revised Public Benefit Offer, Woolworths Group, 11 November 2022

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# 1 Introduction

## 1.1 Overview

**Table 2: Planning proposal details**

<b>LGA</b>	City of Sydney
<b>PPA</b>	City of Sydney Council
<b>NAME</b>	923-935 Bourke Street, Waterloo (120 homes, 300 jobs)
<b>NUMBER</b>	PP-2021-6962
<b>LEP TO BE AMENDED</b>	Sydney LEP 2012
<b>ADDRESS</b>	923-935 Bourke Street, Waterloo
<b>DESCRIPTION</b>	Lot 10 DP 705894
<b>RECEIVED</b>	24/11/2022
<b>FILE NO.</b>	<a href="#">IRF23/55</a>
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Site description and surrounding area

The subject site, 923-935 Bourke Street, Waterloo, is bounded by Bourke Street to the east, McEvoy Street to the north, and Young Street to the west and has a total site area of 6,534 square metres. A mix of low scale development including commercial and urban services occupy the remainder of the block to the south of the subject site.

The site is situated approximately 4 kilometres south of the Sydney CBD and 900 metres north of the Green Square town centre within the Green Square urban renewal area.

The Green Square urban renewal area is characterised by new development of high-density mixed use precincts. It is anticipated that this area will accommodate a population of approximately 70,000 by 2036 roughly doubling its estimated 2021 population.

The site has access to bus stops directly adjacent to the site on Bourke Street. Train access is available at Green Square, 800 metres south west of the site.

The Lachlan precinct to the east of the site comprises mixed use development of 6-12 storeys.

To the north of the site is the Danks Street South precinct planned to transition to a range of mixed use development.

To the south and south-west of the site along Young and Powell Streets are low-scale industrial and commercial premises.





Figure 1: Subject site (source: Planning Proposal Report, Ethos Urban)

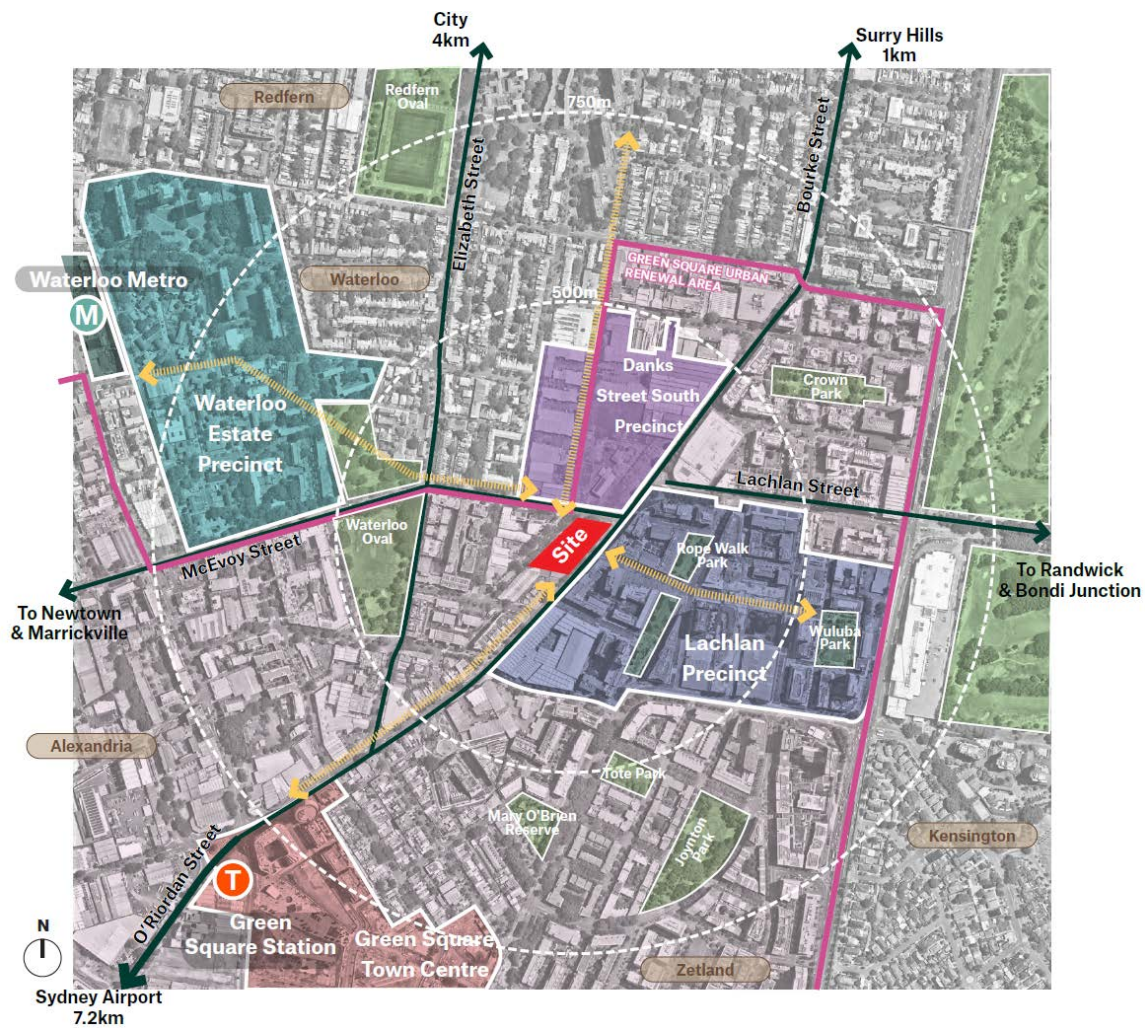


Figure 2: Site context (source: Urban Design Report, Bates Smart)

## 2 Proposal

### 2.1 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal. The planning proposal seeks to support redevelopment of the site through amended development standards and permitting the delivery of a large retail premises of 3,200m<sup>2</sup> which is currently not permitted on site.

The objectives of the planning proposal are to:

- facilitate the delivery of market housing, affordable housing and retail services (including a supermarket) in an area with good access to public transport, social infrastructure, employment opportunities, goods and services;
- incentivise high sustainability performance standards for the future development;
- limit the number of car parking spaces for retail uses to minimise impact on the surrounding road network and encourage use of public and active transport;
- ensure that new development responds appropriately to the surrounding built form context;
- ensure development contributes to the permeability and activity of the Green Square urban renewal area; and
- ensure trees are protected where the site is redeveloped.

The objectives of this planning proposal are clear and adequate.

The proposal is supported by a reference scheme comprising:

- A residential building fronting Bourke Street with activation via retail uses and four/five levels of apartments above;
- A seven storey residential building fronting Young Street;
- A five storey mixed use building fronting McEvoy Street incorporating commercial use at the corner of McEvoy and Bourke Streets and apartments towards the corner of McEvoy and Young Streets;
- Through site links and a landscaped courtyard provide amenity between buildings and building setbacks enable retention of existing significant trees within the site and road reserves;
- A supermarket at basement level with loading facilities at ground level; and
- Two levels of basement parking.

### 2.2 Explanation of provisions

The planning proposal seeks to amend the Sydney LEP 2012 per the changes below:

**Table 3: Current and proposed controls**

Control	Current	Proposed
Zone	B4 Mixed Use	No change
Maximum height of the building	15m	22m adjoining Bourke Street and 27m adjoining Young Street

Control	Current	Proposed
Maximum Floor Space Ratio	The maximum base floor space ratio that applies to the site is 1.5:1, but development may be eligible for community infrastructure floor space equal to 0.5:1 where community infrastructure is provided as part of the development. Development may also be eligible for 10% additional building height or FSR where design excellence is demonstrated. All together the site may achieve an FSR of up to 2.2:1.	<p>Allow development to achieve an additional 0.5:1 FSR (above the FSR shown on the FSR Map, and any FSR available under Clause 6.13 – End of journey floor space, 6.14 – Community infrastructure, and 6.21D(3)(b) – design excellence floor space), but only where the consent authority is satisfied:</p> <ul style="list-style-type: none"> <li>the FSR is provided as a single consolidated floor area for the purpose of a “shop or market”; and</li> <li>no less than 90% of the additional floor area is provided below existing ground level; and</li> <li>any development on the site that is BASIX affected development, exceeds the BASIX commitment for Energy and Water by not less than 5 points; and</li> <li>any development for retail or other commercial uses will have net-zero emissions from energy use.</li> </ul>
Number of dwellings	0	120
Number of jobs	N/A	300
Car parking – Retail premises (Clause 7.7)	<p>The site is identified as Category F on the Public Transport Accessibility Level map.</p> <p>(1) NB: This clause does not apply to a building if the building has more than 2,000 square metres of gross floor area used for the purposes of retail premises.</p> <p>(2) The maximum number of car parking spaces for a building used for the purposes of retail premises is as follows—if the building is on land in category F—1 space for each 50 square metres of gross</p>	Notwithstanding clause 7.7 – Retail premises, a site-specific clause is proposed to limit the number of car parking spaces for retail purposes to 1 space for each 50 square metres of gross floor area.



Control	Current	Proposed
	floor area of the building used for those purposes.	
Supermarket floor space	Clause 7.23(3) prohibits granting of consent for shops or markets with a gross floor area greater than 1,000 square metres.	Include a site specific provision which permits a shop with a gross floor area not greater than 3,200m <sup>2</sup> .
Active street frontages	No active street frontages apply to the site.	Apply active street frontages to Bourke Street and McEvoy Street frontages.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

#### Draft Development Control Plan

The planning proposal is supported by a draft amendment to Sydney Development Control Plan 2012 establishing maximum building envelopes and further guidance for future built form.

## 2.3 Mapping

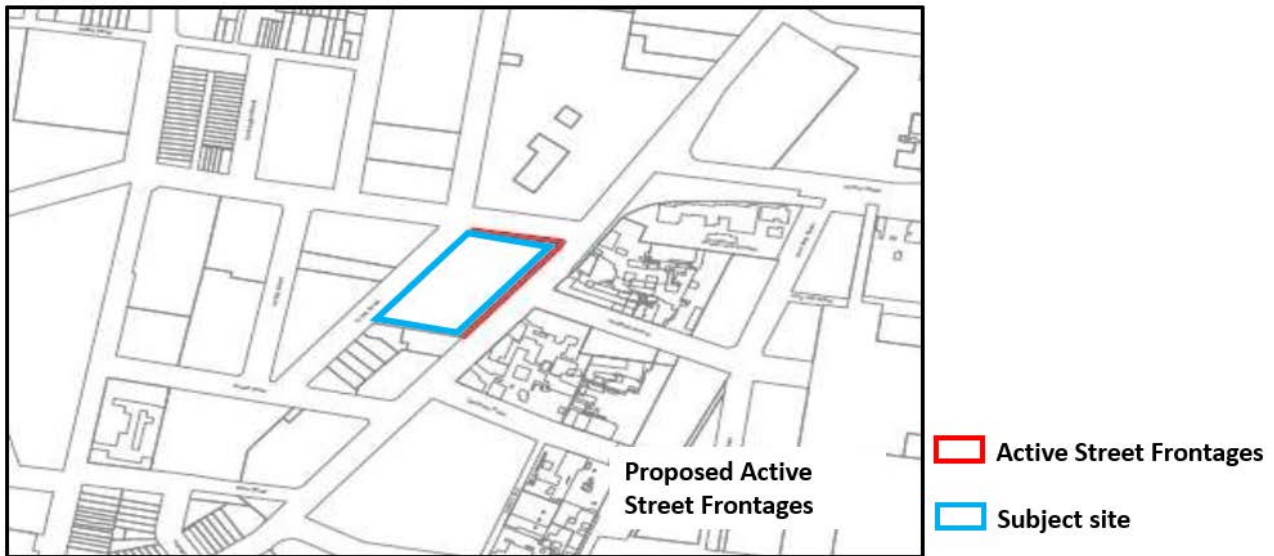
The planning proposal includes mapping showing the proposed changes to the Height of Buildings and Active Street Frontages maps, which are suitable for community consultation.

The proposed Height of Building map shows an increase from the existing maximum height of 20 metres to a height of 27 metres towards Young Street and 22 metres towards Bourke Street.



**Figure 3: Height of building maps**

The planning proposal intends to apply the Active Street Frontages provisions to the frontages to Bourke and McEvoy Streets via a map amendment shown in **Figure 4** below.



**Figure 4: Proposed active street frontages map**

### 3 Need for the planning proposal

The landowner, Fabcot Pty Ltd, submitted an initial planning proposal request to the City of Sydney in November 2021. The request was modified to address issues raised in the City's assessment of the initial proposal and resubmitted in September 2022.

The original reference scheme included a total above ground GFA of 14,375 square metres, equivalent to 2.2:1, and below ground GFA of 18,975 square metres, equivalent to 2.9:1.

The revised reference scheme included the following modifications:

- Lowered built form adjacent to Bourke Street,
- Extended commercial/retail hub building facing McEvoy Street,
- Reduced supermarket floor space reduced from 4,600 to 3,200 square metres, and
- Reduced car parking spaces reduced from 358 to 221.

The final reference scheme was informed by feedback from Council, community consultation and LIDAR survey to enable detailed tree impact assessment. As a result the proposed building footprint was further setback from significant trees on the Young Street and McEvoy Street frontages.

**Figures 5 to 7** show the proposed reference scheme elevation, ground floor layout and cross section through the site. The images demonstrate increased side boundary setbacks which enable retention of a large number of mature trees making a significant contribution to the streetscape. The cross sections show the proposed heights in the context of adjacent building heights and the intended supermarket at basement level which is proposed to be enabled through additional FSR of 0.5:1.

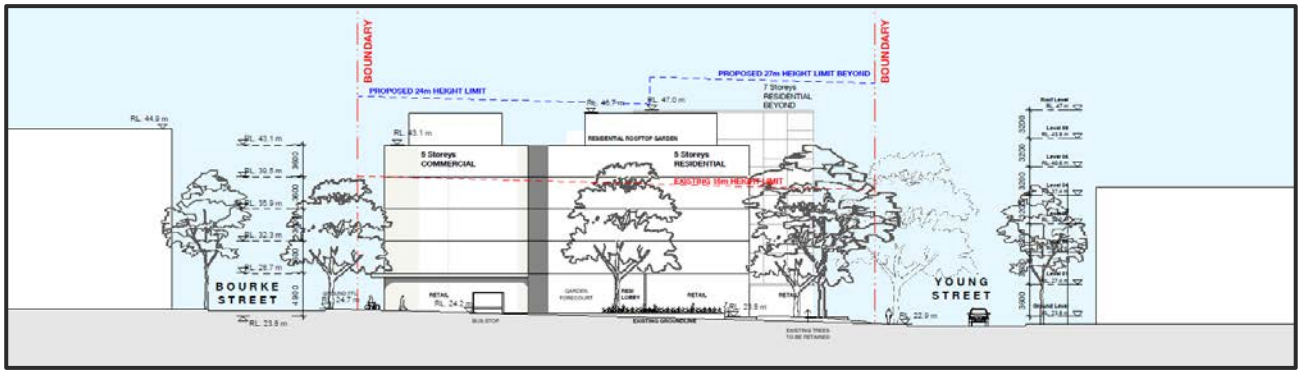
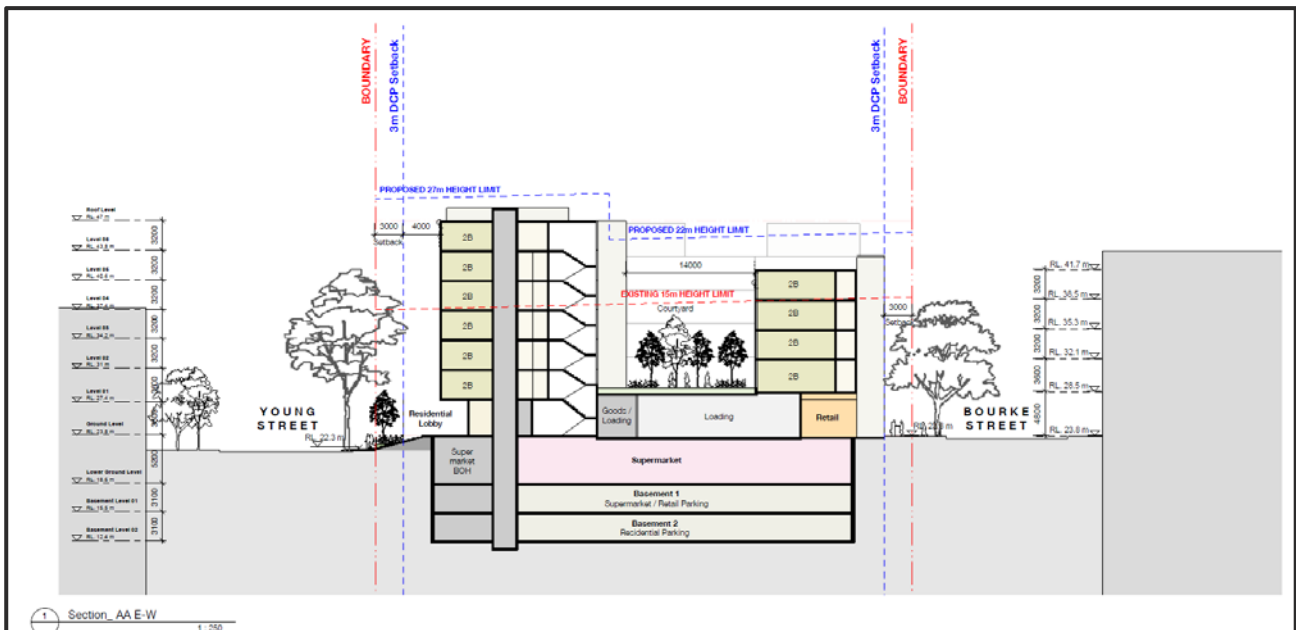


Figure 5: Proposed McEvoy Street elevation



Figure 6: Proposed ground floor layout showing through site links and setbacks



**Figure 7: Proposed cross section A-A showing below ground supermarket floor space**

The proposed changes to Sydney LEP 2012 to enable the renewal of the site are as follows:

### Land Use

There are no proposed changes to the existing B4 Mixed Use zoning (MU1 Mixed Use). However, under Clause 7.23 of Sydney LEP 2012 restricts floor space for 'shops' and 'markets' to a maximum 1,000sqm of consolidated GFA outside of Green Square Town Centre and other planned centres.

Council has identified that the intent of this Clause is to ensure the economic viability of centres by ensuring substantial retail, in particular supermarkets that act as anchors for other retail, does not locate where it would compete against planned centres, that are the focus on local and state investment. It is also to ensure large scale retail premises locate in areas of community focus, with good public transport accessibility, close to residential populations to encourage walking, and high levels of amenity.

The proposed amendments seek to allow an additional 0.5:1 FSR (about 3,200m of GFA) to be achieved on the site for consolidated retail space, despite the requirements of clause 7.23. The effect of the change is to facilitate a large format supermarket as part of a mixed-use development. As such the proposal requires an amendment to the Sydney LEP 2012 which will result in a change to the existing land uses outcomes. This is supported by a Green Square and Southern Areas Retail Review (Review) which was undertaken by SGS Economics and Planning on behalf of Council.

The Green Square and Southern Areas Retail Review identified a net shortfall in retail floor space across the City South area and found that to 2041 an additional 15,000 square metres of retail floorspace is needed close to the Green Square Town Centre to address the undersupply and meet retail demand. It found the greatest undersupply in hospitality and services, supermarkets, and other food retail.

The Review found that there will be an undersupply of about 9,000 square metres of supermarket floor space, with the largest supermarket under-supply emerging in the eastern parts of Waterloo, the Town Centre and North Alexandria areas.

The Review includes a capacity analysis to determine if there is sufficient capacity under existing planning controls to accommodate the identified shortfalls in retail supply. It found that while small



format retail is widely accommodated under current planning controls, there is limited opportunity in the Town Centre to support large format retail. The Review also found more opportunity was needed to address the undersupply of large format retail, in particular supermarkets.

Following the Review, the City has prepared Planning Proposal: Green Square and Southern Areas Retail Review that is separately under consideration by the Department of Planning and Environment.

## Height

The proposal amends the current height controls in Sydney LEP 2012 to enable the renewal of the site as per the reference scheme. The proposed heights seek to allow:

- 22m on part of the site fronting Bourke Street (5 storeys); and
- 27m on part of the site fronting Young Street (7 storeys).

This planning proposal seeks to allow additional building height so that the current floor space can be achieved with the resulting residential development contributing to the City's housing target. The proposed height does not make any allowance for the additional FSR facilitated by this planning proposal, which is to be achieved below ground level only.

The proposed 27m building height fronting Young Street facilitates the site to achieve the current permissible FSR without impacting the residential buildings opposite as Young Street has approximately a 20m road width and provides sufficient separation between the sites. In addition, the retention of the tree canopy and additional building setback along Young Street reduce the any impacts such as from overlooking on those residential developments.

The 22m building height fronting Bourke Street provides a transition in the height of the built form to Bourke Street which reduces the overshadowing impacts of the development on the residential apartments opposite on Bourke Street.

The proposed heights also enable the future development to support other commercial uses on the northeast corner of the site, which is not suited for residential uses as it is affected by noise from the busy intersection at McEvoy and Bourke Streets. The heights provide the opportunity to create a quality public realm with additional footpath widening, landscaped setbacks, deep soil, tree retention and generous internal communal spaces and a public plaza to support active uses.

The indicative reference scheme indicates compliance with the ADG objective to optimise the number of apartments receiving sunlight to habitable rooms, with indicative testing showing of the total 121 apartments, 85 dwellings or 70% achieving two hours or more of solar access on the winter solstice.

## Floor Space Ratio and sustainability

The planning proposal seeks to allow an additional 0.5:1 FSR to a total of 2.7:1 subject to:

- at least 90% of the additional floor space is provided as consolidated 'shop' below ground level, that is, a proposed supermarket; and
- meeting a number of sustainability requirements.

The planning proposal identifies site-specific provisions incentivising the future development to achieve higher sustainability standards with the additional FSR for the supermarket. The site specific provisions include:

- any development on the site that is BASIX affected development is required to exceed the BASIX commitment for Energy and Water by not less than 5 points; and
- any development for retail or other commercial uses is required to achieve net-zero emissions from energy use.

The stretch BASIX targets seek to ensure that all residential development on the site exceeds current BASIX standards. The net zero provisions apply to non-residential part of the development, including include large format supermarket and office uses. These provisions are aligned with the



net-zero provisions that are currently under consideration by the Department as part of the Net Zero Planning Proposal. This planning proposal however will require net zero commitment for the development to come into effect immediately and bring forward the LEP target for 2026.

Council has advised that the landowner has offered to enter into a planning agreement to secure the above outcomes, as well as made other commitments to support resilience and sustainability of the development, including:

- electric vehicle charging facilities in residential, retail and commercial car parking areas;
- incorporation of onsite rainwater capture and re-use for non-potable purposes within the development; and
- development of best practice site-wide resource recovery for operational waste / recycling systems.

The sustainability requirements are to be secured in a planning agreement and the detailed requirements are to be included in the draft DCP to be publicly exhibited together with this planning proposal.

### **Parking**

The planning proposal seeks to apply a retail parking rate of 1 space per 50m<sup>2</sup> of retail floor space. This would be applied via a site specific clause despite clause 7.7(1) of Sydney LEP 2012 which does not specify a maximum retail car parking rates from any building with more than 2,000m<sup>2</sup> of retail gross floor area.

The planning proposal includes discussion on how this clause will impact the proposal. The proponent has provided a traffic impact assessment to demonstrate that the impacts on the network are acceptable. It is considered that, while this clause is not required to enable the proposed development, it ensures that the outcomes will support the intent of the local strategic planning context.

Council's Green Square and Southern Areas Retail Review planning proposal, currently under separate review by the Department, includes a proposal to repeal clause 7.7(1) across the broader City of Sydney Local Government Area.

### **Design Excellence**

The site is currently subject to Clause 6.21 of the Sydney LEP 2012 which allows for 10% additional building height or FSR where design excellence is demonstrated. The planning proposal includes a requirement that the development to only be eligible for additional FSR, and not height under a separate site specific provision. It is also proposed that Clause 6.21 cannot be applied to the additional FSR facilitated by this planning proposal.

Council has identified that the purpose of this is to ensure the floor space permitted on the site can fit within the proposed building heights and not create unacceptable externalities, such as overshadowing. The draft DCP includes a Design Excellence Strategy so that the landowner may commence a design competition process for the site to inform a detailed development application.

### **Active Street Frontages**

The planning proposal maps an active frontage to Bourke Street and McEvoy Street to improve the amenity for pedestrians and limit the residential uses along these busy streets by encouraging fine grain and diverse retail uses along these frontages.

The draft DCP reinforces the objectives for active street frontages in the planning proposal.

### **Heritage**

No change is proposed to current heritage provisions in the Sydney LEP 2012. The site is not identified as a heritage item and is not located in a heritage conservation area.

## 4 Strategic assessment

### 4.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Region Plan.

**Table 4: Regional Plan assessment**

Regional Plan Objectives	Justification
Objective 2: Infrastructure aligns with forecast growth	The Green Square area is expected to experience continued population growth to 2036. The planning proposal provides a significant contribution to serving the retail needs of this population in a location served by existing transport infrastructure.
Objective 4: Infrastructure use is optimised	The planning proposal ensures the provision of the infrastructure required to support the proposed development. It also leverages off the existing infrastructure surrounding the site.
Objective 5: Benefits of growth realised by collaboration of governments, community and business	Community consultation was undertaken by the applicant to understand the retail needs of the community and inform the reference scheme.  Formal public exhibition of the planning proposal and consultation with Transport for NSW will ensure a collaborative approach to growth.
Objective 6: Services and infrastructure meet communities' changing needs	The planning proposal allows for a range of functions including large format and fine grain retail uses and commercial uses. The resulting floor space can accommodate a range of services and businesses to meet the needs of the community into the future.
Objective 7: Communities are healthy, resilient and socially connected	The planning proposal supports a healthy, resilient and connected community through delivering local shops and spaces for local residents and workers to gather which will contribute to enhanced social opportunities for local residents.
Objective 10: Greater housing supply	The planning proposal will facilitate residential uses within an existing urban renewal area, increasing housing supply in close proximity to public transport infrastructure.

Regional Plan Objectives	Justification
Objective 11: Housing is more diverse and affordable	<p>The planning proposal will accommodate approximately 120 new apartments adding to the supply in the Green Square area and allowing greater affordability through increased supply. The additional residential floor space can provide a range of apartment configurations contributing to housing diversity.</p> <p>The location is in close proximity to a range of services and existing infrastructure in the Green Square Town Centre and will make efficient use of existing infrastructure and services.</p> <p>The public benefit offer including provisions for the delivery of affordable housing has been developed in conjunction with the planning proposal.</p>
Objective 12: Great places that bring people together	<p>The planning proposal enables the potential for development that will act as a focal point for the surrounding neighbourhood. Future development will have opportunities to improve pedestrian and user amenity as detailed within the supporting DCP amendments.</p>
Objective 14: A metropolis of three cities – integrated land use and transport creates walkable and 30-minute cities	<p>The planning proposal demonstrates that a supermarket in this location will fill a gap in the existing options. This will allow the majority of local residents in the Waterloo and Green Square areas access to a supermarket within walking distance (400-500m).</p>
Objective 15: The Eastern, GPOP and Western Economic Corridors are better connected and more competitive	<p>Green Square Town Centre is identified as a strategic centre in the region plan, and an important contributor to the economic corridor. By supporting the redevelopment of the site and additional retail uses, the planning proposal complements and strengthens Green Square's role as a higher order commercial centre.</p>
Objective 22: Investment and business activity in centres	<p>The introduction of additional retail floorspace into the Centre ensures that the planning proposal supports Green Square's role as a strategic centre by attracting investment, business activity and jobs.</p>
Objective 33: A low-carbon city contributes to net-zero emissions by 2050 and mitigates climate change	<p>The planning proposal contains sustainable design provisions including commitment to achieve greater than BASIX requirement for energy and water efficiency.</p>
Objective 34: Energy and water flows are captured, used and re-used	<p>The planning proposal contains sustainable design provisions including commitment to achieve greater than BASIX requirement for energy and water efficiency.</p>
Objective 36: People and places adapt to climate change and future shocks and stresses	<p>The planning proposal is supported by technical studies to address flood planning levels and a reference scheme to demonstrate how these can be accommodated by future development.</p>

## 4.2 District Plan

The site is within the Eastern City District and the Greater Sydney Commission released the Eastern City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

**Table 5: District Plan assessment**

District Plan Priorities	Justification
Priority E1: Planning for a city supported by infrastructure	The planning proposal supports this priority as it provides supermarket floorspace in a location that is currently underserved by this service, and utilizes a site that is well served by active and public transport networks including cycleways, bus, train and Metro station access.
Priority E2: Working through collaboration	The planning proposal demonstrates collaboration as it has been supported by preliminary consultation with the community and Council to understand the retail needs of the community and to inform the reference design scheme.  Further consultation will also be undertaken during further engagement with the community and other relevant stakeholders during public exhibition.
Priority E3: Providing services and social infrastructure to meet people's changing needs	The proposed planning provisions will enable delivery of services which supports the community through the delivery of retail, supermarket, commercial and residential floor space.
Priority E4: Fostering healthy, creative, culturally rich and socially connected communities	The site is in close proximity to high density residential development. The planning proposal supports a health, resilient and connected community through delivering local shops and spaces for local residents and workers to gather which will contribute to enhanced social opportunities for local residents.
Priority E5: Providing housing supply, choice and affordability with access to jobs, services and public transport	The planning proposal provides for residential dwellings, whilst also delivering retail, and commercial floor space. The site has access to established and developing transport networks.
Priority E10: Delivering integrated land use and transport planning and a 30 minute city	The planning proposal enables the future renewal of the site, serving the local population through creating the opportunity to deliver a retail, residential and commercial development that serves the daily and weekly needs of the surrounding community. This will reduce the demand for car-based trips to other centres.
Priority E11: Growing investment, business opportunities and jobs in strategic centres	The planning proposal facilitates a large format supermarket investment in the site for the benefit of the wider community, creating opportunities for employment and multiplier effects.
Priority E19: Reducing carbon emissions and managing energy, water and waste efficiency	The planning proposal is supported by a broad range of sustainability provisions and will also enable active transport opportunities.

## 4.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

**Table 6: Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement	<p>Council has identified that the planning proposal aligns with the following strategic directions:</p> <ul style="list-style-type: none"> <li>I1 – Movement for walkable neighbourhoods and a connected city</li> <li>I2 – Align development and growth with supporting infrastructure</li> <li>I3 – Supporting community wellbeing and infrastructure</li> <li>L1 – A creative and socially connected city</li> <li>L2 – Creating great places</li> <li>L3 – New homes for a diverse community</li> <li>S2 – Creating better buildings and places to reduce emissions and waste and use water efficiency</li> </ul>
Sustainable Sydney 2030-2050	<p>The planning proposal aligns with the following strategic directions:</p> <ul style="list-style-type: none"> <li>D2. A leading environmental performer</li> <li>D4. Design excellence and sustainable development</li> <li>D3. Public Places for all</li> <li>D5. A city for walking, cycling and public transport</li> <li>D6. An equitable and inclusive city</li> <li>D7. Resilient and diverse communities</li> <li>D10. Housing for all</li> </ul>

### Green Square and Southern Areas Retail Review

The Green Square and Southern Areas Retail Review was prepared in 2022 to assess the retail floor space needs in the Green Square area and to recommend any necessary changes to planning controls.

The Review identified a net shortfall of retail floor space finding that an additional 15,000 square metres of retail floor space would be required by 2041 across the study area. In particular the study identified demand for full-line supermarkets in the eastern parts of Waterloo, the Green Square Town Centre and North Alexandria areas.

The planning proposal supports the findings of this study and addresses the need for full-line supermarket floor space in an area that is demonstrated as being underserved.

## 4.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:



Table 7: 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	The planning proposal is consistent with the Regional Plan.
1.3 Approval and referral requirements	Yes	This planning proposal does not include concurrence provisions or involve designated development. Consultation with Transport for NSW is recommended as a condition of the Gateway Determination and is consistent with the Ministerial Direction.
1.4 Site Specific Provisions	No	<p>The objective of this direction is to discourage site specific planning controls. The planning proposal is therefore inconsistent with this Direction as it involves draft site specific controls to enable the proposed development including:</p> <ul style="list-style-type: none"> <li>- Allowing retail floor space greater than 1000m<sup>2</sup> on the site; and</li> <li>- Allowing additional 0.5:1 FSR to be developed on the site for a 'shop or market' under certain conditions.</li> </ul> <p>The proposed site specific controls are considered reasonable as they are required to enable the delivery of a supermarket to meet the retail needs of the surrounding population.</p> <p>The site specific control for additional floor space will stipulate the additional floorspace for a supermarket to be provided '90% below ground level'. This will ensure that development at and above street level is consistent with the emerging neighbourhood context in terms of use and also that the bulk and scale of the development are compatible with surrounding sites.</p> <p>It is considered that the inconsistency is of minor significance and is the most appropriate way to facilitate the intended outcomes of the planning proposal.</p>
4.1 Flooding	Yes	<p>The planning proposal is supported by a Flooding Assessment with recommended flood levels incorporated into the reference scheme. This approach is consistent with the requirements of the Direction.</p> <p>The proposal does not seek to amend any existing flooding provisions as currently apply to the site. Noting that the site is flood affected, a condition is proposed to require consultation with the Environment and Heritage Group.</p>

4.4 Remediation of Contaminated Land	Yes	<p>This Direction seeks to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>The Direction only requires detailed consideration of contamination where a rezoning would permit a change of land use. No change of zoning are proposed.</p> <p>The planning proposal is supported by a Preliminary Site Investigation which recommends that further investigations be undertaken to inform a Remediation Action Plan at DA stage. This recommendation is consistent with the requirements of the Direction.</p>
4.5 Acid Sulfate Soils	Yes	<p>The Preliminary Site Investigation has confirmed that there are no potential or actual acid sulfate soils on the site, ensuring that development will be consistent with the Direction.</p>
5.1 Integrating Land Use and Transport	Yes	<p>The planning proposal enables development of the site in a location well served by the surrounding transport network. The reference scheme is supported by a Transport study and green travel plan and incorporates measures to reduce dependence on cars and support public transport consistent with the Direction.</p>
7.1 Business and Industrial Zones	Yes	<p>The planning proposal enables a broader range of employment uses in the existing B4 Mixed Use zone consistent with the aims of the Direction.</p>

## 4.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with relevant SEPPs, including those discussed below:

### 4.5.1 SEPP No.65 – Design Quality of Residential Apartment Development

This Policy aims to improve the design quality of residential apartment development in New South Wales. This is achieved through nine design quality principles and application of the accompanying Apartment Design Guide (ADG).

Consideration of SEPP No.65 is required as the planning proposal:

- seeks to facilitate the development of residential flat buildings of three or more storeys; and
- impacts upon existing residential flat building development adjoining the site.

Detailed design of buildings that comply with the proposed envelopes sought by this proposal will be undertaken at the development application stage, where compliance with SEPP 65 and the ADG will need to be demonstrated.

Nonetheless, a general assessment undertaken by the Department of the planning proposal shows the supporting concept design is capable of appropriately responding to ADG requirements subject to further detailed design refinement. This includes:

#### **Built Form and Solar Access**

The ADG seeks to provide for adequate built form and solar access outcomes with requirements which include:

- Indicative testing shows that 85 or 70% of the 121 apartments achieve two hours or more of solar access at winter solstice.

- Residential development in the Lachlan precinct on the eastern side of Bourke Street (840 Bourke Street) maintains sufficient sun access to remain ADG compliant as shown in the sun angle views provided in the Bates Smart Urban Design Report (shown in **Figure 8** below).



**Figure 8: Analysis of Solar Access to apartments at 840 Bourke Street (Urban Design Report, Bates Smart)**

### Cross Ventilation

The ADG seeks to optimise natural cross ventilation of apartments. The reference scheme achieves 58.7% or 71 of the total 121 apartments capable of being cross ventilated. While design improvement and comprehensive testing will be required at the development application stage, it is expected that the planning proposal can achieve compliance with the ADG objective of cross ventilation for 60% of apartments.

### Minimum Building Separation

The ADG seeks to provide for adequate visual privacy outcomes with requirements which include minimum separation between windows and balconies. The indicative reference scheme demonstrates the ability to comply with the ADG objective with the following separation distances provided between the three buildings internally within the site:

- 14m separation between the building fronting Bourke Street and building fronting Young Street; and
- 9m separation distance from the McEvoy Street building to both the Bourke Street and Young Street buildings.

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

**Table 8: Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Building Sustainability Index: BASIX) 2004/(Sustainable Buildings) 2021	Schedule 1 of the Sustainable Building SEPP, which comes into effect in October 2023, requires achievement of minimum standards for energy and water uses and thermal performance to be assessed prior to consent being issued.	Yes	The planning proposal provides commitments to achieving water and energy efficiency further to the requirements established by the SEPPs.
SEPP (Resilience and Hazards) 2021	Chapter 4 requires the consent authority to be satisfied that the land is suitable, with regard to contamination, for the proposed use prior to issuing consent.	Yes	The planning proposal provides a Preliminary Site Investigation report recommending that a Remedial Action Plan be prepared to support any application for development consent.
SEPP (Transport and Infrastructure) 2021	Schedule 3 of the SEPP requires consultation with TfNSW as part of future development assessment.	Yes	A Gateway condition is also recommended to require consultation with TfNSW as part of this planning proposal.

## 5 Site-specific assessment

### 5.1 Environmental

There are no likely environmental impacts that would arise as a result of the planning proposal.

The following table provides an assessment of the other potential environmental impacts associated with the proposal.

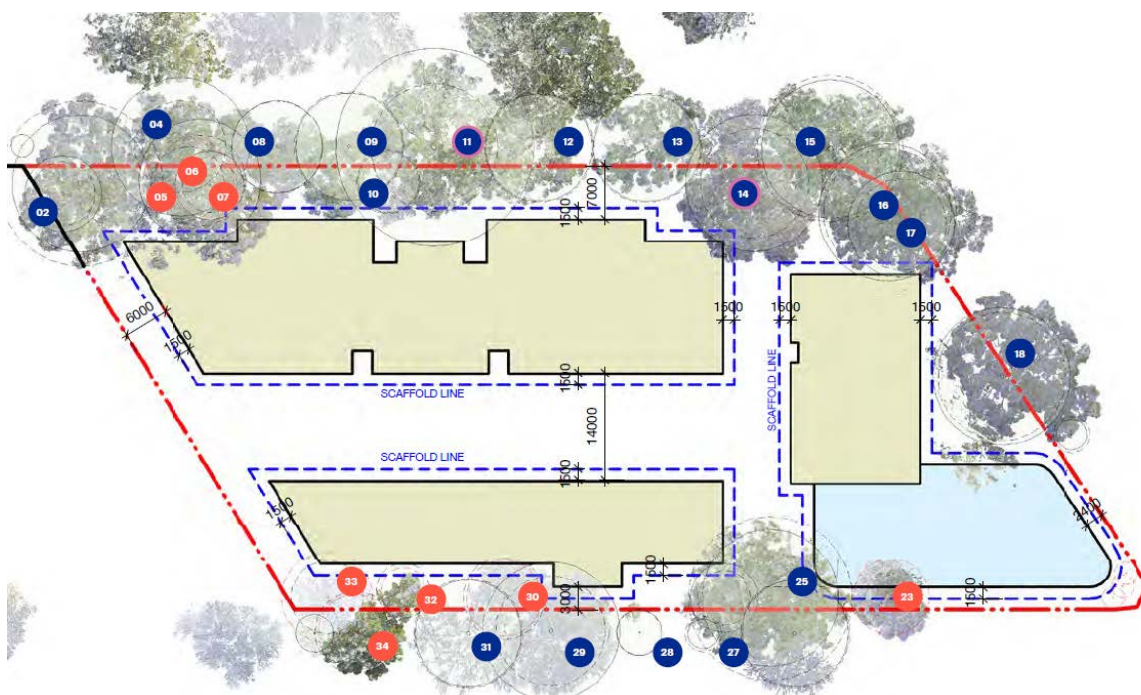
**Table 9: Environmental impact assessment**

Environmental Impact	Assessment
Flooding	Refer to <b>Section 4.4 – Section 9.1 Ministerial Direction 4.1 Flooding</b> for detailed discussion of flooding matters.
Contamination	Refer to <b>Section 4.4 – Section 9.1 Ministerial Direction 4.4 Remediation of Contaminated Land</b> for detailed discussion of contamination matters.

Built Form and Amenity	<p>Refer to <b>Section 4.4 – Section 9.1 Ministerial Direction 1.4 Site Specific Provisions</b> for detailed assessment of bulk and scale.</p> <p>Refer to <b>Section 4.5.1 – SEPP No.65 – Design Quality of Residential Apartment Development</b> for detailed assessment of built form and amenity considerations.</p>
Sustainability	<p>The planning proposal includes a site specific clause committing to water and energy efficiency beyond the BASIX standards.</p> <p>The public benefit offer commits to providing EV charging for some of the residential, commercial and retail parking spaces.</p>

### Tree Retention

There are no critical habitat areas, threatened species, populations or ecological communities or their habitats present on the site. The site and adjacent road reserves contain a number of mature trees and revisions to the proposal include the reduction in extent of the proposed basement development and above ground building setbacks. These modifications ensure that mature trees providing habitat and amenity are able to be retained as shown in **Figure 9** below.



**Figure 9: Tree retention diagram (Urban Design Report, Bates Smart)**

## 5.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

**Table 10: Social and economic impact assessment**

Social and Economic Impact	Assessment
Housing Diversity and Affordability	Refer to <b>Section 4.1 – Regional Plan</b> , Objective 11 for a detailed discussion of housing diversity and affordability.



Public Space	An area of 1,700m <sup>2</sup> or approximately 26% of the site will be communal open space including generously landscaped street frontages, landscaped courtyard and through site links. These areas will provide the opportunity for the community to socialise and cater to the needs of the workers and residents on site and in the surrounding area. The space will provide access to retail tenancies providing goods and services such as food and beverage offerings and has convenient access to public transport making it accessible to the broader community.
Economic	<p>The proposal is aligned with the City of Sydney's Green Square and Southern Areas Retail Review. This study indicates the need for a full-line supermarket in the general location of the subject site.</p> <p>The planning proposal will enable delivery of the following non-residential uses:</p> <ul style="list-style-type: none"> <li>- A full-line supermarket of 3,200m<sup>2</sup> GFA</li> <li>- 1,670m<sup>2</sup> of specialty/supporting retail GFA</li> <li>- 2,025m<sup>2</sup> of commercial GFA</li> </ul> <p>Once the project is complete and fully occupied it is expected to generate 273 FTE jobs on an ongoing basis.</p> <p>The Retail Needs and Economic Impact Assessment prepared by Ethos Urban to support the planning proposal estimates projected supermarket sales at \$38.4 million in 2025/26 and total retail sales from the site at \$48.5 million in 2025/26. The needs of apartment residents would generate approximately \$4.0 million in retail expenditure.</p>

## 5.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

**Table 11: Infrastructure assessment**

Infrastructure	Assessment
Utilities and Services	The site is connected to all necessary utilities and services, the connection of these to new development will be assessed further at the Development Application Stage.

### Transport and Parking

Bicycle parking and end of trip facilities are provided in the reference scheme including 120 spaces for building residents and spaces for workers and visitors. These arrangements facilitate access to the extensive surrounding active transport network.

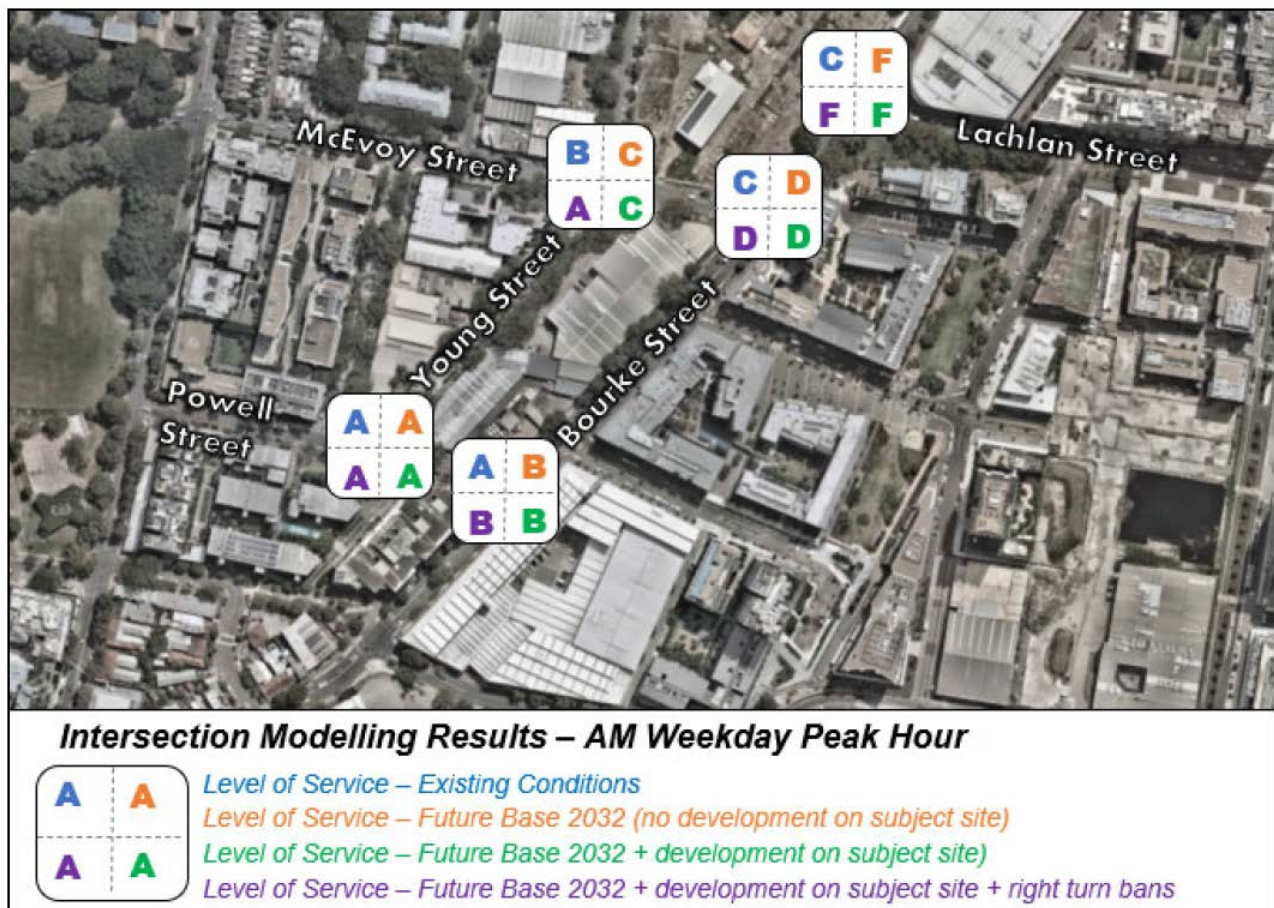
Public transport is widely available in the surrounding area including bus stops directly adjacent to the site on Bourke and McEvoy Streets, Waterloo Metro station approximately 900 metres to the north west and Green Square train station approximately 800 metres to the south west.

The planning proposal notes that the proximity of the site to existing public transport interchanges in the city centre provides the opportunity to reduce dependence on private vehicle use. The proposed drafting therefore ensures that a maximum retail parking rate applies to the site.

Based on the existing and proposed rates in Sydney LEP 2012, the reference design includes a total of 227 parking spaces within two levels of basement parking providing:

- 103 residential parking spaces
- 97 retail parking spaces
- 27 commercial parking spaces

The Transport Assessment (JMT Consulting) submitted in support of the planning proposal notes that the net traffic generation and associated road network performance is not anticipated to significantly impact the surrounding road network. Modelling indicates that the intersection level of service remains unchanged for all sites when compared to the 'future base' scenario indicating that pressure on the intersections is generated by background traffic growth. The outcomes of modelling for the AM Peak are shown in **Figure 10** below.



**Figure 10: Intersection Modelling Results – AM Weekday Peak Hour (Transport Assessment, JMT)**

A Gateway condition is recommended to require consultation to occur with Transport for NSW (TfNSW). This will provide the opportunity for discussions to occur relating to traffic implications and the delivery of any necessary infrastructure improvements.

## 6 Consultation

### 6.1 Community

Council proposes a community consultation period of 28 days (equivalent to 20 working days).

The exhibition period proposed is considered appropriate, and forms to the conditions of the Gateway determination.

## 6.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- Transport for NSW;
- Environment and Heritage Group.

## 7 Timeframe

Council proposes a 12 month time frame to complete the LEP.

The Department recommends a time frame of 200 days to ensure it is completed in line with timeframes described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and supports the Department's commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

## 8 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the site/planning proposal is within the Green Square urban renewal area and subject to Council's strategic plans, including the Green Square and Southern Areas Retail Review, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

## 9 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- is consistent with the relevant the Section 9.1 Directions;
- is consistent with the relevant planning priorities of the Eastern City District Plan and relevant SEPPs;
- is consistent with the relevant local strategies including the City of Sydney LSPS, Housing Strategy, Green Square and Southern Areas Retail Review;
- provides for built form outcomes which are capable of achieving the requirements of the Apartment Design Guide; and
- provides commercial and retail offerings and mixed residential unit sizes in proximity to existing services, infrastructure and public transport interchanges.

## 10 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 1.4 Site Specific Provisions are minor and justified.

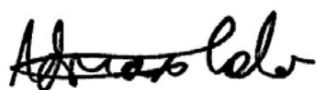
It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated to:

- (a) note that the proposed additional local provision is subject to the legal drafting process by Parliamentary Counsel.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
- (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 days; and
- (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

Exhibition should commence within 50 days following the date of the gateway determination as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

3. Consultation is required with the following public authorities:
- Transport for NSW
  - Environment and Heritage Group
- Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The LEP should be completed on or before 6 November 2023.
6. The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the EP&A Act subject to the following:
- (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
- (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified; and
- (c) there are no outstanding written objections from public authorities.



18/01/2023

(Signature)

(Date)

Adrian Melo

Manager, Metro East and South (City)



\_\_\_\_\_  
(Signature)

18/01/2023

\_\_\_\_\_  
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