

**ITEM 7. DEVELOPMENT APPLICATION: 106 - 116 EPSOM ROAD
ZETLAND****FILE NO: D/2011/1760****DEVELOPMENT APPLICATION NO: D/2011/1760****SUMMARY****Date of Submission:** 2 November 2011**Applicant:** Mecone Pty Ltd**Architect:** Architects + Partners**Developer:** Lincon Development Pty Ltd**Key Points**

- Inconsistent with the South Sydney DCP.
- Inconsistent with the Draft Sydney LEP.
- Inconsistent with the Draft Sydney DCP.
- Insufficient public benefit offer provided.
- Prevents development of the future Epsom Park.

Proposal Summary:

Stage One development application for six building envelopes. The proposed gross floor area is 53,900m², which includes 1000m² of commercial floor space, up to 561 residential dwellings and parking for up to 515 cars within three separate basement carparks.

The site consists of two portions. The front (southern) portion fronts onto Epsom Road, and the rear (northern) portion is land locked and accessed via a narrow accessway.

In October 2008 the City engaged Conybeare Morrison to prepare an urban design study for the site and surrounding area. This study, titled the "Epsom Park Precinct Masterplan", provides a strategic urban framework for the precinct. It identifies the requirement for a 15,500m² centralised park ("Epsom Park") to accommodate a range of sports facilities and act as a floor/stormwater detention basin. The rear portion of the subject site forms part of the future Epsom Park.

On 16 August 2010 Council resolved to progress the content of the Epsom Park Masterplan into the draft Sydney Local Environmental Plan (LEP) and the draft Sydney Development Control Plan (DCP). On 12 March 2012 Council adopted the Draft Sydney LEP .

Proposal Summary:
(cont'd)

The application seeks substantial variations to the existing and draft planning controls applicable to the site. The proposed site layout and building envelopes do not achieve a satisfactory design response for the site and Green Square renewal area.

The site, in particular the rear portion, is strategically important due to its intended future function as part of a larger public park and critical stormwater detention basin. It is also intended to accommodate a number of new streets and a pedestrian through site links (as identified in the Draft City Plan 2011).

Prior to lodging the application two pre-DA meetings were held with Council officers. Concerns relating to the layout and scale of the development were communicated to the applicant in writing on 26 May 2011 and again on 20 September 2011.

Following lodgement of the application, the applicant was advised that Council's Planning Assessment unit could not support the development application. Numerous opportunities were given to the applicant to withdraw the application.

On 2 March 2012 the applicant submitted amended plans showing a reduction in the height of Block A and a reduction in the envelope of Block B2. These were submitted despite the applicant being advised by Council officers that the amendments would not be accepted because they failed to address the critical issues of land dedication and floor space ratio. Therefore, amended plans do not form part of this assessment.

Three objections to the proposal have been received. Issues raised relate to the scale of the proposed development and the impact of new residential development on existing business operations (in particular the Optus phone exchange).

Summary Recommendation:

The proposal is recommended for refusal for the following reasons:

- The proposed development is contrary to Clause 27C of South Sydney LEP 1998. In particular, the proposed Stage One development is not supported in lieu of a masterplan for the site.
- Failure to dedicate land to enable the development of the future Epsom Park on the rear portion of the site.

- Excessive height and Floor Space Ratio (FSR).
- Inadequate public benefit offer.
- Inappropriate building layout and form.
- Failure to provide the public domain components set out in the Draft Sydney DCP 2010.

Development Controls:

- (i) State Environmental Planning Policy (Infrastructure) 2007
- (ii) State Environmental Planning Policy No.55
- (iii) South Sydney Local Environmental Plan 1998 (Gazetted 28 April 1998, as amended)
- (iv) South Sydney Development Control Plan 1997 – Urban Design (in force on 2 July 1997, as amended)
- (v) Draft Sydney Local Environmental Plan
- (vi) Draft Sydney Development Control Plan
- (vii) City of Sydney Notification of Planning and Development Applications Development Control Plan 2005 (date of commencement – 18 May 2005)
- (viii) Development Control Plan No. 11 – Transport Guidelines for Development 1996 (Adopted 8 May 1996)
- (ix) City of Sydney Contaminated Land Development Control Plan 2004 (in force on 28 June 2004)
- (x) City of Sydney Access Development Control Plan 2004 (in force on 28 June 2004)

Attachments:

- A - Selected Drawings

RECOMMENDATION

It is resolved that development consent be refused for the following reasons:

- (1) The proposal is contrary to Clause 5 of the *Environmental Planning and Assessment Act 1979*, as it does not satisfy the requirement for the promotion and co-ordination of the orderly and economic use and development of land. The development does not have regard to the long-term strategic vision for the Green Square Urban Renewal Area, in particular the Epsom Park precinct;
- (2) The proposed development is contrary to Clause 27C of South Sydney LEP 1998. In particular, the proposed Stage One development is not supported in lieu of a masterplan for the site;
- (3) The applicant has selected controls from the existing South Sydney DCP and the Draft Sydney LEP to maximise height and FSR across the site. This approach is not supported as it is not in the best interest of the redevelopment of the Epsom Park precinct;
- (4) The location of the proposed Block D on the rear portion of the site will unreasonably prevent the delivery of the future Epsom Park, which is projected to have a critical recreational and stormwater detention role;
- (5) The proposed development is contrary to the height and floor space ratio provisions of South Sydney Development Control Plan 1997 - Urban Design (Part G: Special Precinct No. 9 – Green Square). In particular, it relies on the maximum amount of bonus floor space (2.5:1), yet fails to provide an appropriate public domain package;
- (6) No bonus floor space can be applied to this development because it fails to provide an acceptable design outcome for the site and the proposed public benefits are insufficient. Therefore, the applicable base FSR is 1.5:1 under the current controls. The Draft LEP reduces this to 1:1;
- (7) The proposed street configuration for the site is inconsistent with the Draft Sydney DCP 2010. It will restrict the future functioning of the street network for the entire precinct;
- (8) The proposed building envelopes, in particular Block D, does not reflect the building layouts for the site and surrounding area, as provided in the Draft DCP;
- (9) The applicant has not adequately addressed the impact of the development on flooding and stormwater. This includes the impact on adjoining properties and the down stream catchment;
- (10) The applicant has failed to address the findings of the submitted acoustic report, which states that the development will be detrimentally affected by the Optus telecommunications exchange located directly opposite the subject site;

- (11) The proposed access road connecting the front portion of the site to the rear portion is inadequate. At its narrowest point it is 4.9 metres wide, which is consistent with the width of a driveway rather than a scale suitable for use as a public road. The Draft DCP requires this street to be between 23 and 25 metres wide; and
- (12) Granting of consent to the proposed development would not be in the public interest.

BACKGROUND

The Site and Surrounding Development

1. The property is known as 106-116 Epsom Road, Zetland and is comprised of Lot 1 DP 830870. The site has an area of 21,560m² and consists of two rectangular parcels of land. The two parcels are joined by a narrow accessway that has a varied width of between 4.9 and 6 metres.
2. The larger (southern) portion has a 98 metre frontage to Epsom Road, while the rear portion is land-locked and is at level approximately 1.7 metres higher than the front parcel.
3. A site location plan is provided in below:



Figure 1: Location Plan

4. The front portion of the site currently contains two industrial buildings, with the remainder of the site being occupied by concrete hardstand areas. These buildings are currently used for the purpose of distribution, storage, warehousing and ancillary offices.
5. The rear portion of the site is vacant and used by Suttons City car dealership as a car park and holding yard.
6. The site is located on the eastern side of the Green Square Urban Renewal Area. It is to the south of Victoria Park and to the east of the future Green Square Town Centre. The area is proposed for future mixed-use residential development in the Draft City Plan.
7. Directly to the east of the site are various car dealerships with frontages to Epsom Road and Link Road. To the west of both the front and rear portions of the site is Council owned land, currently used as depot sites. To the north is land owned by Energy Australia, while directly to the south is the Optus phone network exchange.

8. The area surrounding the site currently displays a variety of land uses including light industrial, utility depots, warehousing, and car sales/servicing. The surrounding land uses to the north, west and south are in transition from predominantly light industrial uses to higher-density residential and associated mixed uses.
9. Photographs of the site are provided below:



Figure 2: The existing building on the site



Figure 3: View through the eastern part of the site



Figure 4: Adjoining far dealership to the east



Figure 5: Adjoining Council depot to the west

Epsom Park Precinct Masterplan and draft controls

10. Conybeare Morrison was engaged by the City in October 2008 to prepare a strategic urban design study (titled the "Epsom Park Precinct Masterplan") for the site and surrounding area. This document defines the critical elements for the precinct including the location and function of new roads and open spaces, activity nodes and linkages to the wider Green Square area.
11. Although the urban design study was never formally adopted as a masterplan and therefore is not a deemed DCP for the site, the recommendations were incorporated into the draft LEP, which was approved by Council and CSPC on 12 March 2012.
12. The design parameters of the urban design study comprise the following:
 - (a) The optimum location for a main park for active sports fields. The location of these facilities was endorsed by Council on 6 April 2009 and includes the majority of the rear portion of the subject site (see Figure 6)
 - (b) The East-West Boulevard. This will be 36 metres wide and the precinct's premier street.

- (c) A reduction in the maximum FSR permitted on individual sites. The current densities of 2.5:1 will result in building heights that will not provide the balance between achieving good residential and environmental amenity.
- (d) Three and four storey buildings along north-south lanes.
- (e) Six storeys along east-west streets punctuated by some eight and 12 storey buildings.
- (f) One tower of 15 storeys at the intersection of Joynton Avenue and Epsom Road. A 14 storey tower is also proposed at the intersection of the future East-West Boulevard and Joynton Avenue.



Figure 6: Site layout and number of storeys (Epsom Park Precinct Masterplan)

- 13. The urban design study for the Epsom Park precinct provides a range from three to 12 storeys on the front portion of the subject site, with no development on the rear portion (to allow for the provision of the public park).
- 14. On 16 August 2010 Council resolved to progress the content of the urban design study into the draft Sydney LEP and DCP. It was also resolved to place the study on the Council's website and advise each landowner within the precinct of Council's resolution.

15. In September 2010 Council endorsed the Draft Sydney LEP for exhibition. This process was repeated in October 2010 for the Draft Sydney DCP. The documents as exhibited both reflect the Eedpsom Park precinct urban design study.
16. During the exhibition period the applicant for the development application made a number of submissions requesting Council defer the adoption of new planning controls for this site.
17. On 12 March 2012 the Draft LEP was approved by Council and CSPC, with no changes recommended to the controls applicable to the subject site. The LEP will soon be submitted to the Director General for gazettal.

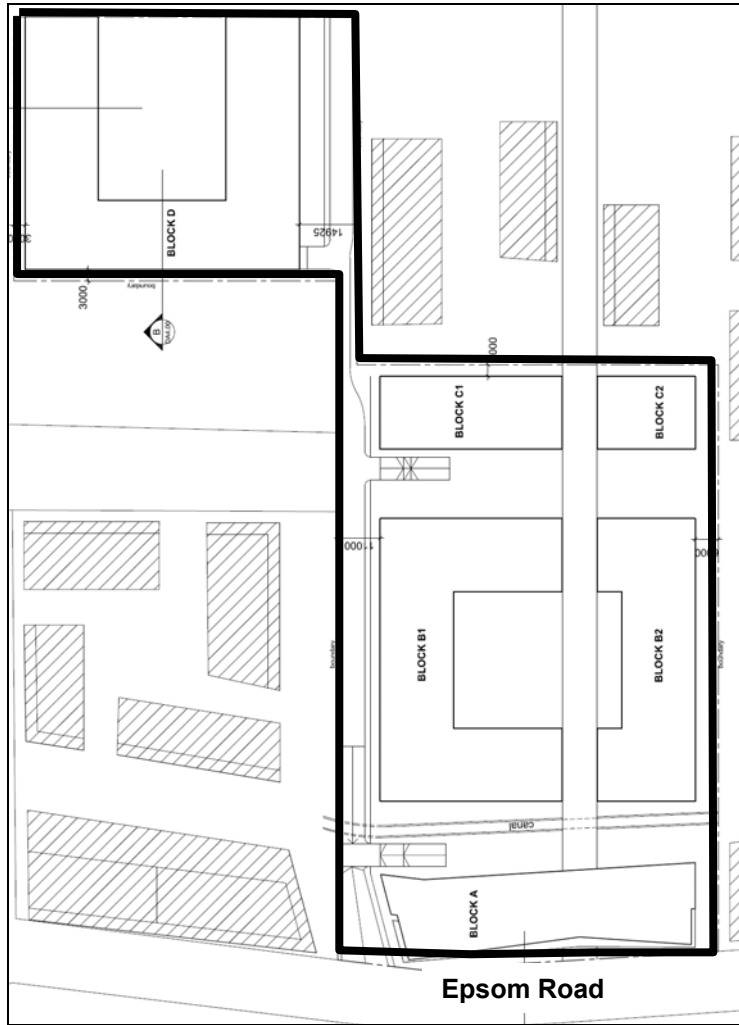
Pre-DA Discussions

18. On 21 March 2011 the applicant met with Council officers to discuss a possible Stage One and Stage Two development application on the subject site. The proposal was for four building blocks, including one on the rear portion of the site.
19. 26 May 2011 the applicant was sent a letter from Council stating that the proposal was not supported in its current form as it did not comply with the existing and draft planning controls applicable to the site. In addition, the proposal restricted the achievement of the future Epsom Park and did not provide adequate access to the rear portion of the site.
20. On 4 August 2011 another meeting was held between the applicant and Council officers. The applicant presented a number of development options for the site. Contrary to previous advice, the applicant's preferred option included a building on the rear portion of the site.
21. On 20 September 2011 Council's Director of Planning, Development and Transport sent a letter to the applicant explaining that concern remained regarding the development options for the site. The applicant was informed that none of the schemes presented to Council adequately addressed the strategic directions for the site, as identified in the Epsom Park precinct urban design study and the Draft Sydney LEP and DCP.
22. The letter advised the applicant to focus on developing the southern portion of the site and reduce FSR. It was also recommended that the applicant engage with Council to address and achieve the City's public open space requirements for the site.
23. The applicant proceeded to lodge the current development application on 2 November 2011.

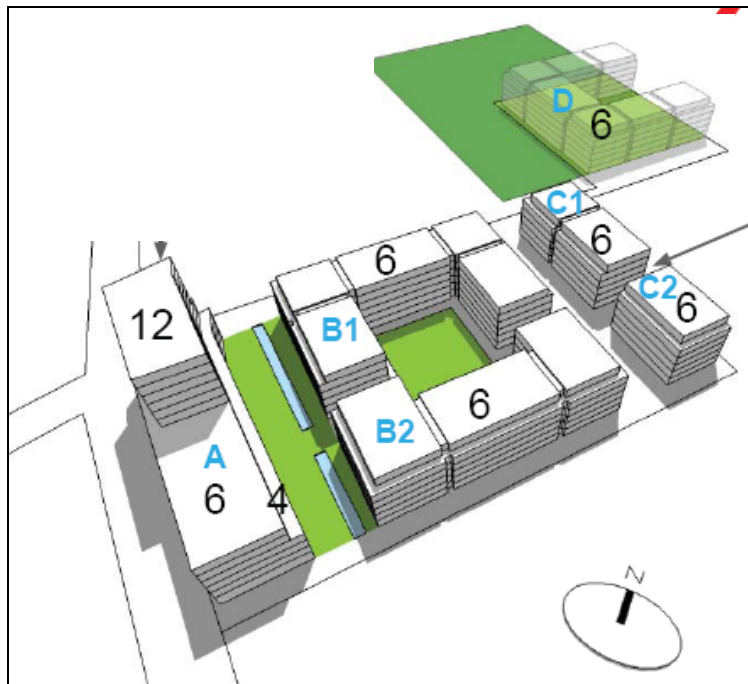
PROPOSAL

24. The proposed Stage One application for a 53,900m² mixed commercial and residential development. The development comprises 1000m² of commercial/retail floor space fronting Epsom Road and 52,900m² of residential floor space. Up to 561 residential units are proposed as well as up to 515 car spaces within three separate basement car parks.
25. The proposed site layout consists of six building blocks, as shown in Figure 7. Block A will have a maximum height of 12 storeys (41.94 metres to the top of the building), while Blocks B1, B2, C1, C2 and D will each be six storeys.

26. The site has been configured with the tallest structure along Epsom Road and the lower structures behind. Open space is provided in two sections on the front portion of the site, including within the area surrounded by Blocks B1 and B2. The rear portion of the site contains a U-shaped building built up to the northern boundary, with public open space provided along southern edge (see Figures 7 and 6).
27. The two portions of land are connected via a north-south accessway that varies in width between 4.9 metres and 6 metres.
28. The proposal includes a range of other works including new roads, through site links, canal works, stormwater and flood mitigation infrastructure and general landscaping, and the provision of 5375m² of public open space (which contributes approximately 3000m² to the development's deep soil planting).
29. The proposed development has a FSR of 2.5:1 and relies on the maximum floor space permissible under the South Sydney DCP bonus floor space system.
30. It is relevant to note that the documentation submitted with this application refers to an "alternative development scheme", which deletes Block D from the rear portion of the site, thereby facilitating the delivery of Epsom Park. The applicant submits that the alternative scheme could occur if Council's property unit were to purchase the rear portion of land.
31. The applicant has been advised that discussions with Council's property unit are a separate matter to the assessment of this application. Therefore, this application relates to the submitted proposal and not to the alternative scheme.
32. Plans and elevations of the proposed development are provided in **Attachment A**.



Figures 7: Proposed site layout



Figures 8: Proposed site layout and building heights



Figures 9: Photomontage of the Epsom Road frontage of the proposed development

IMPLICATIONS OF THE PROPOSAL

Section 79C Evaluation

33. An assessment of the proposal under Section 79C of the Environmental Planning and Assessment Act 1979 has been made, including the following:

Section 79C(1)(a) Environmental Planning Instruments, DCPs and Draft Instruments

WATER MANAGEMENT ACT 2000

34. The proposal requires the concurrence of the Department of Primary Industries (Office of Water) as it requires dewatering due to construction below the water table.
35. The Office of Water has provided General Terms of Approval.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

36. The following State Environmental Planning Policy/Policies are relevant to the proposed development:

Infrastructure SEPP (2007)

37. A referral to the Sydney Regional Development Advisory Committee (Roads and Maritime Services) was undertaken and a number of comments were provided for Council's consideration. This included concern relating to the adequacy of the accessway between the two parcels of land.

SEPP 55 - Remediation of Land

38. SEPP 55 requires the consent authority to consider whether the land is contaminated prior to consenting to the carrying out of development. If the land is contaminated, the consent authority must be satisfied that the land is suitable for its intended use in its present state, or that it will be suitable after remediation.
39. The provisions of SEPP 55 are replicated in the City of Sydney Contaminated Land DCP 2004.
40. Council's Health Compliance Unit reviewed the Environmental and Energy Report submitted with the application. This report concluded that prior to site redevelopment, a Phase 2 Detailed Site Investigation is to be carried out to assess the nature and extent of potential soil and groundwater contamination on the site.
41. The applicant provided a Remediation Action Plan and statement of interim advice from an accredited auditor. This recommended that it is possible for the site to be made suitable for the intended residential use.

LEPs AND DCPs**South Sydney Local Environmental Plan 1998**

42. Compliance of the proposal with the LEP controls is summarised below:

Development Controls	Permissible under South Sydney LEP 1998	Proposal as assessed under South Sydney LEP 1998
Planning Principles (Part 2)	Development is to be considered having regard to the goals and objectives within the Strategy for a Sustainable City of South Sydney.	The proposed development is not consistent with the Strategy because the building envelopes are inconsistent with the current and future planning controls for the site.
Zoning Controls (Part 3)	Mixed Use 10(b)	The development is permissible in this zone.
Development at Green Square (CI 27A, 27B)	The Green Square vision encompasses the concepts diversity, connectivity, interdependency and long-term growth.	Approval in its current form is considered inconsistent with the vision for Green Square.

Development Controls	Permissible under South Sydney LEP 1998	Proposal as assessed under South Sydney LEP 1998
Determination of development applications (CI 27C)	Council must not grant consent unless the development is consistent with an adopted Master Plan	Although the Epsom Park Precinct Masterplan was never formally adopted by Council, the recommendations were incorporated into the draft Sydney LEP and DCP, which have Council and CSPC endorsement for adoption and gazettal.
Urban Design Principles and Master plans (CI 28)	Development is to satisfy urban design requirements. Before granting consent to development in Zone 5 or on a site greater than 5000 sqm Council must consider any master plan for the land that is available.	See above.
Flood Liable Land (CI 38)	Council is to consider the likely impacts of flooding in determining an application for the erection of a building or the carrying out of works on land.	<p>The proposal seeks approval for building heights and ground floor levels. To enable this, Council needs to assess the proposed changes to site levels (including raising the overall site level) and the impact on flooding and stormwater. The City needs to be satisfied that the stormwater/flooding proposal will not have an adverse effect on adjoining properties or the down stream catchment.</p> <p>Council's public domain unit has reviewed the flooding documentation submitted with this application. It appears that no study has been undertaken on the impact of the development on the adjoining properties.</p>

Development Controls	Permissible under South Sydney LEP 1998	Proposal as assessed under South Sydney LEP 1998
Contaminated Land (CI 39)	Council is to consider the issue of contamination in determining an application for a residential, child care centre or commercial use on land previously occupied by an industrial use.	Refer to SEPP 55 discussion above.

Draft Sydney LEP 2011 and Draft Sydney DCP 2010

43. The Draft Sydney LEP 2011 was placed on public exhibition in February 2011. The outcome of the exhibition period was reported to the Planning, Development and Transport Committee meeting on Monday 5 March 2012 and the Central Sydney Planning Committee on 8 March 2012. The LEP was subsequently endorsed for gazettal on 12 March 2012.
44. The provisions of the Draft LEP and DCP have been taken into consideration in the assessment of this proposal. The site is located within the B4 Mixed Uses zone. The proposal is permissible with consent.
45. The proposal exceeds the height and floor space ratio controls contained in the draft LEP. It also does not comply with the Draft DCP in relation to open space dedication and street layout, as the rear portion of the site is identified as public part of a public park. This is discussed in detail in the Issues section of this report.

South Sydney DCP 1997

46. Compliance of the proposal with the DCP controls is summarised below:

Matter to be Considered	Compliance	Comment
PART C: PUBLIC DOMAIN		
Public Domain Improvement Section 2	✘	Does not comply: The proposal does not provide adequate local area improvements, including the dedication of land for roadways and the future Epsom Park.
Security Section 3	✔	Able to comply: If approved, the development could incorporate necessary security measures.

Matter to be Considered	Compliance	Comment
PART D: SOCIAL PLANNING		
Access Section 2	✓	Complies: The proposal is capable of providing equitable access.
Community Infrastructure Section 5	✘	Does not comply: The proposed development does not provide sufficient community infrastructure to support the development and respond to the future needs of the local community. This includes the dedication of land for the future Epsom Park and local road networks.
Cumulative Impacts and Trade-Offs Section 6	✘	Does not comply: The proposal does not respond to opportunities to benefit the local community. It does not include appropriate land dedication to assist in the delivery of the future Epsom Park.
PART E: ENVIRONMENTAL DESIGN CRITERIA		
Built form controls	✓/✘	Addressed under Part G: Green Square 2006 Controls

South Sydney DCP 1997: Urban Design - Part G: Green Square

47. Compliance of the proposal with the DCP controls is summarised below:

Matter to be Considered	Compliance	Comment
PART 2: URBAN STRATEGY		
Transport and Parking <i>Section 2.3</i>	✘	Does not comply – The proposed accessway connecting the front portion of the site to the rear portion is inadequate. At its narrowest point it is 4.9 metres wide, which is consistent with the width of a driveway rather than a scale suitable for use as a public road. The dedication of land for new roadways is discussed in the Issues section of this report.

Matter to be Considered	Compliance	Comment
Stormwater Management <i>Section 2.5</i>	*	Does not comply – Council’s public domain unit has reviewed the flooding documentation submitted with this application. It appears that no study has been undertaken on the impact of the development on the adjoining properties.
Social Infrastructure <i>Section 2.6</i>	*	Does not comply – The proposal does not include adequate open space to satisfy the needs of the future Green Square population.
Land Use and Neighbourhood Character <i>Section 2.7</i>	*	Does not comply: The proposal does not strengthen the existing community or incorporate acceptable improvements to the public domain. In particular, it prevents the delivery of the proposed district park in the southern neighbourhood.
PART 3: URBAN FRAMEWORK PLAN		
Public Domain <i>Section 3.1</i>	*	<p>Does not comply: Unsatisfactory public domain works are proposed as part of the application.</p> <p>Table 3.1.2 of the DCP identifies the site as being located within Precinct E. One park of 20,000m² is required within this precinct, however the exact location of the open space is not provided.</p> <p>Table 3.1.2 also states that the location of the open space is to be determined by detailed masterplanning. This has been undertaken and is reflected in the Epsom Park Precinct Masterplan (and subsequently the Draft DCP).</p>

Matter to be Considered	Compliance	Comment
<p>Built Form <i>Section 3.2</i></p> <p>Height</p> <p>FSR</p>	<p style="text-align: center;">✘</p> <p style="text-align: center;">✘</p>	<p>Does not comply: The proposed maximum building height of 38.44 metres significantly exceeds the 18 metre height limit on the site. This is discussed further in the Issues section of this report.</p> <p>Does not comply: The proposal seeks to benefit from the maximum bonus FSR permitted on the site, however does not provide acceptable public domain works in accordance with Council's public benefit offer guidelines. Refer Issues section of this report.</p>
<p>Building Type and Envelopes <i>Section 3.2.1</i></p>	<p style="text-align: center;">✘</p>	<p>Does not comply – The proposed building layout and envelopes are not supported. This is discussed further in the Issues section of this report.</p>
<p>Height and Scale Variations <i>Section 3.2.2</i></p>	<p style="text-align: center;">✘</p>	<p>Does not comply: The proposed maximum building height of 38.44 metres significantly exceeds the 18 metre height limit on the site. Refer to Issues section of this report.</p>
<p>Building Interface <i>Section 3.2.4</i></p>	<p style="text-align: center;">✘</p>	<p>Does not comply – The proposed building layout is not supported. This is discussed in further detail in the Issues section of this report.</p>
<p>Parking <i>Section 3.2.9</i></p>	<p style="text-align: center;">✔</p>	<p>Able to comply – The proposed car parking provision appears to be consistent with the DCP. The final parking requirement will be dependant on the number of units provided on the site. This is a matter that would be considered as part of a Stage Two development application.</p>

South Sydney DCP 11: Transport Guidelines for Development

48. DCP 11 sets out guidelines for car parking levels for new development. Despite being a Stage One development application, the applicant has provided unit mixes for each of the buildings.
49. The proposed car parking provision appears to be consistent with the DCP. The final parking requirement will be dependant on the number of units provided on the site. This is a matter that would be considered as part of a Stage Two development application.
50. An in-depth analysis of projected vehicle movements within and around the site has not been conducted because the proposed built form is not supported.

ISSUES

51. The issues identified as non-complying or requiring further discussion in the tables above are discussed in detail below:

Clause 27(C) of the South Sydney LEP

52. Clause 27C of the South Sydney LEP states that:

“(1) The Council must not grant consent for development of any land within Green Square unless:

(a) there is a masterplan adopted by the Council for the development site...and

(b) the development is consistent with the masterplan.

(2) The Council may waive the requirement for a masterplan because of the minor nature of the development concerned, the adequacy of other planning controls that apply to the proposed development, or for such other reasons as the Council considers sufficient”

53. The applicant has not lodged a masterplan but is seeking approval for building envelopes via a Stage One development application.
54. The current built form controls contained in the South Sydney DCP are not considered adequate to waive the requirement for a masterplan on this site. Council has undertaken further studies of the area since the current controls were introduced in 1997 and, as a consequence, the preferred location of future open space and roadways have been identified. This is reflected in the Draft Sydney DCP.
55. Council's preference is to apply the draft controls to this site because they better reflect the strategic vision for the precinct.
56. If the proposed development was consistent with the draft controls, consideration could be given to waiving the requirement for a masterplan. However, the proposed site layout and building form disregards both the existing and the draft DCP controls and will restrict the future functioning of the entire precinct. Therefore, the application does not address the requirements of Clause 27C of the LEP.

Public domain - land dedication for Epsom Park

57. Part 3.1 of the South Sydney Development Control Plan 1997: Urban Design – Part G identifies the site as being located within Precinct E of Green Square. One park of 20,000m² is required within this precinct, however the exact location of the open space is not provided.
58. Table 3.1.2 of the DCP also states that the location of open space in the precinct is to be determined by detailed masterplanning. This has been undertaken by Council and is reflected in the Draft Sydney DCP 2010, which shows the location and quantum of open space required in the area. This area is subject to a 3 metre height limit in the LEP.
59. The Draft Sydney DCP 2011 identifies the requirement for a large centralised park within the Epsom Park precinct. This park will accommodate a range of active sports facilities and provide a clear link to the future Green Square Health and Recreation Centre. The park will also serve as an essential flood/stormwater detention basin.
60. The DCP identifies that the rear portion of the subject site occupies approximately one third of the area required to enable the provision of the park (see Figure 10). The application proposes a six storey building in a 'U' configuration on the rear portion of the site, which will prevent the future delivery of the park.
61. The location of the park is critical to the development of the wider Epsom Park Precinct.



Figure 10: Building typology and uses map from Draft Sydney DCP 2010

Public Domain - Street Layout

62. Table 3.1.1 and Map 1 of the South Sydney Development Control Plan 1997: Urban Design – Part G provides indicative street layouts and widths for the Epsom Park precinct. The proposed north-south connector road between the two portions of land is 4.9 metres at its narrowest point, however the DCP shows this road as being a 12 metre laneway.
63. Further strategic planning has occurred to the Epsom Park Precinct and the intended location of the new streets has been updated. This is reflected in the Draft Sydney DCP (see Figure 11).

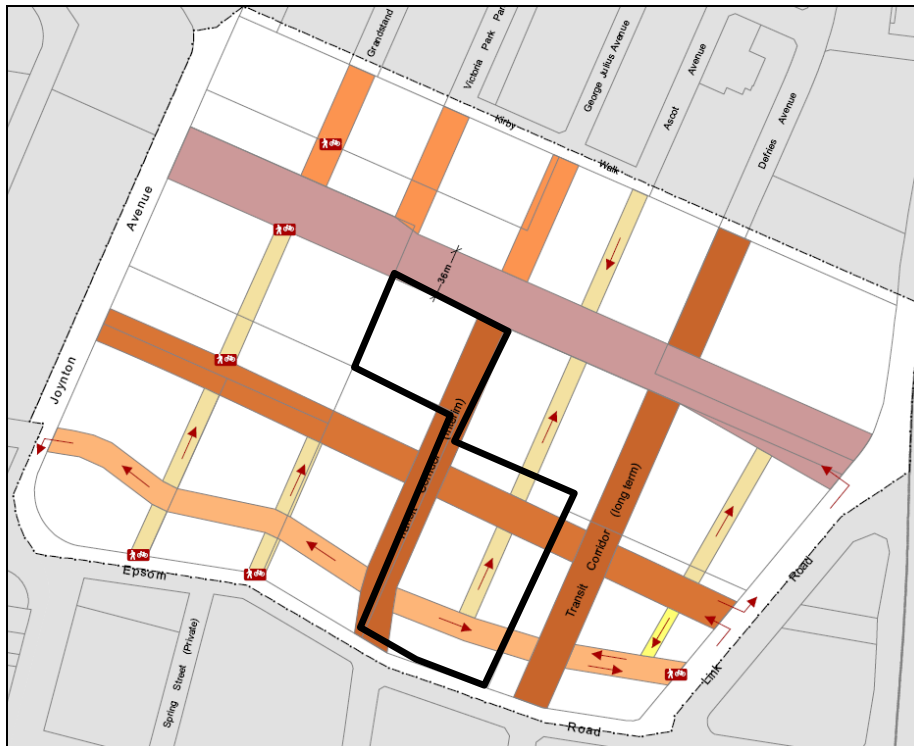


Figure 11: Epsom Park street layout (Draft Sydney LEP 2010)

64. The proposed development does not comply with the future road network identified in the Draft DCP for the following reasons:
- Blocks C1 and C2 are encroaching onto the two future east-west streets running through the front (southern) portion of the site. The dedication of land to create these streets is essential to the appropriate future functioning of the street network for the whole precinct.
 - A pedestrian through site link is proposed in the location of a future 12 metre wide north-south road running through the front portion of the site.
 - The north-south driveway between the two portions of land is proposed to be between 4.9 and 6 metres wide. The Draft DCP shows this road as being between 23 and 25 metres wide.
65. In summary, the widths and layouts of the roads are generally not in accordance with the South Sydney DCP or Draft DCP. Therefore, dedication of land to the City for the purpose of public roads in the locations proposed is not supported.

Height

66. A summary of the height controls applicable to the site is provided in the tables below:

Table 1: Assessment against the current South Sydney DCP

	SSDCP *	Proposed
Block A	18 metres	38.44 metres
Block B1	18 metres	17.7 metres
Block B2	18 metres	17.7 metres
Block C1	18 metres	17.7 metres
Block C2	18 metres	17.7 metres
Block D	18 metres	17.7 metres

* Height measured to the uppermost ceiling

Table 2: Assessment against the Draft Sydney LEP

	Draft LEP **	Proposed
Block A	45 metres	41.94 metres
Block B1	18-30 metres	18.7 metres
Block B2	18-27 metres	19.2 metres
Block C1	27 metres	18.7 metres
Block C2	27 metres	19.2 metres
Block D	3 metres	19.2 metres

** Height measured to the highest point of the building

67. The South Sydney DCP allows a maximum height of 18 metres across the entire site.
68. The Draft Sydney LEP provides for a range of building heights (see Figure 12). This includes 45 metres along the Epsom Road frontage, between 3 and 30 metres on the remainder of the front portion of the site, and 3 metres on the entire rear portion (see Figure 12).
69. The 3 metre height limit in the Draft LEP is allocated to parts of the site that are envisaged to be used for public or private open space. It is of critical importance as it allows for the delivery of the future Epsom Park and the concentration of height along the main alignment to Epsom Road.

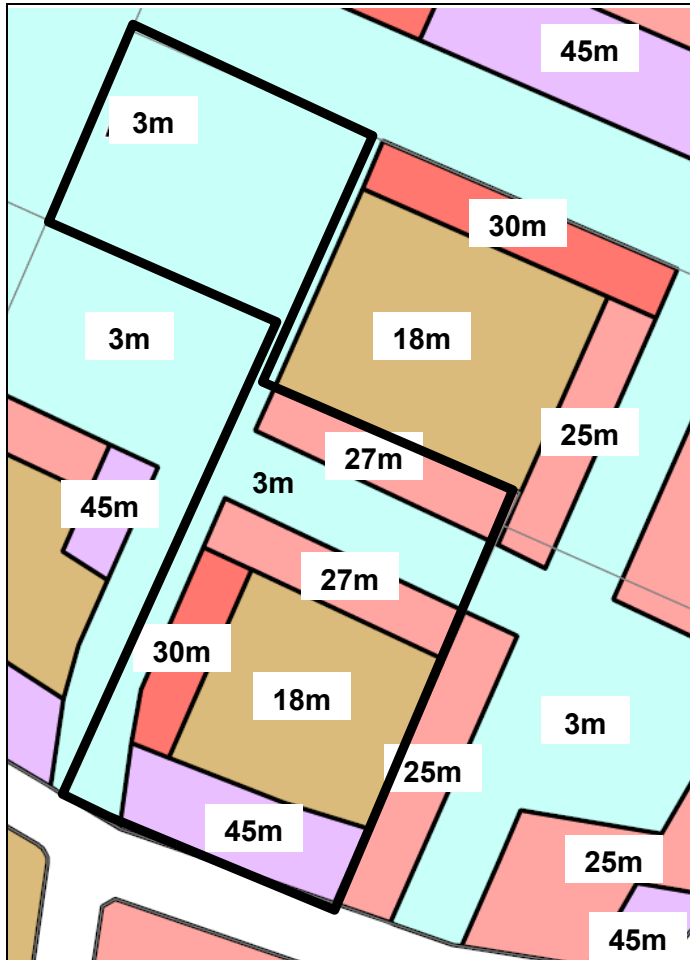


Figure 12: Building heights provided in the Draft Sydney LEP 2011

70. The proposal seeks to benefit from the draft controls on the front portion of the site, where a maximum building height of 41.94 metres is proposed for Building A (see Figure 13). Under the Draft LEP building height is measured to the highest point of the building.

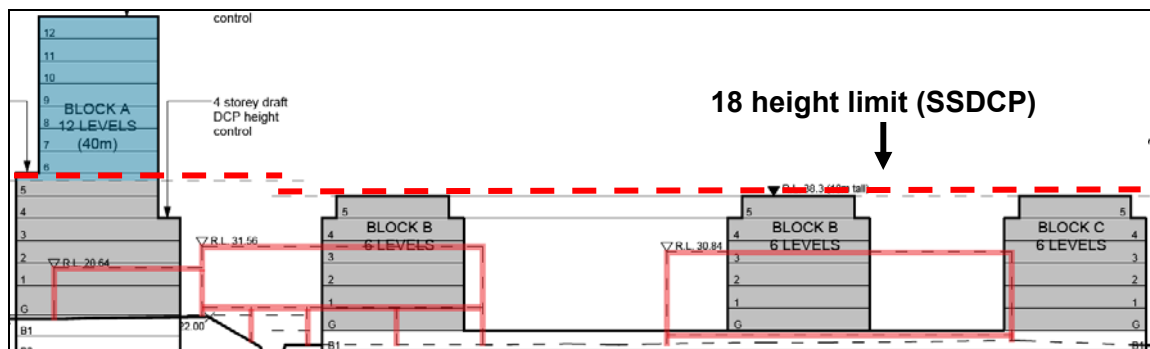


Figure 13: Building heights provided in the Draft Sydney LEP 2011

71. On the rear portion of the site the draft controls have been disregarded and the existing South Sydney height control of 18 metres has been applied. Building D has a height on 17.7 metres, which is measured to the ceiling of the uppermost floor.

72. The draft height control needs to be considered in conjunction with the other draft planning controls applicable to the site. This includes a reduction in FSR and the appropriate dedication of land for roads and public open space.
73. The applicant has selected the optimal height controls from the current and draft controls and applied these across the site to maximise the development. This approach is not supported as it creates significant inconsistencies with the future layout and form for the Epsom Park precinct. Accordingly, the proposed height (particularly that of Building D) is not supported.

Floor Space Ratio

74. The South Sydney DCP permits a FSR of 1.5:1 on the site. A maximum FSR of up to 2.5:1 can be considered, however this cannot be assumed by any applicant. The bonus floor space can only be achieved if the development scheme is acceptable, and in conjunction with the provision of significant public domain works or a monetary contribution.
75. As a consequence of detailed strategic studies in the area, the Draft Sydney LEP has reduced floor space on the site to 1:1. A maximum FSR of up to 1.5:1 can be considered (subject to the development being appropriate and a bonus floor space contribution package similar to the current requirement).
76. The proposal has a FSR of 2.5:1, which significantly exceeds the base FSR control contained in the South Sydney DCP and the Draft Sydney LEP.
77. The applicant has provided a public benefit offer which includes the following works to be delivered in conjunction with the development of the site:
 - (a) Embellishment works to all publically accessible land.
 - (b) Upgrade of Epsom Road public domain.
 - (c) Stormwater upgrade of the canal.
 - (d) Temporary stormwater detention works.
 - (e) Underground cabling.
 - (f) Street lighting.
 - (g) Monetary contributions to public art, public transport and community facilities (details not specified).
78. The applicant has estimated that the value of the contribution is \$10,245,275.
79. The public benefit offer is not supported for the following reasons:
 - (a) No land dedication has been proposed in accordance with the Draft DCP.
 - (b) Provision of pedestrian and vehicular access to all new buildings, as well as embellishment/landscaping of private open space and communal areas, is a standard requirement for residential developments.

- (c) An upgrade of the Epsom Road public domain is also a standard requirement for a development of this size.
 - (d) The provision of temporary services (including private stormwater detention) is not considered to be a public benefit.
 - (e) The proposal does not provide the public domain components set out in the Draft Sydney DCP 2010. Therefore, the proposed through site links, canal works and roads are not considered to be a public benefit.
 - (f) The majority of works proposed are not considered above and beyond those that would have been delivered through standard development consent requirements for a development complying with the base FSR control.
80. In summary, the proposed development fails to provide an acceptable design outcome and public benefit offer. Therefore, no bonus floor space can be applied to this site. It is relevant to note that the applicant was advised at pre-DA stage that a FSR of 2.5 would not be supported for these reasons.
81. The most appropriate public benefit that could be provided to justify bonus floor space on this site would be the dedication of land to facilitate the delivery of the future Epsom Park.

Building layout and built form

Building layout

82. In addition to the issues identified above relating to the dedication of land for open space and road networks, the proposed development does not reflect the building layouts for the site and surrounding area, as provided in the Draft DCP (see figures 10 and 12 earlier of this report).
83. Block D (on the rear portion of the site) is proposed to extend up to northern boundary and within two metres of the western and southern boundaries. Given that adjoining land has a 3 metre height limit under the Draft DCP and is intended for public open space, the proposed 18 metre building against three boundaries is not supported.
84. The redevelopment of the Epsom Park precinct will take many years and will occur in stages. Therefore, consideration needs to be given to the functionality of the site both now and once the area is redeveloped. The building blocks need to be assessed as stand-alone developments which will be able to provide appropriate residential amenity, while also being compatible with the strategic vision of the precinct.
85. The locations and setbacks of the buildings on the front portion of the site are incompatible with future development envisaged on adjoining properties to the north and east. The strategic vision for the Epsom Park precinct would be best achieved by amalgamating the front portion of the site with adjoining properties.

Internal access

86. As detailed earlier in this report, the proposed accessway between the front and rear portions of land is not appropriate, even as a temporary arrangement.

87. Block D does will no street address until the East-West Boulevard is constructed, which is impractical and not supported. Construction of the East-West Boulevard is dependant upon the development of adjacent sites within the Epsom Park precinct and no timeframe for its delivery has been identified.

Proximity to Optus Exchange

88. The site, in particular the front portion of land, is located directly opposite the Optus "Rosebery Exchange" at 65 Epsom Road. The Rosebery Exchange contains mechanical plant on the roof, which operates 24 hours, 365 days a year.
89. In the past, Optus has been required to conduct acoustic assessments, replace air conditioning units and install attenuation barriers as a direct consequence of new residential development occurring within close proximity of the site. Optus has advised Council that there is a limitation on the noise attenuation which can be achieved on their site. That is, if there is noise intrusion to surrounding sites, it may not be possible to provide a solution at the source.
90. The applicant's acoustic report has identified that there are some isolated "tonal" noise sources around the proposed development site, with characteristics that could affect residential amenity in localised areas. The engineer acknowledges that physical barriers will need to be erected between the source and the receiver, in addition to enhanced acoustic attenuation to the proposed building facade (which will require alternative means of ventilation under the BCA).
91. Notwithstanding this, the report states that noise walls positioned close to the noise source will only be effective to the ground floor level of the development. Noise walls would not be effective against noise sources located at higher levels (such as the "hum" that was audible on some parts of the site).
92. The acoustic engineer recommended that the applicant approach the industrial operators and identify problematic noise sources and work collaboratively to reduce the acoustic impact of the sources.
93. The applicant has failed to address the findings of the acoustic report submitted as part of the development application. The proposed development would be directly affected by the existing commercial operations surrounding the site (including the Rosebery Exchange and the adjoining Council depot) and cannot rely on external operators to minimise noise generation at the source. As part of any future development application the applicant will need to demonstrate how appropriate residential amenity could be achieved on the site.

Section 79C(1)(b) Other Impacts of the Development

94. The proposed development will not result in any significant additional impacts other than those already identified and discussed above.

Section 79C (1) (c) Suitability of the site for the development

95. The site is not suitable for the proposed development. The issues which prevent the suitability of the site for the proposed use have been addressed in this report.

Section 79C (1) (e) Public Interest

96. The proposed development significantly compromises the development and functioning of the future Epsom Park Precinct and is therefore considered to be contrary to the public interest. The public interest is best served through the application of the planning controls for the site.

POLICY IMPLICATIONS

97. Not applicable to this report.

FINANCIAL IMPLICATIONS - SECTION 94 CONTRIBUTIONS**Section 94 Contributions**

98. The proposal is a Stage 1 Development Application and therefore would not be subject to a Section 94 or Affordable Housing contribution if it was approved. This would be addressed as part of the site's Stage 2 consent.

PUBLIC CONSULTATION**Section 79C(1)(d)****Advertising and notification**

99. Adjoining and nearby owners and occupiers of buildings were notified of the proposal and invited to comment within 30 days. In addition, notices were placed on the site and the proposal was advertised in accordance with the City of Sydney Notification of Planning and Development Applications DCP 2005.
100. A total of three submissions were received.
101. One submission was received from a nearby resident, who objected to the development for the following reasons:
- (a) The height of Block A is not consistent with existing or future development along Epsom Road.
 - (b) Setting towers on the Epsom Road edge will create dark wind tunnels and block sun to residential development on the southern side of Epsom Road.

Comment: The draft planning controls for the site identify that part of the Epsom Road frontage could accommodate a height of up to 45 metres. However, this would be in conjunction with a reduction in floor space across the site. Notwithstanding this, the proposed development is not supported.

102. Randwick Council, whose jurisdiction is located approximately 250 metres from the site, also submitted an objection to the proposal. The objection reiterated Randwick Council's concern about certain aspects of development in Green Square, in particular increasing level of traffic and amenity within Randwick.

Comment: City of Sydney is aware of Randwick Council's concerns in relation to the development of the Green Square area and will continue to consider their feedback on development applications. In this instance the application is recommended for refusal.

103. Optus Network Pty Ltd owns and operates the Rosebery Exchange at 65 Epsom Road (located directly opposite the subject site). Optus has provided the following comments regarding the development:
- (a) The noise survey submitted by the applicant was conducted at the rear of the site, which is a considerable distance from Epsom Road and the Optus exchange. Therefore, the applicant's acoustic report is flawed.
 - (b) The applicant's acoustic report has identified that the presence of noise walls will not be effective in alleviating noise transmission between the Rosebery Exchange and the proposed Block A.
 - (c) The applicant's acoustic engineer recommended the applicant approach industrial operators, identify problematic noise sources and work collaboratively to reduce acoustic impact at the source.
 - (d) The mechanical plant on the roof of the Optus building operates 24 hours, 365 days a year and there is a limitation on the noise attenuation which can be achieved.
 - (e) The developer should be required to pay for any acoustic treatment required at the Rosebery exchange that may be required as a result of the proposed development.

Comment: It is agreed that existing commercial operations should not be restricted as a consequence of new residential development. The points raised in relation to the acoustic report have also been noted and the applicant will need to address these issues as part of any future development application.

EXTERNAL REFERRALS

Integrated Development

104. The proposal is Integrated Development as it requires the site to be dewatered. The Department of Water and Energy has provided its General Terms of Approval to be imposed should approval be granted.

Infrastructure SEPP

105. The development was required to be referred to the RTA under the Infrastructure SEPP. In addition to standard conditions, the following comments were provided from the Roads and Maritime Services:
- (a) If Council is to approve a left-in/left-out movement at the Epsom Road driveway, the driveway crossing is to be channelised.
 - (b) Concern is raised about the potential for vehicles to 'rat run' through the development.
 - (c) Road safety concerns are raised with the proposed one-way access driveway connecting the two portions of land.
 - (d) Concern is raised with regard to the adequacy of loading provision

106. The above comments have been taken into consideration as part of the assessment of this application.

Commonwealth Airports (Protection of Airspace) Regulations 1996

107. The application was referred to Sydney Airport Corporation as the proposed building envelope is above the prescribed heights for Sydney Airport. To date, Sydney Airport Corporation Limited and Airservices Australia have not provided written comments on the proposal.

INTERNAL REFERRALS

108. The application was referred to Council's Specialist Surveyor, Health Unit, Strategic Planning Unit, Urban Designer, Public Domain Unit and Transport Management Unit
109. Objections to the proposed development were raised by the above officers and units of Council, which has informed the discussion above in this report.

RELEVANT LEGISLATION

110. The Environmental Planning and Assessment Act 1979, Water Management Act 2000.

CONCLUSION

111. The applicant has failed to take the advice of Council's planning assessments and strategic planning units prior to lodgement of this development application.
112. The proposed development fails to comply with the current and draft planning controls applicable to the site.
113. The applicant has selected the optimal controls from the current and draft controls and applied these across the site to maximise development potential. This approach is not supported as it is not in the best interest of the redevelopment of the Epsom Park precinct.
114. The proposed development has a FSR of 2.5:1, which significantly exceeds the base FSR control contained in the both South Sydney DCP and the Draft Sydney LEP. No bonus floor space can be applied to this development because it fails to provide an acceptable design outcome for the site and the proposed public benefits are inconsistent with the strategic vision for the site.
115. The requirement for the dedication of land for public open space on the rear portion of the site has been disregarded. The proposed Block D will unreasonably prevent the development of the future Epsom Park, which is projected have play critical recreational and stormwater detention role in this part of the city. In this regard, the proposal is inconsistent with the existing and draft planning controls for the site.
116. The proposed street configuration for the site is inconsistent with the South Sydney DCP and the Draft Sydney DCP 2010 and will restrict the future functioning of the entire precinct.

117. The built form issues outlined in this report would be best resolved by providing the necessary land dedications and amalgamating the front portion of the site with adjoining properties.

118. For the reasons outlined above it is recommended that this application be refused.

GRAHAM JAHN

Director City Planning, Development and Transport

(Kate Wedgwood, Specialist Planner)