

ITEM 9. SECTION 96(2) APPLICATION: 106-116 EPSOM ROAD ZETLAND**FILE NO: D/2011/1760/B****DEVELOPMENT APPLICATION NO: D/2011/1760/B****SUMMARY**

Date of Submission: 13 July 2015, amended plans were received 15 June 2016.

Applicant: Mecone Pty Ltd

Architect: BVN

Developer: Lincon

Owner: Lincon Development Pty Ltd

Cost of Works: \$0

Proposal Summary: The subject Section 96(2) application seeks to amend the Stage 1 DA approval for 5 building envelopes ranging from 5 to 14 storeys across the site, including basement car parking and public domain works to the subject site.

This application seeks to amend the original Stage 1 DA approval in the following manner:

Building A

- Increase to the height of Building A1 from 10 to 12 storeys;
- Built form A has been moved 1.4m further to the north;
- The ground floor to floor height has been increased to 5.2m and the floor to floor height of the top level to Building A2 has been increased to 3.31m;
- The ground floor retail component to Building A2 (northern portion) has been lowered from RL21.450 to RL20.820;
- The upper level setback to Building A1 along George Julius Ave has been reduced from 3m to 0m; and
- The ground floor level to all street frontages has been recessed.

**Proposal Summary:
(continued)****Building B and C**

- The ground floor to floor height has been increased to 4.6m and the floor to floor heights of the upper levels have been increased to 3.1m;
- The upper level setbacks have been reduced to Buildings B and C;
- The ground floor first floor levels have been recessed from all street frontages; and
- Part of Building B2 has been increased from 8 to 9 storeys.

Building D

- A setback has been introduced to ground floor and level 1 along Letitia Street and to ground floor along Peters Street;
- Increase to the height of Building D1-D2 by 7m (saw tooth roof);
- The upper level setbacks have been reduced along Peters Street and George Julius Avenue; and
- Building D2 has been setback a further 3.6m along Letitia Street from Level 6 and above.

General

- Revised RL heights and height in metres to the buildings as a result of amendments to the public domain levels as proposed by Council;
- Architectural roof features are to be removed from all the roof tops; and
- Amendments to basement parking levels to allow for consolidated basement to Building B and C and D.

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/2011/1760/A

RECOMMENDATION

It is resolved that consent be granted to Section 96(2) Application No. D/2011/1760/B, and that Development Consent D/2011/1760/A be modified as follows, with modifications shown in ***bold italics*** (additions) and ***bold italics strikethrough*** (deletions), as follows:

PART A**CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING**

1. Prior to the activation of consent:
 - (a) The applicant/developer must liaise and obtain approval from the Sydney Airport Corporation Limited for all buildings/structures with a maximum height greater than 51 metres above Australian Height Datum.
 - (b) The Voluntary Planning Agreement between the Council of the City of Sydney and Lincon Development Pty Ltd (as exhibited 5 July 2013) shall be executed and submitted to Council; and
 - (c) The Voluntary Planning Agreement, as executed, must be registered on the title of the land;
2. Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within ~~24 months~~ 36 months of the date of determination of the development application;
3. The consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied; and
4. Upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent contained under Part B.

(As modified by D/2011/1760/A, dated 5 January 2015)

PART B

CONDITIONS OF CONSENT (ONCE THE CONSENT IS IN OPERATION)

Upon compliance with the conditions contained in Part A, the consent will become operative subject to the following conditions, as may be amended by such other conditions that may reasonably arise as a result of compliance with conditions/information required in Part A.

(1) APPROVED DEVELOPMENT

- (a) The Stage 1 proposal is endorsed in accordance with Development Application No. D/2011/1760 dated 2 November 2011 and the following drawings:

<i>Drawing Number</i>	<i>Architect</i>	<i>Date</i>
DA 1.02 (rev.C) Site Plan	Architects + Partners	10.04.2013
DA 2.00 (rev.C) Sub-Floor Plan	Architects + Partners	10.04.2013
DA 2.01 (rev.C) Typical Basement Plan	Architects + Partners	10.04.2013
DA 2.02 (rev.C) Ground Floor Plan	Architects + Partners	10.04.2013
DA 2.03 (rev.C) Level 1-3 Floor Plan	Architects + Partners	10.04.2013
DA 2.04 (rev.C) Level 4 Floor Plan	Architects + Partners	10.04.2013
DA 2.05 (rev.C) Level 5 Floor Plan	Architects + Partners	10.04.2013
DA 2.06 (rev.C) Level 6-7 Floor Plan	Architects + Partners	10.04.2013
DA 2.07 (rev.C) Level 8 Floor Plan	Architects + Partners	10.04.2013
DA 2.08 (rev.C) Level 9 Floor Plan	Architects + Partners	10.04.2013
DA 2.09 (rev.C) Level 10-13 Floor Plan	Architects + Partners	10.04.2013
DA 3.00 (rev.C) Epsom Road Elevation	Architects + Partners	10.04.2013
DA 3.01 (rev.A) Peters Street North Elevation	Architects + Partners	10.04.2013
DA 3.02 (rev.A) Peters Street South Elevation	Architects + Partners	10.04.2013
DA 3.03 (rev.A) George Julius Ave Elevation	Architects + Partners	10.04.2013

<i>Drawing Number</i>	<i>Architect</i>	<i>Date</i>
DA 3.04 (rev.A) Rose Valley Way North Elevation	Architects + Partners	10.04.2013
DA 3.05 (rev.A) Rose Valley Way South Elevation	Architects + Partners	10.04.2013
DA 3.06 (rev.A) Letitia Street West Elevation	Architects + Partners	10.04.2013
DA 3.07 (rev.A) Letitia Street East Elevation	Architects + Partners	10.04.2013
DA 3.08 (rev.A) North Elevation	Architects + Partners	10.04.2013
DA 3.09 (rev.A) East Elevation	Architects + Partners	10.04.2013
DA 3.10 (rev.A) West Elevation	Architects + Partners	10.04.2013
DA 4.00 (rev.C) Section A-A	Architects + Partners	10.04.2013
DA 4.01 (rev.A) Section B-B	Architects + Partners	10.04.2013

<i>Drawing Number</i>	<i>Architect</i>	<i>Date</i>
DA 000 Rev B	BVN	08.03.16
DA 1.02 Rev B	BVN	08.03.16
DA 2.02 Rev B	BVN	08.03.16
DA 2.03 a Rev B	BVN	08.03.16
DA 2.03 b Rev B	BVN	08.03.16
DA 2.03 c Rev B	BVN	08.03.16
DA 2.04 Rev B	BVN	08.03.16
DA 2.05 Rev B	BVN	08.03.16
DA 2.06 a Rev B	BVN	08.03.16
DA 2.06 b Rev B	BVN	08.03.16
DA 2.07 Rev B	BVN	08.03.16
DA 2.08 Rev B	BVN	08.03.16
DA 2.09 Rev B	BVN	08.03.16

<i>Drawing Number</i>	<i>Architect</i>	<i>Date</i>
<i>DA 3.00 Rev B</i>	<i>BVN</i>	<i>08.03.16</i>
<i>DA 3.03 Rev B</i>	<i>BVN</i>	<i>08.03.16</i>
<i>DA 3.07 Rev B</i>	<i>BVN</i>	<i>08.03.16</i>
<i>DA 3.08 Rev B</i>	<i>BVN</i>	<i>08.03.16</i>
<i>DA 4.00 Rev B</i>	<i>BVN</i>	<i>08.03.16</i>
<i>DA 4.01 Rev B</i>	<i>BVN</i>	<i>08.03.16</i>

(As modified by D/2011/1760/B, dated 11 August 2016)

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.
- (c) All dimensions shown on the approved plans are subject to coordination with an accurate survey plan, to be submitted as part of any Stage 2 development application.
- (d) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(2) EXTENT OF STAGE 1 APPROVAL

This Stage 1 approval is a concept approval for general building envelopes, uses, road layouts, communal open space and public domain dedications.

The exact number of storeys in each building and the total gross floor area of the development will be determined as part of any future development application/s.

(3) NO DEMOLITION OR WORK TO OCCUR PRIOR TO STAGE 2 DEVELOPMENT APPLICATION

Consent is not granted for any of the following:

- (a) Demolition.
- (b) Any construction, refurbishment and/or excavation work.
- (c) The layout, number and mix of residential apartments.
- (d) The car parking layouts, car parking numbers and the location of driveways.
- (e) The design of the building exteriors including facades and roofs.

(4) COMPLIANCE AGREEMENT WITH THE VOLUNTARY PLANNING

The developer must comply with the obligations contained under the terms of the **relevant** Voluntary Planning Agreement between the Council of the City of Sydney and Lincon Development Pty Ltd (~~as exhibited 5 July 2013~~) within the periods specified therein, including but not limited to the following elements:

- (a) Land dedications;
- (b) Easements;
- (c) Embellishment works to roads, footways, stormwater, landscaping and the like; and
- (d) Monetary contributions.

(As modified by D/2011/1760/B, dated 11 August 2016)

(5) DEDICATION OF LAND

- (a) A Draft Plan of Subdivision of the site must be submitted as part of any future Stage 2 development application/s. The plan must include:
 - (i) The dedication of the rear portion of the site in accordance with the Voluntary Planning Agreement referred to in Condition (4) above.
 - (ii) The public road reserves shown on the Public Domain Plan prepared by Architects + Partners, numbered 1.01 Rev. A, dated 10.04.2013).
- (b) The subdivision of land requires development consent and subsequent approval of the final Plan of Subdivision and issue of the Subdivision Certificate under Part 4A of the Environmental Planning and Assessment Act 1979.
- (c) Any proposal to Strata subdivide the buildings will require separate applications to obtain development consent from Council and subsequent approval of the final Strata Plan and endorsement of the Strata Certificate by Council or an accredited certifier in accordance with Section 37 of the Strata Schemes (Freehold Development) Act 1973.

(6) FLOOR SPACE RATIO

- (a) The base floor space ratio for the site is 1.5:1, as provided in the Sydney LEP 2012. The site is eligible for Community Infrastructure Floor Space of up to 2:1 in accordance with Clause 6.14 of the Sydney LEP 2012 and the provision of public benefits to be provided pursuant to the Voluntary Planning Agreement referred to in Condition 4 .
- (b) If the design of any of the buildings is the winner of a competitive design process and Council is satisfied that the building/s exhibits design excellence, Council may grant consent to an amount of floor space that exceeds the floor space ratio permitted under the Sydney Local Environmental Plan (ie 2:1) by up to 10 percent (ie 0.20: 1).

- (c) If approved, the additional floor space must be distributed in accordance with the table provided on the Cover Sheet (numbered DA 000 Issue **B** ~~G~~, dated **8.03.2016** ~~10.04.2013~~), which demonstrates the maximum gross floor area allowable within each building (consistent with clause 3.3.5 of the Sydney DCP 2012).

Note: The amount of additional floor space achievable will not be considered until a detailed Stage 2 development application is submitted to Council.

(As modified by D/2011/1760/B, dated 11 August 2016)

(7) BUILDING ENVELOPES

- (a) The architectural roof features shown on the plans are not approved.
- (b) The height of the approved building envelopes are:

Building	RL	Max. height (metres)	Max. height (storeys)
Building A1	RL 54.75 RL 63.5	33 metres 42 metres	10 12 storeys
Building A2	RL 66.56 RL 69.56	45 metres 49 metres	14 storeys
Building B1	RL 51.59 RL 53.45	30 metres 35 metres	9 storeys
Building B2	RL 47.54 RL 53.45	27 metres 35 metres	8 - 9 storeys
Building B3	RL 38.93 RL 38.85	18 metres 21 metres	5 storeys
Building B4	RL 39.41 RL 38.85	18 metres 20 metres	5 storeys
Building C1	RL 47.85 RL 50.27	27 metres 31 metres	8 storeys
Building C2	RL 38.89 RL 40.23	18 metres 21 metres	5 storeys
Building C3	RL 38.71 RL 40.97	18 metres 22 metres	5 storeys
Building 01	RL 47.18 RL 52.29	27 metres 34 metres	8 storeys
Building 02	RL 47.49 RL 52.33	27 metres 34 metres	8 storeys

- (c) The building envelopes and RIs shown in (b) above are approved on the basis that all elements (including services, roof plant and other ancillary structures) will be integrated into the building design and included in the above RIs. Notwithstanding this, the building envelopes and RIs shown in (b) above do not include architectural roof features. Any architectural roof feature/s and other non-compliances with the RIs shown above are to be justified and assessed as part of future Stage 2 development applications in accordance with the SLEP 2012 (Clause 5.6 Architectural roof features or Clause 4.6 Exception to development standards)

(As modified by D/2011/1760/B, dated 11 August 2016)

(8) LOCATION OF BUILDINGS A1 AND A2

The location of Buildings A1 and A2 is based on the existing Sydney Water canal, which is currently exposed. If the canal is managed in an underground pipe at the time of commencing a Design Excellence Competition or lodging a Stage 2 development application for Buildings A1 and A2, then Buildings A1 and A2 are to be located 4 metres further north of the Epsom Road site boundary. This will increase the footpath along Epsom Road and reduce the width of Rose Valley Way to 15 metres.

(9) TEMPORARY DRIVEWAY NOT APPROVED

The temporary 6 metre wide driveway shown on the Site Plan (DA 1.02 Issue **B C**, dated **8.03.2016** ~~10.04.2013~~) is not approved as part of the consent. George Julius Avenue will be a public street and therefore this reference must be deleted from any future Stage 2 development application/s.

(As modified by D/2011/1760/B, dated 11 August 2016)

(10) FLOOR TO CEILING HEIGHTS

As part of any future Stage 2 development application/s:

- (a) Each residential apartment is to have a minimum floor to ceiling height of 2.7 metres.
- (b) The commercial/retail tenancies are to have minimum floor to ceiling heights of 3.3 metres.

(11) FLOOR TO FLOOR HEIGHTS

As part of any future Stage 2 development application/s:

- (a) The floor to floor height for residential levels must be a minimum of 3.05 metres.
- (b) The floor to floor heights for commercial and/or retail levels must be a minimum of 3.6 metres at ground floor level.
- (c) The floor to floor height for commercial and/or retail levels above ground level must be a minimum of 3.3 metres.

(12) SEPP 65 AND RESIDENTIAL FLAT DESIGN CODE

Any Stage 2 development application must comply with all aspects of SEPP 65 and the ***Apartment Design Guide Residential Flat Design Code***. A detailed compliance table is to be submitted with any Stage 2 DA.

Note: Assessment of the development against the solar access requirements contained in the ***Apartment Design Guide Residential Flat Design Code*** will consider compliance across the whole of the site. Other criteria will be considered on a block-by-block basis (i.e. A-B-C-D as shown on the approved plans).

(As modified by D/2011/1760/B, dated 11 August 2016)

(13) SECTION 94 CONTRIBUTIONS

Section 94 contributions will be payable pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 (as amended) and the City of Sydney Section 94 Contributions Development Contributions Plan 2006, and will be subject to any credit identified in the approved Voluntary Planning Agreement identified under Condition 4. The amount payable is to be determined at determination of a Stage 2 application.

(14) LAND CONTAMINATION

- (a) The site (excluding the land on the rear portion of the site to be dedicated as a park and roadway) is to be remediated and validated in accordance with the approved RAP as denoted within the NSW EPA accredited site Auditor (Andrew Lau, JBS Environmental Pty Ltd) letter of interim advice reference 0503-1110-01 dated, 2 March 2012. Any variations to the proposed remediation Action Plan must be approved in writing by the Accredited Site Auditor and Council prior to the commencement of such work.
- (b) Prior to the exportation of waste (including fill or soil) from the site as part of any future Stage 2 construction works, the material should be classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Environmental Guidelines Assessment, Classification and Management of Non- Liquid Wastes'. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporter if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

(15) SITE AUDIT STATEMENT

Prior to the execution of works associated with Stage 2 development application/s (excluding building work directly related to remediation) a Site Audit Statement (SAS) is to be submitted to Council clearly indicating that the site is suitable for the proposed use. Conditions on the Site Audit Statement shall form part of the consent.

Where the SAS is subject to conditions that require ongoing review by the Auditor or Council these should be discussed with Council before the SAS is issued.

(16) BLOCK A DRIVEWAY

The intersection of George Julius Avenue, Epsom Road and Rosebery Avenue has been identified as a possible location for future signals. The location of the driveway to Block A must comply with the Council and RMS set back requirements from a signalised intersection. As such, the driveway cannot be located along the George Julius Avenue frontage. Details will need to be provided to Council as part of any future Stage 2 development application for the site.

(17) TYPICAL STREET SECTIONS

- (a) Peters Drive Street must include (in section): a 3metre footway, 2.5metre parking lane with tree planting, 3metre traffic lane, 3metre swale, 3metre traffic lane, 2.5 metre parking lane with tree planting, 3metre footway. Final details are to be approved by Council's Traffic Operations Unit as part of the first Stage 2 development application.
- (b) The design and typical sections for George Julius Avenue must be submitted as part of the first stage 2 development application for the site. If the adjacent site has not been developed and an interim road is delivered, the typical sections must be approved prior to the construction certificate being issued.

(18) DESIGN OF NEW ROADS, THROUGH SITE LINKS AND EASEMENTS

- (a) The extent of new roads, through site links and easements are to be in accordance with the requirements of the Voluntary Planning Agreement.
- (b) Detailed design drawings and specifications of the new roads, through site links and easements are to be submitted to Council as part of the relevant Stage 2 development application. The documentation must detail the design, scope and extent of all proposed road, drainage, infrastructure works and landscaping. The documentation must be prepared by a Professional Engineer and Landscape Architect and certified by an appropriately accredited certifier.
- (c) The design must be in accordance with Council's draft Sydney Streets Design Code and must be fully integrated with the Public Domain Plan for the development.
- (d) Stage 2 development application/s are to include and address any requirements and approvals from other authorities (such as public utility service authorities, etc.).

(19) DESIGN OF STREETS

Any future Stage 2 application/s must demonstrate that:

- (a) All streets are designed in accordance with the City of Sydney Public Domain Manual and the Sydney Street Design Code; and

- (b) Stage 2 development application/s must include and demonstrate how all intersections are designed to accommodate a Council waste collection vehicle, as described in Council's Waste Minimisation Policy.
- (c) The applicant can provide evidence to Council's satisfaction that neither a waste collection vehicle nor a medium rigid vehicle will be required to use the intersection of George Julius Avenue and Epsom Road. In this instance, a swept path of the largest service vehicle using the street must be submitted (or a 899 car if no service vehicles will be using the street).

(20) TURNING PATHS

A swept path analysis for each of the intersections must be submitted to Council as part of the street design information of the relevant Stage 2 application. The swept paths must be prepared to show the largest design vehicle performing that turn.

(21) TEMPORARY TURNING CIRCLES

Any future Stage 2 development application/s must demonstrate the following:

- (a) That any road which is constructed and dedicated as a dead end street (as a result of the staged delivery of the site) must provide a temporary vehicle turning area.
- (b) Details of the vehicle turning for the affected road. As a minimum, all temporary turning areas must be designed to accommodate a Council waste collection vehicle, as defined in Council's Waste Minimisation Policy. The vehicle turning area must remain until the subsequent stages are complete and the turning area is no longer required.

(22) ALIGNMENT LEVELS

As part of any future Stage 2 development application/s, footpath alignment levels for all new buildings must be submitted to Council for approval. The submission must be prepared by a Registered Surveyor and must be in accordance with the City of Sydney's Public Domain Manual.

(23) NOISE

Any future Stage 2 development application/s will need to comply with Council's noise criteria for:

- (a) The emission of noise associated with the use, the operation of any mechanical plant and equipment.
- (b) Internal to internal noise transmission - residential amenity.
- (c) Internal acoustic amenity criteria for Green Square.
- (d) Internal to internal noise transmission - commercial amenity.

(24) DEWATERING

If any dewatering of the site is to be undertaken as part of any future Stage 2 development application/s, a bore licence may be required from the NSW Office of Water (NOW) under the provisions of Part V of the Water Act 1912. The NOW licences dewatering to allow excavation for construction for a temporary period, usually 12 months.

NOTE: The Department's instructions to Council are that they will not endorse the extraction of groundwater in perpetuity i.e. permanent dewatering around a development site, because it considers such development to be unsustainable. For this reason any proposed basement or other area that requires dewatering on an on-going basis will be fully tanked.

The applicant is required to confirm to Council that no dewatering is required for the construction project or that a Licence has been applied for and approved by the NOW before the commencement of any works on site.

(25) CIVIL AVIATION (BUILDINGS CONTROL) REGULATIONS

The height of structures is limited to RL 51 in accordance with the Australian Height Datum without prior approval of the Sydney Airport Corporation Limited.

(26) TRAFFIC AND CAR PARKING

- (a) Any Stage 2 development application/s must demonstrate compliance with the on-site parking rates contained in the Sydney LEP 2012.
- (b) As part of any future Stage 2 development application/s bicycle parking is to be provided in accordance with the City of Sydney DCP 2012 and the minimum requirements of Australian Standard AS 2890.3 - 1993 Parking Facilities Part 3: Bicycle Parking Facilities.
- (c) Off-street parking associated with Stage 2 development application/s (such as driveways, ramp grades, aisle widths, aisle lengths, parking bay dimensions, sight distances and loading bays) and service vehicle parking areas shall comply with AS 2890 .1-2004 and AS 2890 .2-2002.
- (d) The swept path of the largest vehicle entering and existing the loading bays within the subject site and associated with any Stage 2 development application/s should be in accordance with AUSTROADS.
- (e) All road works associated with the proposed development shall be at no cost to Council or the RMS.

(27) SERVICE AND GARBAGE VEHICLES

Any future Stage 2 development application/s must demonstrate that loading and unloading facilities and parking for service and garbage vehicles is provided in accordance with Council's Policy for Waste Minimisation in New Developments.

(28) DETAILED DESIGN OF NEW ROAD

Detailed design of new roads, including any alterations to the existing public road and traffic and parking arrangements associated with any Stage 2 development application/s, shall be designed to the satisfaction of Council and in accordance with RMS Technical Directives and shall be referred to the Sydney Traffic Committee for approval. New road works must be designed and constructed in accordance with the City's "Development Specification for Civil Works Design and Construction".

(29) PHYSICAL MODELS

- (a) As part of any future Stage 2 development applications, an accurate 1:500 scale model of the development must be submitted to Council for the City Model in Town Hall House; and
- (b) Prior to an Occupation Certificate being issued for any future development applications, an accurate 1:500 scale model of the development as constructed must also be submitted to Council for placement in the City Model at the City Exhibition Space.

Note:

- (i) The models must be constructed in accordance with the Model Specifications available online at www.cityofsydney.nsw.gov.au/Development/DevelopmentApplicationGuide/PreparingandlodgingaDA.asp. Council's model maker must be consulted prior to construction of the model for Town Hall House. The Manager of Customs House must be consulted prior to the construction of the model for City Exhibition Space.
- (ii) The models are to comply with all of the conditions of the Development Consent.
- (iii) The models must be amended to reflect any further modifications to the approval (under section 96 of the Environmental Planning and Assessment Act) that affect the external appearance of the building.

(30) SUBMISSION OF ELECTRONIC MODELS PRIOR TO CONSTRUCTION CERTIFICATE AND PRIOR TO OCCUPATION CERTIFICATE

- (a) As part of any future Stage 2 development applications, an accurate 1:1 electronic model of the detailed drawings must be submitted to Council for the electronic City Model.
- (b) The data required to be submitted within the surveyed location must include and identify:
 - (i) building design above and below ground in accordance with the development consent;
 - (ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;

(iii) property boundaries and the kerb lines adjacent to the site.

The data is to be submitted as a DGN or DWG file on physical media (floppy disc or CD). All plans are to be referenced to

the submitted Integrated Survey Grid of NSW (ISG), Australian Map Grid (AMG) or Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

- (c) Within the DGN or DWG file each identified structure, feature, utility or service must be distinguished by a combination of layering and/or symbology schema. The submitted plans must be accompanied by a comma delimited text file, detailing the layering and/or symbology schema.
- (d) The electronic model must be constructed in accordance with the City's electronic data protocol. The protocol provides specific details of the information required to be shown and is available online at www.cityofsydney.nsw.gov.au/Development/DevelopmentApplicationGuide/PreparingandlodgingaDA.asp. Council's Design/Technical Support staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.
- (e) Prior to an Occupation Certificate being issued, a second and updated "as built" 1:1 electronic model, in accordance with the above requirements, of the completed development must be submitted to Council for the electronic City Model.

Note: The submitted model/data must be amended to reflect any modifications to the approval (under section 96 of the Environmental Planning and Assessment Act) that affect the location of any of the underground services or structures and/or external configuration of building above ground.

(31) DESIGN FOR ACCESS AND MOBILITY

Any Stage 2 development application/s must demonstrate compliance with the Australian Standards for Design for Access and Mobility AS 1428.1 – 2001 General Requirements for Access - New Building Work, AS 1428.2 – 1992 Enhanced and Additional Requirements – Buildings and Facilities, AS 1428.3 – 1992 Requirements for Children and Adolescents with Physical Disabilities and AS/NZS 1428.4 – 2002 Tactile Indicators, and the Sydney Development Control Plan 2012.

(32) ELECTRICAL SUBSTATION

Any Stage 2 development application/s are to provide evidence of consultation with relevant energy suppliers to confirm availability of supply to the site and determine whether a substation is required to service the development's needs.

(33) CONNECTION TO SEWERS OF SYDNEY WATER CORPORATION

Waste water arising from the use must be directed to the sewers of the Sydney Water Corporation (SWC) under a Trade Waste License Agreement. The pre-treatment of wastewater may be a requirement of the Corporation prior to discharge to the sewer. Details of the Corporation's requirements should be obtained as part of any future Stage 2 development approvals.

(34) HAZARDOUS AND INDUSTRIAL WASTE

As part of any future development application/s, hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the NSW Environmental Protection Authority, NSW Work Cover Authority pursuant to the provisions of the following:

- (a) Protection of the Environment Operations Act 1997.
- (b) Protection of the Environment Operations (Waste) Regulation 1996.
- (c) Waste Avoidance and Recovery Act 2001.
- (d) New South Wales Occupational Health & Safety Act 2000.
- (e) New South Wales Construction Safety Act 1912 (Regulation 84A-J Construction Work Involving Asbestos or Asbestos Cement 1983).
- (f) The Occupational Health & Safety Regulation 2001.
- (g) The Occupational Health & Safety (Asbestos Removal Work) Regulation 1996.

(35) IMPORTED WASTE DERIVED FILL MATERIAL

As part of any future development application/s, the only waste derived fill material that may be received at the development site is:

- (a) Virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997);
- (b) Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

(36) PUBLIC DOMAIN PLAN

A detailed Public Domain Plan will need to be prepared as part of any future Stage 2 development application/s.

(37) ASSOCIATED ROADWAY COSTS

As part of any future development application/s, 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 draft "Sydney Streets Design Code".

(38) PHOTOGRAPHIC RECORD/DILAPIDATION REPORT

Prior to an approval for demolition being granted as part of a future Stage 2 development application, a photographic recording of the site is to be prepared and submitted to Council's satisfaction.

(39) PRESERVATION OF SURVEY MARKS

All works in City streets must ensure the preservation of existing permanent survey marks (a brass bolt, or a lead plug holding a brass tack, covered by a cast iron box). At least forty-eight hours prior to the commencement of any works in the public way within 1 metre of a permanent survey mark contact must be made with the City's Project Manager Survey I Design Services to arrange for the recovery of the mark.

(40) PAVING MATERIALS

As part of any future development application/s, the surface of any material used or proposed to be used for the paving of colonnades, thoroughfares, plazas, arcades and the like which are used by the public must comply with AS/NZS 4586:2004 (including amendments) "Slip resistance classification of new pedestrian surface materials".

(41) LANDSCAPING

A detailed landscape plan will need to accompany all future Stage 2 development application/s for the site.

(42) SYDNEY WATER CONDITIONS

- (a) As part of any future development application/s the existing Sydney Water stormwater channel covered by buildings and other structures is to be restored as an open channel. All buildings, structures and private services within the Sydney Water easement and above the channel shall be removed and the area restored to the satisfaction of Sydney Water. Detailed demolition and landscape documentation shall be submitted to the satisfaction of Sydney Water prior to the issue of a Construction Certificate.
- (b) The proposed bridge over Sydney Water's stormwater channel shall be designed to the following criteria:
 - (i) The underside of the bridge is set 500mm above the 1 in 100 year ARI flood level;
 - (ii) The bridge must be structurally independent from and protect the existing channel structure.

- (iii) Demonstrate acceptable hydraulic performance impacts. Any afflux associated with the proposed bridge and approach works is to be minimal for the 100 year ARI design flood event. Minimal afflux shall be considered in the context of existing surrounding land uses and the potential impacts upon neighbours.
- (iv) No part of the bridge is located within Sydney Water's easement for stormwater drainage.

Detailed engineering drawings and plans to this effect shall be submitted to the satisfaction of Sydney Water prior to the issue of a construction certificate.

- (c) Prior to the issue of an occupation certificate, the owner shall create a positive covenant on the title of the property in favour of Sydney Water for the proposed bridge crossing over the stormwater channel. The covenant shall provide for Sydney Water to:
 - (i) Enter and carry out any necessary works to proactively protect the continued integrity of the bridge or to remove the bridge.
 - (ii) Recover the costs associated with any activity or works by Sydney Water necessary to ensure the integrity of the bridge or to remove the bridge.

NOTE: The proposal no longer includes an open channel or bridge and the above requirements of Condition (42) are redundant. The Applicant must provide detailed demolition, engineering and construction documentation of the stormwater trunk drainage infrastructure as required by the relevant Voluntary Planning Agreement, to the satisfaction of Sydney Water prior to the issue of a Construction Certificate.

(As modified by D/2011/1760/B, dated 11 August 2016)

SCHEDULE 3

TERMS OF APPROVAL

The Terms of Approval for Integrated Development as advised by the NSW Department of Water & Energy are as follows:

Licences under Part V of the Water Act 1912 are required for the works (pumping from an excavation or from spearpoints around the perimeter of the construction site), for purposes of **temporary dewatering** as part of proposed construction at **106-116 Epsom Road, Zetland**.

1. General and Administrative Issues

- (a) Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering.
- (b) Pumped water (tailwater) shall not be allowed to discharge off site (eg adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent.

- (c) The licensee shall allow (subject to Occupational Health and Safety Provisions) the City of Sydney or any person authorised by it, full and free access to the works (excavation or bore/borefield), either during or after construction, for the purpose of carrying out inspection or test of the works and its fittings and shall carry out any work or alterations deemed necessary by the NSW Office of Water for the protection and proper maintenance of the works, or the control of the water extracted to prevent wastage and for the protection of the quality and prevention from pollution or contamination of the groundwater.
- (d) If a work is abandoned at any time the licensee shall notify the NSW Office of Water that the work has been abandoned and seal off the aquifer by such methods as agreed to or directed by the Office of Water.
- (e) Suitable documents are to be supplied to the NSW Office of Water of the following:
- A report of prediction of the impacts of pumping on any licensed groundwater users or groundwater dependent ecosystems in the vicinity of the site. Any adverse impacts will not be allowed and the project will need to be modified.
 - A report of assessment of the potential for salt water intrusion to occur as a result of the dewatering. This report is only required for sites within 250m of any marine or estuarine foreshore area. The generation of conditions leading to salt water intrusion will not be allowed, and the proposal will need to be modified.
 - Descriptions of the methods used and actual volume of groundwater to be pumped (kilolitres/megalitres) from the dewatering works, the works locations, the discharge rate (litres per second), duration of pumping (number of days/weeks), the amount of lowering of the water table and the anticipated quality of the extracted water.
 - Descriptions of the actual volume of tailwater to be reinjected (kilolitres/megalitres), the reinjection locations, the disposal rate (litres per second), duration of operation (number of days/weeks) and anticipated quality of treated rainwater to be reinjected.
 - Monitoring of groundwater levels (minimum of 3 weekly measurements of depth to water at a minimum of 3 locations broadly distributed across the site) beneath the proposed development site prior to construction. This requirement is only for sites where the proposed structure shall extend greater than one floor level into the existing ground level.

2. Specific Conditions

- (a) The design of the structure must preclude the need for permanent dewatering.

- (b) The design of the structure that may be impacted by any watertable must require a waterproof retention system (i.e. a fully tanked structure) with adequate provision for future fluctuations of watertable levels. (It is recommended that a minimum allowance for a watertable variation of at least +/-1.0 metre beyond any expected fluctuation be provided). The actual water table fluctuation and fluctuation safety margin must be determined by a suitably qualified professional.
- (c) Construction methods and material used in and for construction are not to cause pollution of the groundwater.
- (d) Monitoring of groundwater levels is to be continued at least weekly during the construction stage and at least weekly over a period of at least 2 months following cessation of dewatering, with all records being provided to the City of Sydney on expiration of the licence. This requirement is only for sites where the proposed structure shall extend greater than one floor level into the existing ground level.
- (e) Groundwater quality testing must be conducted (and report supplied to the City of Sydney). Samples must be taken prior to the commencement of dewatering, (and ongoing to the satisfaction of the City of Sydney for both extraction and reinjection activities, if required). Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
- (f) Discharge of any contaminated pumped water (tailwater) that is not to be reinjected, must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority. The method of disposal of pumped water (i.e. street drainage to the stormwater system or discharge to sewer) and written permission from the relevant controlling authority must be presented to the NSW Office of Water in support of the licence application.
- (g) Discharge of any contaminated pumped water (tailwater) that is to be reinjected, must comply with the provisions of the *Protection of the Environment Operations Act 1997*. The quality of any pumped water (tailwater) that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site. Contaminated groundwater is not to be reinjected into any aquifer. The following must be demonstrated in writing:
- The treatment to be applied to the pumped water (tailwater) to remove any contamination.
 - The measures to be adopted to prevent redistribution of any contamination in the groundwater system. Any reinjection proposal that is likely to further spread contamination within the groundwater system will not be allowed and the project will need to be modified.
 - The means to avoid degrading impacts on the identified beneficial use of the groundwater. Any reinjection proposal that is likely to lower the identified beneficial use of a groundwater system will not be allowed and the project will need to be modified.

- (h) Written advice be provided from the Certifying Authority to the City of Sydney to certify that the following ground settlement issues have been addressed in reports submitted by the proponent:
- Assessment by a suitably qualified geotechnical professional that the proposed dewatering activity does not pose an unacceptable risk of off-site impacts such as damage to surrounding buildings or infrastructure as a result of differential sediment compaction and surface settlement during and following pumping of groundwater.
 - Settlement monitoring activities to be undertaken prior to, during and for the required period of time following the dewatering pumping to confirm the impact predictions.
 - Locations of settlement monitoring points, and schedules of measurement.

3. Formal Application Issues

- (a) An application must be completed on the prescribed form for the specific purpose of temporary construction dewatering and a licence obtained from the City of Sydney prior to the installation of the groundwater extraction works. A plan drawn to scale will be required with the application clearly identifying the location of the dewatering installations.
- (b) Upon receipt of a Development Consent from, a fully completed licence application form, unambiguous documentation of the means by which the below-ground areas of the development will be designed and constructed to prevent any groundwater seepage inflows (and therefore preclude any need for permanent or semi-permanent pumping), together with all other required supporting information, the NSW Office of Water will issue a Water Licence under Part 5 of the Water Act, 1912.
- (c) A licence application under Part V of the Water Act 1912 must be accompanied by a \$151.00 fee and must specify the proposed volume of groundwater to be pumped (megalitres). The licence is also subject to administrative charges as determined from time to time by the Independent Pricing and Regulatory Tribunal (IPART).

BACKGROUND

The Site and Surrounding Development

1. The site is legally identified as Lot 1 Deposited Plan 830870, with a street address of 106-116 Epsom Road, Zetland. The site is irregularly shaped, with a site area of 21,573sqm and a southern frontage to Epsom Road of 99m.
2. The site has an elevated section to the Epsom Road frontage and is otherwise generally flat.
3. The site is presently occupied by two light industrial buildings used for warehousing and associated offices on the southern portion of the site and a hardstand area used for car parking on the northern portion of the site. It is noted that the southern part of the site will accommodate the proposed buildings, with the northern part of the site to be dedicated and form part of the proposed Gunyama Park.

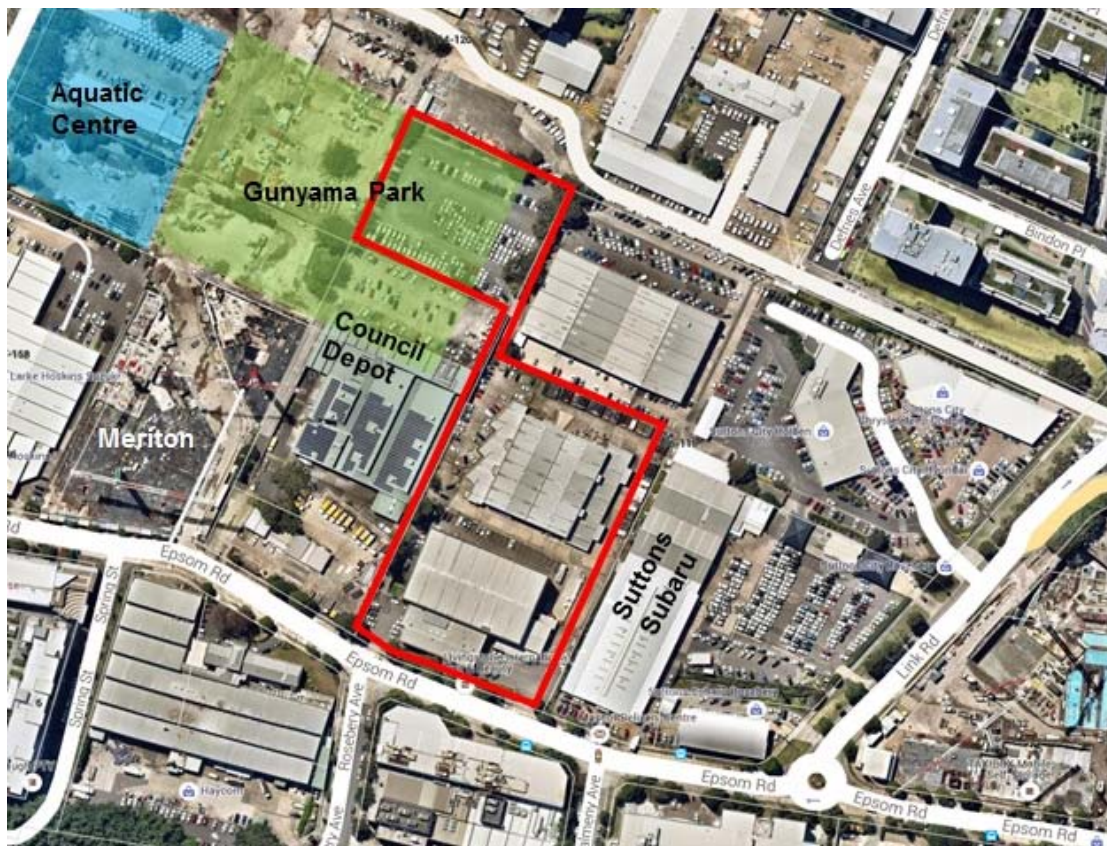


Figure 1: Aerial image of subject site and surrounding area

4. The surrounding context is mixed use, including industrial, commercial and residential uses. The site is located between the City of Sydney Depot to the west and a Suttons Subaru car dealership to the east. Industrial developments are located to the north. Commercial premises and residential flat buildings are located on the southern side of Epsom Road.
5. The site is part of the identified Epsom Park urban renewal precinct, which will see the area transition from light industrial to mixed use residential area. The site is located south east of the proposed Gunyama Park which will include sporting fields and an aquatic centre.



Figure 2: Extract for Sydney DCP 2012 – site within the Epsom Park Precinct



Figure 3: Site viewed from Epsom Road and Spring Street facing east



Figure 4: Site viewed form Rosebery Avenue facing north



Figure 5: Site viewed form Epsom Road facing north

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION**Stage 1 DA - D/2011/1760**

6. On 29 March 2012, the Central Sydney Planning Committee refused the Stage 1 DA for six building envelopes on the site.
7. On 30 July 2013, the Land and Environment Court granted deferred commencement consent for the amended Stage 1 DA which approved the demolition of all existing structures, established 5 building envelopes ranging from 5 to 14 storeys across the site, including basement car parking and public domain works to the subject site.
8. The consent was granted subject to a deferred commencement condition (Part A Conditions 1(b) and (c)), which required the developer to enter into a Voluntary Planning Agreement (VPA) with the Council, which must be registered on the land prior to the activation of the consent. The Applicant was granted a timeframe of 2 years from the date of determination to satisfy the deferred commencement conditions.
9. On 13 February 2015, Council approved a Section 96AA(1) application to extend the period to satisfy the deferred commencement conditions for a further one year (until 30 July 2016).
10. The consent was activated on 21 June 2016.

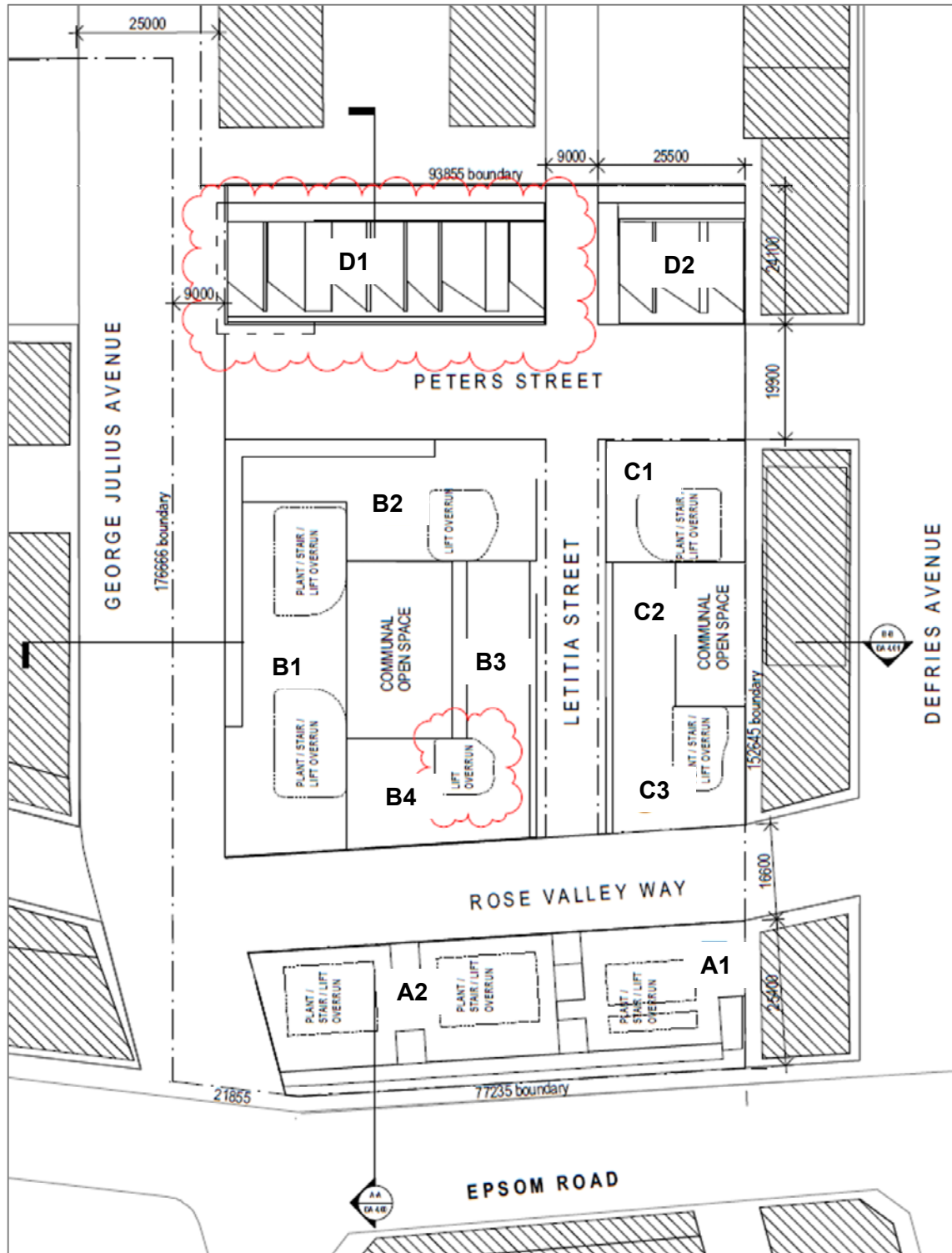


Figure 6: Stage 1 DA Proposed Site Plan

Voluntary Planning Agreement

11. A Voluntary Planning Agreement (VPA) associated with the Stage 1 DA public benefit was drafted and exhibited on 5 July 2013. This VPA included the construction and dedication of new roads, dedication of the north part of the site to form part of the future Gunyama Park and a monetary contribution. This VPA was executed and registered on the title of the land in June 2016.

12. An updated VPA is required to align with the current proposal is still being negotiated.

Competitive Design Alternative Processes - CMP/2013/12

13. In October to December 2014 three separate Competitive Design Alternative Processes were undertaken in accordance with Clause 6.2.1(5) (c) of the Sydney Local Environmental Plan 2012.
14. The site was divided into 3 separate competitions for Buildings A, B&C and D where 3 architectural firms competed in each competition.
15. The winning architectural firms were:
- (a) Building A - MHNDU/Neeson Murcutt;
 - (b) Building B & C – Architectus; and
 - (c) Building D – BVN.
16. Photomontages of the winning schemes are included below.



Figure 7: Building A Winning Design - Photomontage Epsom Road and George Julius Avenue



Figure 8: Building B Winning Design - Photomontage on the corner of Letitia Street and Rose Valley Way



Figure 9: Building D Winning Design - Photomontage along George Julius Avenue

Stage 2 DA – D/2015/913

17. The Stage 2 DA for the site is being assessed concurrently for the CSPC's consideration. The Stage 2 DA includes the demolition of the existing structures, site remediation, removal of 41 trees on site, construction of a mixed use development comprising 5 buildings ranging between 5 and 14 storeys, accommodating 546 residential apartments and 1,041sqm of retail premises and the excavation of 2 levels of basement.
18. The application involves landscaping and public domain works, the construction of parts of George Julius Avenue, Rose Valley Way, Peters Street and Letitia Street, subdivision of development lots and dedication of roads and the northern part of the lot to form part of Gunyama Park.

PROPOSAL

19. Modifications include various changes to the approved envelopes including an increase to the height of Building A1 from 10 to 12 storeys, increase of part of Building B from 8 to 9 storeys, increase to the height of Building D by 7m (saw tooth roof), amendments to setbacks and floor to ceiling heights and amendments to basement parking levels to allow for consolidated basement to Building B and C and D.
20. The following conditions are proposed to be amended:
 - (a) Condition 1 – Approved development;
 - (b) Condition 6 – Floor Space Ratio;
 - (c) Condition 7 – Building Envelopes;
 - (d) Condition 8 - Location of Buildings A1 and A2;
 - (e) Condition 9 – Temporary Driveway;
 - (f) Condition 11 – Floor to Floor Heights; and
 - (g) Condition 12 – SEPP 65 and Residential Flat Design Code
21. A detailed description of each of the changes is included in the table under the merit assessment heading below.

THRESHOLD TEST

22. The development as proposed to be modified is considered to be substantially the same as that originally approved:
 - (a) the residential and retail land uses will remain as approved including retail to the ground floor of Buildings A and D;
 - (b) the overall building envelope will be consistent with the approved and the gross floor area and floor space ratio for the overall development will be retained as approved; and
 - (c) the layout of the buildings will remain the same with minor alterations to the location of Building A (1.4m further to the north).

MERIT ASSESSMENT

23. The following table and figures assess the proposed modifications against the approved Stage 1 DA.

Building A

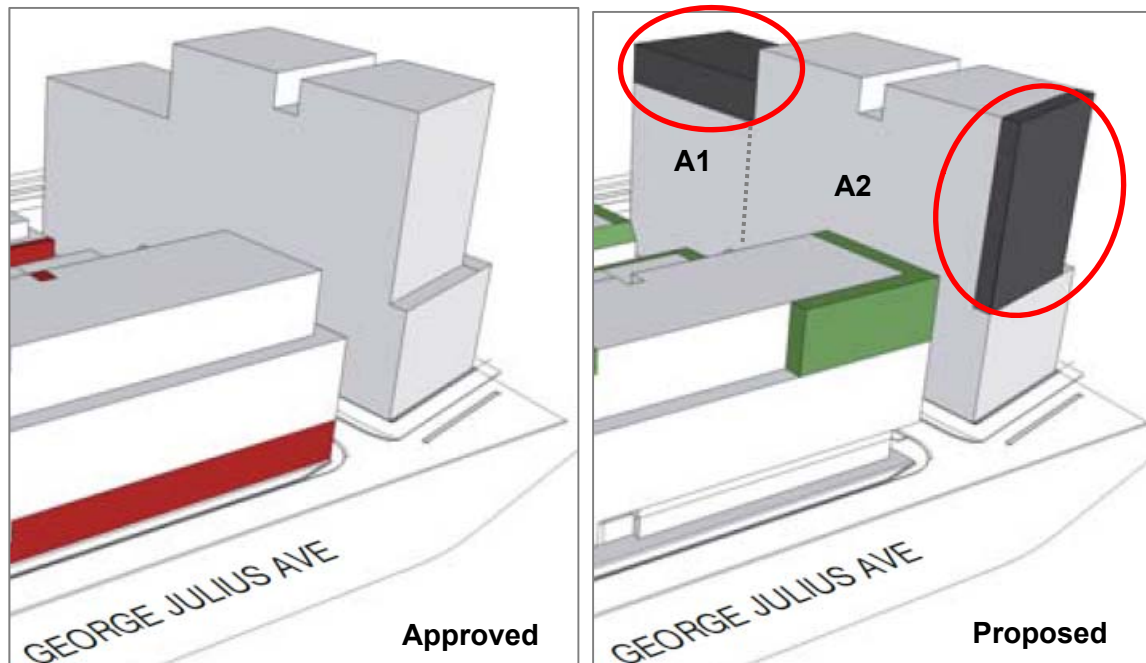


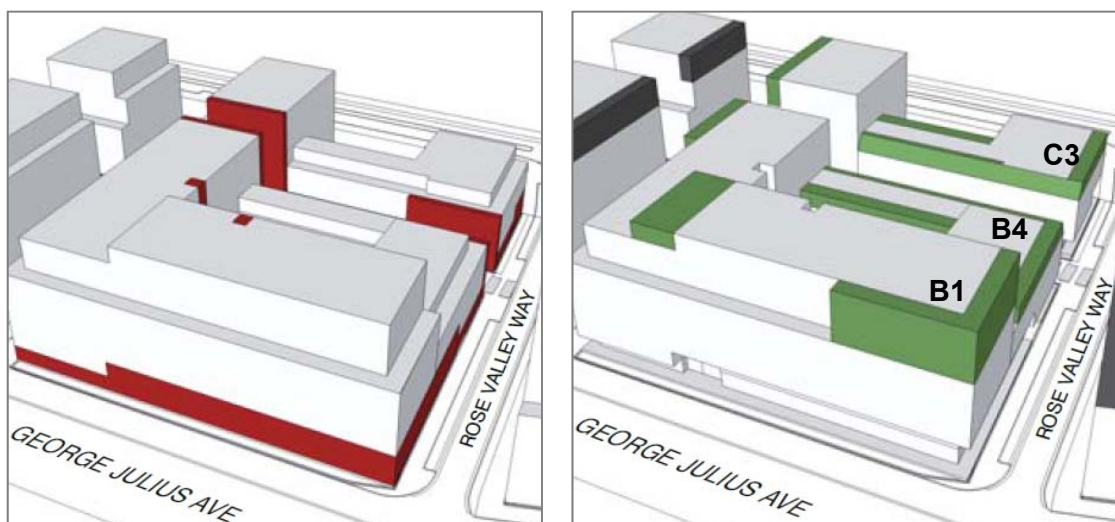
Figure 10: Buildings A - Building Volume comparison – additional envelope shown in dark grey and circled

Amendment	Applicants submission	Assessment
Increase to the height of Building A1 from 10 to 12 storeys (Figure 10)	This will not create any significant additional overshadowing to the surrounding neighbours and will create a better height transition from Building A2 which is 14 storeys.	Supported - given the gaps between the 3 towers and through site link proposed in the stage 2 DA the increase in height is an acceptable 'transfer' of building mass, without any unreasonable overshadowing impacts.
Building A has been moved 1.4m further to the north	The built form of Building A has been moved 1.4m further to the north which is consistent with the 1.4m land dedication and proposed width of Rose Valley Way in the Sydney Development Control Plan 2012	Supported – the arrangement aligns with the DCP and current site conditions.

Amendment	Applicants submission	Assessment
<p>The ground floor to floor height has been increased to 5.2m and the floor to floor height of the top level to Building A2 has been increased to 3.31m.</p> <p>The ground floor retail component to Building A2 (northern portion) has been lowered from RL21.450 to RL20.820.</p>	<p>To account for the sloping public domain levels the ground floor to floor heights of Buildings A, B and C have been increased from the Stage 1 DA approval to ensure Level 1 of all Buildings is consistent across the entire development.</p>	<p>Supported.</p>
<p>The upper level setback to Building A1 along George Julius Ave has been reduced from 3m to 0m (Figure 10)</p>	<p>The upper levels of Building A1 is to be built to George Julius Avenue which defines the prominent street corner of Epsom Road and George Julius Avenue and acts a gateway into the subject site.</p>	<p>Supported – this arrangement was part of the architectural design winning scheme and is an appropriate form for this corner.</p>
<p>The ground floor level to all street frontages has been recessed;</p>	<p>Reduces the bulk and scale of the development for pedestrians.</p>	<p>Supported – the recessed ground floors allow for architectural features, landscaping and visitor bike parking within the ground floor plane.</p>

Building B and C

Figure 11: Buildings B and C - Building Volume comparison



Approved

Mass removed from Stage 1 DA envelope

Proposed

Mass added at Competition Stage 2 DA

Amendment	Applicants submission	Assessment
The ground floor to floor height has been increased to 4.6m and the floor to floor heights of the upper levels have been increased to 3.1m;		Supported – the increase in heights improve overall amenity of units.
B1 – 3m setback above level 6 to George Julius Avenue and Rose Valley Way has been reduced to 0m on this corner (Figure 11)	The upper levels are to be built to the corner of the George Julius Avenue and Rose Valley Way which is consistent with built form to Building A2 and defines the street corner. It is further noted that the ground and first floors of Building B1 are recessed which creates a pedestrian scale of development;	Supported - this arrangement was part of the architectural design winning scheme and is an appropriate form for this corner.
B4 and C3 - 3m setbacks above level 3 reduced to 0m (Figure 11)	The nil setback to the corners of Rose Valley and Letitia Street for Buildings B4 and C3 assists in defining the entry into Letitia Street;	Supported - this arrangement was part of the architectural design winning scheme and is an appropriate form for streets, the increased ground floor setbacks enhance the pedestrian scale at the ground plane.

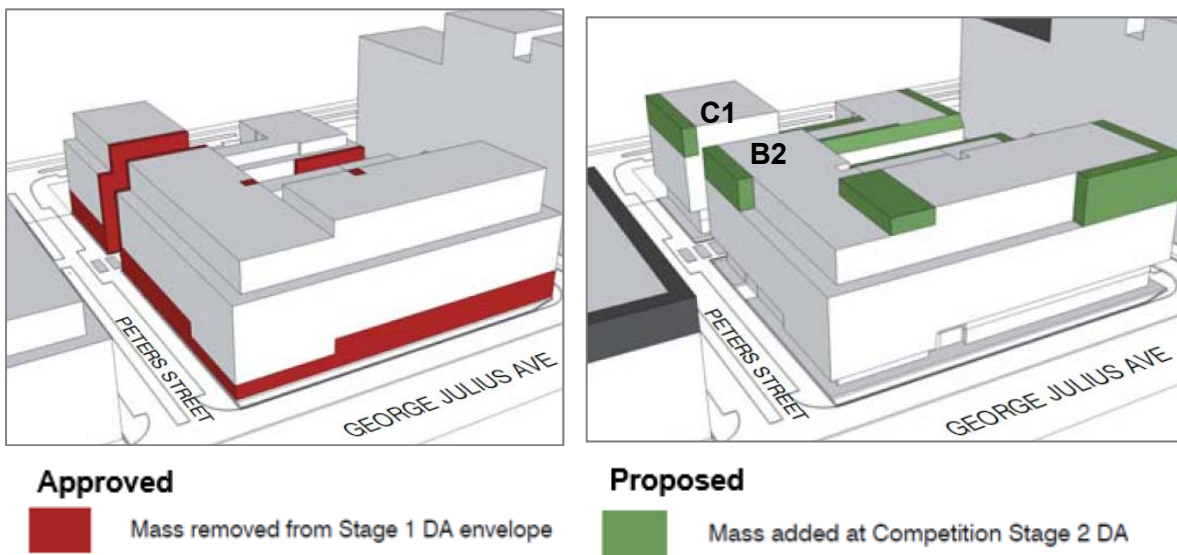


Figure 12: Buildings B and C - Building Volume comparison

Amendment	Applicants submission	Assessment
B2 and C1 - 3m setback above level 6 to Peters Street is reduced to 0m (Figure 12)	Only one of the upper levels of Building B2 is setback to the George Julius Avenue and Peters Street however the built form generally defines the street edge and it is noted in the Stage 2 DA that the upper level incorporates light coloured transparent shade elements which reduce the appearance of bulk and scale. The nil setback to the corners of Peters Street and Letitia Street for Buildings B2 and C1 assists in defining the entry into Letitia Street.	Supported - this arrangement was part of the architectural design winning scheme and is an appropriate form for these corners.
The ground floor first floor levels have been recessed from all street frontages;	The recessed ground and first floor conditions will allow for landscaping opportunities and creates a pedestrian scale of development.	Supported.
Part of Building B2 has been increased from 8 to 9 storeys (Figure 12)	Building B2 has been partially increased from 8 to 9 storeys along George Julius Avenue. The partial height increase to Building B2 allows for a continuous building line along the George Julius Avenue while it is noted the built form is recessed from the building edge. The additional height will not create any further amenity impacts to surrounding neighbours while it is acknowledged that the future residential accommodation will have high level of amenity with pleasant views to Gunyama Park and western aspects. Furthermore, the Stage 2 DA details the materials to be incorporated which are light coloured perforated panels which reduces the appearance of bulk and scale.	Supported - The partial height increase allows for a continuous 9 storey building line along the George Julius Avenue. The additional storey is recessed from Peters Street and incorporates light coloured panels which reduces the appearance of bulk and scale. The additional height will not result in any overshadowing or other amenity impacts and is acceptable.

Building D

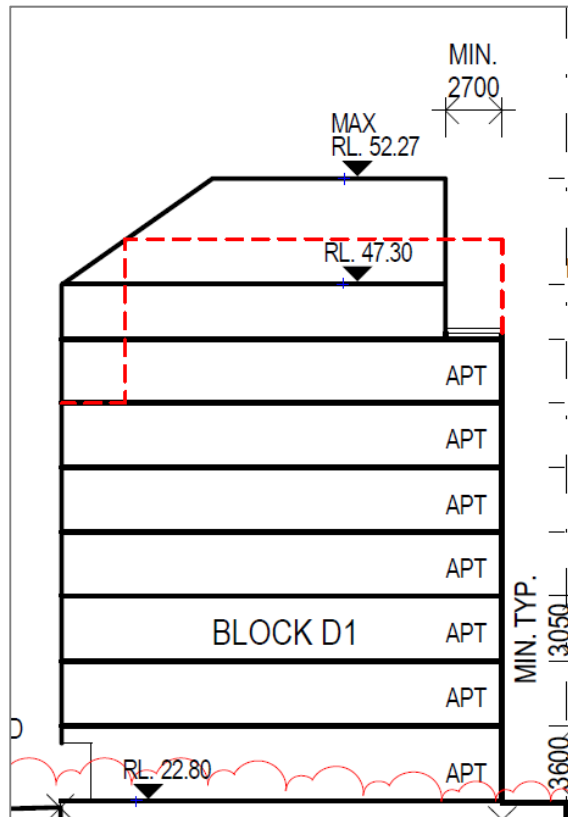


Figure 13: Building D - Building Volume comparison – approved Stage 1 envelope shown in red dashed line

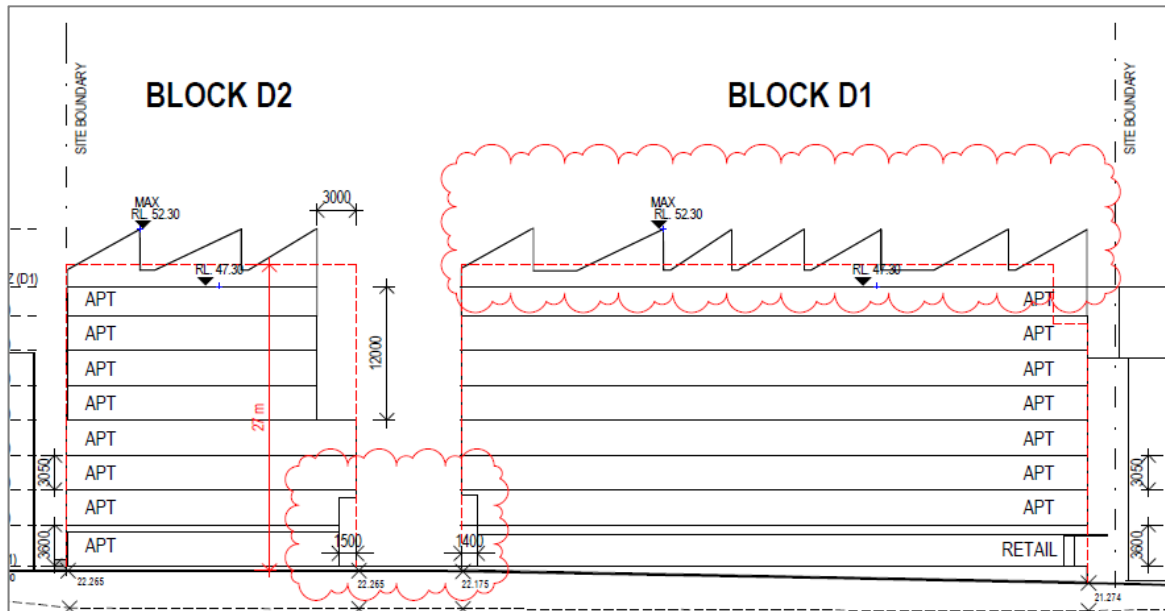


Figure 14: Building D - Building Volume comparison - approved Stage 1 envelope shown in red dashed line

Amendment	Applicants submission	Assessment
A setback has been introduced to ground floor and level 1 along Letitia Street and to ground floor along Peters Street.	The recessed ground and first floor conditions will allow for landscaping opportunities and creates a pedestrian scale of development.	Supported.
Increase to the height of Building D1-D2 by 7m (saw tooth roof);	This is a result of a varied roof form, which incorporates a saw tooth arrangement, which provides a unique but interesting built form to the northern edge of the development site.	Supported - This roof form was part of the architectural design winning scheme and is an appropriate form.
The upper level setbacks have been reduced along Peters Street and George Julius Avenue (Figure 13)	The nil setback to Peters Street defines the street edge and it is noted that the roof form to the southern elevation is angled down towards Buildings B and C to increase the solar access to the northern façade of B and C.	Supported - This roof form was part of the architectural design winning scheme and maintains an acceptable street interface.
Building D2 has been setback a further 3.6m along Letitia Street from Level 6 and above (Figure 14)	The proposal introduces a 4m setback to the upper 2 levels along Letitia Street to Building D2, which was not required by the Stage 1 DA however it reduces the built form to Letitia Street.	Supported.

General Amendments

Amendment	Applicants submission	Assessment
Revised RL heights and height in metres to the buildings as a result of amendments to the public domain levels as proposed by Council	To account for the sloping public domain levels the ground floor to floor heights of Buildings A, B and C have been increased from the Stage 1 DA approval to ensure Level 1 of all Buildings is consistent across the entire development. The increase to the ground floor to floor heights for Buildings A, B and C has increased the overall heights of these buildings.	Supported.
Architectural roof features are to be removed from all the roof tops;		Supported – no architectural roof features are proposed in the Stage 2 DA and can be removed from the Stage 1 DA envelopes.

Amendment	Applicants submission	Assessment
Amendments to basement parking levels to allow for consolidated basement to Building B and C and D and reduction to 2 levels.	The amended proposal will consolidate the basement car parking levels for buildings B, C and D. The revised basement layout is consistent with the provisions within the Epsom Park Urban Strategy in the SDCP 2012 which allows for a consolidated basement car park. Furthermore, the revised car parking layout will reduce the depth of excavation, reduce the number of basement entries to the street and provide an improved basement layout for buildings B, C and D.	Supported- this arrangement allows for a better consolidation of services and driveways which improve the ground floor urban outcome.

Conditions to be Amended

Amendment	Applicants submission	Assessment
Condition 1 – Approved development	This condition has been amended to reflect the revised drawing numbers.	Supported.
Condition 6 – Floor Space Ratio	This condition has been amended to reflect the revised Cover Sheet which details the changes to the GFA calculations.	Supported.
Condition 7 – Building Envelopes	This condition has been amended to reflect the revised maximum RL heights, height in metres and height in storeys.	Supported.
Condition 8 - Location of Buildings A1 and A2	This condition is to be deleted as the Section 96 proposes to move Buildings A1 and A2 1.4m further to the north and essentially satisfies the condition.	Not Supported – while it is agreed that this condition is satisfied by the re-location of Building A, this does not mean the condition must be deleted.
Condition 9 – Temporary Driveway	This condition is to be amended to reflect the updated Site Plan.	Supported.
Condition 11 – Floor to Floor Heights	This condition is to be amended to reflect the minimum floor to floor heights for the ground floor retail in the revised scheme, being 4.5m for the Buildings A and D. Furthermore, it removes (C) given there is no retail or commercial to the first floor.	Not Supported – this condition requires minimum heights, as the heights are to be increased, not decreased, the condition is not required to be amended.
Condition 12 – Sepp 65 and Residential Flat Design Code	This condition is to be revised to remove reference to the Residential Flat Design Code which has been replaced with the Apartment Design Guide.	Supported.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

24. 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 29 March 2012 2010 and the Court Judgement dated 30 July 2013 are still relevant.
25. 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.
26. A copy of the Notice of Determination D/2011/1760/A is provided in Attachment C.

Other Impacts of the Development

27. The proposed development is capable of complying with the BCA.
28. 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

29. 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

30. The application was discussed Heritage and Urban Design Specialists in conjunction with the Stage 2 DA (D/2015/913).

EXTERNAL REFERRALS**Notification, Advertising and Delegation (No Submissions Received)**

31. 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 20 July 2015 and 4 August 2015. No submission were received.

PUBLIC INTEREST

32. 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**

33. 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.

RELEVANT LEGISLATION

34. The Environmental Planning and Assessment Act 1979.

CONCLUSION

35. 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.
36. As modified, the proposed envelopes achieve the same design intent as the original Stage 1 DA building envelopes and do not result in any unacceptable impacts.
37. 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.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Erin Murphy, Specialist Planner)