

Fraser's Broadway - A_REP_136_DoP

Isometric View comparing GFA of amended Concept Plan
Submissions May and October 2008

Foster + Partners
FRASERS PROPERTY

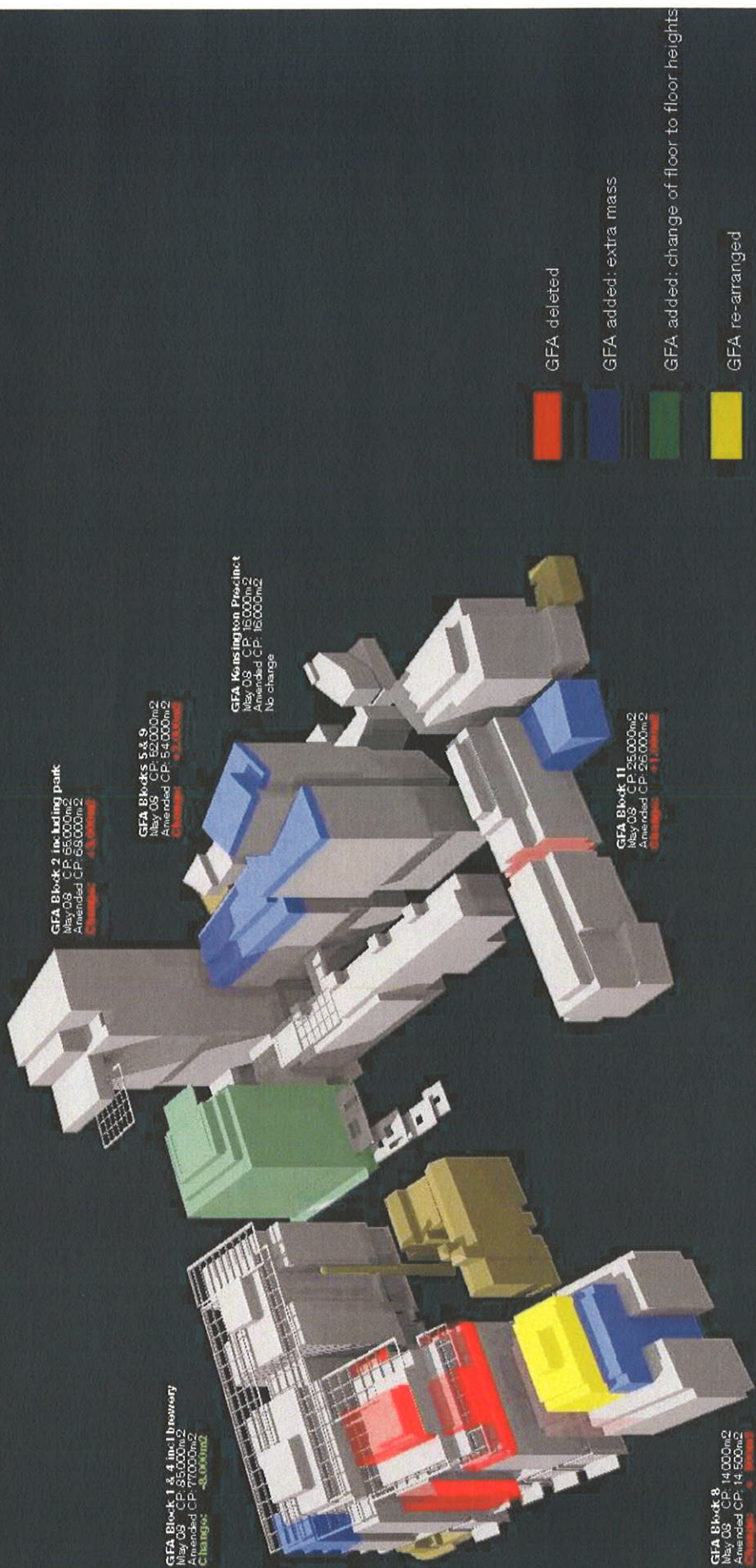


Figure 5: PPR changes in built form from that exhibited.

4.4 Planning Agreements (PA)

As part of the modification proposal, amendments are now sought to the two original PAs. These two PA were signed concurrently with the original Concept Plan instrument. The summary of changes provided by the proponent are detailed as follows:

PA with Redfern Waterloo Authority (RWA) for monetary contributions for affordable housing

Both the current and proposed PAs require the contributions to be spent on affordable housing in Redfern Waterloo, as per the RWA Act 2004 which permits a PA for affordable housing to be entered into if the CUB site was subject to a Part 3A.

A \$32million contribution generated by the revised PA is now proposed. By comparison, a far superior public benefit compared to the original Concept Plan is assured for the community from the re negotiated PA for affordable housing. The modified PA will provide more money up front and more certainty on timing of contribution paid with last instalment paid by 2013 regardless of the staging of the project.

The Planning Agreement was executed by both parties on Friday, 28 November 2008.

PA with Minister of Planning to provide public benefits.

The deed of modification to the Minister's PA are summarised by the proponent as follows:

1. The area of the Main Park has been increased to at least 6,000sq.m;
2. The legal title to the Main Park will be subdivided into 2 stratum lots:
 - (a) The upper stratum lot (**Lot 1**) will commence a point just below the surface (at a depth of 2.5 metres unless otherwise permitted) and extend upwards to encapsulate the entire airspace above the Main Park. Lot 1 will have no upper boundary. The title to Lot 1 will be transferred to Council;
 - (b) The lower stratum lot (**Lot 2**) will commence at the lower boundary of the upper stratum lot and extend downwards. Lot 2 will have no lower boundary. Lot 2 will encapsulate the area below street level that houses the water detention tank and ancillary equipment. The title to Lot 2 will be retained by the Land Owner; and
 - (c) Appropriate easements and restrictions will be created. These will include easements for support benefiting and burdening both lots, releases and indemnities burdening Lot 2 and easements for access burdening Lot 1;
3. Security for the Main Park demolition, drainage and remediation works and the embellishment of the Main Park has been provided by way of a caveat over the Land;
4. Balfour Street Park embellishment must commence by 31 December 2009;
5. The Community Facilities Contribution Amount (and security to be provided for this amount) has been increased to \$2,725,000;
6. Irving Street Park (site 3), O'Connor Street Park (site 4) and Wellington Street Park (site 5) as shown in the revised Concept Plan may be privately owned but will be publicly accessible and likely to be regulated in accordance with a publicly accessible areas management plan (**PAAMP**);
7. Sites 7, 10, 16, 17, 18 and 20 will be privately owned and publicly accessible and likely to be regulated in accordance with a PAAMP;

8. Sites 11 and 12 as shown in the revised Concept Plan, as well as some public roads, will be subject to stratum subdivisions to cater for the underground car parking passing underneath these areas;
9. The indexation provided for in Table 1 of Schedule 5 will be subject to a "collar and cap" of a 3.5% variance to the contribution amount and the commencement date for S:1191238_2 VPL the purposes of the indexation will be the date of the Deed of Modification to the Planning Agreement.

Notes:

- The terms used above are defined in the Deed and/or the Planning Agreement; and
- The above provides a brief summary only of the modifications made by the Deed and the Deed itself must be read and considered in its entirety.
- Security for works to be carried out on the main park are to be provided by way of a caveat over the land in favour of the Council rather than by way of a monetary payment.
- Main park to be delivered into two stratum lots
- Area of main park to be embellished has been increased from 5,381sqm to at least 6,000sqm.
- Clarification that the community facility GFA on the site is not to be included in the overall GFA permitted on the site.
- Clarification that the embellishment works on sites 11 and 12 do not necessarily include the removal of temporary electricity substation kiosks.
- Clarification of the new intersections that are to be created.

At the time of writing this report, the proponent and the Minister of Planning have not yet signed the amended PA.

Owner's Consent Deed with Council

Owner's consent for the proposal was issued by City of Sydney Council before submission of the modification application.

The Deed of modification to the Owners Consent Deed (OCD) with City of Sydney is summarised by the proponent as follows:

1. Stratum subdivision of the Main Park into two lots horizontally. The Upper Stratum Lot is to be retained by the City of Sydney and will start from approx 2.5m below ground level (or less if required as a result of engineering or land levels) to allow for deep soil planting with no upper boundary. The lower stratum lot will be retained by Frasers and will contain a stormwater detention tank and will not have any lower boundary. Easements and restrictions are to be created.
2. Balfour Street Park must be provided by 31 December 2009 or sooner if possible.
3. Frasers to create horizontal stratum lots in relation to Sites 11 and 12 and public roads where a car parking passes underneath Sites 11 and 12 and public roads. Easements and restrictions are to be created.
4. Requirement to prepare Publicly Accessible Areas Management Plan (PAAMP) for all publicly accessible areas, regardless of ownership. The PAAMP will document the arrangement between "private" and "public" owners and will deal with issues such as maintenance, hours of access, mechanisms to allow events to take place etc. The PAAMP will likely be prepared by Holding Redlich (Frasers Lawyers) and submitted to the CoS's lawyers for comments / approval. This is the same process which was undertaken at Rouse Hill with Baulkham Hills Shire Council.

Further, City of Sydney has advised a section of Kensington Street has been left off the plan. The City raises no objection to the realignment of this section of roadway subject to the proponent

embellishing the wider public domain it will create. The Council have indicated all of its land including the redundant portion of Kensington Street is to form part of the OCD. On this basis the Department raises no planning objection.

At the time of writing this report, the proponent and City of Sydney have not yet signed the amended OCD.

5. STATUTORY CONTEXT

5.1 Modification of Minister's Approval

The modification application has been lodged with the Director-General pursuant to Section 75W of the Act, which provides for the modification of the Minister's approval, including revoking or varying a condition of the approval or imposing an additional condition of the approval.

Under Section 75W (2), the Minister's approval for a modification is not required if the project, as modified, will be consistent with the existing approval under this Part. In this instance, it was concluded that the proposed modifications required a formal application to modify the approval, as the modification involves reconfiguration of the approved layout, building envelopes, GFA and changes to Modifications imposed on the original approval. Therefore, the power to make such a change lies with the Minister.

The Proponent submitted an application on behalf of Frasers Broadway Pty Ltd, to modify the approval pursuant to Section 75W (3) of the Act.

The approved Concept Plan concentrates the majority of GFA arranged around a public park, primarily along the main arterial length of Broadway, and to a lesser extent, along Abercrombie, Kent Road, Kensington, O'Connor and Wellington Streets in 11 development blocks. The modification application does not alter the general framework of a mixed use development with buildings being arranged around an enlarged central space compared with that approved.

5.2 Major Project Declaration

On 21 July 2006, the former Minister for Planning, declared by order pursuant to Section 75B (1) (b) that Part 3A of the Act applied to the proposed development and, pursuant to Section 75M of the Act.

On 23 July 2006, the Minister for Planning formed the opinion pursuant to Clause 6 of State Environmental Planning Policy (Major Projects) 2005 that the proposal is a Major Project and subject to Part 3A of the Environmental Planning and Assessment Act. On 28 August 2006 the Minister authorised the lodgment of a Concept Plan application for the proposal.

5.3 State Significant Site (SSS) Study Amendment

The site is proposed to be listed under Schedule 3 of the SEPP which identifies 'State Significant Sites' to which Part 3A of the Act applies. The proponent has submitted an SSS study which seeks to establish new land use zones and development controls across the site. These controls include land use zones, height, and FSR and heritage conservation to give effect to the modified Concept Plan. This process is to be decided after the approval of the modified Concept Plan. However, determination of the original Concept Plan is not dependant on gazettal of the SEPP.

5.4 Minister's Power to Approve

The Department has exhibited the Environmental Assessment (EA) in accordance with section 75H (3) of the Act, as detailed in **Section 7** of this report. Therefore, the Department has met its legal obligations and the Minister has the power to determine this project.

5.5 Director-General's Environmental Assessment Requirements (DGRs)

On 4 October 2006, the Director-General issued environmental assessment requirements for the original application pursuant to Section 75F of the Act. The key issues to be addressed in the DGRs related to the following:

- Urban design;
- Streetscape and public domain;
- Transport and access;
- Heritage;
- Utilities infrastructure and stormwater management;
- Staging of development;
- Ecological sustainable development; and
- Voluntary planning agreement.

Section 75W (3) of the Act provides that the Director-General may notify the Proponent of environmental assessment requirements (DGRs) with respect to a proposed modification that the Proponent must comply with before the matter will be considered by the Minister.

In this instance, following an assessment of the modification request, the Department concluded that the DGRs issued on 4 October 2006 for the Concept Plan do not require amendment for the current modification, as sufficient information was provided to the Department to consider the application. The DGRs are contained in **Appendix A**.

The EA Lodged by the proponent in May 2008 was deemed to be adequate for exhibition.

5.6 Objects of the Environmental Planning and Assessment Act 1979 (the Act)

The Minister's consideration and determination of a Concept Plan under Part 3A must be informed by the relevant provisions of the Act, consistent with the objects of the Act.

The objects of the Act in section 5 are as follows:

- (a) *To encourage:*
- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes,*
 - (v) *the provision and co-ordination of community services and facilities,*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats,*
 - (vii) *ecologically sustainable development,*
 - (viii) *the provision and maintenance of affordable housing,*
- (b) *To promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *To provide increased opportunity for public involvement and participation in environmental planning and assessment.*

Of particular relevance to the assessment of the subject application is consideration of the Objects under section 5(a). Relevantly, the Objects stipulated under section 5(a) (i), (ii), (iii), (iv), (v) (vii) and (viii) are significant factors informing the determination of the application. The current modification does not raise significant issues with regards to above considerations.

The Department has considered the Objects of the Act, including the encouragement of Ecologically Sustainable Development (ESD) in the assessment of the modified application. Further assessment of the modification in relation to ESD is provided below in **Section 5.7**.

5.7 Ecologically Sustainable Development Principles

There are five accepted ESD principles:

- (a) *decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);*
- (b) *if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);*
- (c) *the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);*
- (d) *the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and*
- (e) *improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).*

The Department has considered the modification in relation to the ESD principles and has made the following conclusions:

- (a) **Integration Principle** – The proposal has positive economic, environmental, social and equitable impacts from the revitalisation of the disused former Carlton United Brewery site as a long-term employment generating use, retention of heritage and increased public benefit through the enlarged park, greater affordable housing contribution without adversely impact on the environment.
- (b) **Precautionary Principle** – It is considered that there is no threat of serious or irreversible environmental damage as a result of the proposal. The site has been extensively developed for some time and is occupied by built structures. The site does not contain any threatened or vulnerable species, populations, communities or significant habitats. The site therefore has a low level of environmental sensitivity.
Climate Change - The proposed development is not likely to be impacted by potential rises in river or sea levels as the lowest ground level of the site is at approximately 10m AHD. 100 year storm events are predicted to cause localised street flooding along Kensington and Regent Streets. This is managed locally and will not be altered by the modified Concept Plan.
- (c) **Inter-Generational Principle** – The proposed development represents a sustainable use of a site, utilises existing infrastructure within the locality, with commitments made to zero net carbon and zero net potable water by the proponent, reduced usage of private vehicles and accessibility to public transport options contributes to the vibrancy of the area for the benefit of future generations. The Concept Plan provides public open space in combination with commercial, retail and residential development which will benefit both current and future generations.
- (d) **Biodiversity Principle** – The proposal does not impact upon biological diversity or ecological integrity. The development site has a low level of environmental sensitivity.
- (e) **Valuation Principle** – The approach taken for this project has been to assess the environmental impacts of the proposal and identify appropriate safeguards to mitigate adverse environmental effects. The mitigation measures include the cost of implementing these safeguards in the total project cost.

The proponent has amended the statement of commitments as they relate to both ecologically sustainable development and water sensitive urban design (WSUD) for the Concept Plan. The original Concept Plan focused on sustainable development principles for residential, commercial, retail development and WSUD that sought to integrate the management of three urban water streams of potable water, wastewater and stormwater, as detailed in the statement of commitments. The proponent has demonstrated a renewed commitment to achieving a

development that is ecologically sustainable with WSUD as outlined in the amended Statement of Commitments. In this regard, the features of the amended proposal include:

- Energy – commitment to investigate options for a gas backed tri-generation plant to provide heating, cooling and electricity;
- Building energy efficiency - improvements in solar access, energy, water, building materials and noise attenuation for residential, commercial and retail land uses. Target the equivalent of a 6 star Green Star rating with a minimum 5 Star for all buildings, including heritage buildings;
- Water – integrated water quantity, quality and conservation management strategy including enhanced stormwater infrastructure aiming for a zero potable water development;
- Waste- a site based waste water treatment plant for recycling and purifying wastewater for reuse in public and private domains to be investigated;
- Transport and mobility - removal of a significant component of surface traffic from the precinct by 400 cars and prioritising bicycle and pedestrian movements; and
- Landscaping / open space improvements including enlarged public domain and improved passive solar access to main park from partial deletion of second tower to Block 2 and amendments in PPR.

The Department is satisfied that the proposal is consistent with ESD principles and WSUD objectives outlined in the amended Statement of Commitments as amended.

The above measures will be included in the total cost of the project and considering greenhouse gas emissions linked to environmental performance, accessibility, public domain improvements and travel the proposal is considered to be positive.

5.8 Section 75I (2) of the Act

Section 75I (2) of the Act and Clause 8B of the Environmental Planning and Assessment Regulation 2000 requires the Director-General's report to address a number of matters as follows:

Section 75I(2) criteria	Response
Copy of the proponent's environmental assessment and any preferred project report	The Proponent's EA is located Appendix B of the Director General's Report and the proponent's Preferred Project Report is located at Appendix D of the Director General's report.
Any advice provided by public authorities on the project	All advice provided by public authorities on the modification application for the Minister's consideration is set out in this report.
Copy of any report of a panel constituted under Section 75G in respect of the project	A copy of the Design Integrity Panel's (Panel) report on the PPR is at Appendix E . The Panel is a non statutory body.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project	Each relevant SEPP that substantially governs the carrying out of the modification application is identified immediately below in section 5.9.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the development relative to the prevailing environmental planning instrument is provided in this report.
Any environmental assessment undertaken	The environmental assessment of the modification

by the Director General or other matter the Director General considers appropriate.	application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The current modification adequately complies with the DGRs.
Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the current modification is discussed in this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in this report.
The suitability of the site for the project	The objectives and zoning for the site under the Major Projects SEPP permit uses as proposed in this modification application.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in this report at Section 7 and Appendix D .

5.9 Environmental Planning Instruments (EPIs)

To satisfy the requirements of section 75I(2)(d) and (e) of the EP&A Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project. An assessment of compliance with the relevant EPIs is provided immediately below.

5.9.1 State Environmental Planning Policy (Major Projects) 2005;

The Major Projects SEPP outlines the types of development declared to be a Major Project for the purposes of Part 3A of the Act. The certain forms of development may be considered a Major Project if the Minister (or his delegate) forms the opinion that the development meets criteria within the SEPP.

Pursuant to Clause 6 of State Environmental Planning Policy (Major Projects) 2005 that the proposal is a Major Project and subject to Part 3A of the Environmental Planning and Assessment Act, having satisfied himself that the proposal met the criteria of a kind State Significant Site.

5.9.2 State Environmental Planning Policy (Infrastructure) 2007;

Schedule 3 of the SEPP requires traffic generating development to be referred to the RTA. The RTA has raised no objections but has recommended specific conditions for the proposed development relating to intersection upgrades, which have been incorporated as modifications to the consent.

5.9.3 State Environmental Planning Policy No. 55 – Remediation of Land;

The Department is satisfied that MP 07_0163 approved on 15 August 2008 successfully addresses the issue of remediation. As formally reported the Department considered the site is suitable for the uses proposed subject to conditions imposed on the approval. Conditions to ensure strategies contained within the Remediation Action Plan are implemented in full while impacts upon neighbouring properties are minimised and, the site, once remediated, will be fit for the future users of the site.

5.9.4 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;

The proponent's EA provides an assessment of the proposal against State Environmental Planning Policy No.65 – Design Quality of Residential Flat Buildings (SEPP 65). The proposal complies with the 10 principles of SEPP 65 as demonstrated below:

Principle 1: Context

The proposal is compatible with the surrounding context, which lies at the edge of the CBD. The proposal also responds appropriately to height, bulk and scale across the site concentrating density in selected locations (Broadway) to ensure a sensible transition to Chippendale. The site is located within walking distance of public transport (bus and train), commercial, retail, educational institutions and a range of services and community facilities, making it suitable for a mixed use development.

The modified Concept Plan responds well to the heritage characteristics and significance of the site through retention of 33 heritage items whilst having regard to new infill development within an area that is undergoing renewal and change. The provision of additional public open space across the site provides a good response to the interface between the public and private domain as well between the site boundaries and adjoining properties.

The proposal is therefore deemed as satisfactory with respect to the surrounding context.

Principle 2: Scale

Taller buildings are proposed along the Broadway, Kent Road and Abercrombie Street elevations of the site where overshadowing and visual impacts to adjoining uses will be minimised. The scale and height of buildings is generally maintained as approved towards the Chippendale interface. The location of buildings is considered appropriate given the city edge location and in the context of surrounding buildings.

The retention of heritage buildings provides an appropriate balance to heights generally across the site. This is further enhanced by the proposed heritage datum line providing an appropriate pedestrian scale to the development on all frontages. Further, the PPR reduces the building height/bulk along Abercrombie Street to reduce impacts of scale to the existing development to the south and west. The Concept Plan is satisfactory with respect to the principle of scale.

Principles 3: Built Form

The approved Concept Plan concentrates GFA arranged around a public park, primarily along the main arterial length of Broadway, and to a lesser extent, along Abercrombie, Kent Road, Kensington and Wellington Streets in 11 development blocks.

The current modification does not alter this general framework of buildings being arranged around a central space however, a large proportion of GFA/ height has been redistributed to the Broadway, elevation. The modified Concept Plan also establishes a central ring road and increased number of pedestrian links which replaces the approved grid street layout. This has determined the location of the built forms across the site.

The proximity of buildings is consistent with that of surrounding residential development and of inner city living. The new height and bulk on existing blocks has been concentrated over parts of the site to ensure reasonable solar access, privacy is maintained to adjoining properties and with respect for the historical significance of the site. The siting of the buildings also respect the built form of the surrounding development as discussed earlier as such the proposal is considered to be satisfactory with regard to this design principle.

Principle 4: Density

The modified Concept Plan will result in an increase of 20,500sqm of GFA or 8% over and above the originally approved Concept Plan. An 8% increase in GFA can be readily absorbed by the

subject site given the modified proposal represents an overall improvement in design quality compared with that originally approved, while minimising amenity impacts from traffic generation, parking, overshadowing and further increasing the number of public benefits compared to that originally approved.

Most of the additional GFA has been sited towards Broadway elevation which results in less development pressure towards the southern edges of the site. The site is located in one of the most accessible locations in the city centre within walking distance of retail, employment, leisure and public transport facilities (bus and train) with reduced pressure on the existing road system from a reduced trip generation, revised internal road layout and reduced on site car parking allocation. The proposal is therefore considered satisfactory with regard to the principle of Density.

Principle 5: Resource, energy and water efficiency

The modified Concept Plan proposes a range of commitments in relation to energy and water efficiently as discussed earlier in the report which target zero net carbon and zero potable water development including:

- a commitment to investigate options for a gas backed tri-generation plan to heat, cool and provide electricity;
- a target for the equivalent of a 6 star Green Star rating for all new buildings with a minimum 5 Star Green star for all buildings, including heritage buildings; and
- a integrated water quantity, quality and water conservation management strategy including enhanced stormwater infrastructure (detention and retention, water conservation targets using stormwater recycling/harvesting stormwater quality measures, combining potable water and reusing recycled black water for non potable uses for both public domain and servicing private sites).

Adjustments in the PPR reveal on midwinter's day in the worst case scenario 64% of all apartments are expected to receive solar access between 9.00am and 3.00pm, compared with 58% as approved. Overall, improvements in midwinter solar access for the residential component of the modified development is improved with the original Concept Plan Further, the Department raises no objection to the performance of individual blocks in context with benefit derived from direct access to an enlarged public park where direct sunlight access is assured throughout a midwinter's day. More detailed discussion is provided under Section 7 of this report.

Many of the issues regarding resource, energy and water efficiency will be further resolved during the detailed design stage undertaken with subsequent Project Applications The proposal is considered satisfactory with regard to the principle of resource, energy and water efficiency.

Principle 6: Landscape

A Landscape Strategy and conceptual Open Space Plan provides landscaping principles to guide further detailed design of the proposed open space and general landscaping throughout the site. Generally the landscaping principles seek to use landscape design to enhance connectivity and access across the site and enable heritage interpretation.

Detailed landscape plan will form part of subsequent Project Applications. The proposal is satisfactory with regard to the principle of landscaping.

Principle 7: Amenity

The Modified Concept Plan seeks to optimise amenity in terms of solar access, ventilation, views and outlook, private/public open space and access through the site. The layout, mix and size of apartments does not form part of this modified Concept Plan application. Approval is only sought for building envelopes at this stage. Amenity issues will be further considered at future Project Application stages.

Principle 8: Safety and Security

In general, the concept design allows for good passive surveillance of the road networks, and public and private open space areas on the site. Attention will need to be given to the issue of safety and security in the detailed design of future Project Application(s) with respect to the proposed basement car parking areas, as well the proposed elevated platforms. Further details of safety and security will also be considered at future Project Application stages.

Principle 9: Social Dimensions

The modified Concept Plan will increase housing choice, mix and type within the area. A \$32 million affordable housing contribution will be paid to the Redfern-Waterloo Authority for provision of public housing.

Principle 10: Aesthetics

The external colours and materials of the proposal will be determined at the detailed design phase and are not a matter of consideration for the modified Concept Plan application. The Draft Statement of Commitments requires that the future Project Applications demonstrate design excellence in terms of architectural design, materials and detailing, and overall building appearance. Furthermore, careful consideration of these matters will be required to ensure the integrity of heritage items is maintained.

Residential Flat Design Code (Code)

The proposal has also been assessed against the following primary development controls of the Residential Flat Design Code (the Code):

Building depth

The maximum apartment building depth permitted by the Code is 18 metres (glass line to glass line). The current modification proposes residential buildings that generally comply with this aspect. However, Blocks 8, 9 and 11 exceed the maximum 18m building depth. Nevertheless, approval is sought for broad building envelopes only and further details such as apartment layout will be assessed at Project Application stage to ensure residential amenity is acceptable, also noting other attributes of the site.

Building separation

The code requires separation for buildings up to 4 storeys in height ranging from 6 metres between non-habitable rooms, 9 metres between habitable rooms/balconies and non-habitable rooms, and 12 metres between habitable rooms/balconies. The Code also allows for separation controls to be varied in response to site and context constraints and setting. The building separations over the site range between 10m between developments on site and 12m between adjoining developments along Wellington Street. Whilst compliance is not achieved the current modification application is for broad envelope controls only. Detailed design investigation including evaluation of residential apartment layouts will be undertaken at the Project Application stage on a block by block basis to ensure residential amenity is maintained in line with the Code.

5.9.5 State Environmental Planning Policy Building Sustainability Index 2004;

SEPP - BASIX aims to establish a scheme to encourage sustainable residential development across New South Wales. The current targets of BASIX for Residential Flat Buildings commenced on 1 July 2006.

As approval is sought for an indicative built form of the residential envelopes only, it is considered that detailed design considerations under BASIX will be more appropriately assessed at a future Project Application stages.

5.9.6 City of Sydney Local Environmental Plan 2005;

The City of Sydney Local Environmental Plan 2005 identifies the local planning controls applicable to the City of Sydney LGA. This includes land uses and special provisions. The site is zoned City Edge under Sydney Local Environmental Plan 2005. The proposed uses (residential, commercial, retail uses and open space) are permissible within this zone.

The basic planning controls for the site provide for:

Development standard	City of Sydney	Modification application
Height	45m height limit with a graduation to 15m at the western, southern and eastern edges to the site.	Non compliances across site. Heights have been set by built form parameters set by Expert Design Panel and having regard to numerous previous studies.
FSR	4.22:1 (Based on 61% residential)	4.37:1 Does not comply.

The planning controls quoted above provide for a broad framework for assessment of built form across the site. In considering these planning controls it is important to acknowledge the above calculations are indicative only as originally, a design competition undertaken by the City of Sydney which sought to examine the future form of the site tested the maximum FSR at 4.4:1 (minimum FSR at 70% residential within 45m height planes). The proponent is now seeking to rezone the site via a draft SEPP amendment to achieve higher density and heights across the site and ensure the PA outcomes can be delivered (Main Park).

6. ASSESSMENT OF ENVIRONMENTAL IMPACTS

In addition to the EPIs and planning policies, addressed above, key issues raised in the submissions and/or identified by the Departments assessment of the DGRs include the following:

- Density;
- Built form / Urban Design (Building envelopes);
- Overshadowing and amenity;
- Car parking and traffic;
- Heritage / Public access.

6.1 DENSITY

The modified Concept Plan (PPR) will result in an 8% increase in GFA, or 20,500sqm over and above the originally approved Concept Plan. An 8% increase can be readily absorbed by the subject site as most of the additional GFA has been sited along the Broadway elevation of the site reducing development pressure from the southern edges of the site. This has resulted in an acceptable built form transition from city edge to surrounding residential areas while also minimising amenity impacts on surrounding properties.

The modified proposal also has an acceptable performance in terms of traffic generation despite the increase in GFA. The site is located in one of the most accessible locations in the city, within walking distance of retail, employment, leisure and public transport facilities. The reduced car parking rate will encourage public transport patronage, walking and cycling consistent with ESD principles. The proposal also supports the aims and objective of the Metropolitan Strategy of locating higher densities close to existing transport infrastructure and jobs closer to home. On balance, the superior accessibility and wider sustainability outcomes from urban consolidation demonstrate the capacity of this site to absorb the increased density now sought.

6.2 BUILT FORM / URBAN DESIGN

The approved Concept Plan generally arranges buildings around a public park, primarily along the main arterial length of Broadway, and to a lesser extent, along Abercrombie, Kent Road, Kensington and Wellington Streets in 11 development blocks. The modification application does not alter this general framework of buildings being arranged around a central space however a large proportion of the additional GFA/ height has been redistributed to the Broadway, elevation.

For comparison **Figure 6** illustrates the approved Concept Plan layout while **Figure 7** illustrates the modified Concept Plan layout.

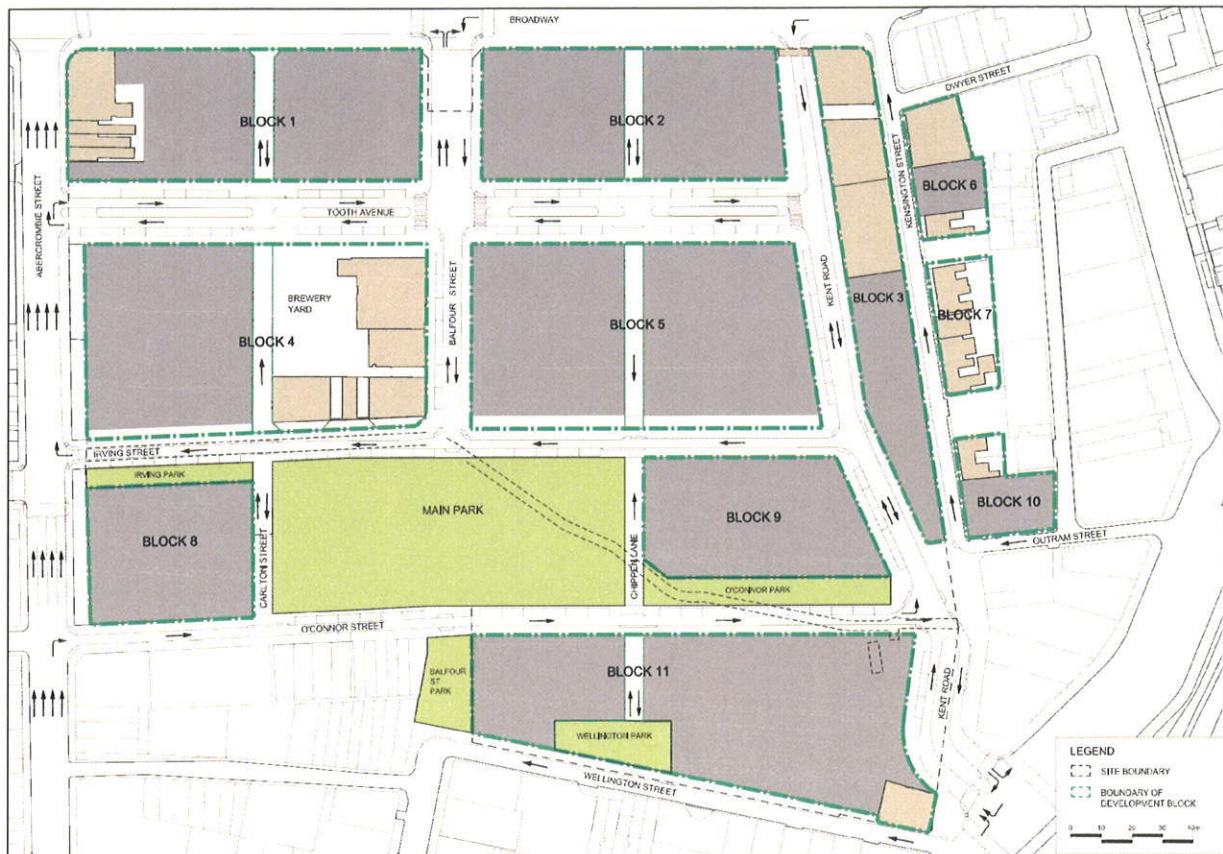


Figure 6 – Approved Concept Plan Block plan

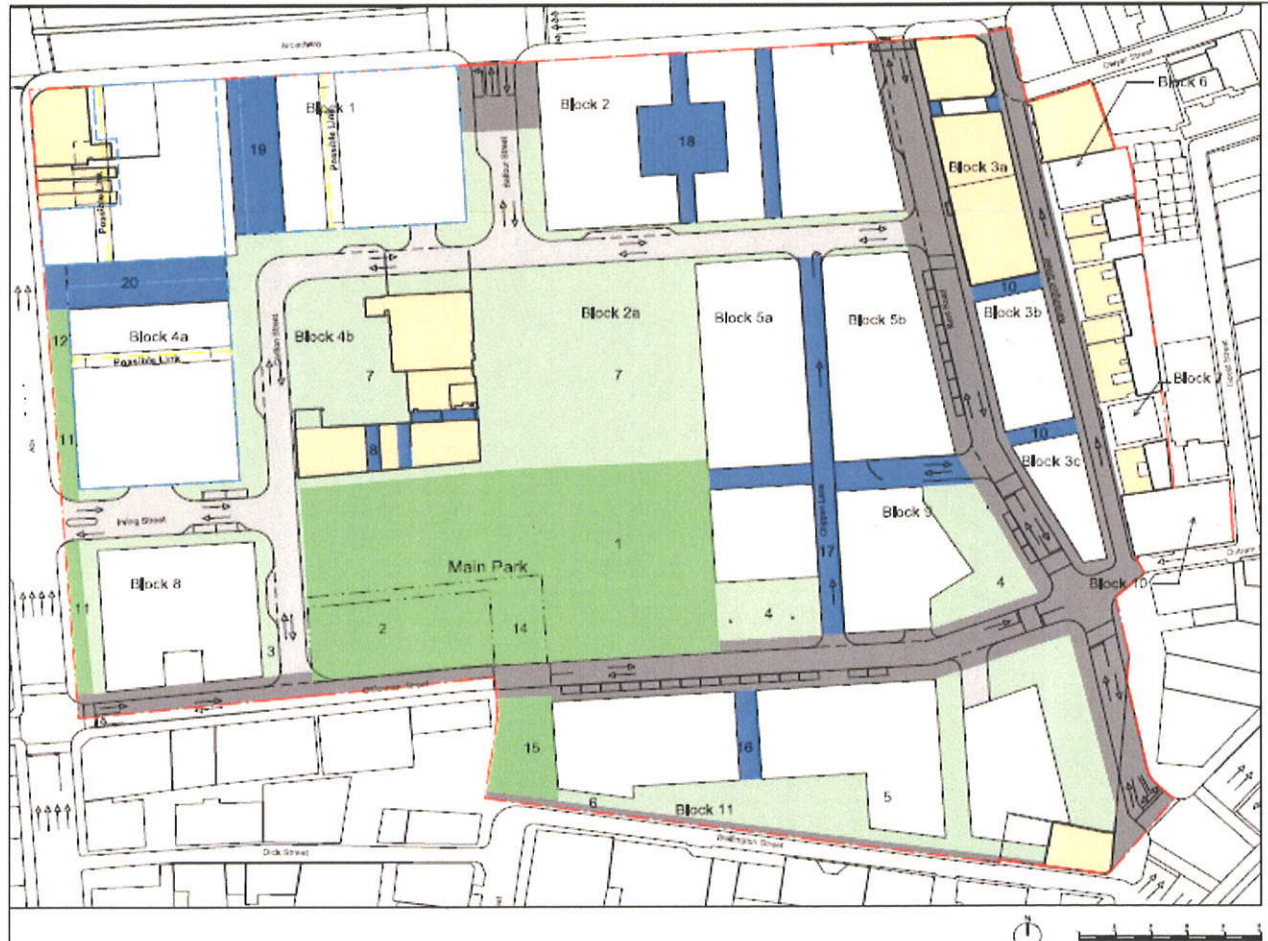


Figure 7 – PPR block plan.

The Department supports the height and bulk being largely focused along the Broadway frontage. This has allowed some of the development blocks to be lowered at the southern part of the site and allows for larger public parks and open space areas to be provided. Furthermore, the establishment of a datum line, set by brewery heritage, along all elevations maintains an appropriate pedestrian scale to the development despite the increased GFA.

An illustration of the PPR (green) and approved (red) massing on the site viewed from the south west is illustrated in **Figure 8** below:

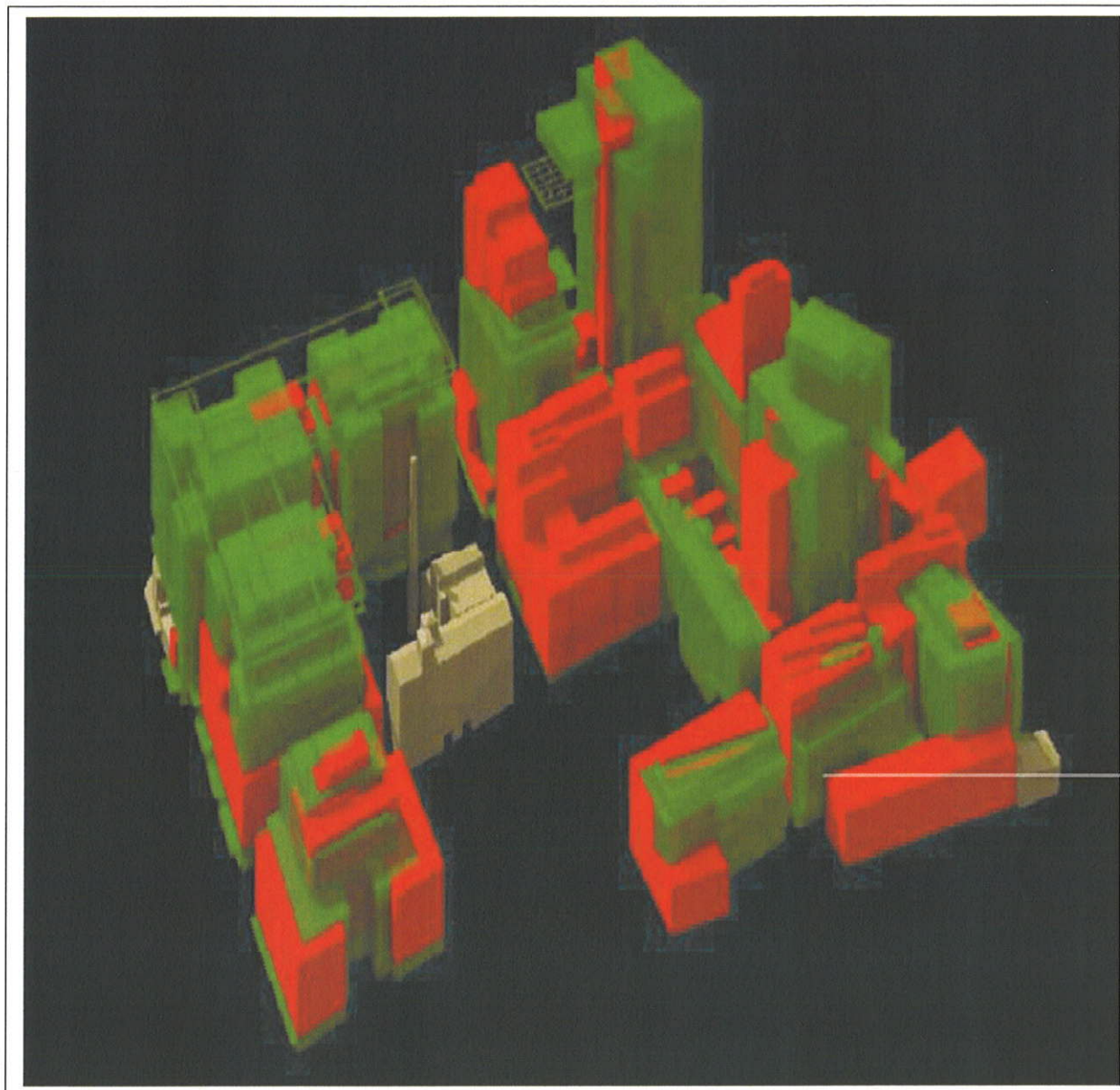


Figure 8: PPR (green) and approved (red) massing on the site viewed from south-west.

Block 2 - Broadway

The GFA of Block 2 has increased by 22,906sq.m and increased in height by 0.20m from the original Concept Plan approval. Block 2 consists of two towers. The eastern tower has a maximum height of +133.00m (AHD) and has a solar reflector to reflect light into the plaza area. The western tower has a maximum height +79.50m (AHD) which has been lowered from that approved to enable more sunlight into the main park. The design of Block 2 allows for 227 serviced apartments and 366 residential apartments (subject to change with detailed design development). Both towers will feature a planting system on the façade walls.

The bulk of the additional floor space is concentrated in this location by increasing the building floor plates and mass of the eastern tower. Overall, the additional GFA does not impact negatively on its height and scale relationship to Broadway and UTS tower opposite compared to that approved despite the additional volume.

The Panel supports the proposed modification to Block 2 subject to a recommendation that further details of the proposed solar reflector and planting system be submitted with future Project Applications for further analysis and detailed resolution.

The Department supports the Panel's comments regarding the solar reflector, to ensure it achieves its design objective of illuminating overshadowed areas of public domain (plaza area and main park). Further, the Department supports the Panel's comments regarding the planting systems as it is critical to the buildings future appearance. On this basis the Department supports the modification to Block 2.

Block 2A - Cantilevered terraces to Block 2a (Pedestrian access, safety and security)

The deletion of Block 5 west results in the creation of additional public domain in the form of cantilevered landscaped platforms and a sunken plaza area. An illustration of the proposed platforms can be seen below in **Figure 9**.

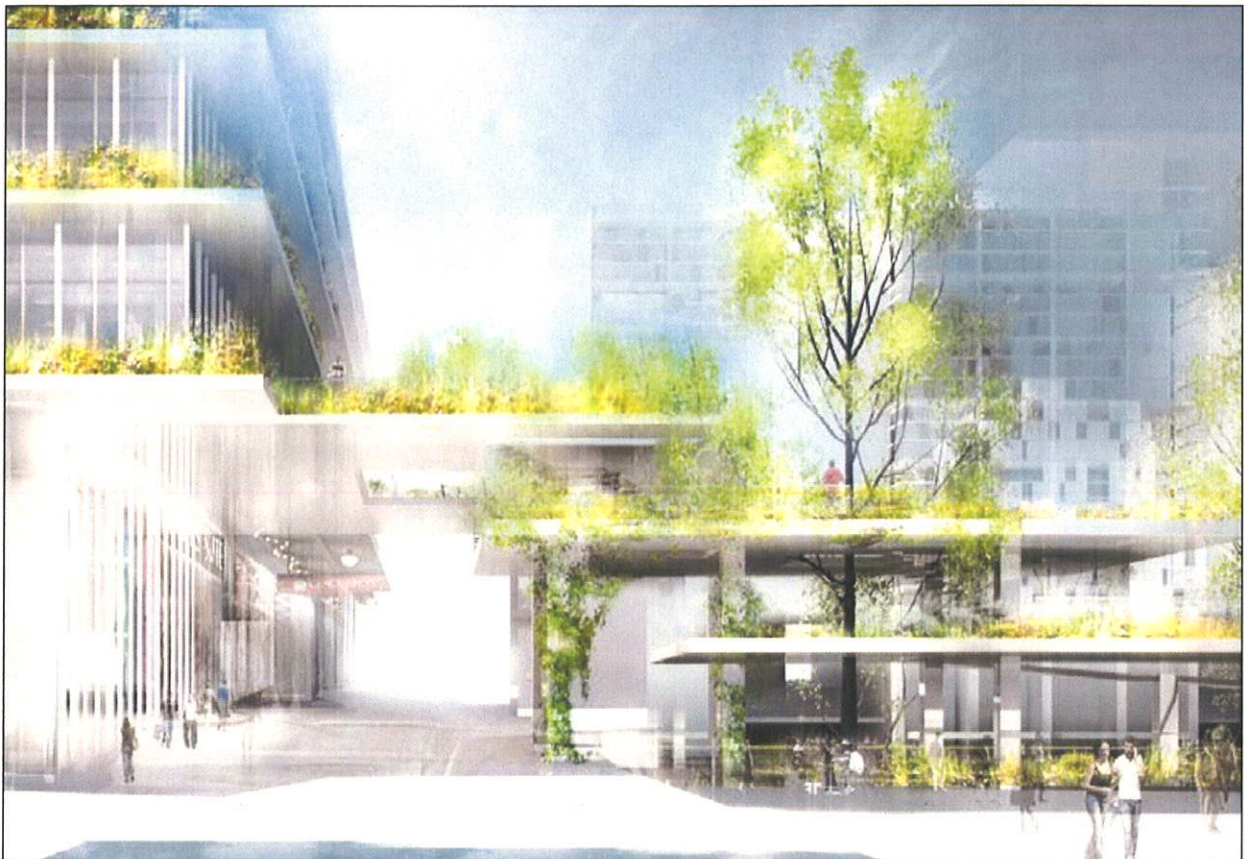


Figure 9: Artist's impression of park platforms linking public domain in Block 2a to Block 2 across Carlton Street (formerly Tooth Lane).

During exhibition, concerns were raised over public permeability, safety, security and sunlight access within this area. To address these issues, the PPR realigns the cantilevered platforms with the western edge of Block 2 to improve solar access. It is noted approximately 1 hour of direct sunlight access across several of the cantilevered platforms is gained from this amendment during midwinter. The PPR also proposed a plan of management to address permeability, safety and security.

In reviewing the proponent's PPR, the Department acknowledges the considerable improvement to access and permeability over this part of the site by deletion of Block 5 west. Further

acknowledgement is given to the improved relationship and integration of Block 2a into the larger park area which emphasises the Irving Brewery heritage building with views from the enlarged public domain area.

However, there remains scope to improve sunlight access, permeability (design integration with the park, plaza and platforms) and safety beneath the cantilevered platforms and eastern portion of the public domain beyond the PPR amendments. The Panel also supports this view and have recommended detailed resolution of the park and public domain relative to the platforms that step up to Block 2 is required to create a cohesive public domain. The Department is satisfied these details can be lodged and resolved at the Project Application stage.

Blocks 1 & 4 - Corner of Broadway / Abercrombie

The GFA of block 1 and 4 has increased by 10,090sq.m and the height increased by 8.70m on Broadway (Block 1) and up to 17.0m on Abercrombie Street elevation (Block 4). Concerns raised during exhibition relate to height/scale transition along Abercrombie in context with the surrounding area, heritage buildings and overshadowing impacts. **Figure 10** shows the Concept Plan for the combined block 1 and 4.

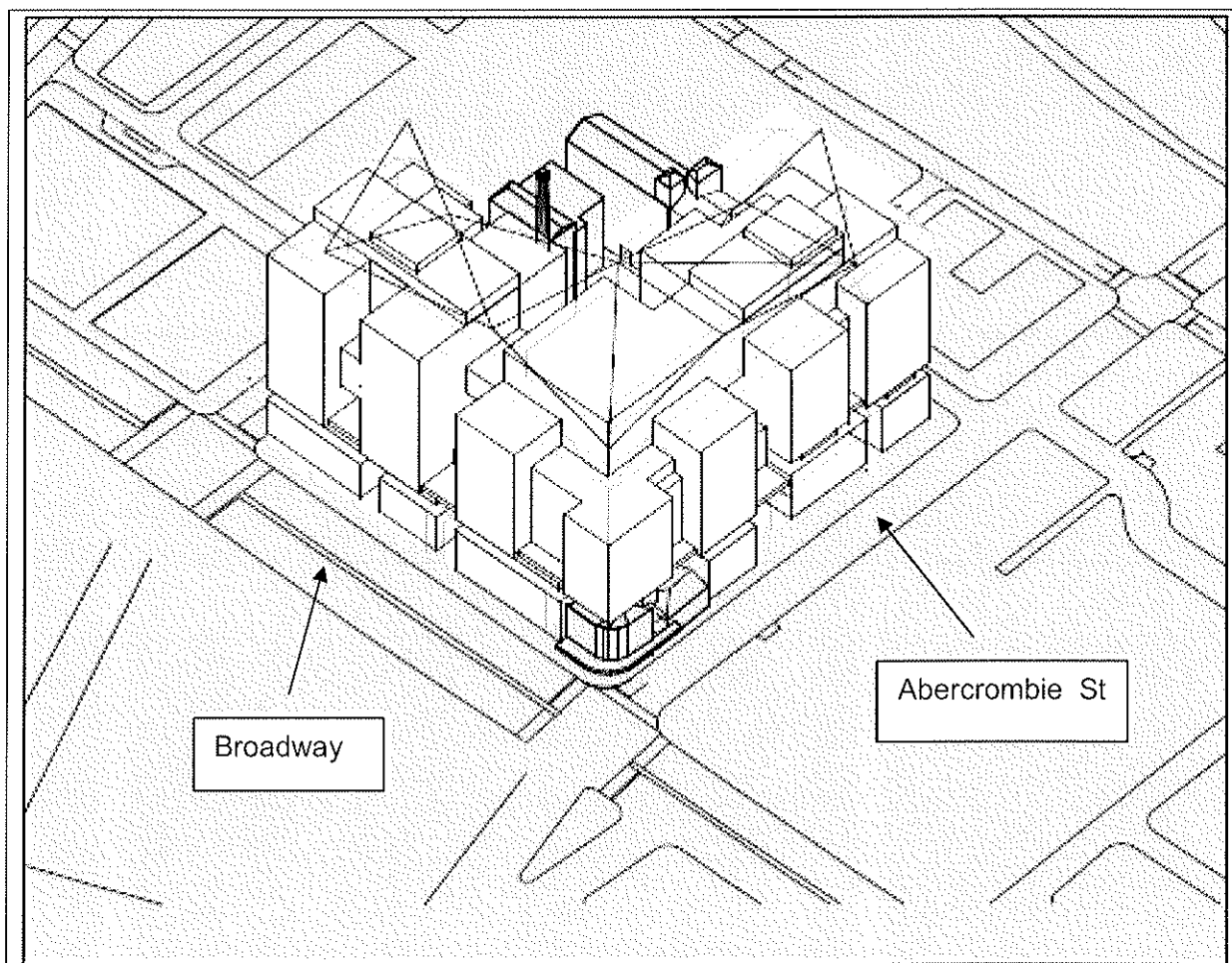


Figure 10: Eastwards view of combined Block 1 & 4 as exhibited.

To address concerns raised during exhibition, the proponent provided a new massing option through the PPR for this block removing 8000sq.m of GFA (from the exhibited proposal of Block 1 & 4) and has redistributed the mass to the corner, stepping down the mass and height from Broadway, toward Chippendale. This corner height is now consistent with the Broadway frontage. Along Abercrombie Street the mass progressively steps down toward Chippendale, between 1 and 6 storeys. An elevation of the exhibited proposal and PPR proposal can be seen in **Figure 11** and **12**.