

ITEM 5. SECTION 96(2) APPLICATION: 67-77 EPSOM ROAD ROSEBERY**FILE NO: D/2008/102/E****DEVELOPMENT APPLICATION NO: D/2008/102/E****SUMMARY****Date of Submission:** 24 August 2015**Applicant:** Toplace Pty Ltd**Architect:** BVN**Developer:** Toplace Pty Ltd**Owner:** Jolyn Place Pty Ltd**Cost of Works:** \$232,900,000

Proposal Summary: The subject Section 96(2) application seeks to amend the Stage 1 DA approval for five residential flat buildings and one mixed use building, all with associated basement levels.

This application seeks to amend the original Stage 1 DA approval in relation to 'Building A' in the following manner:

- (i) Volumetric shifts re-configuration of the massing across the site;
- (ii) Removal of the 1 and 3 storey commercial buildings in the centre of the site to create a retail courtyard and through site link;
- (iii) Increased height to accommodate architectural treatments at the corner of Dalmeny Ave and Epsom Road;
- (iv) Increased floor to floor heights of 3100mm; and
- (v) Amendment to the proportions of residential, commercial and retail floorspace.

Summary Recommendation: The Section 96(2) application is recommended for approval, subject to modification of conditions.

Development Controls:

- (i) State Environmental Planning Policy No.55 – Remediation of Land
- (ii) State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development (including Draft SEPP amendments)
- (iii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (iv) State Environmental Planning Policy (Infrastructure) 2007
- (v) Sydney Local Environmental Plan 2012
- (vi) Sydney Development Control Plan 2012
- (vii) City of Sydney Development Contributions Plan 2006

Attachments:

- A - Amended Drawings
- B - Stage 1 Drawings
- C - Notice of Determination D/2008/102/C

RECOMMENDATION

It is resolved that consent be granted to Section 96(2) Application No. D/2008/102/E and that Development Consent No. D/20008/102 be modified as follows with modification shown in ***bold italics*** (additions) and **~~*bold italics strikethrough*~~** (deletions), as follows:

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2008/102 dated 24 January 2008 and the Statement of Environmental Effects – Revised Scheme prepared by Urbis dated October 2008, and the following drawings:

Drawing Number	Architect	Date
DA-A07 Rev H	Joshua Farkash and Associates	27 July 2009
DA-A08 Rev H	Joshua Farkash and Associates	27 July 2009
DA-A08A Rev H	Joshua Farkash and Associates	27 July 2009
DA-A08B Rev H	Joshua Farkash and Associates	27 July 2009
DA-A08C Rev H	Joshua Farkash and Associates	14 April 2009
DA-A08D Rev H	Joshua Farkash and Associates	27 August 2009
DA-A08E Rev H	Joshua Farkash and Associates	27 July 2009
DA-A09 Rev H	Joshua Farkash and Associates	27 July 2009
DA-A10 Rev H	Joshua Farkash and Associates	18 May 2010
DA-A11 Rev H	Joshua Farkash and Associates	18 May 2010
DA-A12 Rev G	Joshua Farkash and Associates	14 April 2009
01 Rev A: Basement and Deep Soil Plan and Principles	McGregor Coxall	Submitted 25 January 2012

and as amended by the following drawing:

Drawing Number	Architect	Date
DA-1100	PTW Architects	23/02/2015

and as amended by the following drawing:

<i>Drawing Number</i>	<i>Architect</i>	<i>Date</i>
<i>AR-SK-003</i>	<i>BVN</i>	<i>13/08/15</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.
- (c) Notwithstanding (a) above, the front setback along the Dalmeny Avenue frontage of the site may be reduced to 4 metres in accordance with the South Sydney DCP 1997.

- (d) The existing commercial building referred to as Building A6 is to be demolished.

(Amended via Section 96 (1A) application dated 2 February 2012)

(Amended via Section 96 (1A) application dated 17 October 2014)

(As modified by D/2008/102/C, dated 6 August 2015)

(As modified by D/2008/102/E, dated 17 March 2016)

(8) HEIGHT OF BUILDINGS

- (a) The maximum building envelope shall not exceed:

Building (<i>Stage 2 DA Building No.</i>)	RL
Building A1 (A9)	RL 50.87 56.39
Building A2 (A10)	RL 53.87 56.39
Building A3 (A1)	RL 65.87 72.15
Building A4 (A2)	RL 50.87 65.87
Building A5 (A3)	RL 44.87 53.70
Building A6 (A4)	RL 35.87 53.70
Building A7 (A5)	RL 27.87 53.70
Building A8 (A6, A7, A8)	RL 42.87 44.00 to RL 56.39
Building B	RL 47.75 RL 51.85 to RL 52.05
Building C	RL 37.95 RL 39.65 (4 storey section) RL 34.95 RL 36.65 (3 storey section)
Building D	RL 48.64 RL 48.70 (8 storey section) RL 42.64 RL 42.70 (6 storey section) RL 39.64 RL 39.70 (5 storey section)
Building E/F	RL 48.8 (7 storey section) RL 42.87 RL 43.2 (6 storey section) RL 39.66 RL 41.1 (5 storey section)
Building G	RL 43 (6 storey section) RL 40 (5 storey section)
Building H	RL 43 (6 storey section) RL 40 (5 storey section)

- (b) The building envelopes are approved on the basis that the ultimate building design, including excluding services and lift over-runs, parapets or articulation elements or courtyards elevated above ground, will be entirely within the approved envelopes and provide an appropriate relationship with neighbouring and approved buildings.

(Amended via Section 96 (1A) application dated 2 February 2012)

(As modified by D/2008/102/C, dated 6 August 2015)

(As modified by D/2008/102/E, dated 17 March 2016)

(10) FLOOR SPACE RATIO

- (a) The Floor Space Ratio of the proposed development must not exceed 2:1 calculated in accordance with the ~~South Sydney Local Environmental Plan 1998~~ Sydney Local Environmental Plan 2012. For the purpose of the calculation the floor space area is 66,800sqm (~~55,444sqm~~ ~~58,030sqm~~ **60,944sqm** residential, ~~7,585sqm~~ ~~4,999sqm~~ **3,715sqm** commercial and ~~3,771sqm~~ **2,141sqm** retail **(including 170sqm of ground floor garbage and loading dock to Building A)**).
- (b) Precise details of the distribution of floor space shall be provided with future development applications.
- (c) The proposed development may exceed the maximum permitted floor space under section (a) above but only when calculated in accordance with Clauses 4.4, 6.13 and 6.21 under the Sydney LEP 2012 to the maximum floor space permitted in accordance with these clauses, when those clauses apply.

(Amended via Section 96 (1A) application dated 17 October 2014)

(As modified by D/2008/102/E, dated 17 March 2016)

BACKGROUND

The Site and Surrounding Development

1. The site is located in the north eastern sector of Rosebery, an established suburb comprising a mix of commercial, industrial and residential uses. The area is currently undergoing a period of transition with a number of industrial sites recently being redeveloped as residential developments.
2. The application site forms part of a larger development site consisting of three parcels of land which are collectively known as 'Overland Gardens' and are identified as Lots 1 - 3 DP 1208903. Together, the sites form an irregularly shaped parcel and have a combined area of approximately 33,400sqm. The site is relatively flat and has a 103 metre frontage to Epsom Road and a 257 metre frontage to Dalmeny Avenue. This application seeks to amend the original Stage 1 DA approval, particularly to 'Building A', which is located at the northern end of the site.
3. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site, showing Stage Masterplan area and Building A location

4. The construction of the first stage of development is currently taking place at the southern end of the site, with Buildings D, G and H nearing completion. The majority of buildings have been demolished except for commercial and warehouse buildings at the northern end of the site which are currently vacant, which is the location of the proposed Building A.
5. There are a number of trees along the western and southern boundaries and the site is also bounded partly by an open metal mesh fence, and partly by the masonry wall of the northern warehouse building. Existing vehicular access points are located on both Epsom Road and Dalmeny Avenue.
6. To the south of the site is a relatively high density residential development known as 'Kimberley Grove', comprising a series of residential flat buildings ranging from 4 to 8 storeys in height set around a series of private roads and areas of open space.
7. Development to the north of the site includes a number of single storey car showrooms and commercial buildings, which are to be redeveloped as mixed use residential developments. To the west is a mix of small to medium scale industrial and commercial buildings. There are also residential properties approximately 350m to the west.
8. The 'Dolina' site is located immediately to the east of the site and comprises a number of warehouse storage units. This site is the subject of a Stage 1 development consent for a mixed use development which interacts with that of the subject site.
9. The site is located within close proximity of transport links and local amenities. The eastern distributor road is located approximately 150 metres to the east of the site and Green Square train station is approximately 1.4km to the north west, both providing direct access to Sydney CBD and Sydney airport. The site is also in close proximity to the future Green Square Town Centre, is served by a bus stop located directly adjacent to the site on Epsom Road, as well as existing and proposed cycleways along Epsom Road.
10. Photographs of the site are provided below:



Figure 2: The northern end of the site viewed from the corner of Epsom Road and Dalmeny Avenue.



Figure 3: The site viewed from Dalmeny Avenue.



Figure 4: Looking east across the site.



Figure 5: Looking south across the site showing Buildings H, G and D nearing completion.



Figure 6: Building D viewed from Dalmeny Avenue.



Figure 7: The southern edge of the site showing Buildings D, G and H nearing completion.



Figure 8: Opposite side of Dalmeny Avenue

11. The following Stage 1 development application is relevant to the site:

Stage 1 - D/2008/102

- (a) On 30 July 2010, the Central Sydney Planning Committee granted a Stage 1 development consent for the following development:
- (i) 5 residential flat buildings ranging in height from 4 to 8 storeys with associated basement levels (Building B-H).
 - (ii) 1 mixed use building ranging in height from 1 and 13 storeys with associated basement levels (Building A).
 - (iii) Public domain works including:
 - a. A 3,260sqm public park
 - b. 4 new internal roads
 - c. The dedication and setback of a 1.4m strip of land along the Epsom Road boundary
 - d. The dedication and setback of two strips of land along the eastern boundary of the site for future footpaths or landscaping.

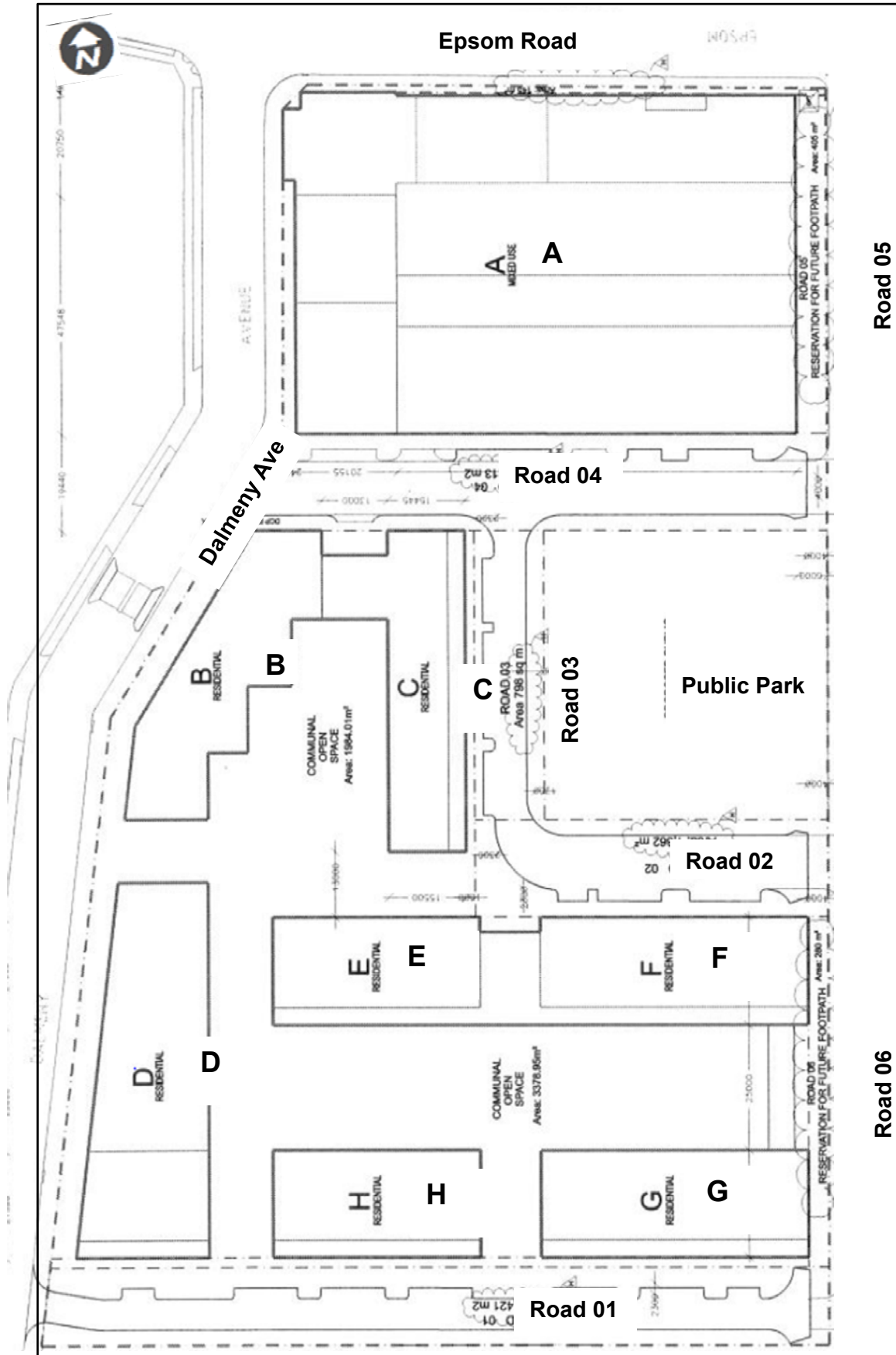


Figure 9: The Stage 1 Development Application location plan.

- (b) This application was modified as follows:
- (i) D/2008/102/A - to include a basement plan, amend the height, and alter the timing of delivery of the Epsom Road/ Link Road upgrade.
 - (ii) D/2008/102/B – to reference current planning controls.
 - (iii) D/2008/102/C:
 - a. Increased height of Building B (by 4.3m), C (by 1.7m), Building E-F (by 4.03m).
 - b. Shifted footprint of Building E to the north.
 - c. Included protrusions outside of the building envelopes on the eastern side of Building B and the western side of Building C.
 - d. Reduction in building envelope and the junction of Building B and C.
 - e. Amend Condition 17 (Upgrade to Epsom Road / Link Road Intersection) to amend the timing to complete the upgrade to prior to the Final Occupation Certificate for Building A.
12. The following voluntary planning agreement is relevant to the proposal:
- (a) A Voluntary Planning Agreement (VPA) associated with a public benefit was executed on 28 September 2010. The agreement included the following public benefits:
 - (i) Construction of Roads 01 (2,421sqm), 02 (1,362sqm), 03 (798sqm), 04 (2,215sqm), 05 (405sqm) and 06 (280sqm) and dedication to Council.
 - (ii) Construction of a public park (3,260sqm) and dedication to Council.
 - (iii) Footpath widening along Epsom Road (145sqm).
 - (iv) A contribution of \$1,670,000 for the purpose of infrastructure in or about the area known as “Green Square Town Centre”.
 - (v) A contribution of \$174,400 for the purpose of cycleway infrastructure in or about the area surrounding the site.
13. The following approved Stage 2 Development Applications are relevant to the site:
- (a) D/2011/1202: On 2 April 2012, approval was granted for the Stage 2 Development Application for the construction of ‘Building D’, a 5 to 8 storey residential flat building with 2 basement levels comprising 105 apartments and 105 car spaces.
 - (b) D/2011/1203: On 5 March 2012 approval was granted for the Stage 2 Development Application for the construction of ‘Road 01’ along the southern boundary of the site, plus infrastructure and service works.

- (c) D/2011/1789: On 7 February 2012, approval was granted for use of part of the existing warehouse building fronting Dalmeny Avenue as a temporary display apartment and showroom, utilising the site's existing car parking, hard stand and landscaping.
 - (d) D/2012/1422: On 26 February 2013, approval was granted for the Stage 2 Development Application for the construction of 'Buildings G and H' for 5 to 6 storey residential flat building with 2 basement levels comprising 118 apartments and 105 car spaces.
 - (e) D/2013/284: On 29 May 2013, approval was granted for the demolition of southern warehouse, northern warehouse and gatehouse building plus the temporary infilling of walls to ensure weatherproofing of the approved display suite adjacent to Dalmeny Avenue.
 - (f) D/2015/287: On 4 May 2015, approval was granted for subdivision of the site, being Lots 1 and 2 in DP858174, into 3 new lots and dedication of Road 01 (Galara Street) and part of Road 06 (Gilbanung Street) as Public Road.
 - (g) D/2014/1977: On 6 August 2015, approval was granted for the Stage 2 Development Application for the construction of four residential buildings known as buildings B, C, E and F containing 247 units and two levels of basement parking.
 - (h) D/2015/886: On 1 September 2015, approval was granted for a Stage 2 Development Application was lodged for land subdivision and the construction of Roads 02, 03 and 04.
14. The following competitive design process is relevant to the proposal:
- (a) In June 2014, a Competitive Design Alternative Process (CMP/2014/20) commenced where three invited architects designed schemes for the redevelopment of the site. The selected winner of the process was BVN Architects.
15. The following Stage 2 Development Applications currently being assessed are relevant to the site:
- (a) D/2015/624: On 11 May 2015, a Stage 2 Development Application was lodged for the construction of a part 6 and part 13 storey mixed use buildings known as Building A, containing 267 residential units, 49 serviced apartments, 17 ground floor retail premises and two levels of basement parking for 283 vehicles. Building A had been subject to a design competition (CMP/2014/20). The selected winner of the process was BVN Architects. Photomontages of the proposed Building A design are shown in Figures 10 and 11. This is subject to a separate report for the consideration of the Central Sydney Planning Committee (CSPC).



Figure 10: Photomontage - corner of Epsom Road and Dalmeny Avenue



Figure 11: Photomontage southern elevation

PROPOSAL

16. This application seeks to amend the original Stage 1 Development Application approval in the following manner:

(a) Condition 1 – Approved development

(i) Amendments in relation to the building envelopes as follows:

- a. Volumetric shifts and re-configuration of the massing across the site;
- b. Removal of the 1 and 3 storey commercial buildings in the centre of the site to create a retail courtyard and through site link;
- c. Increased height to accommodate architectural treatments at the corner of Dalmeny Avenue and Epsom Road; and
- d. Increased floor to floor heights of 3100mm.

(b) Condition 8 – Height of Buildings

(i) Amendments to the RLs of Building A as follows:

Stage 1 Building No.	Stage 2 DA Building No.	Approved RL	Proposed RL
A3	A1	65.87	65.87 - 72.15
A4	A2	50.87	47.10 - 65.87
A5	A3	44.87	47.10 - 53.70
A6	A4	0 - 35.87	53.70
A7	A5	27.87	47.10 - 53.70
A8	A6	42.87	47.10
A8	A7	42.87	44.00 - 51.19
A8	A8	42.87	44.00 - 56.39
A1	A9	50.8	56.39
A2	A10	53.87	49.50 - 56.39

(c) Condition 10 – Floor Space Ratio

(i) to amend the proportions of residential, commercial and retail floorspace from 58,030sqm residential, 4,999sqm commercial and 3,771sqm retail to 60,944sqm residential, 3,715sqm commercial and 2,41sqm retail.

17. The volumetric shifts are demonstrated in Figures 12-15 with the Stage 1 Development Application envelope shown in red compared against the proposed built form under the Stage 2 Development Application (D/2015/624).
18. It is noted that the massing of the Stage 1 Development Application specifically excludes services and lift over-runs, parapets or articulation elements and did not allow for 3100mm floor to floor heights.

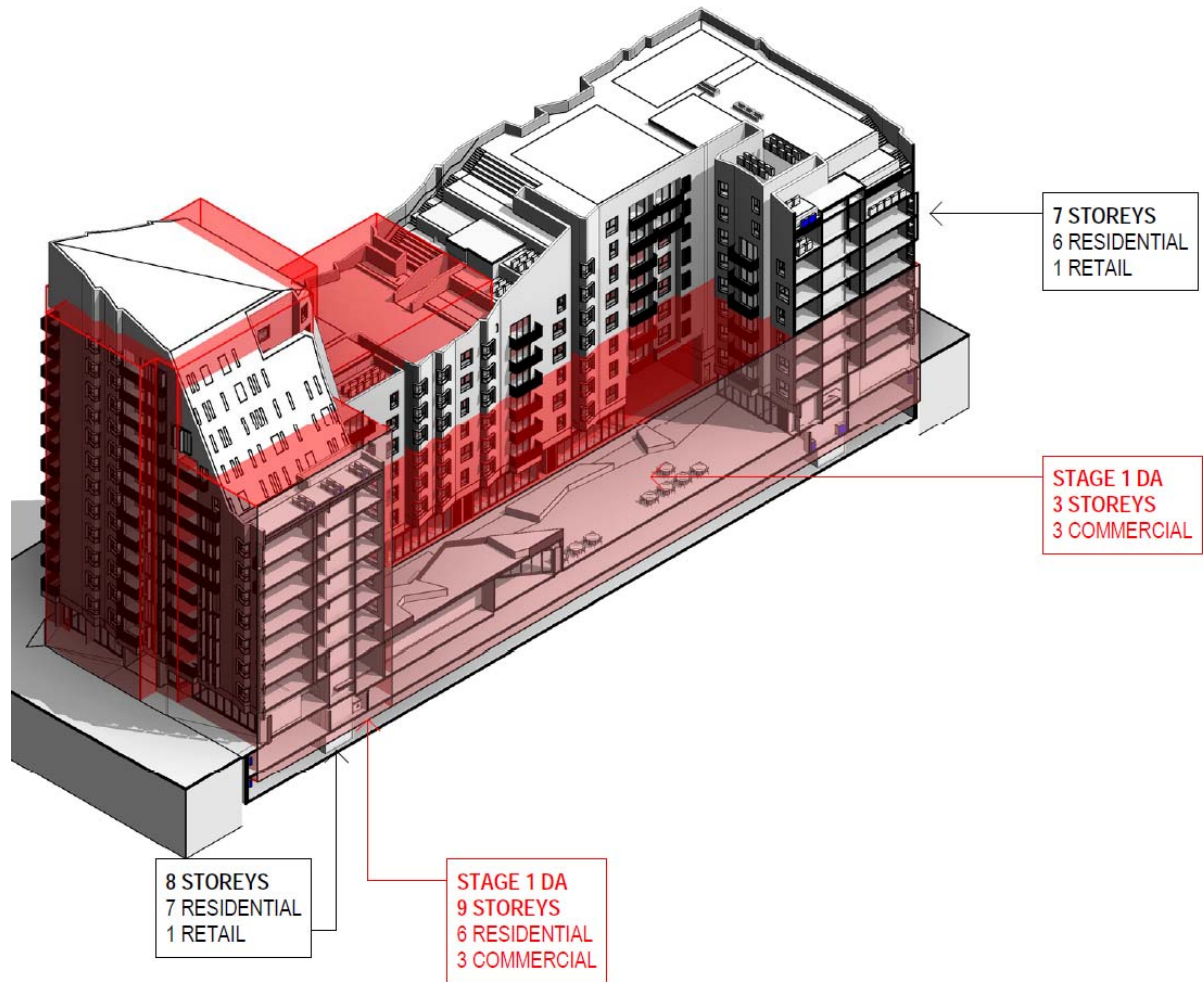


Figure 12: Massing Comparison Building A – South West

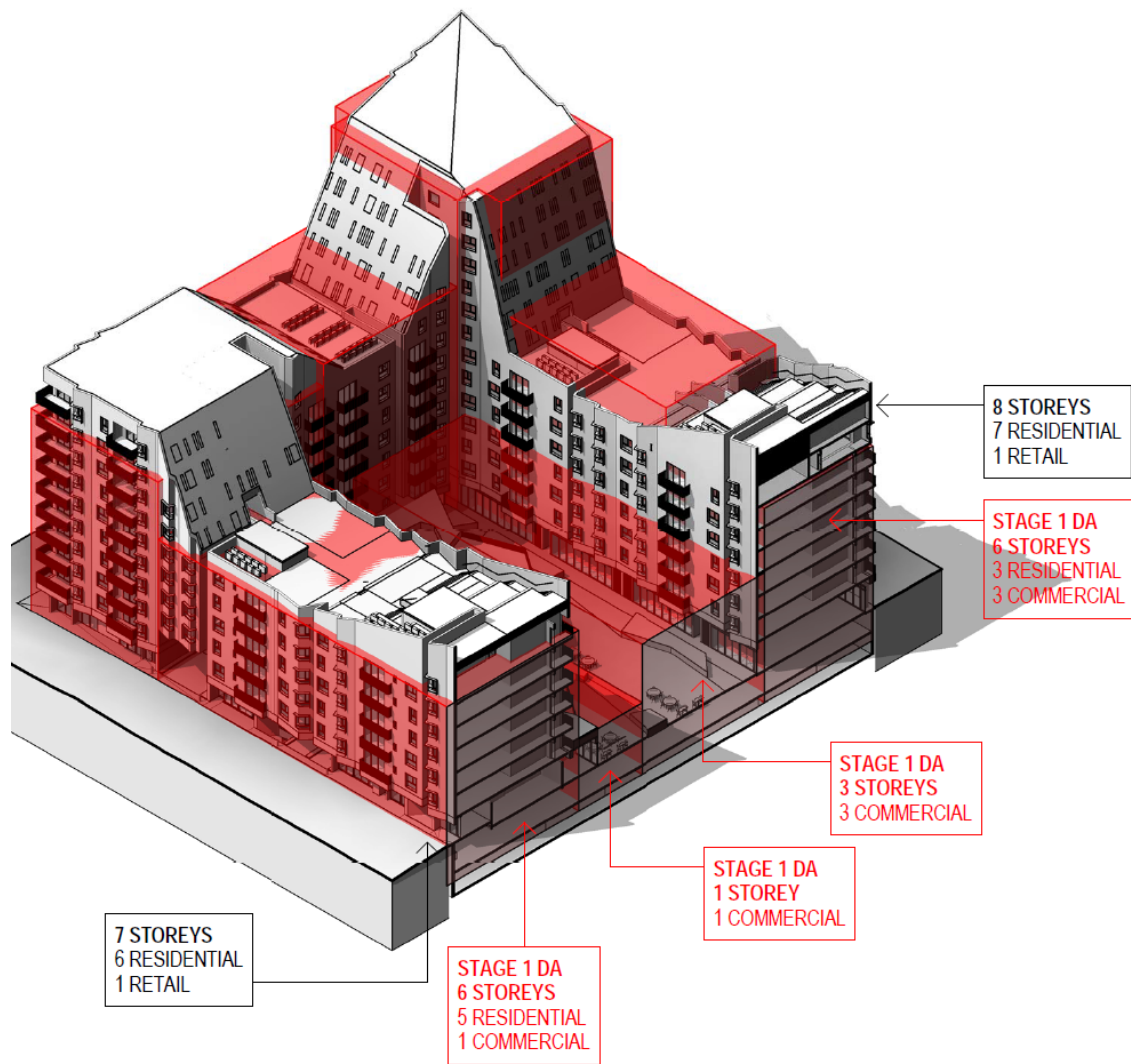


Figure 13: Massing Comparison Building A – South East

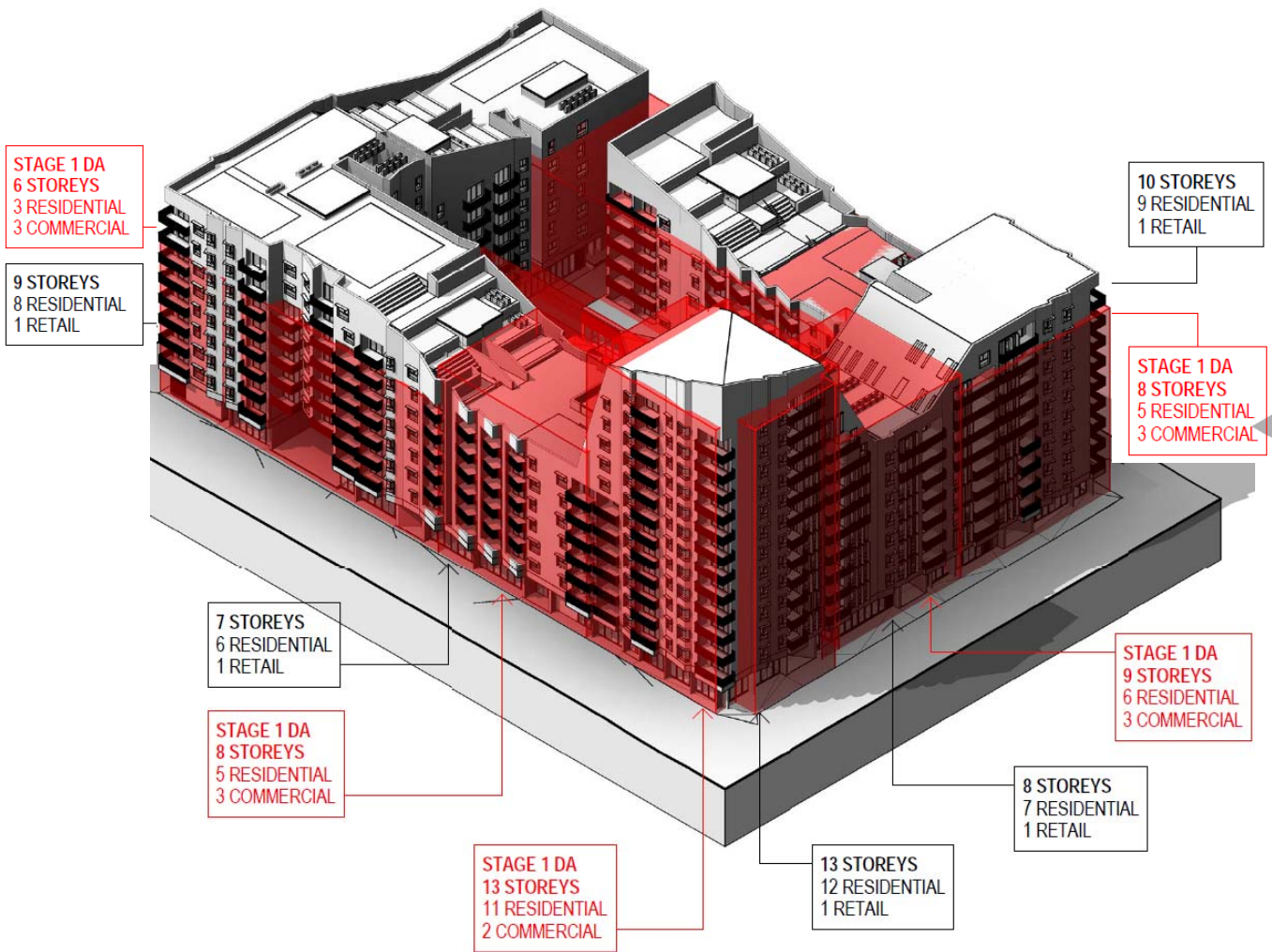


Figure 14: Massing Comparison Building A – North West

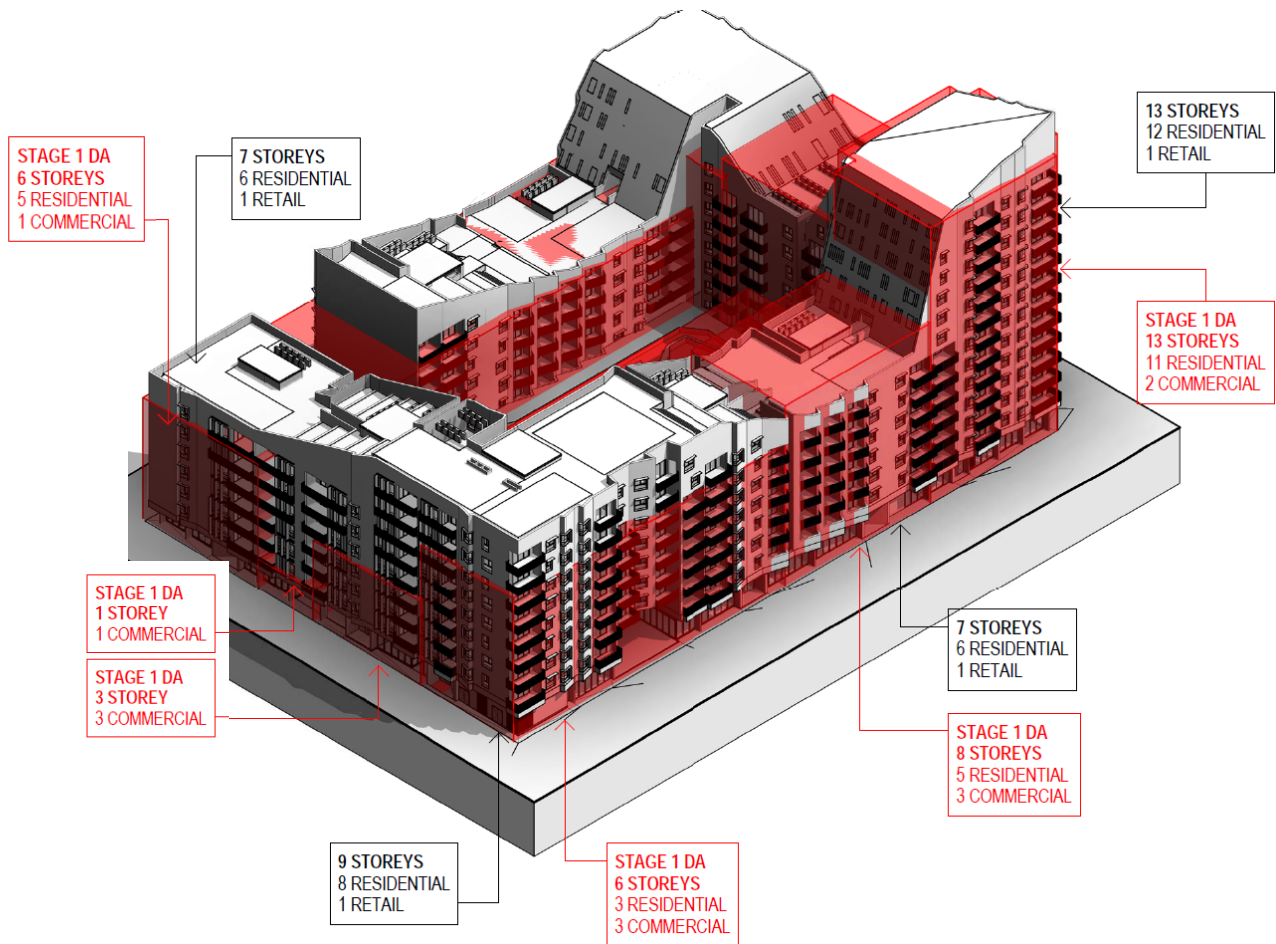


Figure 15: Massing Comparison Building A – North East

THRESHOLD TEST

19. The development as approved remains a Stage 1 Development Application including a range of buildings (A-F), new roads and a new park. All buildings, apart from Building A, remain unchanged, as do the public roads, new park and public domain works.
20. The changes only relate to Building A which remains a mixed use building ranging in height from 6 to thirteen storeys.
21. Given the above the development as proposed to be modified is considered to be substantially the same as that originally approved.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

22. Besides the matters discussed in this report, the assessment against the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 (EP&A Act) contained in the report to the Central Sydney Planning Committee at its meeting on 6 May 2010 are still relevant.
23. The provisions of the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) and Sydney Development Control Plan 2012 (Sydney DCP 2012) have been taken into consideration in the assessment of the proposal.

24. A copy of the Notice of Determination D/2008/102/B is provided in Attachment C.

Assessment

25. Each condition requested to be modified is considered below:

Condition 1 – Approved development

26. The application proposes to modify the Stage 1 building envelopes.
27. The amendments are a result of detailed design as part of the design alternatives competition process and the submission of the Stage 2 Development Application (D/2015/624) for Building A.
28. The main modification includes the removal of the 1 and 3 storey commercial buildings in the centre of the site and the volumetric shift of floorspace, including increased heights, to the external parts of the built form. This allows for the creation of a retail courtyard and through site link.
29. While the shifting of the envelope from the centre of the site has resulted in higher envelopes in some locations, the height has been appropriately located to ensure minimal impact, in particular overshadowing, on other residential development and the public park to the south.
30. The lower building forms front the future public park to retain a more human scale and minimise overshadowing impacts. Solar access to more than 50% of the future public park will be achieved between 9am and 3pm and is considered to be acceptable.
31. Shadow diagrams demonstrate that the residential buildings (B and C) to the south on Margari Street would not be unreasonably overshadowed. Building C does not have its primary living area orientated north, but rather to the east over the park. As such the additional height will not impact upon Building C achieving their solar access requirements. The north facing apartments within Building D building achieves solar access generally between 11am and 3pm in mid-winter. Accordingly all north facing units in Building B achieve the required 2 hours of solar access.
32. The built form heights proposed appropriately addresses the surrounding streets and the introduction of the retail courtyard and through site link is considered to be result in a better outcome at the ground floor.
33. On the basis of the above, the proposed amendments to the building envelope are acceptable and the condition can be amended accordingly.

Condition 8 – Height of Buildings

34. The application proposes to modify the RLs of Building A as follows:

Stage 1 Building No.	Stage 2 DA Building No.	Approved RL	Proposed RL
A3	A1	65.87	72.15
A4	A2	50.87	65.87
A5	A3	44.87	53.70
A6	A4	0 - 35.87	53.70
A7	A5	27.87	53.70
A8	A6	42.87	47.10
A8	A7	42.87	51.19
A8	A8	42.87	56.39
A1	A9	50.8	56.39
A2	A10	53.87	56.39

35. The site is subject to a 29m building height control under Clause 4.3 of the Sydney LEP 2012. The table below sets out the approved and proposed building heights of the various part of the proposed Building A and comments on the compliance or contravention with 29m building height control. Figure 16 shows the location of each part of Building A.

Stage 2 DA Building No.	Approved Height (Stage 1 DA)- Not including plant and roof feature	Proposed height to top of roof in meters	Total height excluding architectural roof feature	Comment
A1	43.4	49.6	43.52	<p>The Stage 1 DA already exceeded the 29m height control by 14.4m (not including plant and roof features).</p> <p>The proposal exceeds the 29m height control by 20.6m in total or 14.52 if excluding roof feature. This exceedance is minor in the context of the overall development and will not cause any unreasonable impacts.</p>

Stage 2 DA Building No.	Approved Height (Stage 1 DA)- Not including plant and roof feature	Proposed height to top of roof in meters	Total height excluding architectural roof feature	Comment
A2	28.3	24.5	23.3	Both the Stage 1 DA and proposal do not exceed the 29m height control.
A3	22.3	24.5 – 31.1	23.3 – 29.9	The Stage 1 DA did not exceed the 29m height control. The proposal exceeds the 29m height control by 2.1m in total, or 0.9m if excluding the roof feature. This exceedance is minor in the context of the overall development and will not cause any unreasonable impacts.
A4	0 – 22.3	31.1	29.9	Stage 1 DA did not exceed the 29m height control. The proposal exceeds the 29m height control by 2.1m in total, or 0.9m if excluding the roof feature. This exceedance is minor in the context of the overall development and will not cause any unreasonable impacts.
A5	4.4 – 13.2	31	29.8	Stage 1 DA did not exceed the 29m height controls. Proposal exceeds the 29m height control by 2m in total, or 0.8m if excluding the roof feature. This exceedance is minor in the context of the overall development and will not cause any unreasonable impacts.
A6	19.9	24.2	23	Both the Stage 1 DA and the proposal do not exceed the 29m height limit.
A7	19.5	20-27.9	18.8 – 22.31	Both the Stage 1 DA and the proposal do not exceed the 29m height limit.
A8	19.5	20	18.8	Both the Stage 1 DA and the proposal do not exceed the 29m height limit.

Stage 2 DA Building No.	Approved Height (Stage 1 DA)- Not including plant and roof feature	Proposed height to top of roof in meters	Total height excluding architectural roof feature	Comment
A9	27.8	33.3	32.1	<p>The Stage 1 DA did not exceed the 29m height control.</p> <p>The proposal exceeds the 29m height control by 4.3m in total, or 3.1m if excluding the roof feature. This exceedance is minor in the context of the overall development and will not cause any unreasonable impacts.</p>
A10	31.3	26.7- 33	25.5 – 31.8	<p>The Stage 1 DA already exceeded the 29m height control by 2.3m (not including plant and roof features).</p> <p>The proposed height exceedance of 4m (including roof feature) or 2.8m if excluding roof feature. This exceedance is minor in the context of the overall development and will not cause any unreasonable impacts.</p>

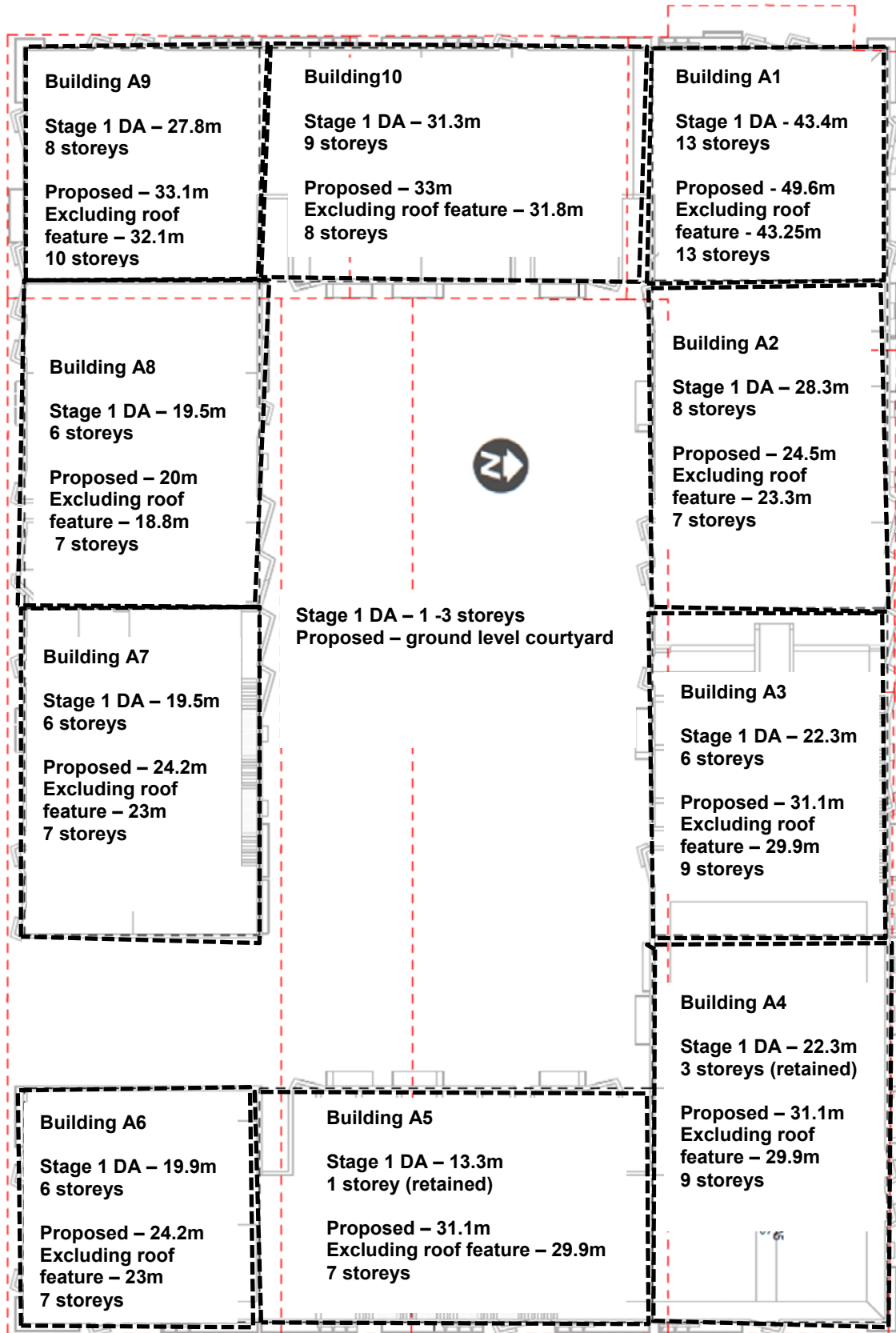


Figure 16: Approved Stage 1 DA heights compared to proposed

36. The objectives of the Height of Building standard are:
- (a) to ensure the height of development is appropriate to the condition of the site and its context,
 - (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,
 - (c) to promote the sharing of views,
 - (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas, and
 - (e) in respect of Green Square:
 - (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and
 - (ii) to ensure the built form contributes to the physical definition of the street network and public spaces.
37. The proposed development is consistent with the objectives for Height of Buildings provided under Clause 4.3 of Sydney LEP 2012 for the following reasons:
- (a) The proposed development is based on the winning competition scheme, including the proposed height;
 - (b) The winning design shifted floor space across the site to improve the relationship of the building with the public domain and the streetscape.
 - (c) The amenity and separation of the proposed building remains compliant and combined with the building scale and form is appropriate to justify a variation.
 - (d) The height has been appropriately located to ensure minimal impact on the public park to the south. The lower building forms front the future public park to retain a more human scale and minimise overshadowing impacts.
 - (e) The building provides appropriate height transitions within the area;
 - (f) The site is not within a conservation area or proximity to a heritage item; and
 - (g) It is unlikely that views will be unreasonably impacted by the additional height.
38. It is noted the site is subject to an 8 storey height control under the Sydney DCP 2012. The application proposes to modify the storeys of Building A as follows:

Stage 1 Building No.	Stage 2 DA Building No.	Approved height in storeys	Proposed height in storeys
A3	A1	13	13
A4	A2	8	7
A5	A3	6	8
A6	A4	3 (existing building retained)	9
A7	A5	1 (existing building retained)	7
A8	A6	6	7
A8	A7	6	7
A8	A8	6	7
A1	A9	8	10
A2	A10	9	8

39. As detailed above the amendments are a result of detailed design as part of the design alternatives competition process and the submission of the Stage 2 Development Application (D/2015/624) for Building A. The additional height is considered acceptable for the following reasons:
- (a) The approved Stage 1 Development Application provided for heights that exceeded the 29 metre height control;
 - (b) The proposed changes are representative of the recent competitive design competition;
 - (c) The building provides architectural roof features that are key design elements of the building and do not constitute additional floor space;
 - (d) The volumetric changes across the development site where GFA has been transferred to create a development with greater amenity; and
 - (e) The height has been appropriately located to ensure minimal impact on the public park to the south. The lower building forms front the future public park to retain a more human scale and minimise overshadowing impacts.
40. On the basis of the above the proposed amendments to the RL's are acceptable and the condition can be amended accordingly.

Condition 10 – Floor Space Ratio

41. The application proposes to amend the proportion of land uses from 58,030sqm residential, 4,999sqm commercial and 3,771sqm retail to 60,944sqm residential, 3,715sqm commercial and 2,141sqm retail.
42. The application retains the overall total floor space of 66,800sqm, and thus the density of the site remains as previously approved.
43. Condition 10(b) states that the 'precise details of the distribution of floor space shall be provided with future development applications'.
44. The proposed proportions of uses are a result of detailed design process. The site is zoned B4 Mixed Uses under the Sydney LEP 2012, which does not restrict the percentage of land use mix.
45. The development is considered to retain a suitable land use mix for the site and the proposed amendment is supported.

Other Impacts of the Development

46. The proposed development is capable of complying with the BCA.
47. 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

48. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial/residential surrounding and amongst similar uses to that proposed.

INTERNAL REFERRALS

49. The application was discussed Heritage and Urban Design Specialists in conjunction with the Stage 2 Development Application (D/2015/624).

EXTERNAL REFERRALS

Notification, Advertising and Delegation (Submission(s) Received)

50. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified. As such the application was notified for a period of 14 days between 3 September 2015 and 18 December 2015. As a result of this notification, one submission was received.

- (a) The proposed new height on north western corner (Corner Epsom Road and Dalmeny Avenue) is too high and will block views in blocks D and B

Response - The height of the tower form to the corner of Epsom Road and Dalmeny Avenue was originally approved as 13 storeys with a maximum RL of 65.87m, and specifically excluded architectural roof features. The proposed tower remains 13 storeys in height, with the only part of the building exceeding the approved RL being the architectural roof form. This sloping roof form is integral to the design of the building. Given Building D is a maximum of 8 storeys in height, the architectural roof feature above the 13th storey on Building A will not have any unacceptable view loss impacts.

- (b) Increased height will result in overshadowing of the internal courtyard and Retailer/Café/Restaurant traders with seating in the internal courtyard will suffer during the winter months with lack of trade, impacting their ability to operate a successful and profitable business that can remain trading.

Response: The additional height will have no further overshadowing impacts on the central courtyard to Building A, which would have been overshadowed by the original built form.

- (c) Overshadowing to the apartments to the south of Margari Street

Response: As detailed above the proposed amendments do not cause any unreasonable overshadowing to either the public park or residential building to the south

- (d) The additional height will equate to more apartments with more residential owners and tenants, which will mean more vehicles and significant further impact on traffic out of Building A from Dalmeny Avenue and Margari Street.

Response: The additional height does not result in additional floorspace, but rather a distribution of where it is located on the site. It is noted that there is an increase in the proportion of residential floorspace as compared to commercial retail space of 2,914sqm. In the context of the overall Masterplan development, which has a floorspace of over 66,800sqm, this shift in proportion is not significant.

PUBLIC INTEREST

51. 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 Contributions

52. There are no financial implications as a result of the amended development. Section 94 and Affordable Housing contributions will be calculated as part of the Stage 2 development applications.

Voluntary Planning Agreement

53. A Voluntary Planning Agreement (VPA) associated with a public benefit was executed on 28 September 2010. The agreement included public benefits including: land dedications, construction of roads and a park as well as a monetary contribution for infrastructure within the Green Square Town Centre and for cycleway infrastructure.
54. The total package value was calculated on the basis of the additional floor space amount and the adopted residential and commercial rates. It is noted that residential floorspace generates a greater need for infrastructure and services and therefore attracts a higher rate than commercial floorspace
55. The proportion of residential and commercial floorspace was established in the Stage 1 DA as 58,030sqm residential, 4,999sqm commercial and 3,771sqm retail.
56. The floorspace proportions proposed under this Development Application, not including the design excellence bonus floorspace is, 60,944sqm residential, 3,715sqm commercial and 2,141sqm retail.
57. This change in the land use mix across the site alters the public benefit obligations. The applicant has submitted a revised public benefit offer made on 17 February 2016 and signed by Mark Fitzpatrick of Toplace Pty Ltd. The revised offer has been reviewed and is acceptable.
58. A deferred commencement consent is recommended for the Stage 2 Development Application for Building A (D/2015/624), to require an updated Planning Agreement to be drafted, exhibited and registered on the tile, prior to the Stage 2 Development Application consent being activated.

RELEVANT LEGISLATION

59. The Environmental Planning and Assessment Act, 1979 (EP&A Act).

CONCLUSION

60. The necessity to modify the approved building envelopes has come from the need to ensure consistency between the staged development applications on the site, as required under Section 83D of the EP&A Act.
61. As modified, the proposed envelope achieves the same design intent as the original Stage 1 Development Application building envelope; however, allows the envelope to better reflect the alternative design competition winning scheme.
62. Having regard to all of the above matters, it is considered that the modification generally satisfies the relevant strategy, objectives and provisions of the Sydney LEP 2012 and the Sydney DCP 2012, is acceptable and is recommended for approval subject to conditions as shown in the recommendation.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Erin Murphy, Specialist Planner)