

**ATTACHMENT B**

**PLANNING ASSESSMENT REPORT FOR  
ORIGINAL CONCEPT APPROVAL  
(D/2015/966)**

**57 ASHMORE STREET AND  
165-175 MITCHELL ROAD ERSKINEVILLE**



**DEVELOPMENT APPLICATION: 57 ASHMORE STREET AND 165-175 MITCHELL ROAD ERSKINEVILLE****FILE NO:** D/2015/966**DEVELOPMENT APPLICATION NO:** D/2015/966**SUMMARY****Date of Submission:** 9 July 2015

Revised drawings submitted 12 July 2016

Revised phasing plan submitted 22 September 2016

**Applicant:** GH Properties Pty Ltd**Architect:** Architectus**Developer:** Greenland Golden Horse Investment Pty Ltd**Owner:** The Trust Company Limited; and  
Greenland Golden Horse Investment Pty Ltd**Cost of Works:** \$636,739,189**Proposal Summary:** Stage 1 Development Application Concept Plan for the redevelopment of the eastern portion of the Ashmore Estate, Erskineville as a mixed use precinct including residential, commercial and recreation uses.

The proposal includes building envelopes for nine (9) development blocks ranging in height between two (2) and eight (8) storeys and concept design for public domain works including new streets, a 7,446m<sup>2</sup> park, and new trunk drainage. These works are subject to a Voluntary Planning Agreement (VPA).

During assessment the scheme was amended to address Council officer's concerns regarding, amongst other things, the proposed quantum of floor space and the loss of existing mature trees on the corner of Ashmore Street and Mitchell Road. Modifications included, but are not limited to:

**Proposal Summary:  
(continued)**

- FSR reduced from 1.921:1 to 1.753:1;
- Extent of non-compliances with height of building development standards reduced, specifically the number of locations where breaches occur has been reduced from 18 to 5, and the maximum variance has been reduced from 78.3% to 18.2%;
- Quantum of commercial floor space increased from 7,520m<sup>2</sup> to 10,709m<sup>2</sup>;
- Existing mature trees located on the corner of Ashmore Street and Mitchell Road retained; and
- Street widths amended to align with the City of Sydney's Ashmore Public Domain Plan.

Subject to the adoption of the recommended conditions, the proposal is now considered acceptable and achieves a higher degree of compliance with the planning controls.

The proposal does not comply with the height of buildings development standards in five locations. The variations range between 0.25m above a 25m limit (1% variance) and 4.55m above a 25m limit (18.2% variance).

The proposal does not comply with the FSR development standard. A maximum FSR of 1.75:1 is permissible, and 1.753:1 is proposed. This equates to 238.5m<sup>2</sup> of additional floor space above the maximum permitted (0.2% variance). This variance is not supported.

The application includes a request to vary the Height of Buildings development standard under the provisions of Clause 4.6 of the Sydney LEP 2012. It does not include a request to vary the FSR development standard.

The request to vary the height development standard is supported, as the proposed development meets the objective of the zones, and the height standard, and will facilitate an improved outcome over that which would be achieved by a compliant scheme, which would involve the removal of the mature trees located on the corner of Mitchell Road and Ashmore Street.

**Proposal Summary:  
(continued)**

The proposal was first exhibited for a period of 30 days between 15 July and 15 August 2015. As a result of that exhibition there were 47 submissions, and two petitions with 140 and 551 signatures respectively. Following design amendments, the proposal was re-exhibited for an additional 30 days between 15 July and 15 August 2016. As a result of the re-exhibition an additional 12 submissions were received. Three (3) of the submitters had previously made a submission.

The key issues raised in the submissions relate to:

- Non-compliance with height;
- Non-compliance with FSR;
- Traffic and parking;
- Public domain;
- Flooding;
- Loss of trees;
- Habitat loss;
- Ecologically sustainable development;
- Heritage;
- Impacts to local character;
- Urban design and built form;
- View loss;
- Privacy;
- Overshadowing;
- Suitability of planning controls;
- Design excellence bonus;
- Construction impacts;
- Affordable housing;
- Retail uses;
- Notification; and
- Pressures on local infrastructure, including:
  - Schools;
  - Hospitals;
  - Public transport.

Where relevant, these submissions have been addressed through revised plans and recommended conditions of consent.

**Summary Recommendation:**

It is recommended that authority be delegated to the Chief Executive Officer (CEO) to determine the application having regard to the content of this report and recommended conditions, and following the completion of the public exhibition of the VPA.

- Development Controls:**
- (i) State Environmental Planning Policy 55 Remediation of Land
  - (ii) State Environmental Planning Policy 65 Design Quality of Residential Apartment Development
  - (iii) State Environmental Planning Policy (Infrastructure) 2007
  - (iv) Sydney Local Environmental Plan 2012
  - (v) Sydney Development Control Plan 2012
- Attachments:**
- A - Recommended Conditions of Consent
  - B - Selected Architectural Drawings
  - C - Letter of Offer to enter into a Voluntary Planning Agreement
  - D - Design Excellence Strategy

## RECOMMENDATION

It is resolved that:

- (A) the Design Excellence Strategy for 57 Ashmore Street and 165-175 Mitchell Road, Erskineville, dated 8 November 2016, prepared by Urbis on behalf of Greenland Golden Horse Investment Pty Ltd, as shown as **Attachment D** to the subject report, be endorsed pursuant to Section 3.3.1 of Sydney Development Control Plan 2012;
- (B) authority be delegated to the Chief Executive Officer (CEO) to determine Development Application No. D/2015/966 after the draft Planning Agreement, in accordance with the public benefit offer made by Greenland Golden Horse Investment Pty Ltd, dated 7 October 2016, as shown at **Attachment C** to the subject report, is publicly exhibited and any submissions considered;
- (C) if the CEO determines to approve the application, then consideration be given to supporting the variation sought to Clause 4.3 'Height of Buildings' in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012; and
- (D) if the CEO determines to approve the application, then consideration be given to granting a deferred commencement consent, pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, subject to the conditions as detailed in **Attachment A** to the subject report.

## BACKGROUND

### The Site and Surrounding Development

1. A site visit was carried out on 14 August 2015.
2. The site is located within a light industrial estate known as the 'Ashmore Estate' in Erskineville, and occupies the majority of the eastern portion of the estate. The site is predominantly in use for light industry, however the western portion of the Ashmore Estate, which does not form part of this application, is transitioning to a residential area.
3. The site has an area of approximately 69,470m<sup>2</sup> and incorporates two parcels of land. The northern parcel of land is commonly known as 57 Ashmore Street, Erskineville, (otherwise known as 149-163 Mitchell Road) and has an area of 54,240m<sup>2</sup>. It is owned by the developer, Greenland Golden Horse Investments Pty Ltd. The southern parcel of land commonly known as 165-175 Mitchell Road, Erskineville, has an area of 15,230m<sup>2</sup>. It is owned by The Trust Company as custodian for the Goodman Industrial Europe Finance Trust. The term 'the Site' refers to the overall site as outlined above.
4. The site is bound by Ashmore Street to the north, Mitchell Road to the east, and Coulson Street to the south. To the west, the site directly abuts other sites that form the western portion of the Ashmore Estate. There is a small site on the northern frontage that accommodates an electrical substation (1A Ashmore Street). That site does not form part of this application.
5. In the wider Sydney context, the site is located 2.25km south west of the CBD. The northern frontage of the site is located 590m walking distance from Erskineville Railway Station, and the southern frontage is 720m walking distance from St Peter's Railway Station. The site is approximately 1km north-east of the proposed WestConnex interchange at St. Peters. Sydney Park is in close proximity to the south.
6. In the immediate context, surrounding land uses are mixed. To the west, the site directly adjoins various sites that form part of the 'Ashmore Estate'. Some of the sites are still in light industrial use, some have been developed for residential use, and others are construction sites for future residential uses. Directly adjacent to the north western corner of the site on Ashmore Street is a row of houses, which are predominantly of a workers cottage typology. Directly to the north of the site is the Erskineville Public Housing Estate, the Alexandria Erskineville Bowling Club and the Erskineville Oval. To the east, on the opposite side of Mitchell Road, the area is predominantly residential with some commercial, accommodating terrace dwellings and residential flat buildings interspersed with commercial uses, particularly on Mitchell Road. Directly to the south, on the western side of Mitchell Road, is the Sydney Park Village apartment complex. Sydney Park Village accommodates 810 apartments and some commercial uses over 17 buildings. To the south east of the site, on the eastern side of Mitchell Road, is the Huntley Green apartment complex, which accommodates 162 apartments and some commercial uses over three buildings.

7. The site is not a heritage item nor is it located in a heritage conservation area. Notwithstanding this, the electrical substation on the northern frontage is a heritage item of local significance (1503). The site also directly adjoins the Malcolm Estate Conservation Area (C24) to the north-west, the Erskineville Estate Conservation Area (C22) to the north, and the Cooper Estate Conservation Area (C2) to the east.
8. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of the site within the wider Sydney context



Figure 2: The subject site (hatched blue) within the Ashmore Estate (outlined in red), the location of a heritage substation that does not form part of the site is shown in yellow



Figure 3: North-western corner of the site, viewed from Ashmore Street looking south east



Figure 4: Northern western portion of the site, viewed from Ashmore Street looking south



Figure 5: Northern portion of the site, viewed from Ashmore Street looking south east



Figure 6: Existing stand of Weeping Hills Figs viewed from the intersection of Ashmore Street and Mitchell Road, looking south west



Figure 7: North western portion of the site, as viewed from Mitchell Road looking south west



Figure 8: Eastern portion of the site, as viewed from the intersection of Maddox Street and Mitchell Road, looking north west



Figure 9: South eastern corner of the site, as viewed from the intersection of Mitchell Road and Coulson Street, looking north west



Figure 10: South western corner of the site, as viewed from Coulson Street, looking north east



Figure 11: Existing residential development directly adjoining the north western corner of the site on Ashmore Street



Figure 12: Alexandria Erskineville Bowling Club to the north of the site viewed from the intersection of Ashmore Street and Fox Avenue looking north west



Figure 13: Erskineville Oval to the north of the site viewed from the intersection of Ashmore Street and Fox Avenue looking north east



Figure 14: Heritage substation on Ashmore Street, which does not form part of the site, but directly adjoins it to its west, south and east



Figure 15: Existing developments to the east on the opposite side of Mitchell Road



Figure 16: Existing developments to the east on the opposite side of Mitchell Road



Figure 17: Existing residential flat development at 362 Mitchell Road, Alexandria, diagonally opposite the south eastern corner of the site



Figure 18: Existing residential flat development at 177-219 Mitchell Road, Erskineville, directly opposite the southern boundary of the site



Figure 19: Existing residential development directly adjoining the south western corner of the site on Coulson Street



Figure 19: Existing residential development directly to the west of the southern parcel of land



Figure 21: Existing light industrial uses to the west of the site



Figure 22: construction site directly to the west of the northern parcel of land

**PROPOSAL**

9. The proposal seeks Stage 1 development consent for the redevelopment of the eastern portion of the Ashmore Estate for mixed uses, albeit predominantly residential.

**Design Amendments**

10. During assessment the application has been amended and additional information provided to address council officer's concerns regarding, amongst other things:
- (a) compliance with height and Floor Space Ratio (FSR) controls;
  - (b) compliance with the City's Ashmore Public Domain Strategy;
  - (c) the planning agreement;
  - (d) site remediation,
  - (e) tree loss;
  - (f) proof of concept and future SEPP 65 compliance;
  - (g) urban design;
  - (h) flood analysis; and
  - (i) traffic.
11. Amongst other things, the proposal has been amended to:
- (a) reduce the FSR from 1.921:1 to 1.753:1 (although the submitted documentation states 1.75:1);
  - (b) reduce the extent of non-compliances with height of building development standards, specifically the number of locations where non-compliances occur has been reduced from 18 to 5, and the maximum variance has been reduced from 78.3% to 18.2% (although the submitted documentation states 10.5%);
  - (c) increase the quantum of commercial floor space from 7,520m<sup>2</sup> to 10,709m<sup>2</sup>;
  - (d) retain existing mature trees located on the corner of Ashmore Street and Mitchell Road; and
  - (e) amend street widths to align with the City of Sydney's Ashmore Public Domain Plan.

**Current Proposal**

12. The proposal, as amended, seeks Stage 1 Concept Approval for the following:
- (a) seven (7) stages of development across nine (9) development blocks (A-I);
  - (b) ten (10) building envelopes ranging in height from two (2) plus attic to eight (8) storeys, providing approximately 1,434 dwellings and 10,709m<sup>2</sup> of commercial floor space. The building envelopes specify:

- (i) maximum building heights defined by RLs and storeys;
  - (ii) setbacks;
  - (iii) vehicular entry points; and
  - (iv) street wall heights.
- (c) Gross Floor Area (GFA) of 121,811m<sup>2</sup> comprising;
- (i) 111,101m<sup>2</sup> of residential floor space;
  - (ii) 10,709m<sup>2</sup> of non-residential floor space, comprising:
    - a. 4,681m<sup>2</sup> of commercial floor space, including a potential childcare facility in Block C;
    - b. 5,788m<sup>2</sup> of commercial floor space, including a supermarket and potential childcare facility in Block F; and
    - a. 240m<sup>2</sup> of commercial floor space in Block H.
- (d) the location of future public domain works, including:
- (i) two options for stormwater trunk drainage;
  - (ii) a new 7,446m<sup>2</sup> park to be known as 'McPherson Park';
  - (iii) a new 7,815m<sup>2</sup> 'Green Link' for pedestrians and cyclists to be known as 'Kooka Walk' to commence north at the north-western corner of the site on Ashmore Street and terminate south at Coulson Street;
  - (iv) provision of two new pedestrian only links, one between Blocks B and C to be known as 'Stovemaker Lane', and one traversing through Block E;
  - (v) provision of two pedestrian and cycle links, one between Block A and McPherson Park, and one between Blocks G and H;
  - (vi) extension of the existing Macdonald Street to connect to Mitchell Road at the existing intersection of Mitchell Road and Maddox Street;
  - (vii) extension of the existing Metters Street to terminate at the new Kooka Walk;
  - (viii) extension of the existing Coppersmith Lane to terminate at the new Kooka Walk;
  - (ix) provision of a new laneway west of Block D connecting the extended portions of Metters Street and Coppersmith Lane;
  - (x) provision of a new road 'Foundary Street' to commence north at the intersection of the existing Ashmore Street and Fox Avenue and terminate south at the extended portion of Macdonald Street; and

- (xi) provision of a new road 'Alpha Street' commencing approximately 80m north east of the existing intersection of Mitchell Road and Coulson Street and terminate at the new Kooka Walk.
13. With the exception of the two new pedestrian only links identified in clause (d) (iv) above, all of the proposed public domain works identified above are to be dedicated to the City under the terms of the Voluntary Planning Agreement (VPA). The VPA is discussed in further detail below.
  14. No physical development works, including demolition, are proposed under this Concept Plan.
  15. Photomontages and selected extracts of the architectural drawings of the revised Concept Plan are provided below.



Figure 23: Photomontage of the proposed building envelopes, elevated view from the south

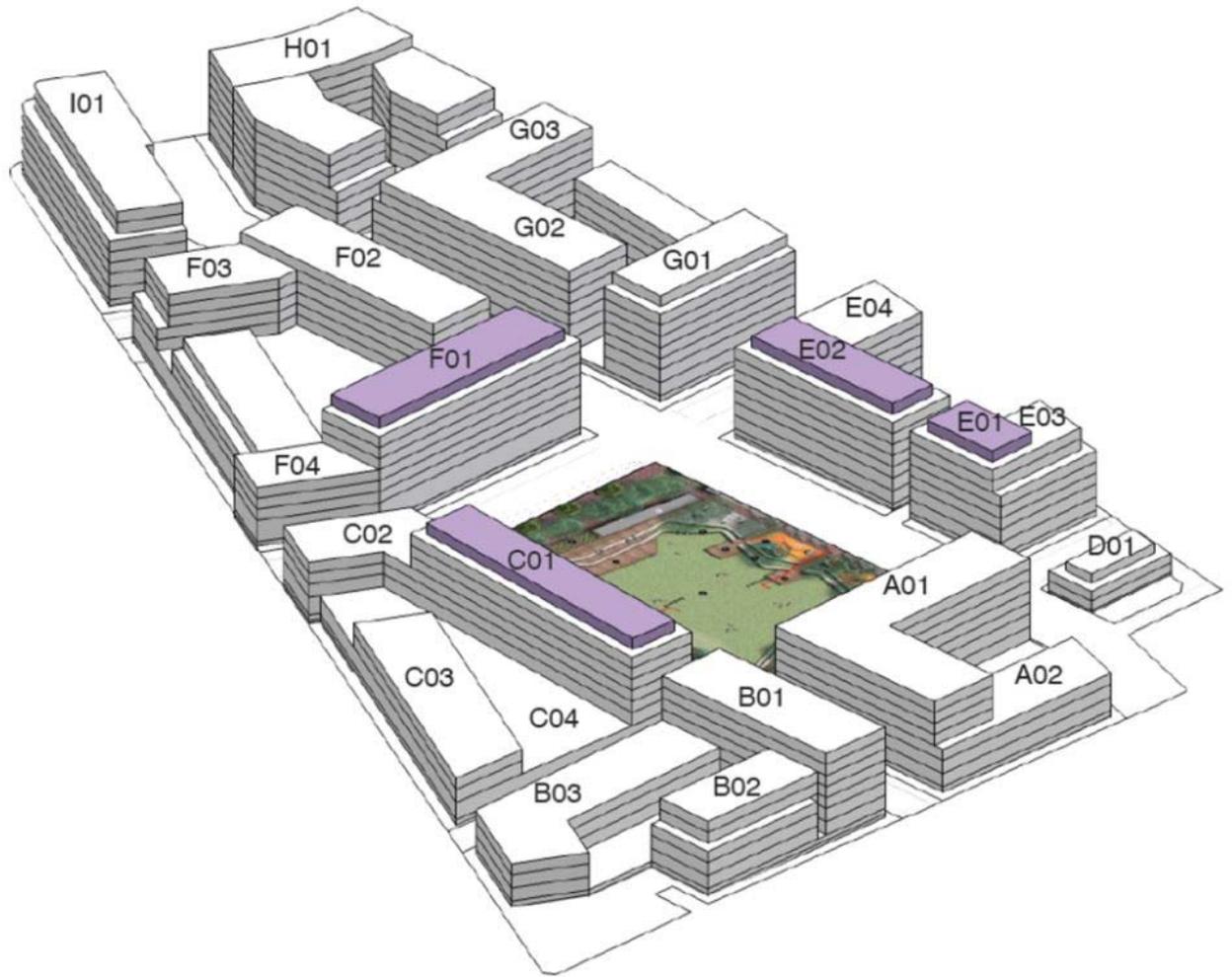


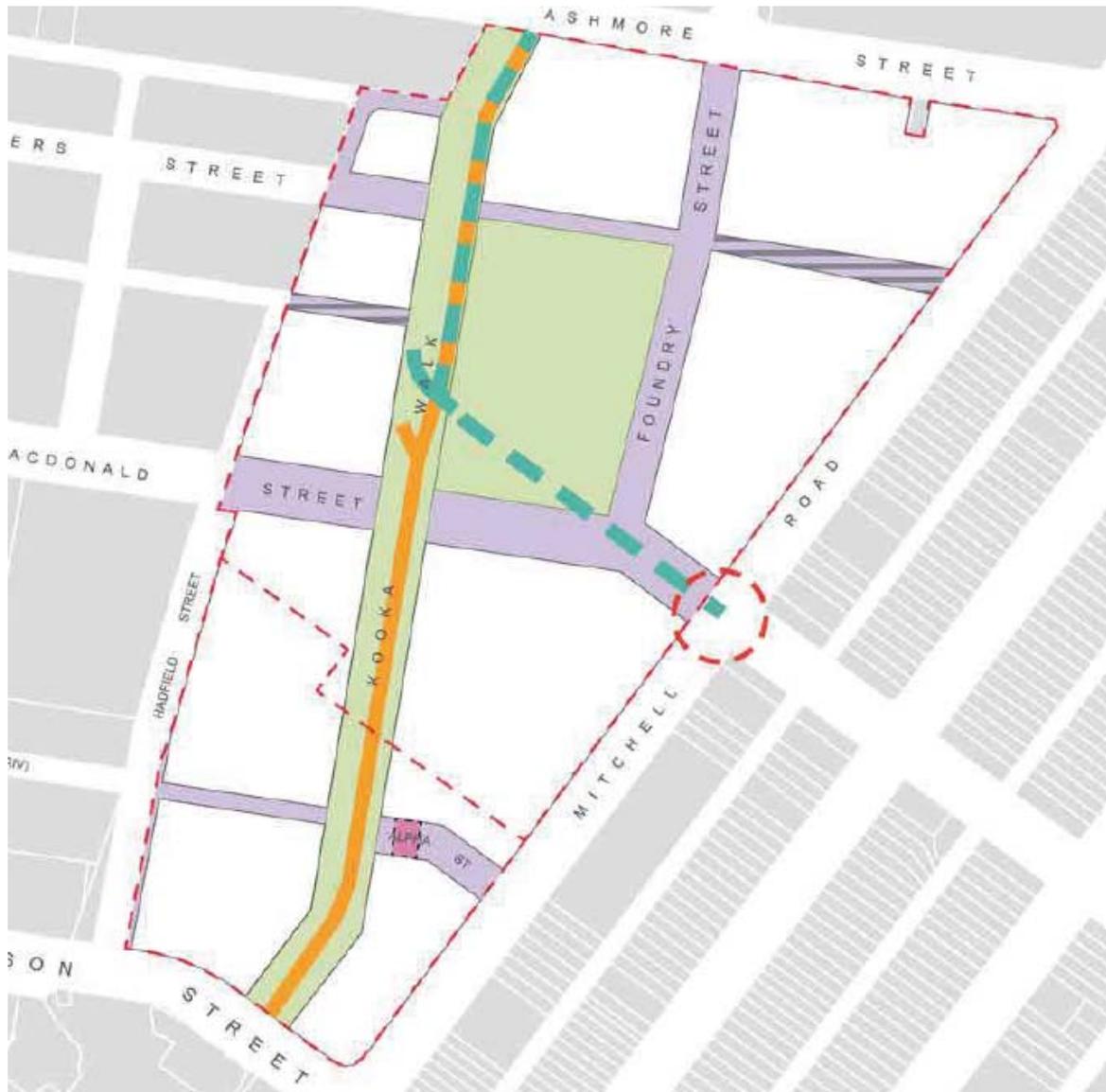
Figure 24: Axonometric diagram of the proposed building envelopes, elevated view from the north east



Figure 25: Proposed building envelopes, annotated with the proposed number of stories



Figure 26: Proposed land uses



- - - Subject Site/Property boundary
- Public Open Space / Shareway to be dedicated including drainage infrastructure
- Easements benefiting public access, basement parking under
- Public Roads/Lane way to be dedicated including ancillary infrastructure including stormwater
- Under Road Basement Connection
- Future Traffic Signal
- Proposed Trunk Drainage Option 1
- Proposed Trunk Drainage Option 2

Figure 27: Public domain works to be delivered under VPA (excluding streets hatched purple, which will remain private with an easement for public access)



Figure 28: Proposed Phasing Plan

### Voluntary Planning Agreement

16. A VPA between Greenland Golden Horse Investments Pty Ltd as trustee for The Greenland Golden Horse Investment Trust; The Trust Company Limited as custodian for the Goodman Industrial Europe Finance Trust; and Council is yet to be publicly exhibited. The VPA will secure public benefits associated with the redevelopment of the site, which will be delivered in accordance with the Staging Plan identified in Figure 28 above. The key components of the VPA are summarised in the table below.

Phase	VPA Requirements Summary
Phase 1 - Buildings B and C	<ul style="list-style-type: none"> <li>• Construction of Foundry Street excluding the footpath to Building A and including intersection works at Ashmore Street.</li> <li>• Creation of a Right of Way on Foundry Street.</li> <li>• Dedication of the Foundry Street road reserve.</li> <li>• Construction of a temporary turning head.</li> <li>• Construction of a pedestrian link between Buildings B and C connecting Foundry Street to Mitchell Road and the creation of a Right of Way.</li> <li>• Construction of the footpath on the northern side of Macdonald Street adjacent to the Building C frontage, connecting with Foundry Street and Mitchell Road, and the creation of a Right of Way.</li> </ul>
Phase 2 - Building A	<ul style="list-style-type: none"> <li>• Construction of the footpath along the western edge of Building A fronting Kooka Walk and the creation of a Right of Way.</li> <li>• Construction of the footpath along the eastern edge of Building A fronting Foundry Street and dedication of the footpath as part of the Foundry Street road reserve.</li> <li>• Construction of Stovemaker Lane, which is a pedestrian and cycle link located between Building A and McPherson Park connecting Foundry Street to Kooka Walk, and the creation of a Right of Way.</li> </ul>
Phase 3 - Building D	<ul style="list-style-type: none"> <li>• Construction of the northern section of Kooka Walk between Ashmore Street and Stovemaker Lane and the section of trunk drainage below.</li> <li>• Dedication of the northern section of Kooka Walk.</li> <li>• Construction of Metters Street from the western boundary of the site to Kooka Walk, excluding the footpath to Building E.</li> <li>• Dedication of the Metters Street road reserve.</li> <li>• Construction of Coppersmith Lane from the western boundary of the site to Kooka Walk.</li> <li>• Dedication of the Coppersmith Lane road reserve.</li> </ul>
Phase 4 – Building E	<ul style="list-style-type: none"> <li>• Construction of the central section of Kooka Walk between Stovemaker Lane and Macdonald Street and the section of trunk drainage below.</li> <li>• Dedication of the central section of Kooka Walk.</li> <li>• Construction of a pedestrian link through Building E and the creation of a Right of Way.</li> <li>• Construction of Macdonald Street between the western boundary of the site and Mitchell Road excluding the footpath of Buildings F and G.</li> <li>• Dedication of the Macdonald Street road reserve.</li> <li>• Construction and dedication of McPherson Park.</li> <li>• Provision of public art within McPherson Park.</li> <li>• Construction of the new intersection at Mitchell Road and Macdonald Street (noting that these works fall outside of the development site and may require separate approval).</li> </ul>

Phase	VPA Requirements Summary
Phase 5 – Building F	<ul style="list-style-type: none"> <li>• Construction of Kooka Walk from south of Macdonald Street to Alpha Street and the section of trunk drainage below.</li> <li>• Dedication of this section of Kooka Walk.</li> <li>• Construction of Alpha Street between Mitchell Road and Kooka Walk, excluding the footpath of Building I.</li> <li>• Dedication of the Alpha Street Road Reserve.</li> <li>• Construction of the new intersection at Mitchell Road and Alpha Street.</li> <li>• Construction of the footpath on the northern edge of Building F fronting Macdonald Street and dedication of the footpath as part of the Macdonald Street road reserve.</li> </ul>
Phase 6 – Building I	<ul style="list-style-type: none"> <li>• Construction of Kooka Walk from Alpha Street to Coulson Street and the section of trunk drainage below.</li> <li>• Dedication of this section of Kooka Walk.</li> <li>• Construction of footpath along the northern edge of Building I fronting Alpha Street and dedication as part of the Alpha Street Road Reserve.</li> </ul>
Phase 7 – Buildings G and H	<ul style="list-style-type: none"> <li>• Construction of the extension of Nassau Lane as a pedestrian laneway between Buildings G and H connecting Hadfield Street and Kooka Walk.</li> <li>• Dedication of this extension of Nassau Lane.</li> <li>• Construction of the footpath on the northern edge of Building H fronting Macdonald Street and dedication of the footpath as part of the Macdonald Street road reserve.</li> </ul>

17. The VPA is yet to be publicly exhibited. Prior to consent being granted, the VPA must be exhibited and any submissions be taken into consideration. Accordingly, it is recommended that authority be delegated to the Chief Executive Officer (CEO) to determine the application following the completion of the public exhibition period, the consideration of any submissions made, and the CEO's acceptance of the VPA.
18. Furthermore, a deferred commencement condition is recommended, requiring the VPA to be executed and registered on the land titles of both parcels of land prior to the consent becoming active.

#### INTEGRATED DEVELOPMENT

19. Dewatering will be required as a result of future excavation for basement levels, and therefore the proposal is Integrated Development in accordance with the *Water Management Act 2000*. The application was referred the NSW Office of Water, which has provided General Terms of Approval that are included in the recommended conditions of consent.
20. The future Stage 2 DAs may also need to be referred to the NSW Office of Water as Integrated Development, if required.

**ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS**

21. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

- (a) Environmental Planning Instruments and DCPs.

**State Environmental Planning Policy No 55—Remediation of Land**

22. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

23. A Stage 1 Environmental Site Assessment, Remediation Concept Plan, and Site Audit Report was submitted with the development application. The City's Environmental Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed uses.

**State Environmental Planning Policy No 65—Design Quality of Residential Flat Development**

24. Clause 70B of the *Environmental Planning and Assessment Regulation 2000* provides that design verification required under clause 50(1A) is not required for Stage 1 development applications unless the DA contains detailed proposals for the development or part of that development.

25. Due to the conceptual nature of a Stage 1 application, a detailed assessment against the provisions of SEPP 65 can only be made when future Stage 2 DAs for the detailed designs are submitted. Notwithstanding, the Stage 1 DA has been considered against the design quality principles to ascertain if the proposed building envelopes can facilitate Stage 2 detailed designs capable of achieving compliance.

- (a) **Principle 1: Context**

The proposal is compatible with the natural and built features of the locality. The proposal involves the establishment of building envelopes to provide a mix of residential and commercial uses, consistent with the existing and desired future character of the locality. The proposal comprises the eastern side of the Ashmore Estate, which is an identified urban renewal precinct. The Concept Plan will facilitate developments of a similar scale to those already existing or proposed in the western part of the Ashmore Estate.

- (b) **Principles 2 and 3: Scale and Built Form**

In terms of the FSR development standard, a maximum of 1.75:1 applies to the subject site (excluding potential 10% design excellence bonus, which may be awarded at Stage 2). An FSR of 1.753:1 is proposed by this Stage 1 application, which equates to an additional 238.5m<sup>2</sup> over the maximum permitted. Floor space that will result in an FSR in excess of 1.75:1 is not supported, and a condition of consent is recommended to limit the quantum of base Gross Floor Area (GFA) to 121,572.5m<sup>2</sup>, which equates to an FSR of 1.75:1.

In terms of the height of buildings development standards (which vary across the site) the proposal generally complies; however, there are five instances of non-compliance across the site, and the proposed variations range from 1% to 18.2%.

The non-compliances are generally arising from Council's desire to retain existing mature trees at the corner of Ashmore Street and Mitchell Road. The SLEP 2012 and SDCP 2012 permit development on that portion of the site and therefore, in order to retain those trees, it is considered an acceptable compromise to allow additional height in specific locations to accommodate that floor space elsewhere on the site.

Notwithstanding this, conditions of consent are recommended that will reduce the number of height non-compliances from five (5) to four (4). Subject to the recommended conditions the total GFA likely to be located above the maximum height control is approximately 2,168m<sup>2</sup>. This represents 1.78% of the total floor space recommended for approval, which in the context of this very large site is considered minor and is acceptable.

The proposal also results in non-compliances with the height in storeys and street wall height controls at various locations across the site. It is important to note that the SDCP 2012 building envelopes were devised when the Residential Flat Design Code (RFDC) was still in force. The RFDC states that buildings should be designed with a floor space efficiency ratio of 80% in dense urban areas. The RFDC has since been superseded by the ADG, which has more stringent requirements in terms of natural cross ventilation, which generally results in a higher number of building lift cores being required. This has reduced the floor space efficiency ratio to approximately 75%. As a result of the ADG coming into force, the DCP building envelopes are no longer capable of accommodating the base FSR of 1.75:1.

It should be noted that this Stage 1 DA is considered a site specific DCP in accordance with Section 83C of the *Environmental Planning and Assessment Act 1979*. This Stage 1 application has been considered in the context of the site constraints, particularly the inability of the DCP envelopes to provide a base FSR of 1.75:1, and the desire to retain the existing stand of trees in the north eastern corner of the site, and existing and approved buildings on neighbouring sites. The proposed non-compliances with the built form DCP controls have either been deemed acceptable, or are recommended to be modified by way of conditions of consent. In particular, conditions are recommended that require amended street wall heights on Blocks E, F, G, H and I, and the provision of upper level setbacks.

In light of all of the above, and subject to the recommended conditions of consent, the proposed building envelopes are considered to be capable of facilitating development that is of an appropriate scale and built form.

(c) **Principle 4: Density**

Subject to the recommended conditions of consent, 121,572.5m<sup>2</sup> of GFA will be provided which equates to a compliant FSR of 1.75:1. In addition, the proposed building envelopes are considered to achieve the objectives of the FSR development standard.

(d) **Principle 5:** Resource, energy and water efficiency

The proposal has been accompanied by a proof of concept scheme which indicates the minimum requirements of SEPP65 in terms of solar access and natural ventilation can be met, which will reduce dependence on mechanical ventilation and heating.

All competitive process phases for the Stage 2 detailed designs will be required to achieve sustainable development targets. All development lots will be required to optimise opportunities for ecologically sustainable design and best practice environmental performance including low running costs in relation to water and energy use.

As a minimum, the Stage 2 DAs must be accompanied by Basix Certificates to demonstrate that the NSW Government's sustainability requirements are met.

(e) **Principle 6:** Landscape

All proposed development sites are capable of providing an area of common open space that is 25% of the total site area, either in the form of a courtyard or rooftop open space. A condition of consent is recommended requiring all future applications involving the development of a residential flat building or mixed use building to provide an area equal to 25% of the development block site area as communal open space.

A further condition of consent is recommended requiring a Landscape Concept Plan to be submitted to and approved by Council's Director City Planning, Development and Transport prior to the finalisation of the brief for each competitive design process.

(f) **Principle 7:** Amenity

As stated above, the proposal has been accompanied by a proof of concept scheme which indicates the minimum requirements of SEPP65 in terms of solar access and natural ventilation can be met. The Stage 2 DAs will be required to demonstrate that an acceptable standard of residential amenity will be provided.

(g) **Principle 8:** Safety and Security

This is a matter for the Stage 2 detailed designs.

(h) **Principle 9:** Social Dimensions

The site benefits from its close proximity to existing and future retail (within and outside the site) and commercial, recreational and entertainment facilities in the wider vicinity. The site is therefore considered to be suitable for the proposed residential uses.

(i) **Principle 10:** Aesthetics

This is a matter for the Stage 2 detailed designs.

26. The proposed building envelopes are considered to be generally acceptable when assessed against the relevant principles and the SEPP generally.

### Apartment Design Guide

27. Clause 30 of SEPP 65 requires consideration of the Apartment Design Guide (ADG), which provides additional detail and guidance for applying the design quality principles outlined in SEPP65 to a specific locality. Compliance with the guidelines within the ADG, wherever relevant to a Stage 1 application, is addressed in the table below. Specific areas on non-compliance are discussed further in the Issues section, where necessary.

Apartment Design Guide		
Control	Compliance	Comment
<b>2E Building Depth</b>		
12-18m (glass to glass)	Able to comply	<p>The proposed building envelopes have a maximum depth of 20m. While this exceeds the maximum 18m requirement, it allows for flexibility in terms of building position and articulation when designing a future building with a maximum depth of 18m.</p> <p>The Stage 2 designs will be required to comply with the maximum 18m building depth measured from glass line to glass line.</p>
<b>2F Building Separation</b>		
Up to four storeys (approximately 12 metres): <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul>	Yes	The proposed building envelopes comply with the minimum separation requirements up to a height of four storeys.
Five to eight storeys (approximately 25 metres): <ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable Rooms</li> </ul>	Able to comply	<p>There is generally a high degree of compliance with the building separation requirements. However, the separation between buildings on Blocks, B, C, E, F G, and H will necessitate careful control of the interfaces between habitable rooms, non-habitable rooms, and blank walls in these locations. Conditions of consent are recommended accordingly.</p> <p>Refer to the building separation discussion under the heading Issues.</p>

<b>Apartment Design Guide</b>		
<b>Control</b>	<b>Compliance</b>	<b>Comment</b>
At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.	Yes	<p>The site has interfaces with lower scale residential development on Mitchell Road and Ashmore Street.</p> <p>Blocks B, C, F and I interface with existing development to the east on the opposite side of Mitchell Road (19.5m wide), and Block A has an interface with existing development on Ashmore Street on the opposite side of the future Kooka Walk (23m wide).</p> <p>The minimum setback requirements at both of these locations is 15m, comprising 12m building separation and an additional 3m where apartments interface with lower density areas. The widths of Mitchell Road and Kooka Walk are therefore sufficient to build to the boundary, however a predominant 3m setback is proposed in these locations.</p> <p>The proposal is therefore considered satisfactory.</p>
<b>3D Communal and Public Open Space</b>		
Communal open space has a minimum area equal to 25% of the site.	Able to comply	<p>All blocks, with the exception of Block I, are able to provide an area of common open space equivalent to 25% of the site area, either at ground level or on the rooftops.</p> <p>Block I is unable to provide communal open space on the rooftop as the proposed height does not allow for rooftop access or a balustrade without exceeding the maximum permissible height.</p> <p>A condition of consent is recommended requiring all development blocks to provide at least 25% of the site area as communal open space at Stage 2. It is noted that in order for Block I to comply it may be necessary for part of the seventh floor to be undeveloped to allow for a communal rooftop above the sixth floor.</p>

Apartment Design Guide														
Control	Compliance	Comment												
		Refer to the communal open space discussion under the heading Issues.												
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Able to comply	Sun's Eye View diagrams have been submitted with the amended application, which demonstrate that compliance can be achieved either within ground level courtyards, rooftops, or a combination of both.  The Stage 2 DAs will be required to demonstrate full compliance.												
<b>3E Deep Soil Zones</b>														
<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th> <th>Minimum Dimensions</th> <th>% of site area</th> </tr> </thead> <tbody> <tr> <td>&lt;650m<sup>2</sup></td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m<sup>2</sup> – 1,500m<sup>2</sup></td> <td>3m</td> </tr> <tr> <td>&gt;1,500m<sup>2</sup></td> <td>6m</td> </tr> <tr> <td>&gt;1,500m<sup>2</sup> with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table>	Site area	Minimum Dimensions	% of site area	<650m <sup>2</sup>	-	7%	650m <sup>2</sup> – 1,500m <sup>2</sup>	3m	>1,500m <sup>2</sup>	6m	>1,500m <sup>2</sup> with significant existing tree cover	6m	Able to comply	The proposed McPherson Park has an area of 7,446m <sup>2</sup> , which equates to 10.72% of the site area. In conjunction with other deep soil areas across the site, this suggests compliance with the minimum deep soil requirements can easily be achieved.
Site area	Minimum Dimensions	% of site area												
<650m <sup>2</sup>	-	7%												
650m <sup>2</sup> – 1,500m <sup>2</sup>	3m													
>1,500m <sup>2</sup>	6m													
>1,500m <sup>2</sup> with significant existing tree cover	6m													
<b>4A Solar and Daylight Access</b>														
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Able to comply	A proof of concept scheme has been submitted with the application which indicates that the proposed building envelopes are capable of achieving compliance with the minimum requirements.  The Stage 2 DAs will be required to demonstrate compliance.												
<b>4B Natural Ventilation</b>														
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Able to comply	As above.												

Apartment Design Guide		
Control	Compliance	Comment
<b>4C Ceiling Heights</b>		
Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows:		
Habitable rooms: 2.7m	Able to comply	The proposed building envelopes assume a minimum 3.1m floor to floor height for residential floors. This is sufficient to provide a floor to ceiling height of 2.7m.
Non-habitable rooms: 2.4m	Able to comply	As above.

#### State Environmental Planning Policy (Infrastructure) 2007

28. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

#### Clause 44

29. The application is subject to Clause 44 (Division 5 Electricity transmission or distribution networks, Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the building envelopes will accommodate buildings with basements, that will require the penetration of the ground to a depth of at least 3m below ground level (existing) on land that is within 10m (measured radially) of the centreline of the Picnic Point to Haymarket electricity supply corridor.
30. In accordance with the Clause, the amended application was referred to Transgrid for a period of 21 days. Transgrid did not object to the proposal, but did outline their requirements, which have been incorporated into the recommended conditions of consent where necessary.

#### Clause 45

31. The application is subject to Clause 45 of the ISEPP (Division 5 Electricity transmission or distribution networks, Subdivision 2 Development likely to affect an electricity transmission or distribution network) as there is an existing substation adjacent to the site, existing cables within the site boundary and adjacent to the site, and an existing right of way within the subject site.
32. In accordance with the Clause, the application was referred to Ausgrid for a period of 21 days. Ausgrid advised that the developer is required to make a formal submission to Ausgrid to facilitate an assessment of any impacts on its infrastructure and to determine the electrical supply requirements for the development. The applicant was advised of this requirement via email on 4 August 2015. Ausgrid's requirements have been incorporated into the recommended conditions of consent where necessary.

**Clause 104**

33. The application is subject to Clause 104 of the ISEPP (Division 17 Roads and traffic, Subdivision 2 Development in or adjacent to road corridors and road reservations) as the proposal is traffic generating development, being residential development that will provide more than 300 dwellings, and shops and commercial premises exceeding 4,000m<sup>2</sup> of GFA.
34. In accordance with the Clause, the application was referred to the RMS for a period of 21 days. RMS raised no objection to the proposal, but requested a condition of consent be imposed, which specifies that RMS approval is required for traffic control lights. This has been incorporated into the recommended conditions of consent, and will be a matter for consideration for the relevant Stage 2 DAs.

**Sydney LEP 2012**

35. The site is located partly within the B2 'Local Centre' zone, and partly within the B4 'Mixed Use' zone. The proposal is a Concept Plan for building envelopes. Indicative land uses include residential flat buildings, attached dwellings, child care centres, retail premises, shop top housing, and recreation areas, which are all permissible with consent.
36. The relevant matters to be considered under Sydney Local Environmental Plan 2012 (SLEP) for the proposed development are outlined below.

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.3 Height of Buildings	No	<p>The maximum permissible height varies across the site and within the proposed blocks. There are nine developable blocks, and each is subject to between one and three maximum height controls.</p> <p>The proposal generally complies with the maximum building heights, however there are five instances of non-compliance across the site. These occur in the following locations:</p> <ul style="list-style-type: none"> <li>• Block C (maximum variance is 2.84m (10.52%));</li> <li>• Block E, northern building, (maximum variance is 1.01m (3.74%));</li> <li>• Block E, southern building (maximum variance is 1.07m (3.96%));</li> <li>• Block F (variance is partially 2.55m (9.44%) and partially 4.55m (18.2%)); and</li> <li>• Block H (maximum variance is 0.25m (1%)).</li> </ul>

Compliance Table		
Development Control	Compliance	Comment
		<p>The application includes a request to vary the height of buildings development standards, which is supported.</p> <p>Notwithstanding this, conditions of consent are recommended to require a five storey street wall height with a 3m upper level setback on Block H where it fronts Coulson Street, which will delete the proposed height non-compliance in this location.</p> <p>The recommended conditions will reduce the instances of non-compliances across the site from five (5) to four (4). This is considered acceptable for the reasons outlined elsewhere in this report.</p> <p>Refer to building height discussion under the heading Issues.</p>
4.4 Floor Space Ratio	No	<p>A maximum FSR of 1.75:1 is permitted at Stage 1 (excluding potential 10% design excellence bonus, which may be awarded at Stage 2).</p> <p>An FSR of 1.753:1 is proposed, which equates to an additional 238.5m<sup>2</sup> GFA over the maximum permitted.</p> <p>A request to vary the FSR development standard has not been submitted and therefore cannot be considered. The proposed additional GFA is also not supported. A condition of consent is recommended to limit the maximum quantum of base GFA to 1.75:1.</p> <p>Refer to FSR discussion under the heading Issues.</p>

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the Height of Buildings development standard permitted under Clause 4.3, and the maximum FSR permitted under Clause 4.4.</p> <p>A request to vary the height of buildings development standards under the provisions of Clause 4.6 has been submitted.</p> <p>The use of Clause 4.6 to vary the height of buildings development standard is in accordance with LEP requirements, and is partially supported.</p> <p>A request to vary the FSR development standard has not been submitted and therefore cannot be considered. It is also not supported.</p> <p>Refer to building height and FSR discussions under the heading Issues.</p>
5.9 Preservation of trees or vegetation	Yes	<p>No trees are proposed to be removed as part of the Stage 1 application, however the approval of the proposed building envelopes will require the removal of a number of trees during each of the construction phases.</p> <p>Conditions of consent are recommended requiring an Arboricultural Impact Assessment to be submitted with each individual Stage 2 DA.</p> <p>The Sydney DCP 2012 shows building envelopes in the location of the existing Hill's Weeping Figs on the corner of Ashmore Street and Mitchell Road. As discussed in detail elsewhere in this report, the application has been amended to retain these trees. Conditions are recommended to ensure their longevity during and after construction of the future buildings.</p> <p>Refer to trees discussion under the heading Issues.</p>

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
5.10 Heritage conservation	Yes	<p>The site is not a heritage item nor is it located in a heritage conservation area. Notwithstanding this, the electrical substation on the northern frontage is a heritage item of local significance (I503). The site also directly adjoins the Malcolm Estate Conservation Area (C24) to the north-west, the Erskineville Estate Conservation Area (C22) to the north, and the Cooper Estate Conservation Area (C2) to the east.</p> <p>A Heritage Impact Statement has been submitted, satisfying the requirements of the clause.</p> <p>The proposed building envelopes, as amended and subject to conditions, are considered to be acceptable in terms of heritage impacts to the adjoining heritage item and conservation areas.</p> <p>Refer to heritage discussion under the heading Issues.</p>
<b>Part 6 Local provisions - height and floor space</b>		
6.21 Design excellence	Yes	<p>Development of the site is subject to Clause 7.20 'Development requiring or authorising preparation of a Development Control Plan' of SLEP 2012, and therefore the Stage 2 DAs must be subject to competitive design processes.</p> <p>In accordance with Section 83C of the EP&amp;A Act 1979, this Stage 1 DA has been lodged in lieu of a Development Control Plan.</p> <p>A Design Excellence Strategy has also been submitted with the application to the satisfaction of Council officers.</p>

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
		<p>Under clause 6.21 (7) (b), if the Stage 2 DAs for the detailed designs of the buildings are considered to exhibit design excellence, the applicant may be eligible for additional height or floor space of an amount determined by the consent authority. The applicant has indicated that floor space will be sought if design excellence is achieved.</p> <p>It is considered that the proposed building envelopes are able to facilitate detailed designs that are capable of achieving design excellence. Notwithstanding this, it is not expected that the full 10% will be achievable on any of the development Blocks due to height constraints.</p> <p>Stage 2 DAs that seek to locate bonus GFA above the maximum height plane provided in SLEP 2012, except where that height has been approved by this Stage 1 consent, will not be looked upon favourably. A condition of consent is recommended accordingly.</p>
<b>Part 7 Local provisions—general</b>		
Division 1 Car parking ancillary to other development	Matter for Stage 2	<p>The maximum number of car parking spaces permissible will be dependent on the number of apartments proposed in the Stage 2 DAs and the quantum of retail and commercial floor space provided.</p> <p>Accordingly it is not considered necessary to impose conditions regarding the quantum of car parking until future Stage 2 DAs are determined.</p>
7.14 Acid Sulphate Soils	Matter for Stage 2	<p>The site is identified as containing class 3 Acid Sulphate Soil.</p> <p>It will be determined at Stage 2 if the Acid Sulfate Soils provisions of the LEP are triggered by any proposed excavation works.</p>

Compliance Table		
Development Control	Compliance	Comment
7.15 Flood planning	Able to comply	<p>The site includes land that is at or below the flood planning level, and is therefore flood affected land. For the purposes of this Stage 1 application, it has been sufficiently demonstrated that:</p> <ul style="list-style-type: none"> <li>the site can be developed in a manner that will minimise the flood risk to life and property associated with the use of land;</li> <li>future development can be compatible with the land's flood hazard; and</li> <li>significant adverse impacts on flood behaviour and the environment are not expected to arise as a result of the proposed development.</li> </ul> <p>In light of the above, it is considered that the objectives of the clause have been met by this Stage 1 application.</p> <p>The future Stage 2 DAs for the detailed designs will be required to demonstrate that the specific design criteria set out in the Clause are met.</p> <p>Refer to water and flood management discussion under the heading Issues.</p>
7.19 Demolition must not result in long term adverse visual impact	Yes	<p>Clause 7.19 prohibits the demolition of a building unless a development consent is in place to comprehensively redevelop the site. Demolition of the existing structures will therefore be the subject of future DAs.</p> <p>A condition of consent is recommend to specify that demolition is not approved.</p>
7.20 Development requiring preparation of a development control plan	Yes	<p>The proposal involves the development of land with a site area in excess of 5,000m<sup>2</sup>. Accordingly the development requires the preparation of a Development Control Plan.</p> <p>In accordance with Section 83C of the EP&amp;A Act, this Stage 1 DA has been lodged in lieu of a Development Control Plan to satisfy that obligation.</p>

Compliance Table		
Development Control	Compliance	Comment
7.23 Large retail development near Green Square Town Centre	Yes	<p>The southern parcel of land is identified as land on which retail development is restricted to less than 1,000m<sup>2</sup>.</p> <p>Although retail uses are proposed for the southern parcel of land, the quantum of floor space on that parcel is less than the 1,000m<sup>2</sup> threshold.</p> <p>Refer to retail uses discussion under the heading Issues.</p>

### Sydney DCP 2012

37. The relevant matters to be considered under Sydney Development Control Plan 2012 (SDCP) for the proposed development are outlined below.

2. Locality Statements – Ashmore
<p>The subject site is located in the Ashmore locality. The proposed Stage 1 DA for building envelopes and concept uses is considered to be in keeping with the unique character of the area and the relevant design principles. Specifically, subject to the recommended conditions of consent, the proposed Stage 1 Concept Plan:</p> <ul style="list-style-type: none"> <li>• Ensures building heights in Ashmore transition to neighbouring conservation areas;</li> <li>• Introduces a permeable network of streets;</li> <li>• Facilitates the provision of attractive public domain works with pedestrian and cycle connections;</li> <li>• Facilitates the provision of a new public park to be known as McPherson Park;</li> <li>• Facilitates the provision of high quality streetscapes capable of accommodating tree planting and water sensitive urban design measures;</li> <li>• Establishes setbacks from the public domain to provide for a strong landscape character;</li> <li>• Introduces an appropriate mix of commercial and residential uses; and</li> <li>• Protects key panoramic views from Sydney Park to the CBD skyline.</li> </ul> <p>The future Stage 2 DAs must demonstrate their compatibility with the local character, and consistency with the design principles.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>The proposed Concept Plan is generally in accordance with the DCP's public domain requirements, and is considered capable of facilitating Stage 2 detailed designs that will make a positive contribution in that regard.</p> <p>In particular:</p> <ul style="list-style-type: none"> <li>• New streets, lanes, through-site links, and public open spaces are proposed in accordance with the DCP maps;</li> <li>• The Concept Plan will facilitate the provision of cycle ways consistent with the Cycle Strategy and Action Plan 2007-2017;</li> <li>• Streets are proposed to incorporate water sensitive urban design measures;</li> <li>• Solar access diagrams submitted with the application demonstrate that McPherson Park will receive continuous solar access to more than 50% of the total area between 10am and 2pm at the winter solstice; and</li> <li>• A Public Art Strategy has been submitted to the satisfaction of Council officers.</li> </ul> <p>It is noted that the DCP requires street blocks not to exceed more than 120m in length, however the Mitchell Road frontage of Block C is approximately 140m in length.</p> <p>This non-compliance is arising from Council's desire for additional commercial floor space to be provided on this block to facilitate the provision of additional childcare over and above that required by the DCP. This necessitates a commercial podium with residential buildings above, which removes the opportunity to provide a break in the street wall at ground level. Non-compliance is therefore considered acceptable.</p>

3. General Provisions		
Development Control	Compliance	Comment
		Notwithstanding the above, the detailed design could respond to this non-compliance through articulation or other design measures. A condition of consent is recommended to ensure this is a matter for consideration at Stage 2.
3.2 Defining the Public Domain	Yes	<p>The proposed Concept Plan facilitates the provision of the future McPherson Park, which will receive adequate solar access. In addition, views from Sydney Park across the site to the CBD are maintained.</p> <p>Visual impacts are discussed further under the heading Issues.</p> <p>Other provisions of this section, which relate to detailed design, will be matters for consideration at Stage 2.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The Stage 1 submission requirements outlined in Section 3.3.8 are generally satisfied with the exception of the Landscape Concept Plan. A condition of consent is recommended requiring a Landscape Concept Plan to be submitted to and approved by Council's Director City Planning, Development and Transport prior to the finalisation of the brief for each competitive design process.</p> <p>The future Stage 2 DAs will be subject to a competitive design process, and a condition of consent is recommended accordingly.</p> <p>The strategy of apportioning additional floor space is outlined in the discussion of the Design Excellence Strategy under the heading Issues.</p>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.4 Hierarchy of Centres, City South	Yes	<p>The northern parcel of land is identified as a local village on the <i>Hierarchy of Centres, City South Map</i>. Block F is capable of accommodating a full line supermarket in accordance with the desired character of a local village.</p> <p>Refer to retail uses discussion under the heading Issues.</p>
3.5 Urban Ecology	Yes	<p>No trees are proposed to be removed as part of the Stage 1 application, however the approval of the proposed building envelopes will require the removal of a number of trees during each of the construction phases.</p> <p>Conditions of consent are recommended requiring an Arboricultural Impact Assessment to be submitted with each individual Stage 2 development application.</p> <p>Conditions are also recommended to ensure the longevity of the retained Hills Weeping Figs on the corner of Ashmore Street and Mitchell Road.</p> <p>New tree planting and landscaping works proposed as part of the Stage 2 DAs must be accordance with DCP requirements, and will be assessed accordingly.</p>
3.6 Ecologically Sustainable Development	Yes	<p>ESD is a key consideration for the future detailed designs and will form part of the Competitive Design Alternatives Brief. A condition of consent is recommended to this effect.</p>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.7 Water and Flood Management	Yes	<p>The site is identified as being on flood prone land.</p> <p>A site specific flood study has been prepared in accordance with DCP requirements.</p> <p>The Concept Plan facilitates the provision for onsite detention at McPherson Park and WSUD measures throughout the public domain.</p> <p>Each of the future development sites exceed 1,800m<sup>2</sup> in site area, and therefore future DAs must be supported by a Local Drainage Management Plan and a Stormwater Quality Assessment.</p> <p>Refer to discussion of water and flood management under the heading Issues.</p>
3.9 Heritage	Yes	<p>The site is not a heritage item nor is it located in a heritage conservation area. Notwithstanding this, the electrical substation on the northern frontage is a heritage item of local significance (I503). The site also directly adjoins the Malcolm Estate Conservation Area (C24) to the north-west, the Erskineville Estate Conservation Area (C22) to the north, and the Cooper Estate Conservation Area (C2) to the east.</p> <p>The proposed building envelopes, as amended and subject to conditions, are considered to be acceptable in terms of heritage impacts to the adjoining heritage item and conservation areas.</p> <p>Refer to heritage discussion under the heading Issues.</p>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.10 Significant Architectural Building Types	Yes	<p>The industrial buildings on the site date from the mid to late 20th century and therefore the provisions of the DCP apply.</p> <p>Council's heritage specialist has advised that industrial buildings on the site that are older than 50 years are not significant and their demolition can be supported from a heritage perspective.</p>
3.11 Transport and Parking	Yes	<p>With the exception of vehicle access points, Section 3.11 generally contains provisions that will be matters for consideration at Stage 2.</p> <p>The proposed vehicle access points have been considered, however Council's Transport and Access Unit has recommended that a condition of consent be imposed specifying that the proposed vehicular access points are not approved, and will therefore be a matter for consideration at Stage 2.</p> <p>Refer to transport and access discussion under the heading Issues.</p>
3.12 Accessible Design	Yes	<p>A condition has been recommended that requires the Stage 2 detailed designs to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.</p>
3.14 Waste	Yes	<p>The Stage 2 DAs will need to demonstrate compliance with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005.</p>
3.17 Contamination	Yes	<p>A Stage 1 Environmental Site Assessment, Remediation Concept Plan, and Site Audit Report was submitted with the development application. The City's Environmental Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed uses.</p>

4. Development Types		
4.1 Single dwellings, terraces and dual occupancies		
Development Control	Compliance	Comment
4.1.1 Building height	Yes	<p>Block D is likely to be developed as terrace housing.</p> <p>A maximum of two storeys is permitted on Block D.</p> <p>The proposed building envelopes can accommodate two storeys plus an attic, which therefore complies.</p>
4.1.2 Building setbacks	Yes	<p>The proposed setbacks of Block D comply with the requirements of the <i>Building Setback Map</i> and are consistent with the approved setbacks on the adjoining site at 1A Coulson Street (D/2014/1703).</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.1 Building height	No	<p>The proposed Concept Plan does not comply with the height in storeys controls on parts of Blocks C, E, F, G, H and I, and does not comply with the street wall height provisions on Blocks A, B, C, E, F, G, H and I.</p> <p>These non-compliances are arising predominantly from the applicant's manipulation of the building envelopes to achieve the base maximum FSR of 1.75:1, which is no longer achievable within the DCP envelopes since the ADG has come into force, and to accommodate floor space that has been relocated from the north eastern corner of the site.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
		<p>Subject to the recommended conditions of consent, which include design amendments that reduce height in Block E, and introduce lower street wall heights in locations on Blocks E, F, G, H and I, the proposed building envelopes are considered to be acceptable.</p> <p>Refer to the built form discussion under the heading Issues.</p>
4.2.2 Building setbacks	Acceptable	<p>The proposal generally complies with the DCP's setback requirements. However it is noted that a 3m active edge setback is recommended at the south eastern corner of Block C, and the north eastern corner of Block F, at the intersection of Macdonald Street and Mitchell Road, fronting Mitchell Road. This has not been provided.</p> <p>Approval of the building envelopes as proposed would not prevent the provision of the 3m active setback at Stage 2. Moreover the provision of a nil setback may have merit, given these buildings 'bookend' the eastern gateway into the Ashmore Estate. Accordingly it is not considered necessary to impose a condition to enforce the setback control at this stage.</p> <p>A condition of consent is recommended for this to be given further consideration in the relevant design competitions.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.3 Amenity	Yes	<p>A proof of concept scheme has been submitted indicating that compliance with the residential amenity controls is possible. It is noted however that the proof of concept includes very narrow two bedroom apartments that are not feasible, as they do not have adequate frontage for two bedrooms and a living space. An example is provide in Figure 29 below.</p>  <p>Figure 29: Extract from proof of concept illustrating unworkable two-bedroom apartments</p> <p>However, these apartments would be feasible if converted to split level apartments, and therefore it is not considered necessary for the applicant to further develop the proof of concept at this stage.</p> <p>The ADG requirements will prevent apartments with this layout being proposed at Stage 2.</p>

4. Development Types		
4.4 Other Development Types and Uses		
Development Control	Compliance	Comment
4.4.4 Child care centres	Yes	<p>Block C and Block F have been identified as being suitable for accommodating future childcare centres at the ground level.</p> <p>The proof of concept scheme demonstrates that the proposed Block C building envelope can accommodate a child care centre for approximately 73 children and the proposed Block F building envelope can accommodate a child care centre for approximately 74 children.</p> <p>Council's Child and Family Services Unit has reviewed the application, and is satisfied that the proposed locations for the centres are appropriate.</p> <p>The future DAs for the child care centres must demonstrate:</p> <ul style="list-style-type: none"> <li>• Compliance with the Education and Care Services National Regulations;</li> <li>• That 33% of places will be allocated to children aged 0-2 years;</li> <li>• That clear lines of site between playrooms, children's bathrooms, cot rooms and outdoor play areas are provided;</li> <li>• That cot rooms off playrooms designated to children aged 0-2 years are provided;</li> <li>• The access into the child care centre is secure; and</li> <li>• That outdoor play areas have access to natural light and natural ventilation.</li> </ul> <p>A condition of consent is recommended accordingly.</p>

5. Specific areas		
Development Control	Compliance	Comment
5.5.1 Ashmore urban strategy	Yes	<p>The proposed Stage 1 Concept Plan is entirely consistent with the Ashmore Urban Strategy objectives. Moreover, there are no aspects of the Concept Plan that would prevent Stage 2 detailed designs from achieving compliance.</p> <p>It is noted however that the proposal does not comply with <i>Urban Strategy Map</i>, which identifies a five storey street frontage height for Blocks E and G where they front Macdonald Street, and a low building height at the eastern edge of Block I.</p> <p>Conditions of consent are recommended to introduce lower street wall heights in locations on Blocks E, G, and I, which will achieve greater consistency with the map.</p> <p>Refer to built form discussion under the heading Issues.</p>
5.5.2 Urban design principles	Yes	<p>The proposed Stage 1 Concept Plan is generally consistent with the urban design principles however, as outlined above, it does not comply with the requirement to provide a 4m setback above five storeys.</p> <p>Subject to the recommended conditions of consent that introduce lower street wall heights and upper level setbacks in locations on Blocks E, F, G, H and I, the proposed building envelopes are considered to be acceptable.</p> <p>It should be noted that urban design principles specific to the Ashmore Estate require a 4m setback above the street wall height, however 3m is consistent with the upper level setback controls applicable elsewhere in the City. This is therefore considered sufficient in a number of locations on this site, and is discussed in further detail elsewhere in this report.</p>

5. Specific areas		
Development Control	Compliance	Comment
		Refer to built form discussion under the heading Issues.
5.5.3 Local infrastructure and public domain	Yes	<p>The proposal is generally in accordance with local infrastructure and public domain requirements. Specifically:</p> <ul style="list-style-type: none"> <li>All new streets, lanes and pedestrian links identified in the <i>Ashmore Street Hierarchy Map</i> are provided, and all streets and lanes identified on the map will be dedicated to the City under the terms of the VPA;</li> <li>Sufficient separation between building envelopes is provided to allow streets and lanes to be designed in accordance with the DCP's design criteria and the City's Ashmore Public Domain Strategy;</li> <li>The Concept Plan facilitates the provision of circulation and access in accordance with the <i>Ashmore Circulation and Access Map</i> (however it is proposed not to approve vehicular access points at Stage 1 – refer to transport and access discussion under the heading Issues); and</li> <li>Public open space and landscape setbacks are provided in accordance with the <i>Ashmore Open Space and Setbacks Map</i>.</li> </ul>
5.5.4 Accessibility and amenity in the public domain	Yes	<p>The site specific provisions require McPherson Park to receive solar access to 60% of its area between 10am and 2pm at the winter solstice. It should be noted that the usual DCP requirement set out in Section 3.1 is 50%.</p> <p>The solar access diagrams submitted with the application demonstrate that solar access is achieved approximately as follows: 10am - 55%;</p> <ul style="list-style-type: none"> <li>11am - 64%;</li> <li>12 noon - 70%;</li> <li>1pm – 78%; and</li> <li>2pm – 79%.</li> </ul>

<b>5. Specific areas</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
		<p>Although the 60% requirement is not satisfied at 10am, this is acceptable given the minimum requirements are greatly exceeded for the remainder of the day.</p> <p>The Concept Plan allows for landscaping and stormwater management to be incorporated at Stage 2.</p>
5.5.5 Staging	Yes	<p>A Phasing Plan has been submitted to the satisfaction of Council officers.</p> <p>Land ownership is discussed in the section below.</p>
5.5.6 Floor space ratio	No	<p>The DCP identifies that both parcels of land are to be consolidated before a development application can be considered.</p> <p>The northern parcel of land is owned by the developer, Greenland Golden Horse Investments Pty Ltd, while the southern parcel of land is owned by The Trust Company as custodian for the Goodman Industrial Europe Finance Trust.</p> <p>The applicant has advised that it is not possible for the sites to be amalgamated at this stage due to the existing land ownership arrangements. The applicant anticipates that both sites will be in the ownership of the developer by late 2017; however there is no guarantee that this will eventuate.</p> <p>In order to overcome Council's concerns regarding the sites being in separate ownership, which relate primarily to the delivery of future public domain works over the long term, the owners of both sites will be party to the VPA.</p> <p>A deferred commencement condition is recommended, requiring the VPA to be executed and registered on the title of both sites before the consent becomes active.</p>

5. Specific areas		
Development Control	Compliance	Comment
		A further condition of consent is recommended requiring the phases identified on Phasing Plan to be carried out in sequential order. This will ensure the delivery of the bulk of the public domain works, which include Macdonald Street and everything to the north of it, must commence before the southern parcel of land can be redeveloped.
5.5.7 Land use mix	Yes	<p>The proposed Concept Plan provides for a mix of land uses that are generally in accordance with the <i>Ashmore Land Use Map</i>.</p> <p>Additional commercial uses are proposed in Block C and Block H, however this is consistent with the land uses permissible in the B2 'Local Centre' and B4 'Mixed Use' zones and is acceptable.</p>
5.5.8 Building layout, form and design	Able to comply	<p>As outlined above, the proposed Concept Plan does not comply with the height in storeys controls on parts of Blocks C, E, F, G, H and I, and does not comply with the street wall height provisions on Blocks A, B, C, E, F, G, H and I.</p> <p>Subject to the recommended conditions of consent, which include design amendments that introduce lower street wall heights in locations on Blocks E, F, G, H and I, the proposed building envelopes are considered to be acceptable.</p> <p>Views to the CBD from Sydney Park are maintained, and there is no impact upon views to the Clock Tower at Central Station, the King Street Ridge, or Bondi Junction.</p>

5. Specific areas		
Development Control	Compliance	Comment
		<p>The <i>Potential Splay Corners Map</i> identifies that a splay should be provided at the north western and north eastern corners of Block D; however a splay is only proposed on the north western corner. A condition of consent is recommended requiring a splay to be provided on the north eastern corner.</p> <p>Controls in this section relating to building type and design will be a matter for consideration at Stage 2.</p> <p>Refer to the built form discussion under the heading Issues.</p>
5.5.9 Terrace housing	Yes	Terrace housing is proposed to be provided on Block D in accordance with the <i>Ashmore Building Type Map</i> . The design criteria contained in the DCP will be a matter for consideration at Stage 2.
5.5.10 Biodiversity	Yes	<p>No trees are proposed to be removed as part of the Stage 1 application, however the approval of the proposed building envelopes will require the removal of a number of trees at Stage 2.</p> <p>Stage 2 DAs for all future development phases will be required to address the biodiversity provisions of the DCP. DAs for Blocks A and D must be supported by an Ecological Assessment Report to assess the impacts of those proposals on flora and fauna in the vicinity of Coppersmith Lane. A condition of consent is recommended accordingly.</p>

## ISSUES

### FSR

38. A maximum base FSR of 1.75:1 is permitted, which may be increased up to 1.925:1 subject to Stage 2 detailed designs achieving design excellence as part of a competitive design process.

39. The total site area is 69,470m<sup>2</sup>, which facilitates a maximum GFA of 121,572.5m<sup>2</sup>. The original application, as lodged in July 2015, proposed a maximum FSR of 1.921:1, which equates to a maximum GFA of 133,427m<sup>2</sup>. The applicant has amended the proposal in response to Council officers concerns, and the GFA has been reduced by 11,617m<sup>2</sup> to 121,810m<sup>2</sup>, lowering the FSR from 1.921:1 to 1.753:1. The capability of the amended Stage 1 building envelopes to accommodate the proposed FSR (and no more) has been verified by Council's Strategic Planning and Urban Design Unit.
40. It is noted that the amended proposal provides an additional 238.5m<sup>2</sup> of GFA over the maximum permitted. A request to vary the FSR development standard has not been submitted with the application and therefore, in accordance with the provisions of Clause 4.6 any additional GFA above the permitted maximum cannot be considered. A condition of consent is recommended specifying that a maximum GFA of 121,572.5m<sup>2</sup> is approved at Stage 1.
41. The Stage 1 DA allocates a portion of the base quantum of GFA to each development block, based on the GFA the proposed building envelope on that block is capable of accommodating. The proposed allocation is outlined in the table below.

Block	Lot Area	Envelope Area	Res. GFA	Com. GFA	Site FSR	% of GFA
<b>A</b>	4,675m <sup>2</sup>	17,306m <sup>2</sup>	12,945m <sup>2</sup>	0m <sup>2</sup>	2.769:1	10.6%
<b>B</b>	6,582m <sup>2</sup>	16,698m <sup>2</sup>	12,490m <sup>2</sup>	0m <sup>2</sup>	1.898:1	10.3%
<b>C</b>	6,986m <sup>2</sup>	23,221m <sup>2</sup>	12,689m <sup>2</sup>	4,681m <sup>2</sup>	2.486:1	14.3%
<b>D</b>	736m <sup>2</sup>	1,306m <sup>2</sup>	977m <sup>2</sup>	0m <sup>2</sup>	1.327:1	0.8%
<b>E</b>	4,689m <sup>2</sup>	18,863m <sup>2</sup>	14,109m <sup>2</sup>	0m <sup>2</sup>	3.009:1	11.6%
<b>F</b>	8,775m <sup>2</sup>	33,474m <sup>2</sup>	19,250m <sup>2</sup>	5,788m <sup>2</sup>	2.853:1	20.6%
<b>G</b>	6,256m <sup>2</sup>	25,399m <sup>2</sup>	18,999m <sup>2</sup>	0m <sup>2</sup>	3.037:1	15.6%
<b>H</b>	3,759m <sup>2</sup>	15,941m <sup>2</sup>	11,684m <sup>2</sup>	240m <sup>2</sup>	3.172:1	9.8%
<b>I</b>	2,661m <sup>2</sup>	10,640m <sup>2</sup>	7,958m <sup>2</sup>	0m <sup>2</sup>	2.991:1	6.5%
<b>Total</b>	<b>45,119m<sup>2</sup></b>	<b>162,848m<sup>2</sup></b>	<b>111,101 m<sup>2</sup></b>	<b>10,709 m<sup>2</sup></b>	<b>1.753:1</b>	<b>100%</b>

42. The proportional allocations outlined above are generally supported. A condition of consent is recommended to allocate a base quantum of GFA to each development block in accordance with the table above, less 238.5m<sup>2</sup> in order to comply with the maximum FSR of 1.75:1. The deleted GFA will be distributed proportionally amongst blocks E-I, as these blocks are recommended to have building envelopes amended to incorporate lower street wall heights and upper level setbacks. Specifically, GFA will be reduced by the following amounts:

- (a) Block E – 43m<sup>2</sup>;
  - (b) Block F – 76.5m<sup>2</sup>;
  - (c) Block G – 58m<sup>2</sup>;
  - (d) Block H – 36.5m<sup>2</sup>; and
  - (e) Block I – 24.5m<sup>2</sup>.
43. A condition of consent is recommended which specifies that the Floor Space Ratio of the overall site must not exceed the maximum permissible and shall be calculated in accordance with Clauses 4.4, 4.5, and 6.21 of the Sydney Local Environmental Plan 2012. This allows for a base FSR of 1.75:1 (121,572.5m<sup>2</sup>), with up to 10% additional floor space available for achieving design excellence.
44. It should be noted that it is not expected that the full 10% will be achievable on any of the development blocks due to height constraints. This is discussed in further detail in the design excellence strategy discussion elsewhere in this report.

### **Building Height**

45. The SLEP 2012 height of buildings development standard varies across the site, and within the proposed development blocks, as illustrated in Figure 30 below. The parts of the site that will accommodate MacPherson Park, Kooka Walk, and the extended Macdonald Street are subject to a 3m height control. Block D in the north western corner of the site is subject to an 8m height control. Elsewhere on the site, the maximum permissible heights vary from 15m to 27m.



Figure 30: Maximum heights permitted by the Sydney LEP, the site is shown outlined in blue

46. The original application, as lodged in July 2015, proposed 13 separate non-compliances of the maximum height controls across the site. These variances were excessive, and ranged from 10.5% to 78.3%. The applicant has amended the proposal in response to Council officers concerns, however the proposal still breaches the maximum permissible height in five (5) locations. This is considered acceptable for the reasons outlined below.
47. A number of mature Hill's Weeping Fig Trees are located in the north eastern corner of the site (refer to Figure 31). The original application proposed to remove these trees and redevelop that portion of the site. This is permitted by the SLEP 2012 and SDCP 2012, which envisage a six (6) storey building in this location. During the exhibition period the City received 15 submissions from the public, and two petitions with 140 and 551 signatures respectively, specifically requesting these trees to be retained.



Figure 31: Existing stand of mature Weeping Hills Figs located on the corner of Ashmore Street and Mitchell Road

48. In response to the community's concerns, the applicant was requested to investigate options for retaining these trees in situ. Council officers advised the applicant that minor non-compliances with the height controls may be acceptable to facilitate floor space being relocated elsewhere; however this would be subject to the proposal satisfying the requirements of Clause 4.6 'Exceptions to development standards' of the SLEP 2012.
49. In light of the above, the applicant is relying on the provisions of Clause 4.6 to seek an exception to the height of buildings development standards. The proposed non-compliances, which are identified in Figures 32 and 33 below, are in the following locations:
- (a) Block C, segment C01 (maximum variance is 2.84m (10.52%));
  - (b) Block E, segment E01 (maximum variance is 1.01m (3.74%));
  - (c) Block E, segment E02 (maximum variance is 1.07m (3.96%));
  - (d) Block F, segment F01 (variance is partially 2.55m (9.44%) and partially 4.55m (18.2%)); and
  - (e) Block H, segment H01 (maximum variance is 0.25m (1%)).
50. The most significant breaches are highlighted in purple and occur in segment C01 in Block C, segments E01 and E02 in Block E, and segment F01 in Block F. The fifth, and most minor breach, occurs in Block H.

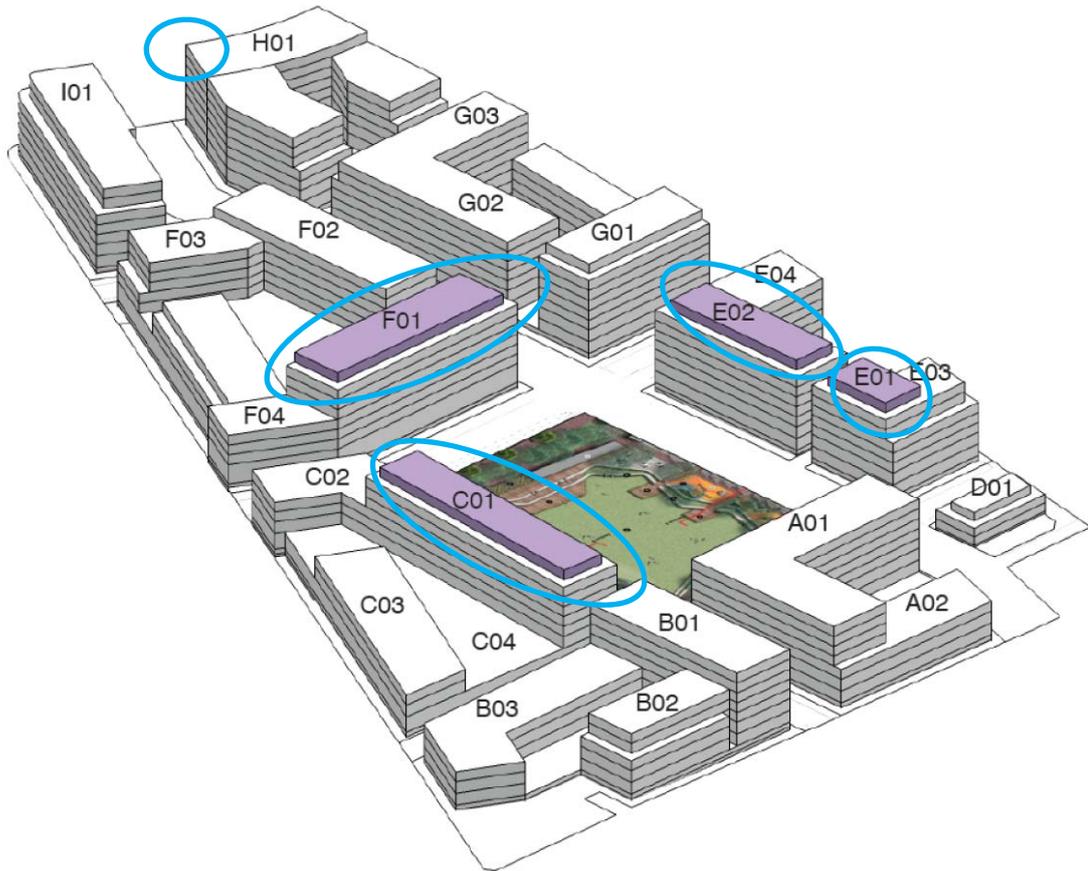


Figure 32: Locations of non-compliances with the height control (greatest non-compliances in Blocks C, E and F shown in purple, with minor non-compliance in Block H circled in blue)

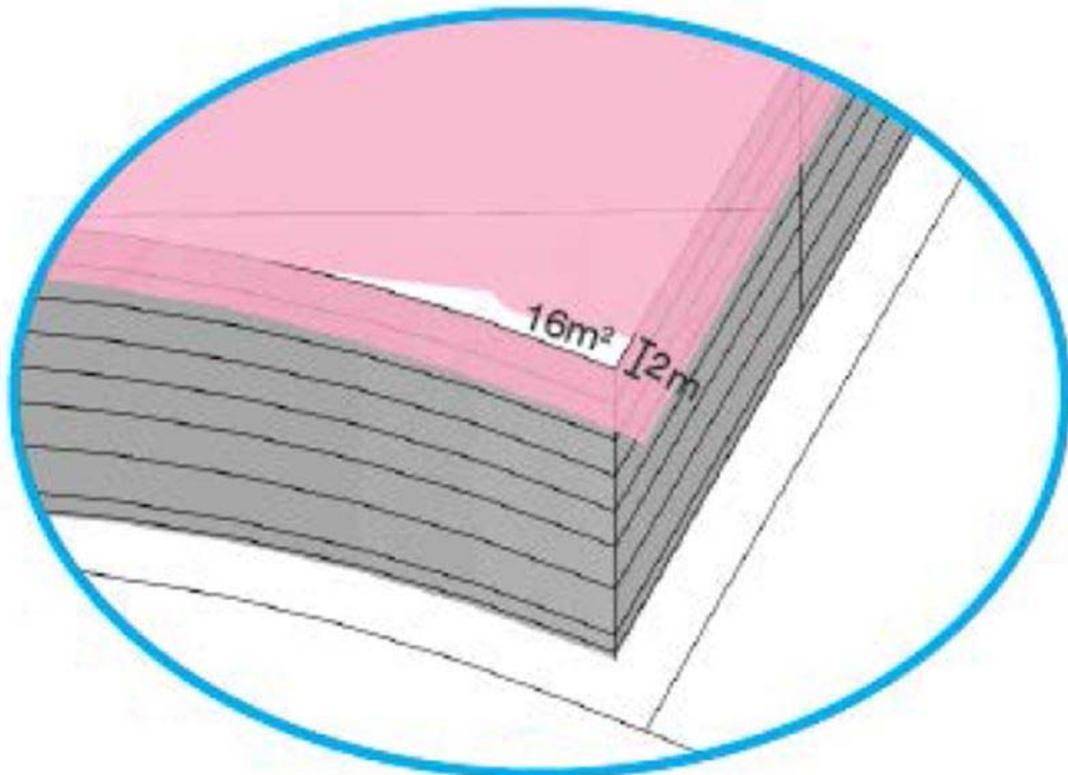


Figure 33: Minor height non-compliance on Block H (0.25m, 1% variation)

51. Clause 4.6 allows the Consent Authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The Consent Authority may grant the exception as the Director-General's concurrence can be assumed where Clause 4.6 is adopted as per Department of Planning Circular PS 08–003 dated 9 May 2008.

Applicant Justification

52. The Applicant submits that compliance with the height control is unreasonable or unnecessary in the circumstances of the case. The Applicant has assessed the five areas of non-compliance in three separate groups being:
- (a) Blocks C, E and F – non-compliances arising from relocating GFA in order to retain trees on the corner of Ashmore Street and Mitchell Road;
  - (b) Block H, which is a minor non-compliance that equates to 0.25m (1% variance); and
  - (c) Part of Block F, which is a major non-compliance that equates to 4.55m (18.2% variance) that in the opinion of the applicant arises from an anomaly in the SLEP 2012.
53. The justification for each category is outlined as follows:
- (a) Blocks C, E and F
    - (i) the proposal results in a public benefit in that the community's desire to retain the trees is realised;
    - (ii) the amount of GFA proposed for the eighth level of the buildings is equal to the amount of GFA that would have been achieved had the site of the retained trees been redeveloped; and
    - (iii) the retention of the trees results in improved outcomes, including:
      - a. an improved relationship at the intersection of Ashmore Street and Mitchell Road to the adjoining and surrounding properties; and
      - b. allowing for improved flexibility in terms of any future adaptive re-use of the adjoining heritage listed substation.
  - (b) Block H
    - (i) the non-compliance is minor, being 0.25m (1% variance), and at a height of 25m will be imperceptible;
    - (ii) the non-compliance is arising primarily as a result of the fall in the land;
    - (iii) the Possible Maximum Flood (PMF) may be reduced when the Stage 2 DA for Block H is submitted (last in the staging plan), therefore the non-compliance may be unnecessary at Stage 2.

- (c) Part of Block F
  - (i) the part of Block F that breaches the 25m height plane (by 4.55m) is located directly adjacent to a parcel of land that is subject to a 27m height control. The adjoining parcel of land is less than 20m in depth (19.2m), and this is therefore assumed to be a drafting error in the SLEP 2012.
  - (ii) the breach into the 25m height plane is arising from the provision of an additional 3m setback from the southern side of Macdonald Street to respond to flooding constraints (which is not required by the SDCP 2012), and the provision of a 3m setback on level 8 to provide a seven (7) storey street wall height on Macdonald Street.
- (d) All non-compliances
  - (i) the proposed non-compliances will not result in unacceptable impacts in terms of:
    - a. solar access
    - b. overshadowing;
    - c. streetscape; and
    - d. private and public view loss.

### Response

- 54. A condition of consent is recommended that will introduce a 3m setback on levels 6 and 7 of Building H on the Coulson Street frontage, which will delete the non-compliance in that location. This is discussed in detail elsewhere in this report.
- 55. As indicated above, Level 8 in Segment F01 on Block F is proposed to have a maximum height of 29.55m. It straddles the boundary between two height controls (27m and 25m), which results in three separate non-compliances which are illustrated in Figure 34 below. Specifically, the proposed non-compliances in Segment F01 on Block F are:
  - (a) Level 8, 4.55m above the 25 height control, which equates to a variation of 18.2% (outlined in red);
  - (b) Level 8, 2.55m above the 27m height control, which equates to a variation of 9.4% (outlined in yellow); and
  - (c) Level 7, 1.45m above the 25m height control, which equates to a variation of 5.8% (outlined in green).

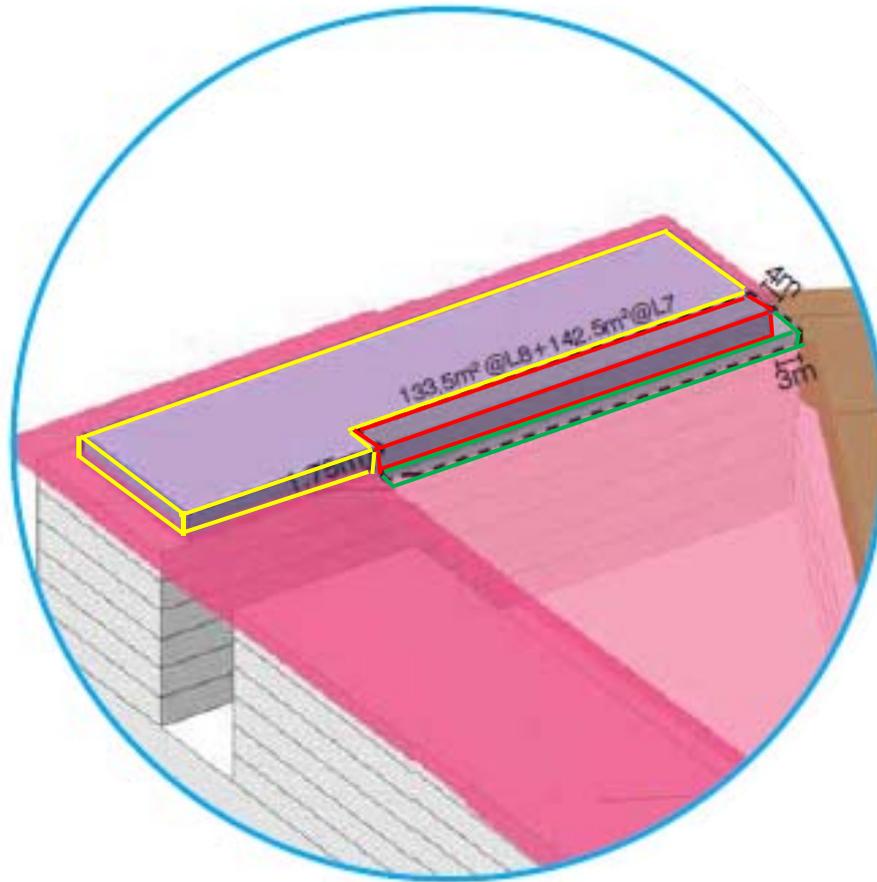


Figure 34: Proposed height non-compliances at Block F

56. As outlined above, the Applicant assumes that the 19.2m depth of the parcel of land to which the 27m height control applies should be 20m, which they describe as an industry minimum. Accordingly, they are of the view that the part of Level 8 that breaches the 25m height plane should be considered subject to a 27m height control.
57. The potential for a drafting error has been discussed with Council's Strategic Planning and Urban Design Unit, which advised there is no error. Accordingly, the proposed variation must be considered as an 18.2% variation to the 25m maximum height control.
58. The proposed 18.2% variation is supportable in the particular circumstances of this case, as it is acknowledged that the 27m height plane is narrow, and it is not considered appropriate to delete a small part of a storey that is otherwise considered acceptable.
59. In the circumstances of the case, the proposed non-compliances are considered to be within the acceptable limits of a Clause 4.6 variation and are considered in further detail below.
60. In *Bates Smart Pty Ltd v Council of the City of Sydney [2014] NSWLEC 1001*, the Land and Environment Court of NSW established a four part assessment framework for a variation proposed under Clause 4.6. An assessment of the proposed variances within this framework is provided below.

(a) **Is the proposed development consistent with the objectives of the zone?**

- (i) The northern parcel of land is zoned B2 'Local Centre' and the southern parcel of land is zoned B4 'Mixed Use'. The proposed heights do not result in inconsistencies with the objectives of the relevant zones.

(b) **Is the proposed development consistent with the objectives of the height standard? Which are, as relevant:**

- (i) *to ensure the height of development is appropriate to the condition of the site and its context:*

The SDCP 2012 envisages eight storey envelopes on Blocks C and F, and the southern part of Block E, in the approximate locations of the proposed non-compliances. The proposal results in buildings no greater than eight (8) storeys, and are therefore of a scale that is generally in accordance with Council's vision for the site.

- (ii) *to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas:*

The proposed non-compliances are located within building envelopes that are somewhat removed from the adjoining heritage conservation areas to the north and east. Other building envelopes located between the non-compliant envelopes and the conservation areas are of a lower, medium density scale, and therefore a suitable transition is achieved.

- (iii) *to promote the sharing of views:*

The Applicant has submitted photomontages illustrating the impact the proposal will have in terms of views from Sydney Park to the CBD compared with complying envelopes. The proposal maintains a complete vista to the CBD and is acceptable in this regard.

In order to consider the impact on private views, Council officers have generated modelled views using the City model to ascertain the impact of the additional height and have determined that the likely impacts are acceptable. This is further expanded upon in the visual impact discussion elsewhere in this report.

- (iv) *to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas:*

The Ashmore Estate is removed from the CBD and Green Square Town Centre and is subject to greater maximum height controls than those in the surrounding areas. Accordingly this objective, which seeks to establish suitable height transitions to low-density areas, is not applicable to the Ashmore Estate.

- (c) **Does the written request to vary the development standard demonstrate that compliance is unreasonable or unnecessary in the circumstances of the case?**
- (i) To demonstrate that compliance with the control is unnecessary or unreasonable the written submission must successfully argue that the objectives of the relevant standard has been met (rendering compliance unnecessary); and that compliance with the relevant standard would result in an inferior outcome to the proposal (rendering compliance unreasonable).
  - (ii) When considering if compliance is unreasonable or unnecessary, it is important to note that the purpose of the additional height is to transfer floor space from the north eastern corner of the site in order to retain the mature Hill's Weeping Fig Trees in situ.
  - (iii) The additional height is considered to result in a superior outcome to retaining the floor space at a lower level and removing the trees, and therefore additional height is supportable in principle. However, this can only be considered reasonable in the absence of adverse impacts.
  - (iv) The Applicant was asked to demonstrate the impact of the non-compliances in terms of overshadowing to McPherson Park between 10am and 2pm in accordance with DCP requirements (refer to Figures 35 to 37). The solar access diagrams submitted with the amended DA indicate solar access is achieved approximately as follows:
    - a. 10am - 55%;
    - b. 11am - 64%;
    - c. 12 noon - 70%;
    - d. 1pm – 78%; and
    - e. 2pm – 79%.
  - (v) As demonstrated above and below, the only overshadowing arising from the additional height to McPherson Park commences at 2pm and is very minor. Additional overshadowing from Level 8 of the southern building in Block E (segment E02) principally falls outside the boundaries of the park.



Figure 35: Overshadowing of McPherson Park at 10am, overshadowing from Block C highlighted by arrow



Figure 36: Overshadowing of McPherson Park at 2pm, overshadowing from Block E highlighted by arrow

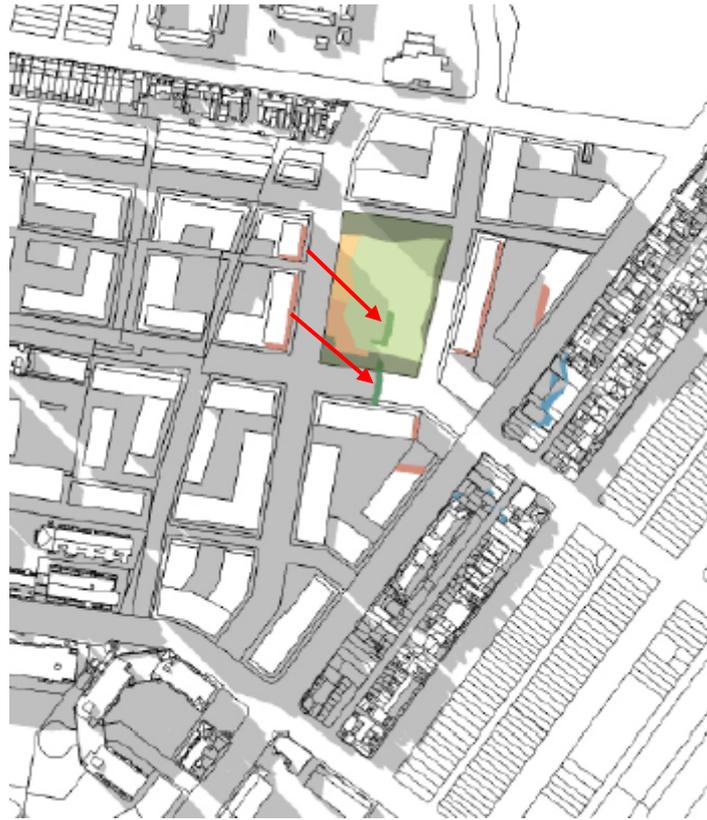


Figure 37: Overshadowing of McPherson Park at 3pm, overshadowing from Block E highlighted by arrow

- (d) **Does the written request to vary the development standard demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard?**
- (i) The above assessment has demonstrated that the proposed development is generally consistent with the objectives of the zones and the development standard, and the purpose of the non-compliances is to relocate floor space above the height plane in order to retain the Hill's Weeping Fig Trees. Accordingly it is considered that there are sufficient grounds to vary the standard.

61. In summary, there are sufficient environmental planning grounds to vary the height of buildings development standards, and the request to vary the standard under the provision of Clause 4.6 of the SLEP 2012 is supported.

### **Built Form**

62. The proposed Concept Plan results in several non-compliances with the height in storeys and street wall height controls contained within the SDCP 2012.

63. It is important to note that the SDCP 2012 building envelopes were devised when the RFDC was still in force. The RFDC states that buildings should be designed with a floor space efficiency ratio of 80% in dense urban areas. The RFDC has since been superseded by the ADG, which has more stringent requirements in terms of natural cross ventilation, which generally results in a higher number of building lift cores being required. This has reduced the floor space efficiency ratio to approximately 75%. As a result of the ADG coming into force, the DCP building envelopes are no longer capable of accommodating the base FSR of 1.75:1.
64. This Stage 1 DA is considered a site specific DCP in accordance with Section 83C of the *Environmental Planning and Assessment Act 1979*. Accordingly, the existing built form controls in the DCP are non-binding, and can be given less weight when considering the suitability of the proposed building envelopes. This Stage 1 application has been considered in the context of the site constraints, particularly the inability of the DCP envelopes to provide a base FSR of 1.75:1, and the desire to retain the existing stand of trees in the north eastern corner of the site, and existing and approved buildings on neighbouring sites. The proposed non-compliances with the built form DCP controls have either been deemed acceptable, or are recommended to be modified through the recommended conditions of consent.
65. An assessment of the proposed building envelopes for each development block is provided below.

Block A

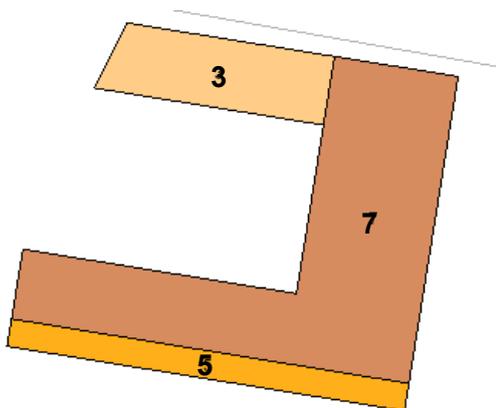


Figure 38: DCP building envelope for Block A

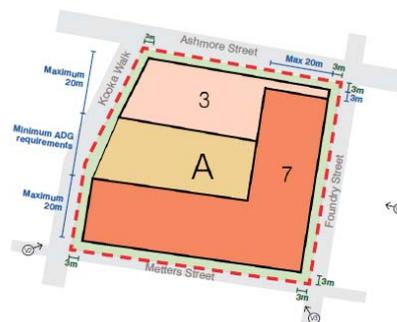


Figure 39: Proposed building envelope for Block A

66. The proposed building envelope for Block A is contained entirely within the maximum height plane and is compliant with the DCP height in storeys controls, however it does not incorporate a five storey street wall height on the southern facade which has frontage to the future Stovemaker Lane and McPherson Park.
67. When considering the suitability of the proposed seven storey street wall height, it should be noted that the DCP permits eight storey street wall heights on Blocks C, E and F where they interface with the park (refer to Figures 41, 46 and 48). Accordingly the proposed seven storey street wall would not appear uncharacteristic when viewed from the park.
68. Solar access diagrams have been submitted which demonstrate that solar access to McPherson Park at the winter solstice is, approximately, as follows:

- (a) 10am - 55%;
  - (b) 11am - 64%;
  - (c) 12 noon - 70%;
  - (d) 1pm – 78%; and
  - (e) 2pm – 79%.
69. Accordingly, the additional built form is not considered to result in unacceptable overshadowing to the public domain.
70. In light of all of the above, the proposed building envelope for Block A is recommended for approval without amendments.

### Block B

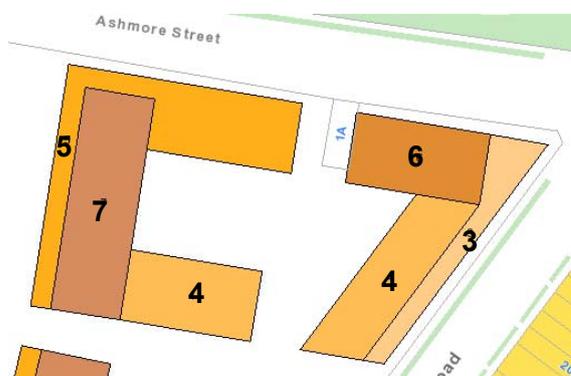


Figure 40: DCP building envelope for Block B

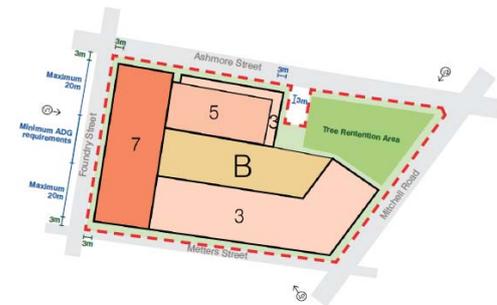


Figure 41: Proposed building envelope for Block B

71. The proposed building envelope for Block B is contained entirely within the maximum height plane and is compliant with the DCP height in storeys controls, however it does not incorporate a five storey street wall height on the western facade which has frontage to the future Foundry Street.
72. As illustrated in Figure 38 above, Block A is permitted to have a seven storey street wall height where it fronts the western side of Foundry Street, therefore a seven storey street wall height on the eastern side of Foundry Street on Block B would provide symmetry within the streetscape.
73. The separation distance between Blocks A and B is 19.8m. The ADG requires a separation distance of 18m between habitable rooms up to eight storeys, and therefore there are no privacy impacts arising from the seven storey street wall height.
74. In light of all of the above, the proposed building envelope for Block B is recommended for approval without amendments.

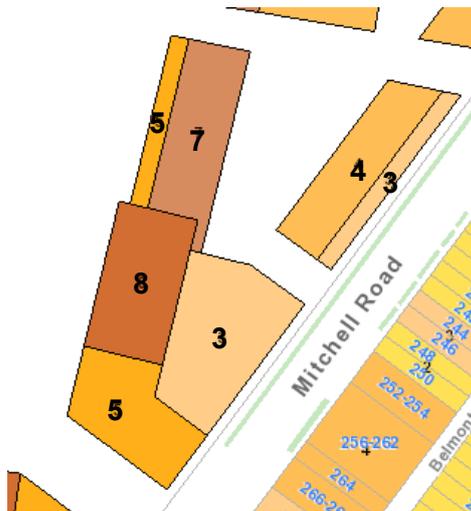
Block C

Figure 42: DCP building envelope for Block C

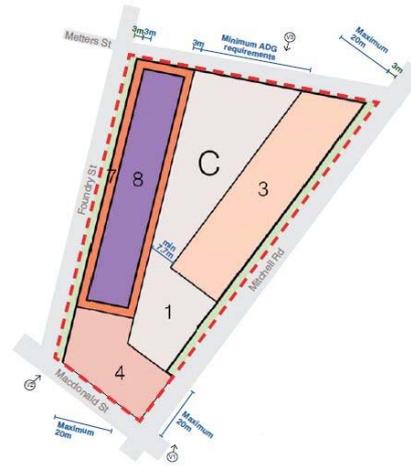


Figure 43: Proposed building envelope for Block C

75. The proposed building envelope for Block C does not comply with the maximum height control of 27m, as the building proposed for the western portion of the site is proposed to have a maximum height of 29.84m (10.5% variation). Non-compliance with the height control is considered acceptable in this location for the reasons outlined elsewhere in this report.
76. Block C generally complies with the height in storeys and street wall height controls, except in the north western corner of the site where eight storeys with a seven storey street wall height is proposed. Seven storeys with a five storey street wall height is specified within the controls for the site.
77. The proposed eighth storey is arising from the reallocation of floor space from Block B to retain the Weeping Hills Fig Trees on that site. Eight storeys is consistent with the maximum height permitted in the same block immediately to the south, and the Ashmore specific provisions of the DCP indicate that an eighth storey is suitable in this location in its consideration of where bonus floor space for design excellence may be located (refer to Figure 44).

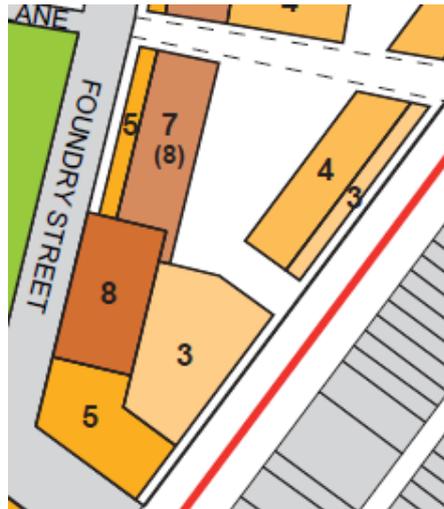


Figure 44: Extract of Figure 5.129 in SDCP 2012 'Ashmore Height in Storeys'

- 78. While the proposal does not comply with the five storey street wall on the north western frontage, the proposed seven storey street wall height is acceptable as it will provide a consistent street wall height along the western frontage of Block C, and a consistent street wall height around the park (refer to Figures 39, 48, and 50).
- 79. In light of all of the above, the proposed building envelope for Block C is recommended for approval without amendments.

Block D

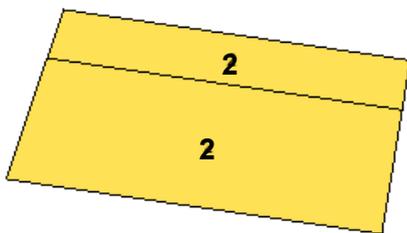


Figure 45: DCP building envelope for Block D

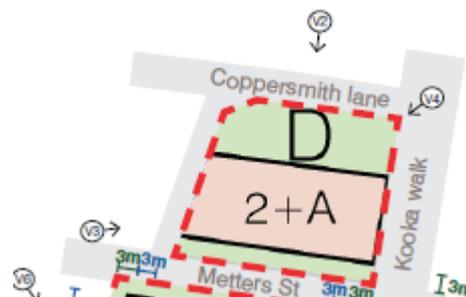


Figure 46: Proposed building envelope for Block D

- 80. The proposed building envelope for Block D is entirely consistent with the controls and is recommended for approval without amendments.

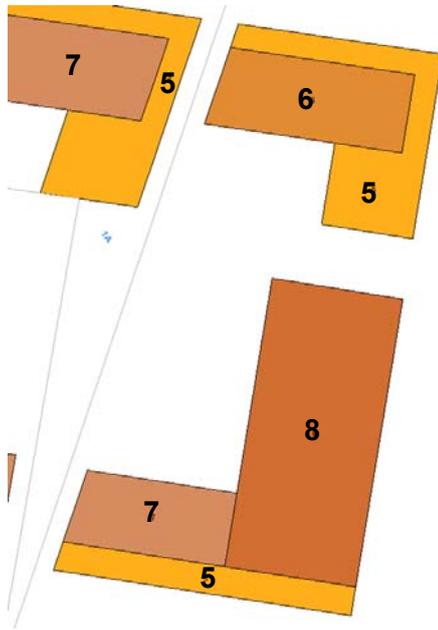
Block E

Figure 47: DCP building envelope for Block E

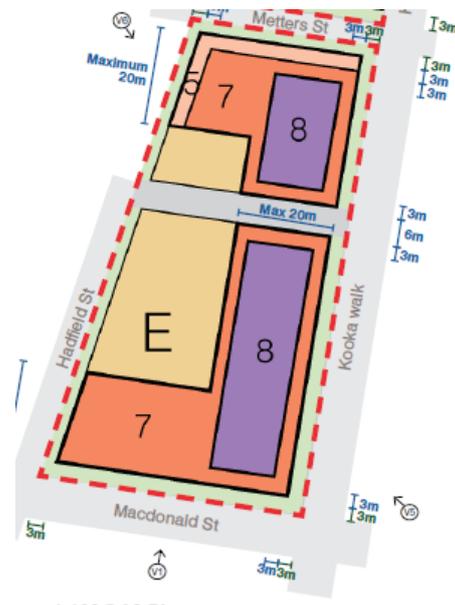


Figure 48: Proposed building envelope for Block E

81. The proposed building envelope for Block E does not comply with the maximum height control of 27m, as the buildings envelopes positioned along the eastern edge of the block are proposed to have a maximum height of 28.01m (northern building) and 28.07m (southern building). Non-compliance with the height control is considered acceptable for the reasons outlined elsewhere in this report.
82. The northern building of Block E does not comply with the height in storeys control, proposing eight storeys instead of five to six outlined in the controls. The proposal complies with the five storey street wall height control on the northern boundary but proposes seven storeys to the east where it fronts the park.
83. The proposed eight storey building height with a five storey street wall height on the northern frontage of the northern building is acceptable. A seven storey building with a five storey street wall height is currently under construction on the adjoining site to the west at 1A Coulson Street (D/2014/1703). On the northern frontage, the proposed building envelope is seven storeys where it adjoins 1A Coulson Street, rising to eight storeys closer to the park, consistent with other building envelopes proposed in this application. The seven storey street wall height is acceptable on the eastern frontage, as this will provide a consistent street wall height around the park, and does not create significant overshadowing to the park.
84. The southern building of Block E is compliant with the DCP height in storeys controls, however it does not incorporate a five storey street wall height on the southern facade. This is not supported, as the DCP requires a five storey street frontage in this location. Moreover, the building directly to the west that is currently under construction (D/2015/562) incorporates a five storey street wall with an upper level setback of 4m.
85. In light of the above, a condition of consent is recommended requiring the building envelope of Block E to be amended as follows:

- (a) A five storey street wall height is to be provided on the southern facade of the southern building facing Macdonald Street, and the upper levels are to be setback a distance of four metres from the southern face of the building.

86. Subject to the abovementioned conditions, the building envelope for Block E is considered to be acceptable.

### Block F

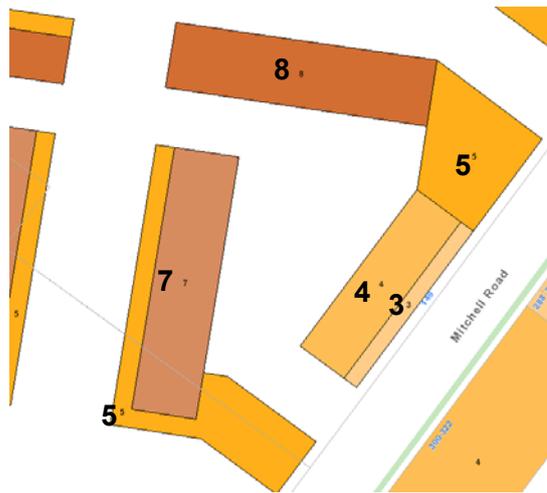


Figure 49: DCP building envelope for Block F

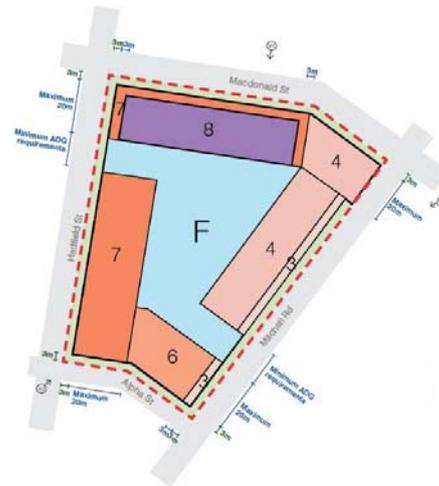


Figure 50: Proposed building envelope for Block F

87. The proposed building envelope for Block F does not comply with the maximum height control of 27m, as the eight storey building proposed in the northern portion of the block is proposed to have a maximum height of 29.55m (9.4% variance). Part of the eighth storey is also located on land subject to a maximum height control of 25m, resulting in a variation of 18.2% in this location. Non-compliance with the height control in this location is considered acceptable for the reasons outlined elsewhere in this report.
88. The proposal generally complies with the height in storeys control, except for the south eastern corner of the site on the corner of Mitchell Road and the future Alpha Street. This portion of the site is subject to a five storey height control; however, a six storey building is proposed.
89. The proposed sixth storey is acceptable. With a maximum height of 23.63m it is located well below the maximum height control of 25m. It will also provide a transition in height from the three and four storey buildings proposed in the northern portion of the site fronting Mitchell Road, to Block I and the existing Sydney Park Village (seven storeys). It is also noted that the Ashmore specific provisions of the DCP indicate that an sixth storey is suitable in this location in its consideration of where bonus floor space for design excellence may be located (refer to Figure 51).

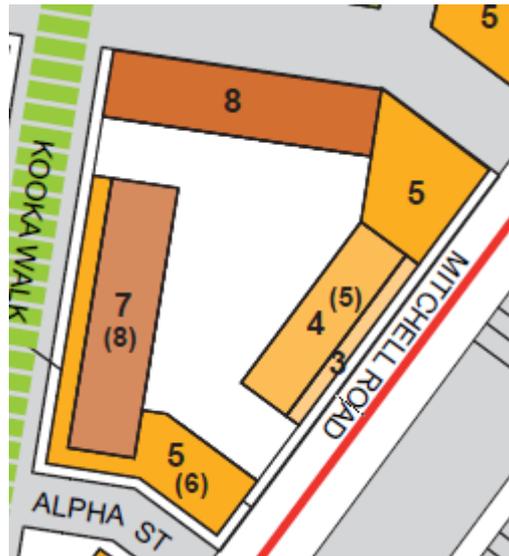


Figure 51: Extract of Figure 5.129 in SDCP 2012 'Ashmore Height in Storeys'

90. While the western building complies with the seven storey height of buildings control, it does not comply with the five storey street wall height requirement fronting Kooka Walk. This is not acceptable, as the DCP requires a predominant five storey street wall height in the vicinity of the southern part of Kooka Walk, which is envisaged as a green link for pedestrians and cyclists. While higher street walls are acceptable in the northern part of Kooka Walk, which is adjacent to the park, the southern part of Kooka Walk has buildings on both sides. Here, higher street wall heights are likely to reduce the sense of openness to the sky and the human scale will be diminished. Although the Ashmore specific provisions of the DCP recommends an upper level setback of 4m, it is considered that a 3m setback will suffice if applied to Blocks F, G, H and I where they front Kooka Walk. This will result in a building separation of 38m between the upper levels.
91. In light of the above, a condition of consent is recommended requiring the building envelope of Block F to be amended as follows:
  - (a) A five storey street wall height is to be provided on the western facade of the southern building facing Kooka Walk, and the upper levels are to be setback a distance of three metres from the western face of the building.
92. Subject to the abovementioned conditions, the building envelope for Block F is considered to be acceptable.

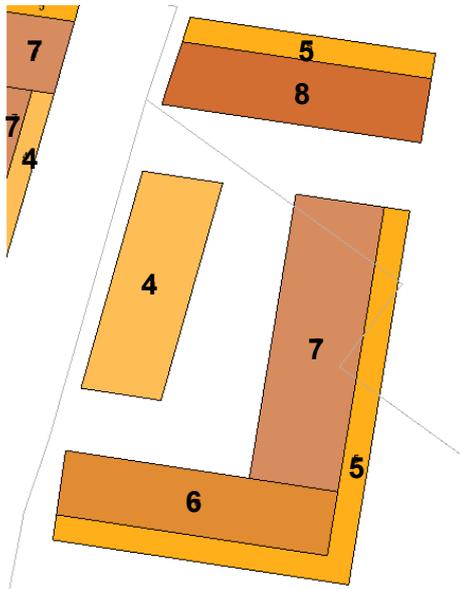
Block G

Figure 52: DCP Building envelope for Block G

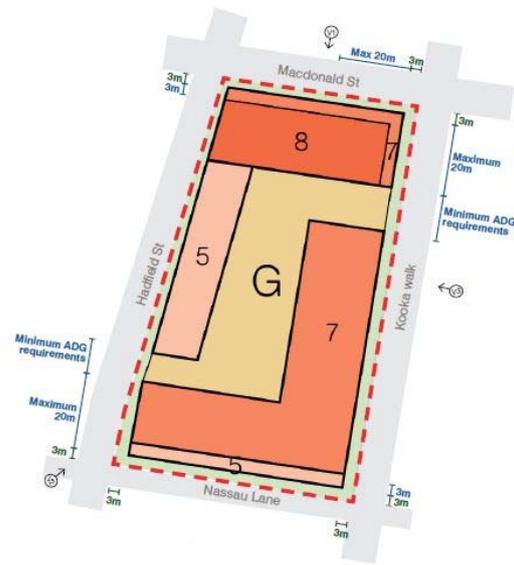


Figure 53: Proposed building envelope for Block G

93. The proposed building envelope for Block G is contained entirely within the maximum height plane.
94. The north western building on Block G does not comply with the height in storeys control in the western portion of the block. A maximum of four storeys is permitted, however five is proposed. In addition, it does not comply with the requirement to provide a five storey street wall height on the northern boundary fronting Macdonald Street.
95. The fifth storey on Hadfield Street is acceptable. With a maximum height of approximately 17.69m it is located well below the maximum height control of 25m. Furthermore, the building approved to the west of the site, on the opposite side of Hadfield Street is six storeys with a six storey street wall height (D/2015/865). Accordingly, there will be an appropriate height relationship between these sites. The separation distance between habitable rooms across Hadfield Street will be in excess of 19m, satisfying the requirements of the ADG which requires a minimum of 18m above four storeys.
96. The seven storey street wall height on the northern boundary fronting Macdonald Street is not supported as the DCP requires a five storey street frontage in this location. However, the adjoining building to the west has been approved with a six storey street wall height, with the upper levels setback 4m. Accordingly, a six storey street wall height with a 4m upper level setback in this location is supported to achieve consistency in the streetscape.
97. The south eastern building does not comply with the height in storeys control on the southern side. A maximum of six storeys is permitted however seven is proposed. In addition, it does not comply with the requirement to provide a five storey street wall height on the eastern facade fronting Kooka Walk.

98. The seventh storey on southern side of the south eastern building is acceptable. With a maximum height of 24.94m it is located within the maximum height control of 25m. It is also commensurate in height with the eastern portion of the building. The seven storey street wall height to Kooka Walk is not acceptable for the reasons discussed earlier.
99. In light of the above, a condition of consent is recommended requiring the building envelope of Block G to be amended as follows:
- a six storey street wall height is to be provided on the northern facade of the north western building facing Macdonald Street, and the upper levels are to be setback a distance of four metres from the northern face of the building; and
  - a five storey street wall height is to be provided on the eastern facade of the south eastern building facing Kooka Walk, and the upper levels are to be setback a distance of three metres from the eastern face of the building.
100. Subject to the abovementioned conditions, the building envelope for Block G is considered to be acceptable.

Block H

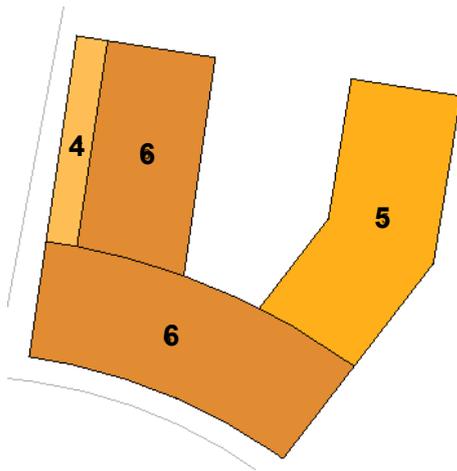


Figure 54: DCP Building envelope for Block H

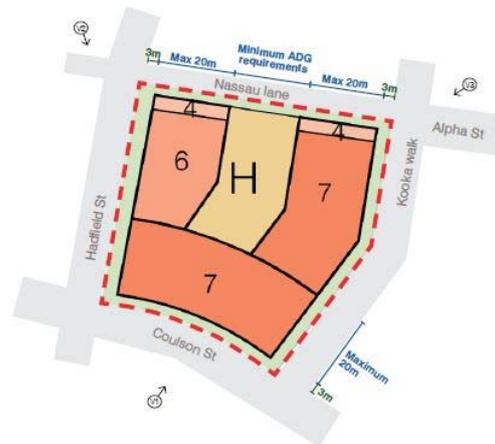


Figure 55: Proposed building envelope for Block H

101. Block H is contained entirely within the maximum height plane. It does not comply with the maximum height in storeys control in the north eastern portion of the building, where a maximum of five is permitted but seven is proposed, or in the southern portion where six is permitted but seven is proposed. It complies with the height in storeys control in the north western portion of the building, but does not comply with the requirement to provide a four storey street wall height fronting Hadfield Street.

102. The proposed seven storeys on the north eastern and southern portions of the building are considered acceptable. The height is largely contained within the height plane (with the exception of a minor 0.25m non-compliance in the south eastern corner that is recommended for deletion), and is consistent with the building envelopes to the north. Furthermore seven storeys will result in improved height transition, as the site to the north is subject to a seven to eight storey control, and the existing buildings at Sydney Park Village to the south are also seven storeys. It is therefore not considered necessary for this building, which is located in the middle of these buildings, to be restrained to five storeys.
103. Notwithstanding the above, it is recommended that a five storey street wall height is applied to the Kooka Walk frontage for the reasons outlined elsewhere in this report. Similarly, a five storey street wall height is recommended for the southern frontage facing Coulson Street. This is consistent with the predominant street wall height of Sydney Park Village and provides a transition between the lower scale developments to the west at 1B Coulson Street. As previously discussed this will also delete the non-compliance with the maximum height control in this location. A 3m set back on the upper levels is considered appropriate. It is also recommended that the four storey street wall height be applied to the north western portion of the building fronting Hadfield Street to respond to the four storey developments to the west. A 3m setback is considered appropriate in this location.
104. In light of the above, a condition of consent is recommended requiring the building envelope of Block H to be amended as follows:
- (a) a five storey street wall height is to be provided on the eastern facade of the building facing Kooka Walk, and the upper levels are to be setback a distance of three metres from the eastern face of the building;
  - (b) a five storey street wall height is to be provided on the southern facade of the building facing Coulson Street, and the upper levels are to be setback a distance of three metres from the southern face of the building; and
  - (c) a four storey street wall height is to be provided on the western facade of the building facing Hadfield Street, and the upper levels are to be setback a distance of three metres from the western face of the building.
105. Subject to the abovementioned conditions, the building envelope for Block H is considered to be acceptable.

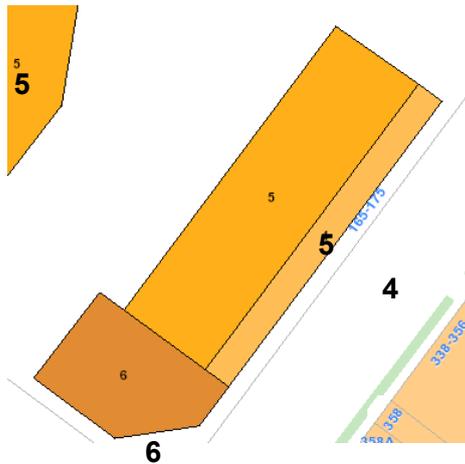
Block I

Figure 56: DCP Building envelope for Block I

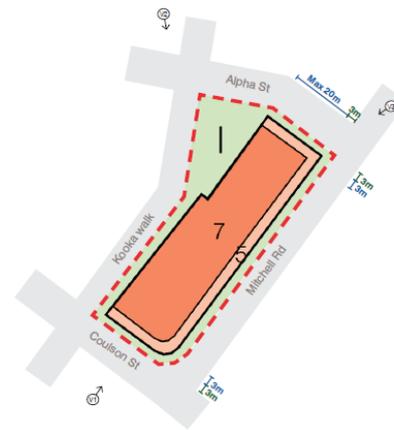


Figure 57: Proposed building envelope for Block I

106. Block I is contained entirely within the maximum height plane. It does not comply with the maximum height in storeys control however, which predominantly permits five storeys, but also allows six storeys in the southern portion fronting Coulson Street. It also does not comply with the requirement to provide a four storey street wall height to Mitchell Road, where a five storey street wall height is proposed.
107. The proposed seven storeys is acceptable. With a height of 24.87m it is contained within the maximum height plane, and it is noted that a five storey building would be more than 6m lower than the maximum height permissible. The height is also commensurate with development on the opposite side of Coulson Street at Sydney Park Village.
108. Notwithstanding the above, the proposed street wall height of five storeys on Mitchell Road is not acceptable. Existing developments on the opposite side of Mitchell Road are two to three storeys and are contained within the Cooper Estate Heritage Conservation Area. Accordingly, it is necessary to provide an improved transition to these developments and this will be better achieved with a four storey street wall height.
109. In addition, the southern part of the building that directly fronts Kooka Walk should incorporate a five storey street wall height for the reasons outlined earlier in this report. A five storey street wall height on the southern facade is acceptable to achieve consistency with Block H.
110. In light of the above, a condition of consent is recommended requiring the building envelope of Block I to be amended as follows:
- (a) a five storey street wall height is to be provided on the western facade of the building facing Kooka Walk, and the upper levels are to be setback a distance of three metres from the eastern face of the building. This only applies to the area between the south western corner of the building and the area where the footpath begins to widen;
  - (b) a five storey street wall height is to be provided on the southern facade of the building facing Coulson Street, and the upper levels are to be setback a distance of three metres from the southern face of the building;

- (c) a four storey street wall height is to be provided on the eastern facade of the building facing Mitchell Road, and the upper levels are to be setback a distance of three metres from the eastern face of the building.

### Conclusion

111. While the proposal results in a number of non-compliances in terms of maximum height, height in storeys, and street frontage heights, it is necessary to provide some flexibility in applying the controls in order to achieve the community's desire to retain the trees in the north eastern corner of the site and to remedy the problem of a base FSR of 1.75:1 no longer being achievable with the DCP building envelopes due to the ADG.
112. Subject to the abovementioned conditions, which are recommended as deferred commencement conditions, the proposed building envelopes will result in consistent streetscapes within the locality, and acceptable amenity to important places within the public domain, including McPherson Park and Kooka Walk.
113. It should be noted that additional floor space awarded for design excellence at Stage 2 could be located outside of the approved Stage 1 envelope in areas where approved heights are lower than that which is permitted by the LEP. Any modification of the envelope must be fully justified through the competitive design process and Stage 2 DA process and be compliant with all relevant planning controls.
114. In order to prevent additional height being sought at Stage 2 to accommodate plant and equipment, conditions of consent are recommended requiring this to be contained within the approved building envelope. This may necessitate plant and equipment being located in the basements.
115. It should also be noted that the proposed Stage 1 envelopes are generally 20m deep. As the detailed building designs are developed, a consequence of the deep envelopes may be that buildings that do not have a north-south orientation may need to provide a higher than normal number of lift / stair cores and unusual apartment types to comply with the SEPP 65 and ADG solar and cross ventilation amenity requirements.

### **Building Separation**

116. An assessment of the proposed building separations between building envelopes within the development site, and to existing or approved developments outside the development site, has been undertaken. The proposal is generally able to comply with the building separation requirements of the ADG, however some constraints on future Stage 2 developments have been identified.
117. The separation distance between individual building components within development blocks, for example the inside corners of L-shaped buildings, is not a matter for consideration at Stage 1. However the Stage 2 DAs will be required to ensure the design criteria outlined in Part 3F 'Visual Privacy' are met.
118. As shown in Figure 58 below, there is generally a high degree of compliance with the building separation requirements. However, the building separations identified above are less than that which is required between habitable rooms and balconies. This will require the Stage 2 DAs to ensure the interface between buildings in these locations is between habitable rooms and non-habitable rooms, solely between non-habitable rooms, or rooms to blank walls as required.

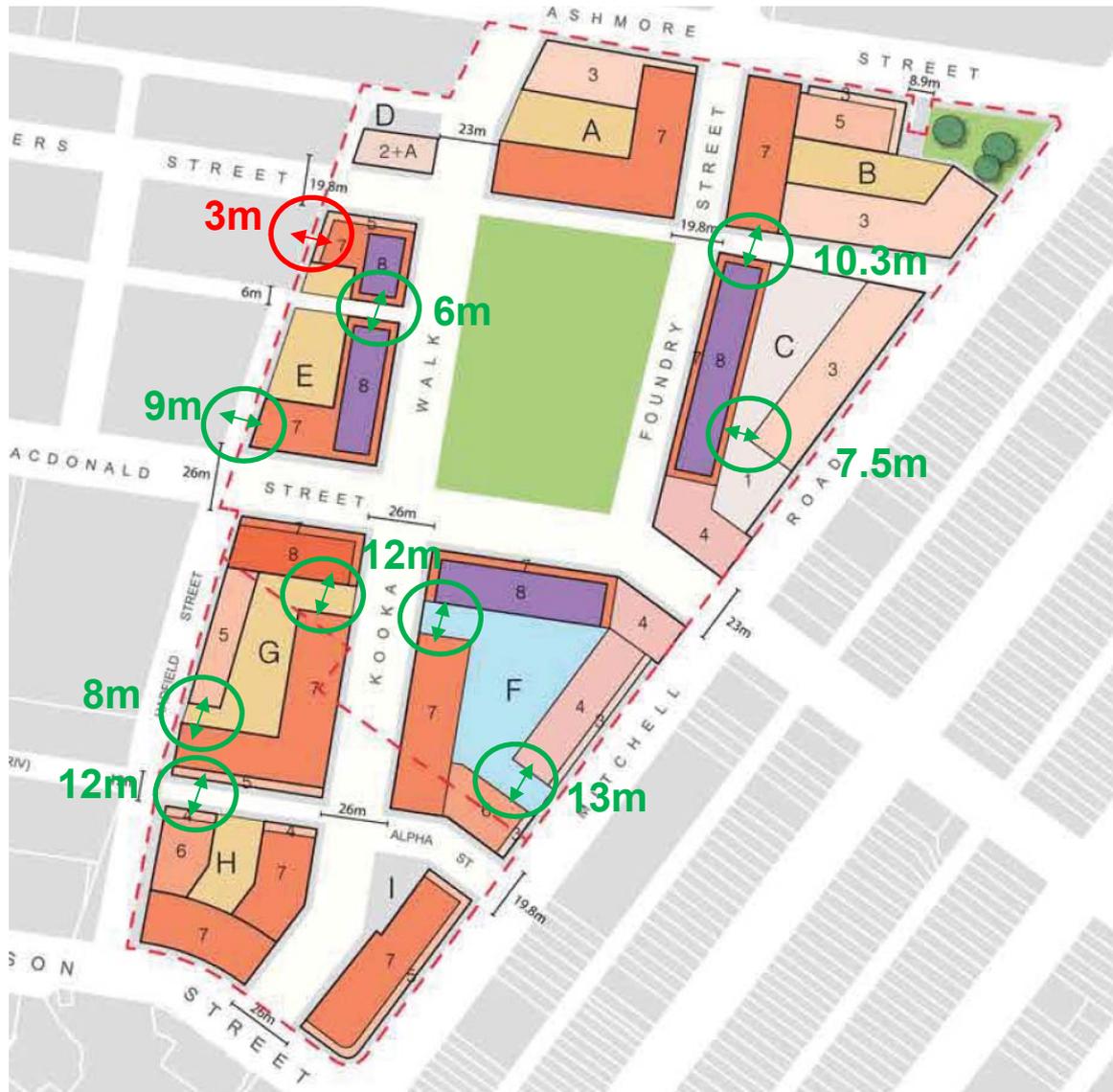


Figure 58: Building separation distances

119. The 3m separation distance between the northern building of Block E has the potential to result in non-compliances with the minimum separation requirements between buildings. This has arisen due to the CSPC approval of D/2014/1703 at 1A Coulson Street, which has approved car park access with a blank wall hard up against the boundary on Ground Level, areas of open space hard up against the side boundary on Level 1, and windows to habitable rooms and balconies with only a 3.375m setback on Levels 1-7. The Level 1 plan is provided for illustrative purposes in Figure 59 below.

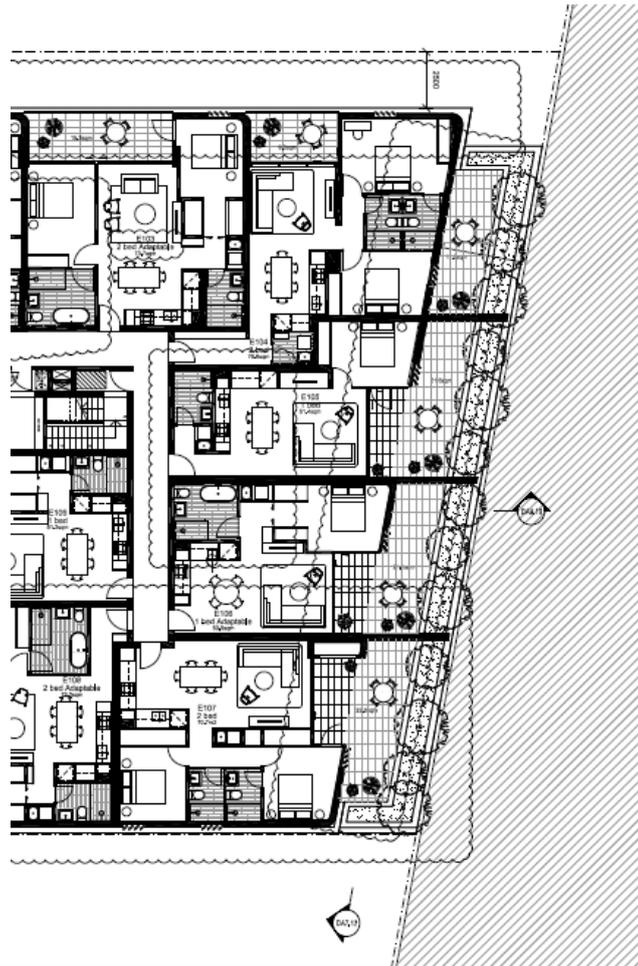


Figure 59: Level 1 plan of approved adjoining development at 1A Coulson Street

120. The planner's report for the abovementioned application considered the issue of developing on the side boundary, and concluded *"The units are considered to have a sufficient setback to both the current warehouse building and any future residential flat building. The design does not impede future development to the east, and is able to maintain privacy and amenity for the subject site and the neighbouring property. As such the non-compliance is acceptable"*.
121. Objective 3F-1 of the ADG states that adequate building separation distances are to be shared equitably between neighbouring sites. Accordingly there is no requirement to demand the full setback from the proponent, and the subject site can setback half the required separation distance required by the ADG.
122. The proponent proposes a 3m setback from the side boundary shared with 1A Coulson Street. Considering only half the maximum setback is required, the provisions of the ADG would require a minimum setback of 3m to non-habitable rooms and 6m to habitable rooms up to four storeys, and 6m to non-habitable rooms, and 9m to habitable rooms above four storeys. There are no setback provisions for blank walls.
123. The proposed 3m setback would result in the following issues for the northern building of Block E:

- (a) any west facing windows at ground level facing a blank wall at a distance of 3m,
  - (b) a blank wall being required on Level 1 as a minimum 6m setback from the adjoining open space is required;
  - (c) only non-habitable rooms being located on the side boundary on Levels 2 and 3; and
  - (d) a blank wall on Levels 4-6.
124. In order to address this, a condition of consent is recommended requiring the following design criteria to be incorporated at Stage 2 in relation to the western side boundary of the northern building on Block E:
- (a) the ground floor level is to incorporate a nil setback;
  - (b) a minimum setback of 3m on all levels where blank walls are proposed;
  - (c) a minimum setback of 3m on Levels 1-3 where windows to non-habitable rooms are proposed;
  - (d) a minimum setback of 6m on Levels 1-3 where windows to habitable rooms or balconies are proposed;
  - (e) a minimum setback of 4.5m on Levels 4-7 where windows to non-habitable rooms are proposed; and
  - (f) a minimum setback of 9m on Levels 4-7 where windows to habitable rooms or balconies are proposed.
125. The above criteria must be satisfied, unless it can be adequately demonstrated that Objective 3F-1 of the ADG has been met despite non-compliance with this criteria.
126. Subject to the abovementioned conditions of consent, the proposal is considered to be acceptable in terms of building separation.

### **Visual Impact**

127. The proposal has the potential to impact upon public views from Sydney Park to the CBD, and private views apartments at Sydney Park Village.

#### Public views

128. The Applicant has submitted photomontages showing the impact the proposal will have upon views to the CDB from Sydney Park, compared with the maximum building envelopes permitted by the SDCP 2012. Figure 60 demonstrates the impact of the DCP envelopes, and Figure 61 demonstrates the impact of the proposed scheme.



Figure 60: Visual impact of the building envelopes permitted by the DCP upon views to the Sydney CBD from Sydney Park



Figure 61: Visual impact of the proposed building envelopes upon views to the Sydney CBD from Sydney Park

129. The above demonstrates that overall the visual impact is slightly less than that which would arise from the DCP envelopes, which permit up to eight storeys on a greater number of sites.

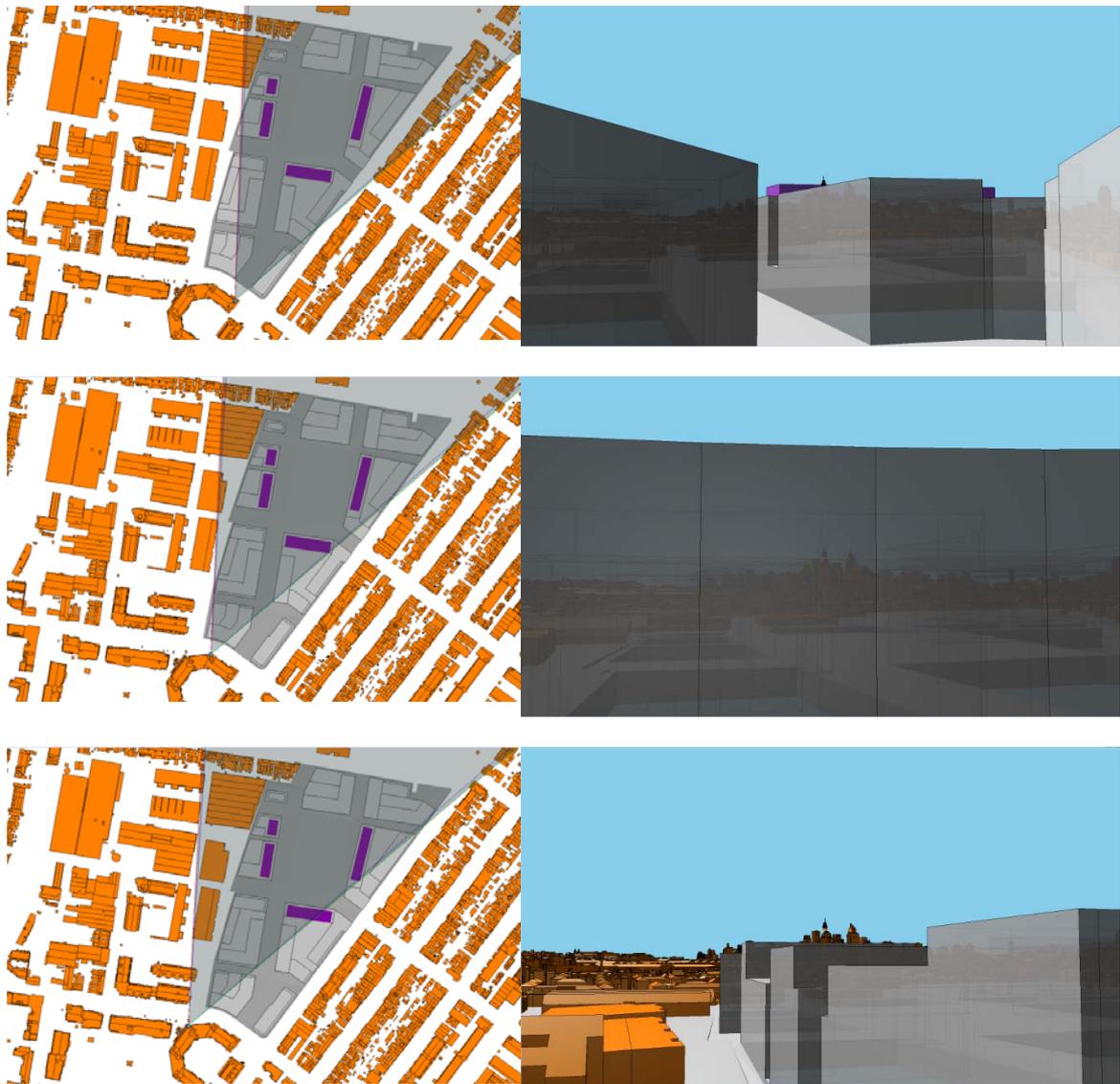
130. The proposal is therefore acceptable in terms of its impacts upon public views.

Private views

131. Existing apartments in Sydney Park Village benefit from outlook and views to the CBD over the subject site. The proposal will have a considerable impact upon those outlook and views, owing to the fact that the site is currently significantly underdeveloped, however views may only reasonably be protected where detrimental and significant view loss is arising due to a non-compliance with the SLEP 2012 height controls. In order to assess the likely impact of the non-compliant height, Council staff have generated modelled views from a number of apartments on the top levels of Sydney Park Village. These are shown in Figure 60 below. Parts of the building envelope that comply with the maximum building height controls permitted by the SLEP 2012 are shown in grey, and those parts that do not comply are shown in purple.

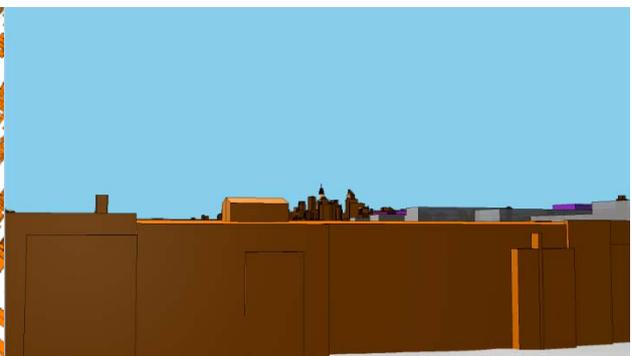
**View Corridor**

**View Impact**



View Corridor

View Impact



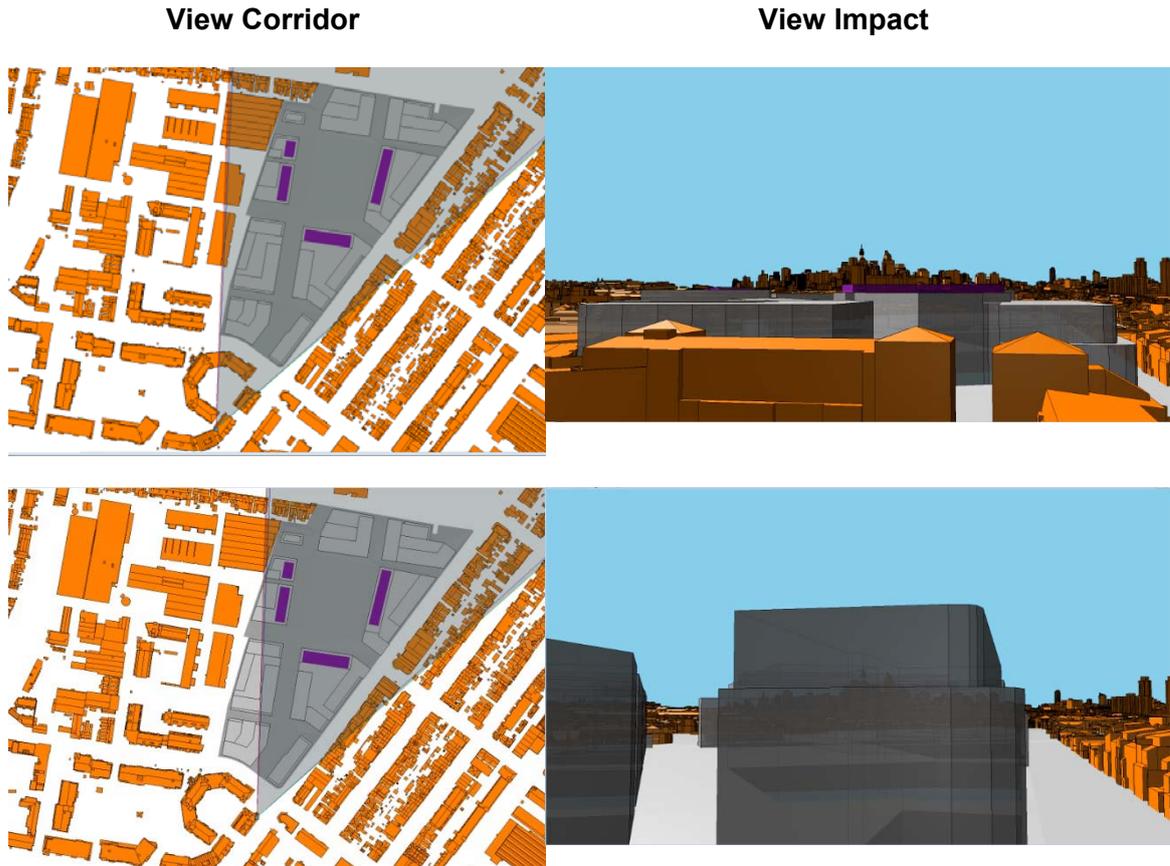


Figure 62: Modelled views from apartments in Sydney Park Village to the CBD

132. The above analysis demonstrates that views from some residences will be impacted upon significantly, however, it also provides reasonable certainty that these impacts are not arising from the non-compliant height where it is proposed. Accordingly, the impact to views is considered acceptable.

#### **Overshadowing and solar access**

133. Solar access and sun's eye view diagrams have been submitted with the application to demonstrate the impact of overshadowing to areas of the public domain within the site, and to existing residential properties adjoining the site. The shadow diagrams are reproduced in Figures 63 to 69 below.



Figure 63: Shadow diagram of the site at 9am at the winter solstice (21 June)



Figure 64: Shadow diagram of the site at 10am at the winter solstice (21 June)



Figure 65: Shadow diagram of the site at 11am at the winter solstice (21 June)



Figure 66: Shadow diagram of the site at 12 noon at the winter solstice (21 June)



Figure 67: Shadow diagram of the site at 1pm at the winter solstice (21 June)



Figure 68: Shadow diagram of the site at 2pm at the winter solstice (21 June)

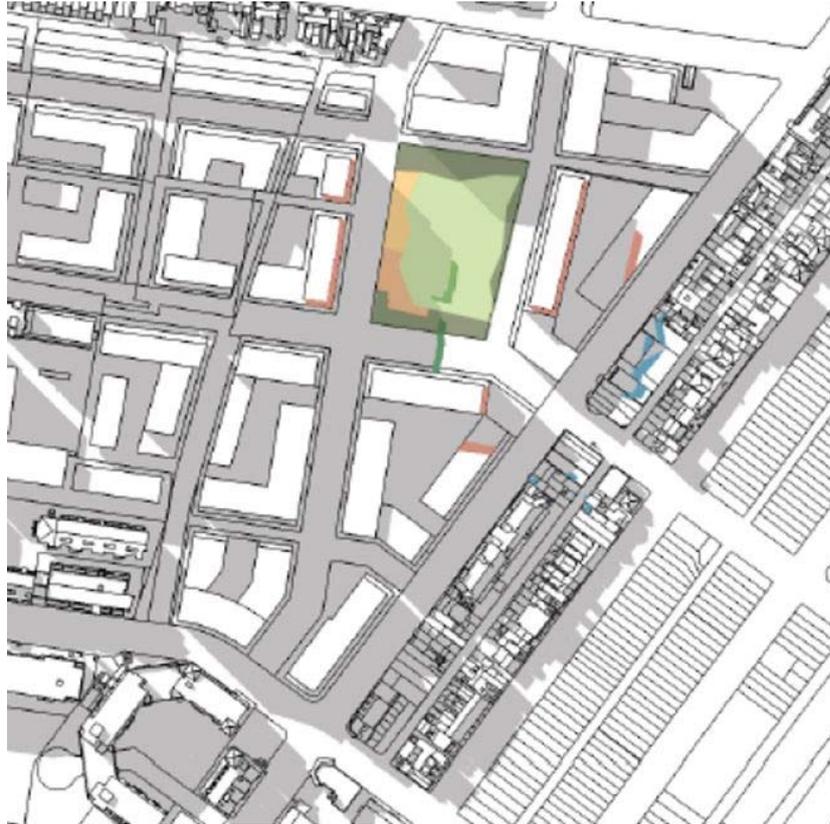


Figure 69: Shadow diagram of the site at 3pm at the winter solstice (21 June)

134. The shadow diagrams demonstrate that the frontages of the affected properties the east on the opposite side of Mitchell Road begin to receive solar access from 10am and will continue to receive solar access until 12 noon or 1pm under this proposal, depending upon location. They also suggests that overshadowing to the rear of properties on Mitchell Road does not occur until after 2pm, and the rear of Belmont Street is unaffected until around 3pm.
135. Properties to the west in the remainder of the Ashmore Estate are unaffected after 10am.
136. North facing apartments on the lower levels of Sydney Park Village are likely to experience significant overshadowing. This is largely unavoidable, as the affected apartments are located in the lower part of the building and are directly to the south of the Building H that, subject to conditions, will comply with the maximum permissible height of 25m. Conditions of consent have been recommended to introduce a five storey street wall height with a 3m setback on the upper levels of the southern and eastern facades of Building H. It is expected this will result in some additional solar access to the affected building.
137. As outlined elsewhere in this report, it is estimated that solar access to McPherson Park at the winter solstice will be, approximately, as follows:
  - (a) 10am - 55%;
  - (b) 11am - 64%;
  - (c) 12 noon - 70%;

- (d) 1pm – 78%; and
- (e) 2pm – 79%.

138. This is considered acceptable.

139. Overall, the shadow analysis demonstrates that the stage 2 DAs will be able to achieve a high degree of compliance with the requirement to maintain two hours solar access to existing developments at the winter solstice.

140. Notwithstanding the above, the Stage 2 DAs must be supported by site specific shadow and solar access analysis.

### Communal Open Space

141. The ADG requires an area equivalent to 25% of the total site area to be provided as communal open space. The table below sets out:

- (a) the site area for each block;
- (b) the minimum area required to be provided as communal open space;
- (c) the approximate available area for common open space at ground level;
- (d) the approximate available area for common open space available on a rooftop; and
- (e) an indication of compliance.

142. It should be noted that Block D is not required to provide communal open space, as the provisions of SEPP 65 will not apply to that block. It should also be noted that the area with the retained trees on the corner of Ashmore Street and Mitchell Road has not been taken into account as an area of communal open space, as it is uncertain that this space will be used for the sole benefit of future residents.

<b>Block</b>	<b>Proposed site Area</b>	<b>Required Communal Open Space</b>	<b>Approx. available area at ground level</b>	<b>Approx. available area on podium /rooftop</b>	<b>Able to comply</b>
<b>A</b>	4,675m <sup>2</sup>	1,168.75m <sup>2</sup>	957m <sup>2</sup>	846m <sup>2</sup> Segment A02	Yes
<b>B</b>	6,582m <sup>2</sup>	1,645.5m <sup>2</sup>	1,000m <sup>2</sup>	658m <sup>2</sup> Segment B02	Yes
<b>C</b>	6,986m <sup>2</sup>	1,746.5m <sup>2</sup>	0m <sup>2</sup>	1,750m <sup>2</sup> Podium	Yes

Block	Proposed site Area	Required Communal Open Space	Approx. available area at ground level	Approx. available area on podium /rooftop	Able to comply
E	4,689m <sup>2</sup>	1,172.25m <sup>2</sup>	1,039m <sup>2</sup>	843m <sup>2</sup> Segments E03 and E04	Yes
F	8,775m <sup>2</sup>	2,193.75m <sup>2</sup>	0m <sup>2</sup>	2,512m <sup>2</sup> Podium	Yes
G	6,256m <sup>2</sup>	1,564m <sup>2</sup>	1,663m <sup>2</sup>	0m <sup>2</sup>	Yes
H	3,759m <sup>2</sup>	939.75 m <sup>2</sup>	1,039m <sup>2</sup>	0m <sup>2</sup>	Yes
I	2,661m <sup>2</sup>	665.25 m <sup>2</sup>	346m <sup>2</sup>	0m <sup>2</sup>	No

143. As illustrated above, all apart from Block I are able to comply with the minimum common open space requirements. Moreover, when considering the rooftop areas identified in the table above, only segment C04 on Block C is capable of accommodating a lift to rooftop open space. Access to the rooftop on all sites is only possible from an adjoining taller portion of the building. The exception to this is blocks C and F, where communal open space can be provided on the podium. When calculating the approximate area of space available on the podium, areas required to be open to provide natural light to childcare below has been taken into account.
144. A condition of consent is recommended requiring all development blocks to provide at least 25% of the site area as communal open space. It is noted that in order for Block I to comply, it is likely that part of the seventh floor will need to be deleted.

### Landscaping

145. The submission requirements for a Stage 1 DA outlined in Section 3.3.8 of the SDCP 2012 require a Landscape Concept Plan for the development blocks (excluding public domain) to be provided. This requirement has not been met, and therefore a condition of consent is recommended requiring a Landscape Concept Plan to be submitted to and approved by Council's Director City Planning, Development and Transport prior to the finalisation of the brief for each competitive design process.
146. In addition, the City's Landscape officer has raised concerns that the Concept Plan has not addressed how level changes between the retained open space on the corner of Ashmore Street and Mitchell Road and the remainder of Block B will be managed, how the trees will be adequately protected, and conserved and integrated into the design. The Landscape Concept Plan for Blocks B and C will be required to address this, and this is noted in the recommended condition.

## Water and Flood Management

147. The Ashmore Estate is located in the Alexandra Canal Catchment, and is identified as flood prone land. Figure 70 below illustrates the existing provisional hazard level arising from the 100 Year Average Recurrence Interval (ARI) flooding event as modelled by the applicant's flooding consultant, Cardno.



Figure 70: Existing provisional hazard level of 100 Year ARI flooding event

148. The proposed development will result in changes to flood behaviour due to the inclusion of new streets and the opening of flow paths along Metters Street and Macdonald Street. In addition, the Ashmore Public Domain Plan incorporates a number of flood mitigation measures, including:
- (a) McPherson Park, with an a minimum area of 7,446m<sup>2</sup>, which will have a dual use function as a stormwater detention basin and public open space;
  - (b) the inclusion of swales in the design of overland flow paths along Macdonald Street and Kooka Walk;
  - (c) the provision of a stormwater channel on Kooka Walk with grassed swales and stormwater detention; and
  - (d) deep soil areas across the site to assist in filtration of flood waters from the site.
149. Flood modelling has been undertaken by Cardno to assess the impact the proposed development is likely to have in terms of peak depth, peak velocity, and provisional hazard. The results of the modelling in terms of the provisional hazard level arising from the 100 Year ARI flooding event is reproduced in Figure 71 below.



Figure 71: Modelled future provisional hazard level of 100 Year ARI flooding event

150. In addition to the above, it should be noted that the City is undertaking a separate project to upgrade stormwater drainage in the sub-catchment. Two options for trunk drainage upgrades have been identified that traverse within the boundaries of the site (refer to Figure 72). Option 1 traverses the site in a north south direction along the length of the future Kooka Walk, and Option 2 commences in the north of the site at the intersection of Ashmore Street and Kooka Walk and then traverses under MacPherson Park and east along Macdonald Street. Both options are being reviewed in conjunction with Sydney Water to establish the preferred option.



Figure 72: Proposed Infrastructure Plan, with trunk drainage 'Option 1' shown in orange and 'Option 2' shown in green

151. The delivery of the upgraded trunk drainage will be delivered by the developer under the terms of the VPA. Notwithstanding this, it should be noted that the efficacy of the new trunk drainage, be that Option 1 or Option 2, will be limited in the short term. The greatest benefit will occur following planned future works to connect the trunk drainage to discharge into the Alexandra Canal.
152. The proof of concept drawings submitted with the application demonstrate that the proposed building envelopes have been established assuming ground floor levels that are in accordance with the required Flood Planning Levels that will arise following the installation of Option 1, and the revised Statement of Environmental Effects states that further testing would be carried out at Stage 2, if Option 2 is selected. However, until the trunk drainage upgrades are carried out, it will be necessary for the Stage 2 DAs to design for existing conditions, assuming local drainage will connect to the existing 1,800mm diameter Sydney Water pipe which currently passes through the subject site.
153. Notwithstanding the above, for the purposes of this Stage 1 application, it has been sufficiently demonstrated that:
- (a) the site can be developed in a manner that will minimise the flood risk to life and property associated with the use of land;
  - (b) future development can be compatible with the land's flood hazard; and

- (c) significant adverse impacts on flood behaviour and the environment are not expected to arise as a result of the proposed development.

154. In light of the above, it is considered that the objectives of the flood planning provisions of SLEP 2012 have been met. A condition of consent is recommended which specifies that building floor levels are not approved at Stage 1. Accordingly, alignment levels will further be considered at Stage 2, and finalised at the Construction Certificate stage.

### Retail uses

155. The Ashmore Estate is located in close proximity to the Green Square Town Centre. Sites where retail development is restricted on sites shown hatched in blue on the Special Character Area and Retail Premises Map. Figure 73 below overlays the map with the proposed land use diagram. As illustrated, retail development is restricted on the southernmost parcel of land, but no restriction applies to the northernmost parcel of land.



Figure 73: Overlay of the proposed land use diagram with the *Special Character Area and Retail Premises Map*

156. Clause 7.23 'Large retail development outside of Green Square Town Centre and other planned centres' of the Sydney LEP 2012, states that development consent must not be granted to development on land to which this clause applies for the purpose of shops or markets with a gross floor area greater than 1,000m<sup>2</sup>.

157. The proposal is seeking concept approval for commercial uses on Blocks F and H, including the potential for a full line supermarket on Block F. Block H is located entirely within the southern parcel of land, and Block F straddles both parcels. 240m<sup>2</sup> of commercial floor space is proposed for Block H and 5,788m<sup>2</sup> of commercial floor space is proposed for Block F. However, due to Block F straddling both parcels, less than 700m<sup>2</sup> of commercial floor space can be accommodated within the southern parcel. Accordingly, the proposed development seeks consent for less than 1,000m<sup>2</sup> of commercial floor space to be located on restricted land, and therefore complies.

## **Transport and Access**

### Traffic

158. Traffic modelling submitted with the amended application estimates that the proposal will generate 402 trips in the morning peak, 703 trips in the evening peak, and 704 trips during the Saturday peak.
159. An analysis of the existing traffic environment has been carried out, and traffic modelling undertaken to predict the future performance during the peak periods of the proposed 1.75:1 scheme, and also a scheme at 1.925:1 which considers the impact of the maximum quantum of additional floor space that could be awarded for design excellence. The modelling includes the following future upgrades suggested by AECOM in the Ashmore Traffic and Parking Report commissioned by Council:
- (a) no parking restrictions on Mitchell Road south of Huntley Street, east side;
  - (b) no parking restrictions on Mitchell Road south of Fountain Street, both sides;
  - (c) signalisation of Mitchell Road / Maddox Street intersection; and
  - (d) revised signal phasing of Huntley Street/Sydney Park Road.
160. For the proposed 1.75:1 scheme, the modelling found that all intersections apart from Ashmore Street / Mitchell Road would operate at Levels of Service between 'A - good operation', 'B - Good with acceptable delays and spare capacity', 'C - Satisfactory', and 'D - operating near capacity'. The Ashmore Street / Mitchell Road intersection currently provides a Level of Service 'C - Satisfactory' in the AM peak, which is expected to worsen to 'F - Roundabouts require other control mode' as a result of future development on this site. The findings are summarised in the table below.

Intersection	Control type	Scenario	Level of Service AM Peak	Level of Service AM Peak	Level of Service Saturday Peak
Sydney Park Road / Mitchell Road	Signals	Existing	C	C	D
		1.75:1	D	D	C
Coulson Street / Mitchell Road	Signals	Existing	C	B	B
		1.75:1	B	C	B
Maddox Street / Mitchell Road	Roundabout (existing), Signals (future)	Existing	A	A	A
		1.75:1	C	C	C
Ashmore Street / Mitchell Road	Roundabout	Existing	C	A	F
		1.75:1	F	D	A
Copeland Street / Mitchell Road	Signals	Existing	B	B	C
		1.75:1	B	C	B
Fountain Street / Mitchell Road	Signals	Existing	B	C	B
		1.75:1	B	B	B
Euston Road / Maddox Street	Signals	Existing	B	B	C
		1.75:1	D	C	C
Alpha Street / Mitchell Road supermarket access	Priority Controlled	Existing	-	-	-
		1.75:1	A	B	B

161. While a Level of Service of 'D' is not ideal, those intersections will still be operating within capacity, and therefore it is not such a determinative factor that would warrant refusal of the application. The City's Transport and Access Unit has advised that the applicant is currently working with RMS to resolve the issue at the Ashmore Street / Mitchell Road intersection. A condition of consent is recommended requiring the intersection of Ashmore Street and Mitchell Road is to be upgraded prior to the issue of an occupation certificate for Blocks B and/or C.
162. Each Stage 2 DA will be required to be accompanied by a Traffic Report, which will facilitate an ongoing analysis of the performance of the surrounding road network.
163. It should be noted that Council officers raised concerns with the traffic report submitted with the original application, as it did not adequately consider the potential impact of WestConnex. The Traffic Report has since been updated accordingly, and concludes that while WestConnex will have an impact on the wider road network, the impact to roads in the immediate vicinity of the Ashmore Estate is minor.

### Parking

164. For future residents, the subject site will provide many services to satisfy daily needs, such as a full line supermarket and childcare as well as other local shops. The site is close to main streets (Erskineville Road and King Street) each providing a range of shops and personal services. One of Sydney's largest parks, Sydney Park, is 180m to the south of the southern boundary. A range of employment locations are close to the site, including the Southern Employment Lands, Australia Technology Park, and Sydney University. Additional opportunities for employment and education will arise following completion of the Green Square Town Centre. It is also noted that there are six existing car share pods on the remainder of the Ashmore Estate and more will potentially be installed on this site.
165. In light of all of the above, it is considered that reduced private car parking is feasible on this site, and this will be a matter for consideration when assessing the future Stage 2 DAs. As no physical works are proposed as part of this application, there is no requirement for conditions of consent in relation to future parking numbers at this time.

### Transport

166. In terms of public transport, it is acknowledged that existing bus services are crowded, and the four CBD-bound trains stopping at Erskineville in the AM peak period are very congested. However, public transport is the responsibility of the NSW State Government, and is therefore beyond the control of Council. The site is an identified urban renewal site, and the proposed land uses and density are in accordance with the statutory planning provisions. Notwithstanding this, the City is advocating for improved transport in this area, and the Lord Mayor has written directly to the Minister for Transport to request improvements to the peak period train services on the Bankstown line, and other improvements following construction of the Sydney Metro.
167. As an alternative to Erskineville Station, Redfern Station is a five-minute bicycle ride away and accesses all possible train lines throughout Sydney. New bicycle routes proposed within the site will facilitate easier access to Redfern Station. A condition of consent is recommended to ensure sufficient bicycle parking is provided in the future buildings to encourage cycle use. A further condition of consent is recommended, requiring each of the future Stage 2 DAs to be supported by a site specific Green Travel Plan.
168. It is noted that the proponent is considering the provision of private shuttle buses to Redfern Station or Green Square Station for the benefit of existing and future residents in response to existing capacity issues with public transport. Council's Transport and Access Unit have advised that the City is unable to endorse or recommend conditions in relation to this proposal. The applicant is therefore advised to explore these options further with the relevant State authorities, separate to the DA process.

### Vehicle Access Points

169. The proposal seeks approval for preferred and alternative vehicle entries as shown in Figure 74 below. As illustrated, vehicular access points are proposed for all blocks except Blocks D and I. Block D will accommodate terrace houses and there will be opportunities for on-site parking with rear lane access from Coppersmith Lane. Block I is proposed to share a basement level with Building F.



Figure 74: Proposed Circulation and Access Plan

170. Council's Transport and Access Unit do not support the proposed alternative vehicle entry points on Macdonald Street for Blocks E and G. A condition of consent is recommended to prohibit vehicle access points in these locations. While no strong objections are raised with the remaining proposed vehicular access points, it is considered that there may be opportunities to reduce the number of access points through the provision of shared basements on Blocks A and B, and G and H. In light of this, it is considered appropriate for this matter to be resolved at Stage 2. Accordingly, a condition of consent is recommended specifying that vehicle access points are not approved.

### Heritage

171. The site is not a heritage item nor is it located in a heritage conservation area. Notwithstanding this, the electrical substation on the northern frontage is a heritage item of local significance (1503). The site also directly adjoins the Malcolm Estate Conservation Area (C24) to the north-west, the Erskineville Estate Conservation Area (C22) to the north, and the Cooper Estate Conservation Area (C2) to the east.

172. The proposal is therefore subject to the heritage provisions of this DCP. The amended proposal generally complies with the relevant aims, objectives and controls of the DCP.
173. Conditions of consent are recommended requiring:
- excavation and construction work in the vicinity the heritage listed substation to be supported by a structural engineers report and a geotechnical report;
  - a Heritage Interpretation Strategy; and
  - the history of the site to be considered in future Public Art strategies.

### Design Excellence Strategy

174. Development of the site is subject to Clause 7.20 'Development requiring or authorising preparation of a Development Control Plan' of the SLEP 2012, and therefore the Stage 2 DAs must be subject to a competitive design process.
175. A Design Excellence Strategy has been submitted with the application, which provides for five competitive process phases across the site. The table below outlines which sites will be included in each phase and the number of competing architectural firms. Figure 75 illustrates the development blocks for ease of reference.



Figure 75: Proposed development blocks

Competitive Process Phase	Development Blocks	Competitors
1	B and C	5 including 1 emerging architectural practice
2	A	3 including 1 emerging architectural practice
3	D and E	4 including 1 emerging architectural practice
4	F and I	4 including 1 emerging architectural practice
5	G and H	4 including 1 emerging architectural practice

176. The Competitive Processes for phases 4 and 5 cannot commence until the sites are consolidated, and a condition of consent is recommended accordingly.
177. It is noted that the Design Excellence Strategy requires the selection of competitors participating in each competitive process to be undertaken in consultation with the City. Each competitor will be a person, corporation or firm registered as an architect in accordance with the *NSW Architects Act 2003* or, in the case of interstate or overseas competitors, eligible for registration. To achieve architectural diversity across the whole of site, no architectural practice which is selected a winner for a total of two competitive processes may be invited to participate in any further competitive process.
178. The Design Excellence Strategy is considered satisfactory and is recommended for endorsement.

### Access

179. It is recommended that disabled access be provided in accordance with the provisions of the DCP. An appropriate condition will be applied to the relevant Stage 2 DAs.

### Other Impacts of the Development

180. The proposed development is capable of complying with the BCA. The following classifications may apply, subject to the final mix of land uses applied for in the Stage 2 DA:
- (a) Single dwellings (attached dwellings) – Class 1A;
  - (b) Residential flat buildings – Class 2;
  - (c) Retail premises – Class 6;
  - (d) Car parks – Class 7A; and
  - (e) Child care facilities – Class 9B.

181. 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**

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

#### **INTERNAL REFERRALS**

183. The conditions of other sections of Council have been included in the proposed conditions.

184. The application was discussed with other sections of Council including:

- (a) Heritage and Urban Design;
- (b) Strategic Planning;
- (c) Building Services;
- (d) Environmental Health;
- (e) Public Domain;
- (f) Transport and Access; Social Planning;
- (g) Tree Management;
- (h) Landscape officer,
- (i) Safe City;
- (j) Surveyors;
- (k) Public Art co-ordinator; and
- (l) Waste Management.

185. Concerns raised about aspects of the development have been addressed throughout this report.

#### **EXTERNAL REFERRALS**

##### **Agency Submissions**

186. The application was referred to NSW Office of Water as Integrated Development, and to RMS, Transgrid and Ausgrid in accordance with the requirements of the ISEPP. The responses from those agencies have been discussed earlier in this report.

187. In addition, the application was referred to Sydney Water, Sydney Trains, and Transport for New South Wales for comment, as summarised below.

Sydney Water

188. Sydney Water has provided in-principle support for the Stage 1 Concept Plan, and advised that there is sufficient capacity in the locality in terms of drinking and waste water.
189. In relation to the future Stage 2 DAs, Sydney water has requested the following:
- (a) each subsequent stage must be submitted to Sydney Water;
  - (b) each subsequent stage of the development must comply with the City of Sydney and Sydney Water stormwater strategy for the Ashmore Precinct and must meet Sydney Water's guidelines for building over and adjacent to stormwater assets; and
  - (c) all new buildings and permanent structures are to be 1m away from the outside face of the stormwater channel.
190. Sydney Water has advised that Block G, and possibly parts of Block H and I will not be able to comply with the building over assets policy, and requested the designs be amended. The applicant has been advised of this issue, and has been advised to liaise with Sydney Water to resolve this issue. This is not a determinative factor for this Stage 1 DA however, as the applicant may be able to negotiate with Sydney Water to build over the asset, or move the asset as part of a subsequent Stage 2 application.
191. Sydney Water's requirements have been incorporated into the recommended conditions of consent.

Sydney Trains

192. The application was referred to Sydney Trains as the Sydney Metro City and Southwest rail corridor traverses under the south eastern corner of the site. Sydney Trains advised that the metro tunnel is proposed to be constructed at a depth of approximately 30m below the site, and therefore the impacts of the proposed development would be negligible.

Transport for NSW

193. The application was referred to Transport for New South Wales for comment. Comments were provided in relation to the proposed private shuttle bus, however these comments are not recommended as conditions of consent. This is because the proposed service may be subject to requirements of the Passenger Transport Acts and Regulations, and Council is not the relevant consent authority in that regard.
194. Transport for NSW also requested that intersection upgrade designs be issued to it for review. This will be a matter for the relevant Stage 2 DAs, as no physical works are proposed as part of this application.

**Public Submissions**

195. The application constitutes Integrated Development and as such the application was notified and advertised for 30 days in accordance with the provisions of Environmental Planning and Assessment Regulations 2000.

196. The proposal was first exhibited for a period of 30 days between 15 July and 15 August 2015. As a result of that exhibition there were 47 submissions, and two petitions with 140 and 551 signatures respectively.
197. Following design amendments, the proposal was re-exhibited for an additional 30 days between 15 July and 15 August 2016. As a result of the re-exhibition an additional 12 submissions were received. Three (3) of the submitters had previously made a submission.
198. The key issues raised in the submissions are summarised below:

(a) **Compatibility with Local Character**

- (i) The scale of development is too large and inappropriate for the area.
- (ii) The proposal will change the locality into a high density neighbourhood which will impact the village feel.
- (iii) The proposal, cumulatively with other proposals, will result in a significant population increase with associated impacts.

**Response** – The Ashmore Estate has been identified as an urban renewal precinct. This proposal seeks to develop the site for permissible uses, to a density permitted under the statutory planning controls. Conditions of consent are recommended to ensure the future built form of the locality responds to the existing areas surrounding the site.

The City acknowledges the community's concerns regarding the capacity of local infrastructure, and is liaising with the relevant State authorities in this regard.

(b) **Height**

- (i) The proposed building heights are excessive.
- (ii) The proposed heights do not comply with the height controls of the SLEP 2012 and the SDCP 2012.

**Response** – The proposal generally complies with the maximum height permissible under the LEP. Five non-compliances with the height controls are proposed across the site. A request to vary the height development standard under the provisions of clause 4.6 variation has been submitted, and is partially supported. This is discussed in detail in the issues section of this report.

Conditions of consent are recommended that reduce the number of non-compliances from five to four.

While the proposal results in some non-compliances with the height controls of the DCP, the EP&A Act requires the Consent Authority to be flexible in applying those provisions. As outlined earlier in this report, the non-compliances are largely a result of the DCP envelopes no longer being capable of accommodating a base FSR of 1.75 since the ADG came into force, and relocating floor space to retain trees on the corner of Ashmore Street and Mitchell Road.

(c) **FSR**

- (i) Approval should not be granted for development that exceeds the maximum FSR control.

**Response** – The application has been amended to significantly reduce the overall quantum of GFA on the site. A condition of consent is recommended to ensure compliance with the maximum FSR permissible under the SLEP 2012.

(d) **Urban Design and Built Form**

- (i) The permeability of the site is supported.

**Response** – Noted.

- (ii) The bulk of the development is inconsistent with the small scale residential dwellings surrounding it.

**Response** – Taller buildings are generally contained within the central and southern parts of the site. Lower buildings on the northern part of Mitchell Road appropriately transition to the adjoining heritage conservation areas. Where taller buildings at the south of the site are subject to recommended conditions of consent require that will provide lower street wall heights and upper level setbacks.

- (iii) The buildings in the western portion of the Ashmore Estate are not as tall as this proposal.

**Response** – The planning controls for the eastern portion of the Ashmore Estate allow for building heights of up to eight storeys, and therefore envisage taller buildings on this site.

- (iv) Seven storey buildings fronting Ashmore Street are not appropriate.

**Response** – The planning controls permit seven storey buildings on Ashmore Street. The proposed seven storey buildings are somewhat removed from the existing workers cottages and provide an appropriate ‘bookend’ at the northern gateway to the Ashmore Estate.

- (v) A seven storey building on the corner of Mitchell Road and Coulson Street is incompatible with the small scale buildings in the neighbouring heritage conservation area.

**Response** – The LEP permits a seven storey building in this location. The proposed building is of a commensurate height to Sydney Park Village, which is located diagonally opposite the heritage conservation area. Notwithstanding this, a condition of consent is recommended requiring a four storey street wall height and the upper levels to be setback three metres. This will improve the interface with existing buildings on the opposite side of Mitchell Road.

- (vi) The proposal will result in a canyon effect on Mitchell Road.

**Response** – The impact of the proposal on Mitchell Road is acceptable, and the DCP envisages midrise buildings in this location. The proposed heights at the northern end of the site are low, and rise further to the south to a height commensurate with the existing development at Sydney Park Village. All building envelopes fronting Mitchell Road comply with the maximum permissible building heights under the LEP, and the minimum separation distances to adjoining development required by the ADG. The existing lower scale buildings on the eastern side of Mitchell Road will ensure there is no ‘canyon effect’.

- (vii) Terrace houses should be provided on Mitchell Road, as these are more compatible with developments on the other side of the street.

**Response** – The planning controls do not envisage terrace housing in this location.

- (viii) The podiums should be deleted to lower the building heights and open up the streets.

**Response** – Podiums are proposed on sites that are not required to provide through site links by the DCP. The podiums are necessary, in part, to respond to flooding constraints.

- (ix) The development will be amended in the future to include additional elements, lift overruns, plant, etc.

**Response** – A condition of consent is recommended requiring the future buildings to be contained within the 1 building envelopes. The recommended condition specifies that if plant and equipment cannot be contained within the approved envelope it should be contained within the basement.

- (x) The drawings do not provide sufficient design detail.

**Response** – This is a Stage 1 DA for building envelopes, and detailed designs will be the subject of future Stage 2 DAs.

- (xi) The setbacks need to be increased.

**Response** – The proposal is generally compliant with the required setbacks.

- (xii) The attic levels should be setback from the levels below.

**Response** – The recommended conditions of consent will result in upper level setbacks being provided on most street frontages.

(e) **Local Infrastructure**

- (i) There is an existing shortage of childcare places.
- (ii) Existing schools are approaching capacity.
- (iii) There is a shortage of medical facilities/ hospital places in the locality.

**Response** – The City has worked with the developer to provide an additional opportunity for childcare, which will potentially result in two facilities being located on this site, in addition to a third existing facility in the western portion of the Ashmore Estate.

The City acknowledges the community's concerns regarding the capacity of local infrastructure, including schools and medical services, and is liaising with the relevant State authorities in this regard.

(f) **View Loss**

- (i) The proposal will result in view loss, including views across the site to the CBD from Sydney Park Village.

**Response** – The proposal will result in the loss of outlook and views from Sydney Park Village. As discussed earlier in this report, the outlook and view loss is arising from built form that is proposed to be located below the maximum permissible height plane. As outlined earlier in this report non-compliances with height do not result in significant detrimental impacts to outlook and views.

It should be noted that only one objector raised view loss concerns in relation to their apartment. The objector was contacted and a site inspection was offered, however this was declined.

Public views of the Sydney CBD from Sydney Park will be maintained from the specified locations in the DCP.

(g) **Privacy**

- (i) The buildings will result in overlooking to surrounding properties.

**Response** – The proposed building envelopes comply, or are able to comply, with the minimum building separation requirements of the ADG. These minimum standards are considered to provide sufficient separation to maintain visual and acoustic privacy.

(h) **Planning Controls**

- (i) The proposal should comply with the height controls contained within the Sydney LEP and DCP.
- (ii) The permissible height/FSR controls are excessive.
- (iii) The developer should not be able to achieve an additional 10% bonus floor space.
- (iv) The 10% bonus should floor space only be applied if the development demonstrates design excellence.
- (v) The various development sites should be designed by different architects to encourage diversity.
- (vi) International architects should be invited to participate in the detailed design of the precinct.

(vii) The design excellence provisions of the LEP must be strictly applied.

**Response** – The maximum height and FSR controls contained within the LEP were established following a comprehensive strategic planning process and public exhibition. The proposal is generally compliant with the maximum controls, and where variances are proposed these are in accordance with the provisions of Clause 4.6 of the LEP. Conditions of consent are recommended that reduce the number of variances from five to four.

The LEP permits a bonus of up to 10% floor space or height, subject to design excellence being demonstrated. The overall site will be the subject of five competitive design processes. Any participating architectural practice will not be able to compete in a future competition if they have been previously declared the winner of two competitive process phases on the site. International architectural practices will be eligible to participate in the competitive processes, however this is not a requirement.

Following completion of each competitive process phase, the winning designs will be further developed prior to being the subject of a Stage 2 DA. Bonus floor space or height will only be considered if the Stage 2 DAs demonstrate that the design excellence criteria outlined in Clause 6.21 of the LEP has been met.

Bonus floor space has not been awarded as part of this Stage 1 application. This was previously sought as part of the original application, however it was deleted at the City's request.

(i) **Public Transport**

- (i) Existing public transport is insufficient.
- (ii) Bankstown line trains are already overloaded / services are infrequent / not all trains stop at Erskineville Station.
- (iii) Train services will soon be reduced due to the Sydney Metro project.
- (iv) Erskineville and St Peters Stations are not accessible to people with disabilities.
- (v) The local bus services to the CBD are already overcrowded.
- (vi) Bus services to the CBD will soon cease and buses terminate at Redfern Station.
- (vii) The City and developer should liaise with the NSW Government to improve public transport services to the locality.
- (viii) It is not adequate for a private bus service to connect residents to public transport.
- (ix) There needs to be a commitment to deliver public transport before construction starts.
- (x) Land should be reserved on the site for a future Metro Station.

**Response** – The NSW Government is responsible for the provision of public transport. The City is liaising with the relevant State authorities in this regard, and is advocating for improved public transport in the locality.

(j) **Parking**

- (i) There is a lack of timed on-street parking.
- (ii) The whole area needs a parking permit plan.
- (iii) Sufficient parking should be provided to ensure that future residents do not rely on on-street parking.
- (iv) The maximum parking provisions of the LEP should be allowed to be exceeded on this site to ensure that new residents will not compete with existing residents for on street parking.
- (v) The proposal will put pressure on on-street parking.
- (vi) Parking restrictions proposed in the Ashmore Precinct Infrastructure Plan are not supported.
- (vii) The proposal will result in the loss of on-street parking on Coulson Street.
- (viii) Ashmore Estate residents should be excluded from the residential parking scheme.

**Response** – Parking is not approved under this Stage 1 DA and will be a matter for consideration at Stage 2. The parking provisions of the SLEP 2012 are maximum development standards that cannot be varied.

No changes to existing roads conditions are recommended for approval at this stage. Any proposals for alterations to the public road as a result of future DAs will also require the approval of the Local Pedestrian, Cycling and Traffic Calming Committee.

It is likely, in accordance with current Council policy, that future DAs will be subject to conditions of consent that prohibit residents of future residential flat buildings from participating in on-street resident parking schemes.

(k) **Traffic**

- (i) The proposed additional traffic lights will significantly slow traffic on Mitchell Road.
- (ii) Side streets are used as rat runs, which will be worsened by this proposal. Traffic calming measures are required.
- (iii) Local roads are already at capacity.
- (iv) Macdonald Street should be one way, westbound.
- (v) The impact of WestConnex should be taken in to consideration.
- (vi) The traffic report is deficient.

- (vii) A Noise Impact Assessment should be prepared to assess traffic noise arising from the proposal on existing developments.
- (viii) The proposed layout may result in headlights shining into apartments in Sydney Park Village when exiting basement parking.
- (ix) Vehicular access to buildings should be via Hadfield Street, and not Coulson Street.
- (x) Additional traffic will impact access to the Sydney Park Village loading dock.
- (xi) Additional traffic will result in increased air pollution.
- (xii) Measures should be introduced to reduce dependence on private vehicles.
- (xiii) A Green Travel Plan is required.

**Response** – Traffic modelling indicates that the proposed signals at the intersection of Mitchell Road and Macdonald Street will improve traffic flow. While the proposal will result in increased traffic, the modelling indicates that surrounding roads will not be operating beyond capacity, except at the intersection of Ashmore Street and Mitchell Road. It is expected that this issue can be resolved through future upgrades, and a condition of consent is recommended accordingly.

Macdonald Street is a major future thoroughfare that will be required to accommodate two-way traffic.

Mitchell Road is not identified as a road with more than 40,000 vehicles per day, and therefore there is no statutory requirement for an acoustic report to assess traffic noise.

In response to Council's concerns the Traffic Report was updated to take into account, amongst other things, the impact of WestConnex. Council's Transport and Access Unit have raised no issue with the amended Traffic Report.

The proposed vehicle access points are not recommended for approval, and will be a matter for consideration at Stage 2. Accordingly, there are no impacts to the Sydney Park Village loading dock arising from the Stage 1 consent.

A condition of consent is recommended requiring the design of buildings with basement access to minimise the possibility of light beams from vehicle headlights shining into habitable rooms.

A condition of consent is recommended requiring Green Travel Plans to be submitted with the Stage 2 development applications.

#### (l) **Flooding**

- (i) Flooding is a regular occurrence across the site and needs to be addressed if the site is to be redeveloped by increasing stormwater drainage capacity.

- (ii) The Alexandra Canal Floodplain Plan should be implemented prior to the construction of new housing.
- (iii) Basement car parks will flood.
- (iv) Implementing flood measures now would allow the buildings heights to be lowered in line with reduced flood levels.

**Response** –New trunk drainage is proposed to be delivered under the terms of the VPA, as well as on-site detention at McPherson Park. The City is also working to upgrade stormwater infrastructure in the locality, including future connection of the proposed trunk drainage to discharge at the Alexandra Canal. As a result of these future upgrades it is expected that flood conditions on the site will reduce significantly in the longer term. If these works are carried out prior to the future Stage 2 DAs, it may be possible to reduce building heights at that time in response.

Notwithstanding this, an assessment of flooding has been carried out which has confirmed that the site is suitable despite the existing flooding issues. Any basements will be required to be designed so that no opening will be located below the PMF level, which will ensure basements will not flood. A condition of consent is recommended accordingly.

(m) **Construction**

- (i) Construction workers must not be allowed to park on surrounding streets.
- (ii) The Stage 2 DAs should include acoustic reports to assess the impact of construction noise.
- (iii) Construction will impact upon the operations of an existing warehouse facility located on the southern parcel of land.

**Response** – Construction impacts will be considered in detail at Stage 2. In the event of future approvals, conditions of consent will be recommended to mitigate the impacts of construction.

(n) **Trees**

- (i) The trees on the corner of Ashmore Street and Mitchell Road should be retained.
- (ii) The trees proposed to be removed provide habitat for local wildlife.
- (iii) Removal of the trees on the site will result in a 'heat island' effect.
- (iv) The proposed tree planting is supported.
- (v) The loss of trees on the site on Coulson Street will remove the visual barrier between the site and Sydney Park Village

**Response** – The design has been amended to retain the trees at the corner of Ashmore Street and Mitchell Road.

Although many trees on the site will be removed to make way for the new developments, the redevelopment of the Ashmore Estate will significantly increase the number of trees in the area. The City estimates that over 600 new trees will be planted in the new parks and streets across the Ashmore Estate, which will double the amount of trees that previously existed. The new trees will be a mix of native and exotic species at various stages of growth.

The existing trees on Coulson Street are located in an area that has been identified as a suitable location for a building envelope, and they do not provide a significant public amenity in the way the trees in the north eastern corner of the site do. Accordingly, it is not considered reasonable to retain these trees.

(o) **Heritage**

- (i) The heritage substation should be preserved.
- (ii) There should be a heritage curtilage around the item.
- (iii) The substation should be turned into a coffee shop.

**Response** – The heritage substation is preserved and a suitable curtilage has been provided in the amended application. The substation does not form part of the site, is in separate ownership, and remains in use as an electrical substation. It is therefore not suitable for use as a coffee shop at this time.

(p) **Public Domain**

- (i) Insufficient open space is provided.
- (ii) The 3-4 metre setback on Mitchell Road should be dedicated as open public space.
- (iii) An increased landscape setback is required for the pedestrian connection on Metters Street.
- (iv) The buildings should be setback from the footpath.
- (v) Pedestrian amenity on Mitchell Road should be improved. e.g. reduced speed limit, pedestrian crossings, landscaping etc.
- (vi) Nassau Lane has not been dedicated to Council, and may not be dedicated in the future. For public liability reasons, it may not be appropriate for pedestrian and cycle networks to feed into this street if it remains a private road.

**Response** – Kooka Walk and McPherson Park are significant areas of future public domain that will be dedicated to the City under the terms of the VPA. The 3m setback on Mitchell Road is not suitable for dedication.

The proposal is generally consistent with the ground level setbacks required by the DCP, providing 3m landscape setbacks from the footpath on the majority of site frontages. The only exception is the area in proximity to the intersection of Mitchell Road and Macdonald Street, in areas where a landscape setback is not required by the DCP.

With the exception of potential future upgrades to the intersections of Ashmore, Macdonald and Alpha Streets, potential future upgrades to Mitchell Road do not fall within the scope of works for this DA.

The proposed cycle and pedestrian link also connects with Hadfield Street, and no changes are proposed to the section of Nassau Lane that remains in private ownership.

(q) **Certification**

- (i) The City of Sydney must be the principal certifying authority to ensure the construction is consistent with the approval

**Response** – The City is unable to impose such a condition. The Principal Certifying Authority is required to ensure the construction is in accordance with the development consent.

(r) **Affordable Housing**

- (i) There are no provisions for affordable housing.

**Response** – The planning controls do not require the provision of affordable housing or an affordable housing contribution in this location.

(s) **Overshadowing**

- (i) The proposal will overshadow properties on Mitchell Road / Belmont Street / Lawrence Street.
- (ii) Overshadowing to the internal park should be reduced.

**Response** – Solar access diagrams submitted with the application demonstrate that there is no overshadowing to Lawrence Street.

It has been demonstrated that the frontages of properties on Mitchell Road, where living areas are most likely to be located, begin to receive solar access from 10am and will continue to receive solar access to at least 12 noon under this proposal. They also suggests that overshadowing to the rear of properties on Mitchell Road does not occur until after 2pm, and the rear of Belmont Street is unaffected until 3pm. This suggests the stage 2 DAs will be able to comply with the requirement to maintain two hours solar access to existing developments at the winter solstice.

The Stage 2 DAs will be supported by site specific solar access analysis.

(t) **Retail uses**

- (i) The supermarket is needed.
- (ii) The proposed supermarket size is too large and will attract traffic and other undesirable impacts.
- (iii) The retail uses should include a mix of both day and night time trading.

**Response** – The LEP permits large retail tenancies on the northern parcel of land, and the DCP supports the provision of a full line supermarket. The final mix of retail uses will be determined by market forces. The area is not identified as an area suitable for late night trading, and it is therefore likely that trading hours will be limited to no later than 10pm. However this will be subject of future applications.

The traffic report submitted with the application includes an assessment of traffic generated by the supermarket, however a further traffic report will be required at Stage 2.

(u) **Ecologically Sustainable Development**

- (i) The buildings should incorporate photovoltaic systems or other forms of renewable energy.
- (ii) The buildings should be naturally ventilated to reduce dependence on air conditioning.

**Response** – The City is unable to impose conditions of consent relating to photovoltaic panels, as the minimum environmental performance of buildings is set by the NSW Government through BASIX. However, the Stage 2 DAs will be required to demonstrate full compliance with the natural cross ventilation and solar access requirements of the ADG, which will reduce demand for artificial cooling and heating.

(v) **Notification and Advertising**

- (i) The application was not properly notified.

**Response** – The City's records indicates that the notification letter was issued to all owners and occupiers within a 100m radius of the site on both occasions.

## **PUBLIC INTEREST**

199. 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**

200. As a Stage 1 Concept Plan, the development is not subject to a Section 94 Contribution.
201. The schedule of works contained within the VPA will require offsets from future Section 94 contributions. It is proposed that the City will be provided with a bond to enable the balance between Section 94 contributions and VPA credits to be settled at the end of phase four. The proposal is supported, as significant VPA works are proposed in phase four, which may require a full or significant refund of Section 94 contributions collected for Phases 1-3. This forms part of the terms of the VPA.

**RELEVANT LEGISLATION**

- 202. The Environmental Planning and Assessment Act 1979; and
- 203. Water Management Act 2000.

**CONCLUSION**

- 204. The application seeks Stage 1 approval for the redevelopment of the eastern portion of the Ashmore Estate, Erskineville as a mixed use precinct including residential, commercial and recreation uses. The proposal includes building envelopes for nine development blocks ranging in height between two and eight storeys and concept public domain works.
- 205. The proposal generally complies with the Sydney LEP 2012 and the Sydney DCP 2012. Proposed variations have been discussed throughout this report, and have been found to be acceptable, or modified by conditions of consent where necessary.
- 206. The proposal will deliver public benefits, including the delivery and dedication of a new 7,446m<sup>2</sup> park to be known as 'McPherson Park'; and a new 7,815m<sup>2</sup> 'Green Link' for pedestrians and cyclists to be known as 'Kooka Walk'.
- 207. The proposal is supported, and it is recommended that authority be delegated to the Chief Executive Officer (CEO) to determine the application having regard to the content of this report and recommended conditions, and following the completion of the public exhibition of the VPA.
- 208. If the CEO determines to approve the application, it is recommended that consideration be given to granting a deferred commencement consent, pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979. The deferred commencement conditions require the building envelopes to be modified in accordance with the recommendations of this report, and for the VPA to be registered on the titles of both parcels of land.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Christopher Ashworth, Senior Planner)