

ITEM 6. SECTION 96 APPLICATION: 301-303 BOTANY ROAD ZETLAND**FILE NO: D/2012/1056/A****DEVELOPMENT APPLICATION NO: D/2012/1056/A****SUMMARY****Date of Submission:** 4 June 2014**Applicant:** Crown Green Square Developments Pty Ltd**Architect:** Koichi Takada Architects**Developer:** Crown Green Square Developments Pty Ltd**Owners:** Crown Green Square Pty Ltd, Sathio Investments Pty Ltd and Crown Cornerstone Investments Pty Ltd**Cost of Works:** \$177,100,000

Proposal Summary: The subject Section 96 application seeks to modify the approved Stage 1 development consent to alter the building envelopes and allocation of floorspace for a mixed use development of the site.

The need to modify the approved Stage 1 building envelope and floorspace allocation has resulted from design progression through the competitive design process and the preparation of a concurrent Stage 2 Development Application (DA).

The Stage 2 DA is consistent with modifications proposed as part of this Section 96 application. The Stage 2 DA is subject to a concurrent assessment report for the Central Sydney Planning Committee (CSPC) meeting on 14 May 2015.

The revised building envelopes are the result of the redistribution of the approved floorspace compared to the approved envelopes.

The need to modify the allocation of floorspace arises from the Applicant's desire to incorporate an auditorium/function centre within the development in lieu of the full extent of approved retail floorspace.

The Section 96 modification was not required to be notified.

The amendments to the building envelopes and floorspace allocation have merit and are supported by Council Officers.

**Proposal Summary:
(continued)**

However, Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013 (GSTC LEP) operates under a deferral model, meaning that the instrument is suspended from operation until the City requests release. The Stage 1 DA was originally determined under the South Sydney LEP 1998 and was capable of being determined under that instrument. However, the Section 96 modification is reliant on the GSTC LEP for determination.

At the time of writing this report the release of the GSTC LEP is imminent and certain. However, the instrument is presently a draft for consideration. The controls may be released by the date of the CSPC meeting. However, it will be necessary for the controls to be released prior to determination of the Section 96 application. As such, the recommendation of this report includes seeking CSPC endorsement for the merits of the development, but delegation to the Council's Chief Executive Officer to determine the modification when the planning controls are unlocked.

Summary Recommendation:

It is recommended that authority be delegated to the Chief Executive Officer (CEO) to determine the application after Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013 is 'un-deferred' in relation to the site.

Development Controls:

- (i) South Sydney Local Environmental Plan 1998 (gazetted 24 April 1998, as amended)
- (ii) Sydney Local Environmental Plan (Green Square Town Centre 2013 - Stage 2) (Gazetted 13 September 2013, as deferred in relation to the site at the time of writing this report)
- (iii) Green Square Town Centre Development Control Plan 2012 (in force on 24 April 2012, as amended)
- (iv) State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (Gazetted 26 July 2002, as amended)
- (v) State Environmental Planning Policy No. 55 – Remediation (Gazetted 28 August 1998, as amended)
- (vi) State Environmental Planning Policy (Infrastructure) 2007 (Gazetted 21 December 2007, as amended)

- (vii) Green Square Affordable Housing Program
(adopted on 12 March 2012)
- (viii) State Environmental Planning Policy (BASIX)
2004 (Gazetted 25 June 2004, as amended)

Attachments:

- A - Selected Section 96 Application Drawings
- B - Stage 1 Development Application Report to the
Central Sydney Planning Committee Meeting of
21 February 2013

RECOMMENDATION

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer to determine Section 96 Modification Application No. D/2012/1056/A after Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013 is 'un-deferred' in relation to the subject site; and
- (B) if the Chief Executive Officer determines to approve the application, then consideration be given to granting approval subject to the following modified conditions and any other relevant conditions, with modifications shown in **bold italics** (additions) and ~~italics strikethrough~~ (deletions), as follows:

SCHEDULE 1A**Approved Development/Design Modifications/Covenants and Contributions/Use and Operation****(1) APPROVED DEVELOPMENT**

- (a) Stage 1 development consent is granted only for building envelopes and general arrangement of land uses within the development, ~~being basement car parking; mixed use podium blocks containing retail premises and residential apartments; residential towers; and an east-west through-site link~~, in accordance with Development Application No. D/2012/1056 dated 13 July 2012 and Statement of Environmental Effects prepared by JBA Planning, dated June 2012 **and Section 96(1A) Modification dated 4 June 2014** and the following drawings:

Drawing Number	Architect	Date
DA02 Site Analysis	Stanisic Associates	02.09.11
DA27 Building Envelope— North-east Elevation	Stanisic Associates	17.02.12
DA28 Building Envelope— North-west Elevation	Stanisic Associates	17.02.12
DA29 Building Envelope—West Elevation	Stanisic Associates	17.02.12
DA30 Building Envelope— South-west Elevation	Stanisic Associates	17.02.12
DA31 Building Envelope— South-east Elevation	Stanisic Associates	17.02.12
DA32 3D Envelopes	Stanisic Associates	17.02.12
A-070 Rev D Site Analysis	Koichi Takada Architects	22.05.14

Drawing Number	Architect	Date
<i>A-200 Rev D South-east Elevation</i>	<i>Koichi Takada Architects</i>	<i>22.05.14</i>
<i>A-201 Rev D South-west Elevation</i>	<i>Koichi Takada Architects</i>	<i>22.05.14</i>
<i>A-202 Rev D North-east Elevation</i>	<i>Koichi Takada Architects</i>	<i>22.05.14</i>
<i>A-203 Rev D North-west Elevation</i>	<i>Koichi Takada Architects</i>	<i>22.05.14</i>
<i>A-400 Rev D 3D Envelope Comparison 1</i>	<i>Koichi Takada Architects</i>	<i>22.05.14</i>
<i>A-401 Rev D 3D Envelope Comparison 2</i>	<i>Koichi Takada Architects</i>	<i>22.05.14</i>

and as amended by the conditions of this consent:

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(2) MATTERS NOT APPROVED

The following items are not approved and do not form part of this Stage 1 development consent:

- (a) any demolition, construction, refurbishment and/or excavation;
- (b) the 'locking in' of car parking rates. The Stage 2 DA is to be designed with regard to the car parking rates within the planning controls relevant at the time; and
- (c) the layout, unit mix and number of residential dwellings, car parking spaces and basement levels.

(3) BUILDING ENVELOPE

Subject to the other conditions of this consent, the building envelope is only approved on the basis that the ultimate building design, including services, will be entirely within the approved building envelopes and provide an appropriate relationship with neighbouring and approved buildings. Any projection beyond the approved building envelopes must be justified through the Stage 2 Development Application process.

(4) ~~ELECTRICITY SUBSTATION~~

~~The substation at the south-eastern corner at the future intersection of Ebsworth Street and Tweed Place shall be relocated along Tweed Place away from the intersection so that is not readily visible from Ebsworth Street and is not within any landscaped area.~~

~~The owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site for the (relocated) substation.~~

(5) **~~THROUGH-SITE LINK~~**

~~Opportunities to express the through-site link to the sky shall be reviewed and documented in the Stage 2 DA documentation.~~

~~Alternatively, the Stage 2 DA documentation is to increase the height of the through-site link or modulate the top of the street wall to reduce the bulk. This may be achieved by removing 2-3 storeys from Levels 7, 8 and 9 above the through-site link.~~

~~Details of the through-site link are to be submitted with the Stage 2 DA. These details are to include:~~

- ~~(a) levels;~~
- ~~(b) easements and future restrictions;~~
- ~~(c) design of the space; and~~
- ~~(d) lighting.~~

(6) **LOCATION OF DRIVEWAY**

~~Vehicular access to the site shall be located along Tweed Place 45m from the centreline of Ebsworth Street.~~

(7) **BUILDING HEIGHT**

The maximum height of the Stage 2 Development Application ~~buildings~~, as defined in ~~the South Sydney Local Environmental Plan 1998~~ **Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013** (as may be amended) must not exceed ~~a maximum podium RL of 51.5 and a maximum RL of 75~~ **80**.

(8) **PUBLIC DOMAIN PLAN**

The public domain plans accompanying this Development Application have not been approved by this consent. A Public Domain Plan must be lodged with the Stage 2 DA. The Public Domain Plan must be prepared in accordance with the City of Sydney Public Domain Manual and must be consistent with the Sydney Streets Design Code.

If staging of the public domain works is proposed, this is to be detailed in the Stage 2 DA submission.

(9) **PROPERTY BOUNDARY LEVELS**

The ground level of the development must correspond with the Green Square Town Centre Essential Infrastructure design (including road, footway, drainage and overland flow designs and levels) and be in accordance with Council's Alignment Level requirements.

The level difference between any ground floor level and the adjacent public footpath level shall not exceed 1200mm.

The Stage 2 DA must demonstrate compliance.

(10) FLOOD PLANNING LEVELS

Floor levels for buildings and structures for the development are to comply with the City of Sydney's Flood Planning level requirements and the recommendations outlined in the Flood Impact Assessment report by Cardno dated November 2012. Plans and documentation is to be submitted with the Stage 2 DA.

The following performance criteria shall apply:-

- (a) All habitable floor levels, ground floor levels and basement car park entry levels within the site shall be set 500mm above design 1% AEP flood level;
- (b) Suitable freeboard protection shall be provided to lift shaft areas and other basement access points such as stairwells; and
- (c) All commercial/retail floor levels to be at a minimum 1% AEP flood level.

(11) STORMWATER AND DRAINAGE – MAJOR DEVELOPMENT

On-site detention, treatment and re-use is encouraged.

The stormwater drainage design for the site must take into consideration and work with the overall drainage network proposed for Ebbsworth Street and Tweed Place which forms part of the Green Square Town Centre Essential Infrastructure documentation.

(12) LANDSCAPING OF THE SITE

A detailed Landscape Plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted with the Stage 2 DA. The plan must include:

- (a) Location of existing and proposed structures on the site, including existing trees;
- (b) Details of earthworks including mounding, retaining walls and planter boxes;
- (c) Location, numbers and type of plant species;
- (d) Details of planting procedure and maintenance;
- (e) Details of drainage and watering systems;
- (f) Details of the proposed green roofs;
- (g) Details of the through-site link.

(13) BASEMENT EXTENT

The basement levels are to be wholly within the final property boundaries. No encroachment into the public domain or land under the public domain, including the building setbacks along Botany Road and Bourke Street, will be permitted at the Stage 2 DA.

(14) LANDSCAPE FINISH TO LAND TO BE DEDICATED TO COUNCIL

The landscape finish to the building setbacks along Botany Road and Bourke Street, and the future Civic Plaza, is to match the surrounding public domain area, and is to be in accordance with the City of Sydney's Public Domain Manual and Sydney Streets Design Code.

Details of the landscape finish are to be submitted at the Stage 2 DA phase and approved by Council.

(15) ~~INTEGRATED BASEMENT CAR PARKING~~

~~The Stage 2 DA is to allow for a break through panel on Basement Level 1 (retail carpark level) to future proof for the possibility of integrated carparking basements with the site to the south-east.~~

(16) ~~TWEED PLACE PODIUM ENVELOPE~~

~~The Stage 2 DA documentation must demonstrate that an active frontage (generally in the form of retail development) can be provided to the Tweed Place street edge. The courtyard shown along Tweed Place within the documentation accompanying this Development Application is not approved and must be replaced by a podium built to the boundary.~~

~~Ground level retail is to step with the grade of Tweed Place and the through-site link.~~

(17) ~~EBSWORTH STREET SETBACK NOT APPROVED~~

~~The Stage 2 DA documentation must demonstrate that the Ebsworth Street frontage is built to the street boundary line.~~

(18) STREET AWNINGS

Street awnings must be incorporated into the Stage 2 DA documentation.

(19) ~~COMPLIANCE WITH ACOUSTIC REPORT~~

~~The recommendations contained with the Stage 1 Acoustic Report (Wilkinson Murray Report No. 10086, July 2010) are to be complied with as part of the Stage 2 DA.~~

(20) ~~SITE AUDIT STATEMENT~~

~~A Site Audit Statement is to be prepared and lodged with the Stage 2 DA documentation which confirms that the site is suitable for the proposed land use.~~

(21) ASSOCIATED ROADWAY COSTS

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Development Specification for Civil Works Design and Construction".

(22) BICYCLE PARKING

The layout, design and security of bicycle facilities either on-street or off-street must comply with the minimum requirements of Australian Standard AS 2890.3 – 1993 Parking Facilities Part 3: Bicycle Parking Facilities except that:

- (a) all bicycle parking for occupants of residential buildings must be Class 1 bicycle lockers, and
- (b) all bicycle parking for staff / employees of any land uses must be Class 2 bicycle facilities, and
- (c) all bicycle parking for visitors of any land uses must be Class 3 bicycle rails.

The design and layout of the bicycle parking spaces is to be provided for approval as part of the Stage 2 application.

(23) CAR PARKING SPACES AND DIMENSIONS

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan.

The design and layout of the car parking spaces is to be provided for approval as part of the Stage 2 application.

(24) COST OF SIGNPOSTING

All costs associated with signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.

(25) HOLDING AREAS

Areas within the site must be clearly sign-posted and line marked as waiting bays for the purpose of allowing clear access to vehicles entering or exiting the site via a one-way access driveway.

The details must be provided for approval as part of the Stage 2 application.

(26) LOADING WITHIN SITE

All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.

The details must be provided for approval as part of the Stage 2 application.

(27) LOCATION OF ACCESSIBLE CAR PARKING SPACES

Where a car park is serviced by lifts, accessible spaces for people with mobility impairment are to be located to be close to lifts. Where a car park is not serviced by lifts, accessible spaces for people with mobility impairment are to be located at ground level, or accessible to ground level by a continually accessible path of travel, preferably under cover.

The details must be provided for approval as part of the Stage 2 application.

(28) LOCATION OF DRIVEWAYS

The access driveway for the site must not be closer than:

- (a) 10 metres from the kerb line of the nearest cross street/lane.
- (b) 20 metres from the kerb line of the nearest signalised cross street/lane.
- (c) 1 metre from the property boundary of the adjacent site.
- (d) 2 metres from any other driveway.

The details must be provided for approval as part of the stage 2 application.

(29) LOCATION OF VISITOR PARKING

All visitor parking spaces must be grouped together, and located at the most convenient location to the car parking entrance.

The details must be provided for approval as part of the stage 2 application.

(30) PROHIBITION ON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME APPLICATION OF CITY OF SYDNEY PERMIT PARKING POLICY – INELIGIBILITY FOR RESIDENT PARKING PERMITS

All owners, tenants and occupiers of this building are not eligible to participate in any existing or proposed Council on-street resident parking schemes.

(31) SECURITY GATES

Where a car park is accessed by a security gate, that gate must be located at least 6 metres within the site from the street front property boundary.

(32) SERVICE VEHICLES

Adequate space must be provided to allow manoeuvring and turning of the different sized vehicles. The design, layout, signage, line marking, lighting and physical controls for all service vehicles must comply with the minimum requirements of Australian Standard AS 2890.2 – 2002 Off-Street Parking Part 2: Commercial vehicle facilities.

The details, including a swept path analysis of the largest vehicle entering, exiting and manoeuvring within the site, must be provided for approval as part of the Stage 2 DA.

(33) TRAFFIC WORKS

Any proposals for alterations to the public road, involving traffic and parking arrangements, must be designed in accordance with RTA Technical Directives and must be referred to and agreed to by the Sydney Traffic Committee prior to any work commencing on site.

(34) SMALL CAR PARKING SPACES AND DIMENSIONS

The design and layout of all off-street small car parking spaces must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan.

All small car spaces must be clearly marked and identifiable as small car spaces. The details must be provided for approval as part of the Stage 2 application.

(35) ACCESSIBLE PARKING SPACE

The design, layout, signage, line marking, lighting and physical controls of all off-street accessible parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.6 - 2009 Parking facilities Part 6: Off-street parking for people with disabilities.

The details must be provided for approval as part of the Stage 2 application.

(36) TRAFFIC GENERATION

The Stage 2 applications traffic report must include an assessment of the AM peak, PM peak and 24 hour traffic generation from the site.

(37) OFFICE OF WATER - GENERAL TERMS OF APPROVAL

The Stage 2 DA shall have regard to the attached General Terms of Approval issued by the NSW Office of Water dated 14 November 2012.

~~RAILCORP CONDITIONS~~**(38) ~~REVISED IMPACT ASSESSMENT REPORT~~**

~~Prior to the lodgement of any subsequent Development Application for the subject site, the applicant is to submit to RailCorp for review a revised version of the document "Newell Development Site – Green Square Station, Alexandria – Report of Site Investigation and Analysis of Potential Impact of Proposed Building Development – Ref: 279849 – Date: 24 February 2001" which meets RailCorp's requirements. This revised document is to include, but not limited to, the following:~~

- ~~(a) Final Geotechnical and Structural report/drawings that meet RailCorp's requirements;~~
- ~~(b) Final Groundwater Assessment Report;~~
- ~~(c) Final construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Railcorp will not permit any rock anchors/bolts (whether temporary or permanent) or physical intrusion of piers/piles/foundations within its land or easements;~~
- ~~(d) An assessment of the impact or any movement on the rail tunnel that may result from the proposed development. This report is to be based on the Final Geotechnical and Structural Report;~~
- ~~(e) Final cross sectional drawings showing the tunnel location, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail tunnel. All measurements are to be verified by a Registered Surveyor;~~
- ~~(f) Detailed Survey Plan showing the relationship of the proposed development with respect to RailCorp's land and infrastructure; and~~
- ~~(g) If required by RailCorp, a numerical analysis which assesses the different stages of loading-unloading of the site and its effects on the rock mass surrounding the rail corridor.~~

(39) ACOUSTIC ASSESSMENT

An acoustic assessment demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines" shall be lodged with the Stage 2 DA documentation.

ROADS AND MARITIME SERVICES CONDITIONS**(40) NO STOPPING RESTRICTION**

Full time 'No Stopping' parking restriction shall be implemented on Botany Road along the full length of the subject site.

(41) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

A Construction Traffic Management Plan detailing construction vehicles routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a construction certificate for the Stage 2 DA.

(42) CONSTRUCTION VEHICLE ACCESS

All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.

(43) VEHICLE ACCESS

The site must be configured to allow all vehicles to be driven into and from the site in a forward direction. Details shall be submitted with the Stage 2 Development Application.

(44) DETAILED DESIGN DOCUMENTATION

The developer is to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to the RMS for assessment. The developer is to meet the full cost of the assessment by the RMS.

This report would need to address the following key issues:

- (a) The impact of excavation/rock anchors on the stability of the Botany Road and detailing how the carriageway would be monitored for settlement;
- (b) The impacts of the excavation on the structural stability of the Botany Road;
- (c) Any other issues that may need to be addressed. (Contact: Geotechnical Engineer Stanley Yuen on phone 8837 0246 or Graham Yip on phone 8837 0245 for details).

(45) STORMWATER DISCHARGE

The post development stormwater discharge from the site into the RMS drainage system does not exceed the pre-development discharge.

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RMS for approval prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management
Roads and Traffic Authority
PO Box 973, Parramatta CBD 2124

A plan checking fee will be payable and a performance bond may be required before the RMS's approval is issued. With regard to the Civil Works requirement please contact the RMS's Project Engineer, External Works, ph: 8849 2114 or Fax: 8849 2766.

(46) COMPLIANCE WITH AUSTRALIAN STANDARDS

The layout of the proposed car parking areas, loading docks and access driveway associated with the subject development (including, grades, lifts, turn paths, sight distance requirements, aisle widths and parking bay dimensions) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002 for heavy vehicle usage.

(47) NO COST TO RMS

All works associated with the development are to be at no cost to the RMS.

SCHEDULE 2

The prescribed conditions in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000 apply to the development.

BACKGROUND

The Site and Surrounding Development

1. A site visit was carried out on 18 December 2014.
2. The site comprises 301-303 Botany Road, Zetland. It has an area of approximately 5,470sq.m and has an irregular shape. It has a 54m frontage to Bourke Street to the north and a 50m frontage to Botany Road to the west.
3. Upon the completion of the City's public domain works at the northern end of the Green Square Town Centre, the land will have frontage to future Ebsworth Street to the north-east and future Tweed Place to the south-east. In particular, the north-east frontage of the site will be to the planned 'high street' for the town centre.



Figure 1: Aerial image of site and Green Square Town Centre boundaries



Figure 2: Location of site, highlighted, relative to Green Square Town Centre boundaries

4. The site contains a single storey motor showroom, offices, vehicle service centre and extensive hardstand areas for the display of vehicles. These structures were used by John Newell Mazda for 18 years between 1993 and 2011. The site was recently used as a Nissan and Suzuki dealership but has been vacant pending redevelopment for several months.
5. The surrounds of the site are set to undergo a radical transformation over the next 10-20 years as the development of the Green Square Town Centre takes shape. The Town Centre covers an area of 13.74 hectares in some of Sydney's oldest industrial districts. The Town Centre comprises 15 allotments earmarked for 19 development sites within the applicable planning controls. The subject site is identified as 'Development Site 6'.
6. Council's vision for the Green Square Town Centre is for a centre that provides employment, services and dwellings for the Green Square redevelopment area (278 hectares) and the southern areas of the City of Sydney Local Government Area. It will do so by providing retail, office, residential, leisure, medical, cultural and civic functions. In particular, it is forecast that the Town Centre will house 6,500 residents and will be *the* main retail and commercial centre between the CBD and the airport.
7. Surrounding development includes current manufacturing, processing, distribution and automotive industries. A number of surrounding sites have been vacated and cleared of improvements, including land formerly used as two local government depots and waste management facilities.
8. Photographs of the existing buildings and their surrounds are found below.



Figure 3: View toward the south-east illustrating Site at intersection of Bourke Street, Botany Road and O'Riordan Street



Figure 4: Photograph of the site from corner Bourke Street and Botany Road



Figure 5: Photograph of Green Square Station access to the west

HISTORY RELEVANT TO THE APPLICATION

Stage 1 Development Application

9. John Newell Pty Ltd received development consent in February 2013 for a Stage 1 DA to establish maximum building envelopes and the allocation of retail and residential floorspace to the site.
10. The consent provided approval for:
 - (a) building envelopes with the potential to accommodate 34,380sq.m of residential floor space (approximately 346 apartments), 5,000sq.m of retail floor space and 3 levels of basement car parking;
 - (b) 8 – 18 storeys built form;
 - (c) indicative vehicular access; and
 - (d) indicative landscaping and public domain works.

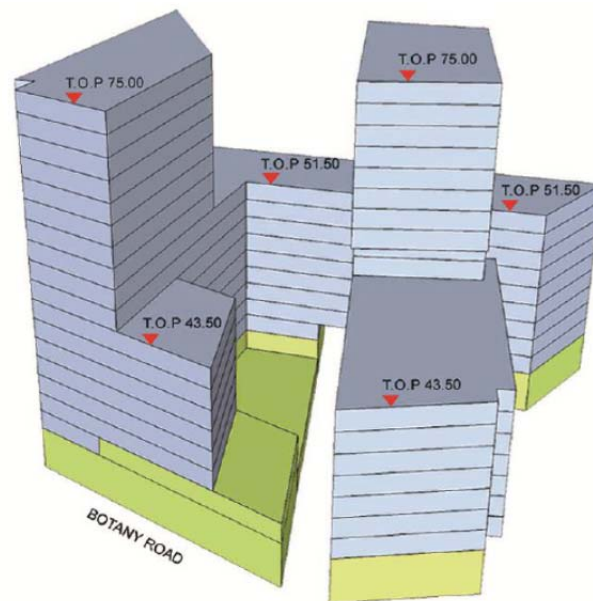


Figure 6: Approved Building Envelopes – Botany Road frontage

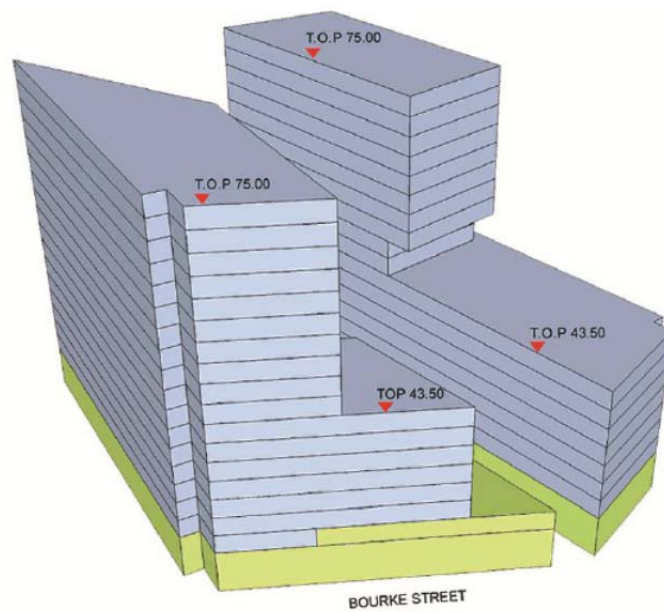


Figure 7: Approved Building Envelopes – Bourke Street frontage

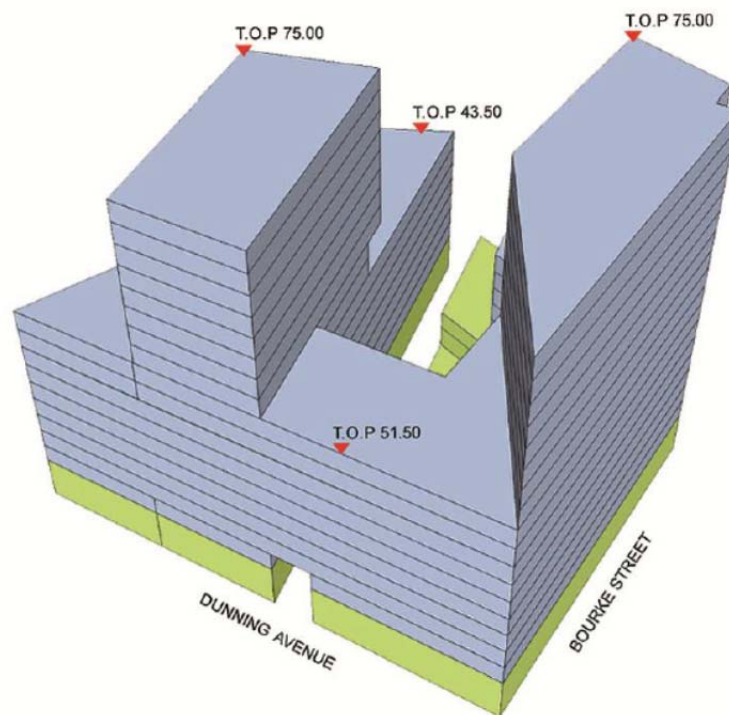


Figure 8: Approved Building Envelopes – corner Bourke Street and future Ebsworth Street

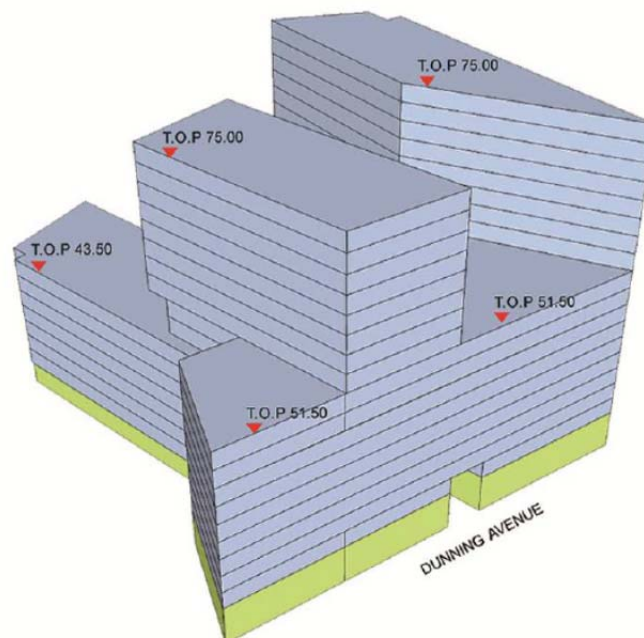


Figure 9: Approved Building Envelopes – corner future Ebsworth Street and future Tweed Place



Figure 10: Indicative perspective of approved building envelopes, as viewed from Botany Road frontage



Figure 11: Indicative perspective of approved building envelopes, as viewed from Bourke Street frontage

11. Following the Stage 1 approval, Crown Group acquired the site from John Newell and carried out a competitive design process.

Competitive Design Process

12. From November 2013 to March 2014 Crown Group conducted a competitive design process to ensure design excellence was achievable with the Stage 2 DA.
13. The competition brief included a requirement to increase sun access into the Green Square Plaza and Library via redistribution of the approved building envelopes.
14. Koichi Takada Architects were unanimously selected by the competition jury. Among the reasons cited for their support, the jury felt that:
 - (a) the looped building form is inspiring and will become an icon, it is an exciting and contemporary sculptural form;
 - (b) the looped building form has high functionality in providing additional northern sunlight to penetrate to the Green Square Plaza and Library, the apartments and the internal courtyard;
 - (c) the design has a strong relationship with the plaza and library;
 - (d) the apartment layouts were well thought-out; and
 - (e) the design displayed rich materials.
15. In May 2014, Koichi Takada Architects and Crown Development briefed the City's Design Advisory Panel on the proposed rearrangement of the building envelopes. The Panel commended Crown and Koichi Takada Architects for their ambition and positive contribution to the diversity of design in the Green Square Redevelopment Area.

Stage 2 Development Application

16. A Stage 2 DA was lodged in November 2014. The Stage 2 DA is subject to a concurrent assessment report for the Committee's consideration.

Release of Planning Controls

17. The Green Square Town Centre LEP 2013 (GSTC LEP) operates on a "deferral" model. The planning controls are suspended until the landowners seek to enter into the controls to achieve an uplift in development potential in return for commitment to funding or works in kind for town centre infrastructure and services.
18. The former owner, John Newell Pty Ltd, entered into a Voluntary Planning Agreement (VPA) with the City in 2012 to commit to funding and land dedications for essential infrastructure in the town centre. However, the Stage 1 DA was able to be determined under the Green Square planning controls within the South Sydney LEP 1998 (Amendments 17 and 19). The Stage 1 DA did not rely on the "unlocking" of the GSTC LEP, which was nevertheless in draft when the DA was determined.

19. The new owners have since executed a fresh VPA with the City, and the City has requested that NSW Planning and Environment unlock the GSTC LEP controls via gazetting a fresh zoning map, fresh building height map, fresh floor space ratio map, etc, showing the site.
20. The South Sydney LEP contains precise building envelopes and floorspace allocation controls that are too rigid for the Section 96 modification application. As such, the recommendation of this report is for the CSPC to delegate authority to the CEO for the determination of the Section 96 modification after the GSTC LEP is un-deferred. At that time, the new LEP is to be given significant and determinative weight and the South Sydney LEP (remaining applicable due to a savings clause) is to be given little weight in the determination.
21. At the time of writing this report, NSW Planning and Environment is currently in the process of 'un-deferring' the Green Square Town Centre LEP.

PROPOSAL

22. The Section 96 modification seeks to amend the Stage 1 consent to align with the revised building envelopes and floorspace allocation within the design competition scheme and Stage 2 DA. Revised building envelopes are requested to permit the undulating and sculptured built form now proposed, with height falling from north to south and a large oval-shaped void in the northern corner for solar access.
23. The proposed allocation of floorspace (taken from the concurrent Stage 2 DA) is as follows:
 - (a) Residential GFA – 35,530sq.m;
 - (b) Retail GFA – 3,838sq.m; and
 - (c) Auditorium GFA – 756sq.m
24. **Figures 12 to 15** below illustrate the proposed amendments to the building envelopes. **Figures 16 and 17** are extracts from the Stage 2 DA illustrating the detail of the design as progressed. Elevation plans are included within **Attachment A**.

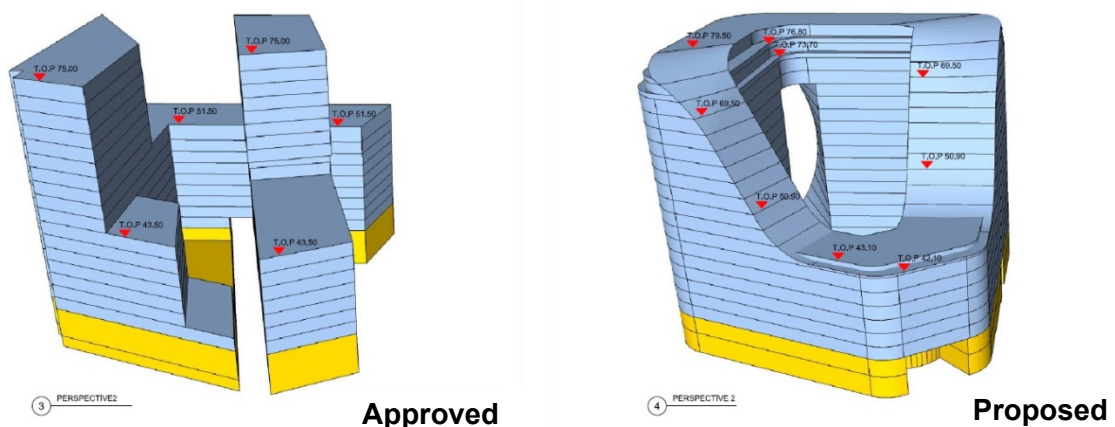


Figure 12: Comparison between approved Stage 1 building envelopes and proposed envelope, as viewed from Botany Road and approved Plaza and Library

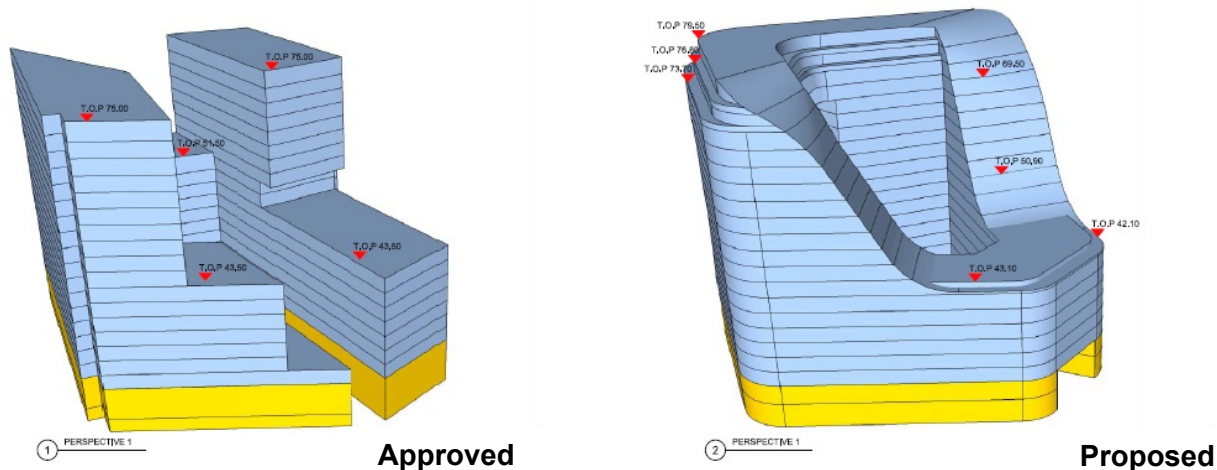


Figure 13: Comparison between building envelopes, as viewed from Botany Road

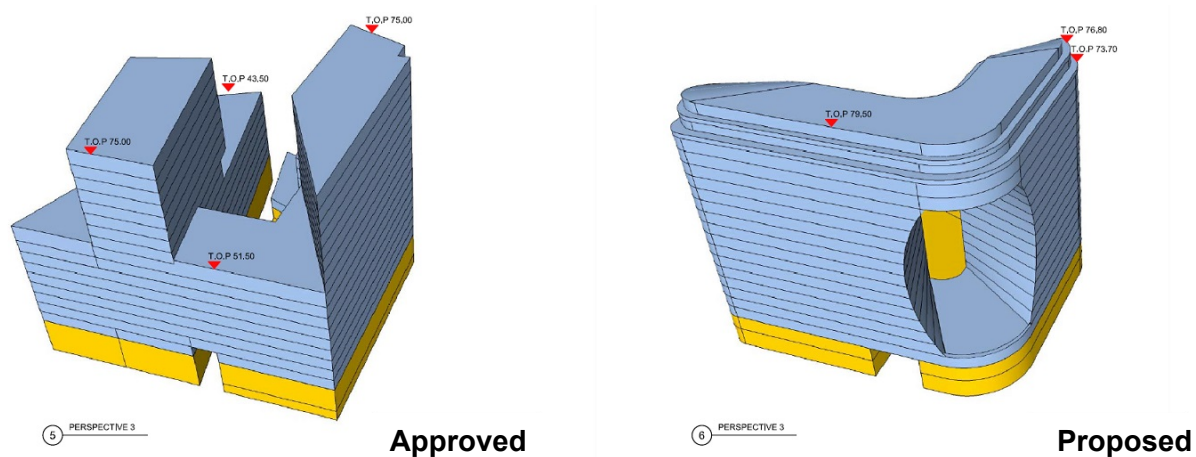


Figure 14: Comparison between building envelopes, as viewed from corner Bourke Street and future Ebsworth Street

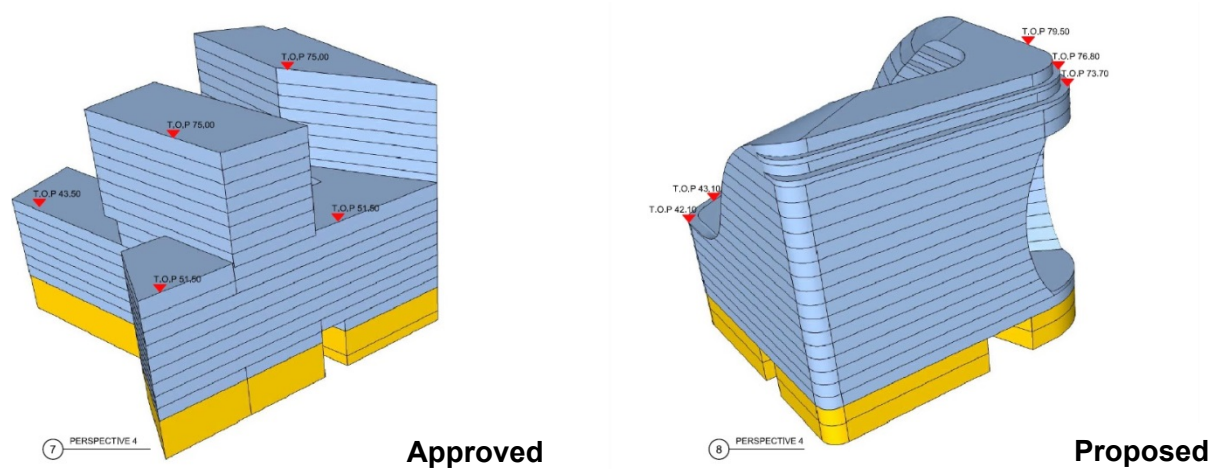


Figure 15: Comparison between building envelopes, as viewed from corner future Ebsworth Street and future Tweed Place



Figure 16: Stage 2 DA perspective from corner of Bourke Street and future Ebsworth Street



Figure 17: Stage 2 DA Perspective from Botany Road including interface with Green Square Plaza and future Tweed Place

CITY OF SYDNEY ACT 1988

25. Section 51N requires the Central Sydney Planning Committee (the Planning Committee) to consult with the Central Sydney Traffic and Transport Committee (CSTTC) before it determines a DA that will require, or that might reasonably be expected to require, the carrying out of road works or traffic control works likely to have a significant impact on traffic and transport in the Sydney CBD. A full extract of this Section is provided below.

"51N Planning proposals having a significant impact on traffic and transport in the Sydney CBD

- (1) The Planning Committee must consult the CSTTC before it exercises a function under Part 4 that will result in the making of a decision that will require, or that might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD.*
 - (2) The Planning Committee must take into consideration any representations made by the CSTTC within the period of 21 days (or such other period as is agreed to by the CSTTC and the Planning Committee in a particular case) after consultation takes place.*
 - (3) The Planning Committee may delegate to a subcommittee of the Planning Committee, or the general manager or another member of the staff of the City Council, any of its functions under this section other than this power of delegation. A delegation can be given subject conditions. A delegation does not (despite section 38) require the approval of the Minister administering that section.*
 - (4) The failure of the Planning Committee to comply with this section does not invalidate or otherwise affect any decision made by the Planning Committee."*
26. Having liaised with the City's Transport and Access Unit, in this instance, the proposal is not considered to have a significant impact on traffic and transport in the CBD, and consultation with the CSTTC is not necessary.

THRESHOLD TEST

27. The development as proposed to be modified is considered to be substantially the same as that originally approved. The development, as modified, would remain a mixed use development of the site with comparable gross floor area (although redistributed), comparable access, activation, through-site link and land uses.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

28. Besides the matters discussed in this report, the assessment against the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 contained in the report to the Central Sydney Planning Committee at its meeting of 21 February 2013 remains relevant. Compared to the approved Stage 1 development, the modified development has similar environmental impact.
29. A copy of the original planning assessment report for Development Application No. D/2012/1056 is provided in **Attachment B**.

30. The key assessment issues in relation to the application are the merits of the revised building envelopes and floorspace allocation. A secondary issue is the transition of the existing South Sydney LEP into the new GSTC LEP and how this affects the assessment.

ISSUES

Revised Building Envelopes

31. Aside from the achievement of design excellence, the proposed undulating building envelopes have a highly functional origin in relation to improving sunlight access to the approved Green Square Town Centre Plaza and Library.
32. Had the approved Stage 1 building envelopes proceeded to Stage 2 DA and construction, the envelopes would have produced a relatively higher level of overshadowing on the Plaza and Library. The undulating building form of the revised envelopes increases solar access to the Plaza and Library at the important midday period, but also provides a unique and compelling built form achieving design excellence.
33. The height of the revised envelopes is modelled on the inclined plane of the midwinter solar access path into the Plaza and Library. As a result of the revised form, the Plaza and Library would receive additional sunlight at ground level between 11am and 12:30pm in midwinter compared to the Stage 1 envelopes. The additional extent of ground plane in sun ranges from 180sq.m up to 425sq.m.

Floorspace Allocation

34. The ground and first floors of the modified building envelopes have been designed to house a multi-purpose auditorium for functions, conferences, exhibitions, as a place of public worship and other community uses. The Stage 2 DA confirms that the auditorium is accessed from a lobby off Tweed Place and occupies the centre of the site below the first floor courtyard.
35. The auditorium is being pursued by the Applicant in lieu of providing the full 5,000sq.m of retail floorspace presently approved within the Stage 1 consent.
36. The auditorium use is permissible under the South Sydney LEP and GSTC LEP, and has merit. It will provide a flexible space for users and compliment the use of the approved Plaza and Library adjacent. Council Officers support the land use. The operational aspects of the use are addressed in the concurrent Stage 2 DA report.

South Sydney LEP 1998 planning controls

37. The South Sydney LEP 1998 currently applies to the site and the GSTC LEP currently applies as a draft instrument that was exhibited.
38. The Section 96 modification application was lodged in advance of the release of the GSTC LEP. The release of the controls is with NSW Planning and Environment and is imminent and certain. Once the new LEP is applicable, significant weight is to be given to it and the proposal will overcome the inherent non-compliances with the older instrument. This report recommends that delegation be provided to the Council's CEO to determine the Section 96 application once the Green Square LEP 2013 is 'un-deferred' for the site.

39. The modified building envelopes and floorspace allocation does not comply with the relevant standards of the South Sydney LEP.
40. These non-compliances arises due to the rigid controls. The highly specific building height standard and floorspace allocation standard within the LEP produces a different outcome than emerged through the competitive design process and Stage 2 DA documentation. If the South Sydney LEP controls were strictly applied, the Stage 1 DA would have:
- (a) separate podium elements (up to RL 51.7) and tower elements (up to RL 75.2). The gradually undulating form of the proposed envelopes is not contemplated by the LEP and the proposed maximum height is non-compliant with the standard;
 - (b) 5,000sq.m of retail floorspace (+/- 10%), 35,000sq.m of residential floorspace (+/- 10%) and up to 5% if total GFA for commercial floorspace (the definition of which includes the proposed auditorium use). The proposed retail floorspace would not be compliant as a result of the conversion of approved retail space to proposed auditorium space.
41. The proposal is compliant with the GSTC LEP in relation to maximum building height. No specific floorspace allocation controls apply under the GSTC LEP. As such, significant and determinative weight is to be given to the GSTC LEP and little weight is to be given to the South Sydney LEP.

Number of Storeys and Street Wall Setbacks

42. The proposal is non-compliant the number of storeys specified in the Green Square Town Centre DCP.
43. A compliant scheme under the DCP would have a particular arrangement of 2 x 18 storey towers above 8-10 storey podium elements (see **Figure 18**).

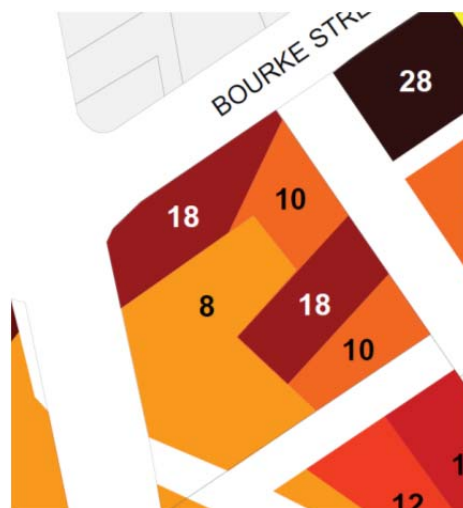


Figure 18: Extract from Green Square DCP showing building height control in storeys

44. The proposal is also non-compliant with the GSTC DCP in relation to providing, along Ebsworth Street only, an 8 storey “street wall” frontage and a 3m secondary setback to create a recessive upper element. However, the DCP would allow an 18 storey tower without a street wall for part of the Ebsworth Street frontage.
45. The urban design of the GSTC DCP approach is different to the form of the proposed development. The approach to designing a scheme for the site took a different course during the competitive design process. The competition brief, as endorsed by Council Officers, included a requirement to increase solar access to the Green Square Plaza and Library compared to the building envelope in the Stage 1 DA (as per the DCP controls). This was to be achieved by redistributing the volume of the Stage 1 envelopes. The effect of Koichi Takada’s undulating building form and consistent street wall height along Ebsworth Street is that it increases solar access to the Plaza and Library.
46. The non-compliances with the height in storeys and street wall height are justified and acceptable.

Other Impacts of the Development

47. The proposed development is capable of complying with the BCA.
48. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

49. The proposal is of a nature in keeping with the master planned use of the site. The mixed use development is in accordance with the desires of the Green Square Town Centre LEP and DCP.

INTERNAL REFERRALS

50. The conditions of other sections of Council have been included in the proposed conditions.
51. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health Unit; Public Domain Unit and Transport and Access Unit; who advised that the proposal is acceptable subject to the recommended conditions.

EXTERNAL REFERRALS

Notification, Advertising and Delegation

52. As a Section 96(1A) modification, and in accordance with Schedule 1 of the GSTC DCP, the proposed development is not required to be notified or advertised. As such, the application was not notified as it is by way of scale, character and operation is likely to have minimal or acceptable impacts compared to the approved development.

Design Advisory Panel

53. The City of Sydney's Design Advisory Panel (DAP) considered the Stage 2 proposal prior to lodgement of the Stage 2 DA and during the assessment of the Stage 2 DA. The DAP support the integrity of the design and the positive contribution it will make to the Green Square Redevelopment Area.

Authorities

54. Roads and Maritime Services were notified of the Stage 2 DA and advised that road widening had already been secured along Botany Road and that certain conditions should be imposed on any Stage 2 consent.
55. As an Integrated Development Application, the NSW Office of Water issued the City with General Terms of Approval (GTAs) for a dewatering licence during construction. The GTAs will be relevant to the Stage 2 DA.
56. Sydney Trains (formerly RailCorp) were requested to provide concurrence for the Stage 2 DA in relation to the proposed extent of excavation relative to the authorities 25m zone of influence from the existing Southern Rail Line. Refer to the concurrent Stage 2 DA assessment report.
57. Sydney Airport were requested to provide concurrence for the Stage 2 DA due to the proposed building height penetrating the Obstacle Surface Limitation (OSL) height plane under the (Commonwealth) Airports Act 1996. Concurrence was provided on 29 April 2015.

VOLUNTARY PLANNING AGREEMENT

58. A VPA was executed between Council and the landowners on 19 December 2014.
59. The provisions of the executed VPA have been taken into consideration in the assessment of the application. The VPA provisions do not have any direct effect on the development, other than by providing a development parcel following the dedication of land and with the requirement to identify future connection points for green infrastructure and services.

PUBLIC INTEREST

60. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

FINANCIAL IMPLICATIONS/S94 CONTRIBUTION**Section 94 and Affordable Housing Contributions**

61. Section 94 contributions and an affordable housing levy are relevant to the determination of the Stage 2 DA and have been imposed within the draft condition of the concurrent Stage 2 DA assessment report.

RELEVANT LEGISLATION

62. The Environmental Planning and Assessment Act 1979.

CONCLUSION

63. The subject application seeks to modify the approved Stage 1 building envelopes and the allocation of floorspace as a result of design refinement through the competitive design process and Stage 2 DA documentation.
64. The proposed building envelopes are considered to be appropriate to the setting and are generally compliant with the relevant planning controls. The revised floorspace allocation has merit and is supported by Council Officers.
65. The application is recommended for determination by the Chief Executive Officer, following the release of the planning controls within the Green Square Town Centre LEP 2013.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Russell Hand, Senior Planner)