

22 June 2023

At 5.00 pm

Central Sydney Planning Committee

Agenda

1. **Disclosures of Interest**
2. **Confirmation of Minutes**
3. **Matters Arising from the Minutes**
4. **Development Application: 262-266 Castlereagh Street and 271-279 Elizabeth Street, Sydney - D/2022/152**
5. **Development Application: 330 Botany Road, Alexandria - D/2021/1484**
6. **Post Exhibition - Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment**
7. **Post Exhibition - Planning Proposal - Affordable Housing Program Update - Sydney Local Environmental Plan 2012, Sydney Local Environmental Plan (Green Square Town Centre) 2013, Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013, Draft City of Sydney Affordable Housing Program 2022 and Draft Affordable Housing Contributions Interim Distribution Plan**
8. **Approved Variations to Development Standards Reported to the Department of Planning and Environment**
9. **Summary of Applications to be Reported to the Central Sydney Planning Committee**

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1. Register to speak by calling Secretariat on 9265 9702 or emailing secretariat@cityofsydney.nsw.gov.au before 10.00am on the day of the meeting.
2. Check the recommendation in the committee report before speaking, as it may address your concerns so that you just need to indicate your support for the recommendation.
3. Note that there is a three minute time limit for each speaker (with a warning bell at two minutes) and prepare your presentation to cover your major points within that time.
4. Avoid repeating what previous speakers have said and focus on issues and information that the committee may not already know.
5. If there is a large number of people interested in the same item as you, try to nominate three representatives to speak on your behalf and to indicate how many people they are representing.

At the start of each Central Sydney Planning Committee meeting, the Chair may reorder agenda items so that those items with speakers can be dealt with first.

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Item 1.

Disclosures of Interest

Pursuant to the provisions of the City of Sydney Code of Meeting Practice and the City of Sydney Code of Conduct, Members of the Central Sydney Planning Committee are required to disclose and manage both pecuniary and non-pecuniary interests in any matter on the agenda for this meeting.

In both cases, the nature of the interest must be disclosed.

This includes receipt of reportable political donations over the previous four years.

Item 2.

Confirmation of Minutes

Minutes of the following meeting of the Central Sydney Planning Committee are submitted for confirmation:

Meeting of 11 May 2023

Item 3.

Matters arising from the Minutes

Matters arising from the minutes of the Central Sydney Planning Committee of 11 May 2023.

Item 4.**Development Application: 262-266 Castlereagh Street and 271-279 Elizabeth Street, Sydney - D/2022/152**

File No.: D/2022/152

Summary**Date of Submission:** 3 March 2022**Amended plans and additional information** 13 July 2022, 3 August 2022, 23 September 2022, 12 October 2022, 24 February 2023, 8 and 17 March 2023, 3, 11 and 17 April 2023, 10 and 26 May 2023**Applicant/Developer:** Central Element**Architect/Designer:** Murcutt Candalepas**Owner:** The Returned & Services League of Australia (NSW Branch)**Planning Consultant:** Planning Lab**Heritage Consultant:** Urbis**DAP:** 27 October 2022**Cost of Works:** \$99,581,709**Zoning:** SP5 Metropolitan Centre. The proposed mixed-use development comprises residential accommodation and retail premises which are permissible with consent in the zone.**Proposal Summary:** Approval is sought for the demolition of existing buildings on site, site amalgamation and the construction of a mixed-use development with a maximum height of 55m (RL 79.91) with residential and retail land uses in a 15-storey building.

The proposal includes two retail tenancies, 42 apartments, excavation for five levels of basement and vehicular access from Castlereagh Street.

The application is being referred to the Central Sydney Planning Committee (CSPC) as the cost of development exceeds \$50 million.

A preliminary assessment of the application identified concerns relating to the proposed 'Architectural Roof Feature' (ARF), an exceedance the 55m height control, and potential residential amenity issues for future occupants and the neighbouring development to the south.

Following a more detailed assessment of the application, further information was required including (but not limited to) flooding, communal open space details, further detail of the design of the ground plane, wind impacts, transport and access, and waste collection.

These issues have largely been addressed through the resubmission of amended plans and additional information.

The development involves dewatering and accordingly is Integrated Development, requiring approval of Water NSW under the Water Management Act 2000. General Terms of Approval have been issued by Water NSW and form part of the recommended conditions in Attachment A.

The application was publicly notified for 28 days between 14 March 2022 and 12 April 2022. Two (2) submissions were received which raised concerns regarding the originally proposed architectural roof feature, the requirement for a Stage 1/Concept DA and Design Competition based on the height of the original scheme, poor residential amenity, and impact on the cultural significance of the site. These issues are addressed within the report.

Subject to recommended conditions, the amended proposal is generally consistent with the applicable planning provisions including those within the Sydney Local Environmental Plan 2012 (Sydney LEP 2012), Sydney Development Control Plan 2012 (Sydney DCP 2012), State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG).

Proposed non-compliances have been assessed as having merit in the specific circumstances of the proposal and are addressed in the report.

As a result of the design modifications, the amended proposal has a high standard of architectural design, materials and detailing. It presents an improved design outcome and comprises an appropriate response to the site conditions and the locality.

Summary Recommendation: Authority be delegated to the Chief Executive Officer (CEO) to determine Development Application No. D/2022/152, after concurrence from Sydney Metro is received in accordance with Clause 2.99 of the State Environmental Planning Policy (Transport and Infrastructure) 2021.

Development Controls

- (i) Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021
- (ii) City of Sydney Act 1988 and City of Sydney Regulation 2016
- (iii) Water Management Act 2000
- (iv) State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development and the Apartment Design Guide
- (v) State Environmental Planning Policy (Transport and Infrastructure) 2021
- (vi) State Environmental Planning Policy (Resilience and Hazards) 2021
- (vii) SEPP (Biodiversity and Conservation) 2021
- (viii) Sydney Local Environmental Plan 2012
- (ix) Sydney Development Control Plan 2012
- (x) Central Sydney Development Contributions Plan 2020
- (xi) City of Sydney Affordable Housing Program

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings

Recommendation

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer to determine Development Application D/2022/152, after concurrence from Sydney Metro is received in accordance with Clause 2.99 of the State Environmental Planning Policy (Transport and Infrastructure) 2021; and
- (B) the requirement of Section 51N of the City of Sydney Act 1988 to consult with the Central Sydney Traffic and Transport Committee not apply in this instance as the proposal does not require, nor might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
- (C) The articulation, materiality and sustainability measures of the proposal combine to exhibit design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21C of the Sydney Local Environmental Plan 2012.
- (D) The proposed development has a height, scale and form suitable for the site and its context, and satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and setting of the broader locality.
- (E) The development does not result in any significant adverse environmental or amenity impacts on the subject or surrounding properties, the public domain, and the broader locality, subject to the recommended conditions.
- (F) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City officers, the City's Design Advisory Panel, and the community, subject to recommended conditions included in Attachment A.

Background

The Site and Surrounding Development

1. The site comprises two allotments, which have legal descriptions of Lot 10 DP 1274140 and Lot 20 DP 1274142 and are known as 262-266 Castlereagh Street and 271-279 Elizabeth Street, Sydney. The site is irregular in shape with total area of 875.28sqm. It has a primary street frontage of 27.6m to Elizabeth Street and a secondary street frontage of 14.3m to Castlereagh Street. Levels on the site fall to the west, with the Elizabeth Street frontage being 3.2m higher than the Castlereagh Street frontage.
2. Located at 262-266 Castlereagh Street is a 4-storey inter-war building, which currently contains retail and office uses and has been altered over time. Located at 271-279 Elizabeth Street is a 16-storey hotel building known as the 'Hyde Park Inn', with 2 levels of basement parking accessed from Elizabeth Street.
3. The surrounding area is characterised by a mixture of land uses, primarily being retail and commercial, excluding the site directly to the south which is residential. An outline of the surrounding sites is provided:
 - (a) North - To the immediate north is a 16-storey commercial office building known as 255-269 Elizabeth Street, which has frontages to both Elizabeth Street and Castlereagh Street and comprises 6 levels of basement car parking accessed from its Castlereagh Street frontage.

It is noted that the subject site is burdened by a positive covenant with this adjoining site (255-269 Elizabeth Street), benefitting Council. The terms of the positive covenant requires that the registered proprietor of the land is to infill any boundary windows or louvres in the adjoining land. It is understood that this relates to windows on the southern wall of (No. 255-269 Elizabeth Street). A condition of consent is recommended to address this covenant.

- (b) South - To the immediate south is a 25-storey mixed-use building known as the 'Regency Hyde Park' (281-283 Elizabeth Street) which contains retail uses on the ground floor, 23 levels of residential units above, and 7 levels of basement car parking accessed from its Castlereagh Street frontage.
- (c) East: To the immediate east is Hyde Park South, located on the opposite side of Elizabeth Street. Hyde Park is identified a State Heritage Item (SHR No. '01871') and is listed within the National Heritage Listing as part of the Governor's Domain and Civic Precinct, Macquarie Street. Hyde Park South is also listed as a local heritage item No. '11654'.
- (d) West - Existing developments along Castlereagh Street to the site's west are predominantly commercial and vary in size and style.

A large-scale development is approved adjacent to the west of the subject site, at Nos. 324-330 Pitt Street, 332-336 Pitt Street, 338-348 Pitt Street, 241-243 Castlereagh Street, 245-247 Castlereagh Street, 249-253 Castlereagh Street, 126 Liverpool Street, 128 Liverpool Street, and 130 Liverpool Street.

Under SSD 10362 (D/2020/610), as amended, deferred development consent was granted on 25 March 2021 for the detailed design application for demolition, excavation and construction of two, 80-storey (257m high) mixed use towers and podium buildings containing retail, 158 hotel rooms and associated facilities, 590 apartments and associated facilities and five levels of basement parking, public domain works including new through-site links.

Construction has not commenced on this development.

4. The site is not a heritage item, nor is it located within a Heritage Conservation Area.
5. The site is located within the College Street and Hyde Park Special Character Area and is identified as being subject to flooding.
6. A site visit was carried out on 19 April 2022.
7. Photos of the site and surrounds are provided on the following pages.

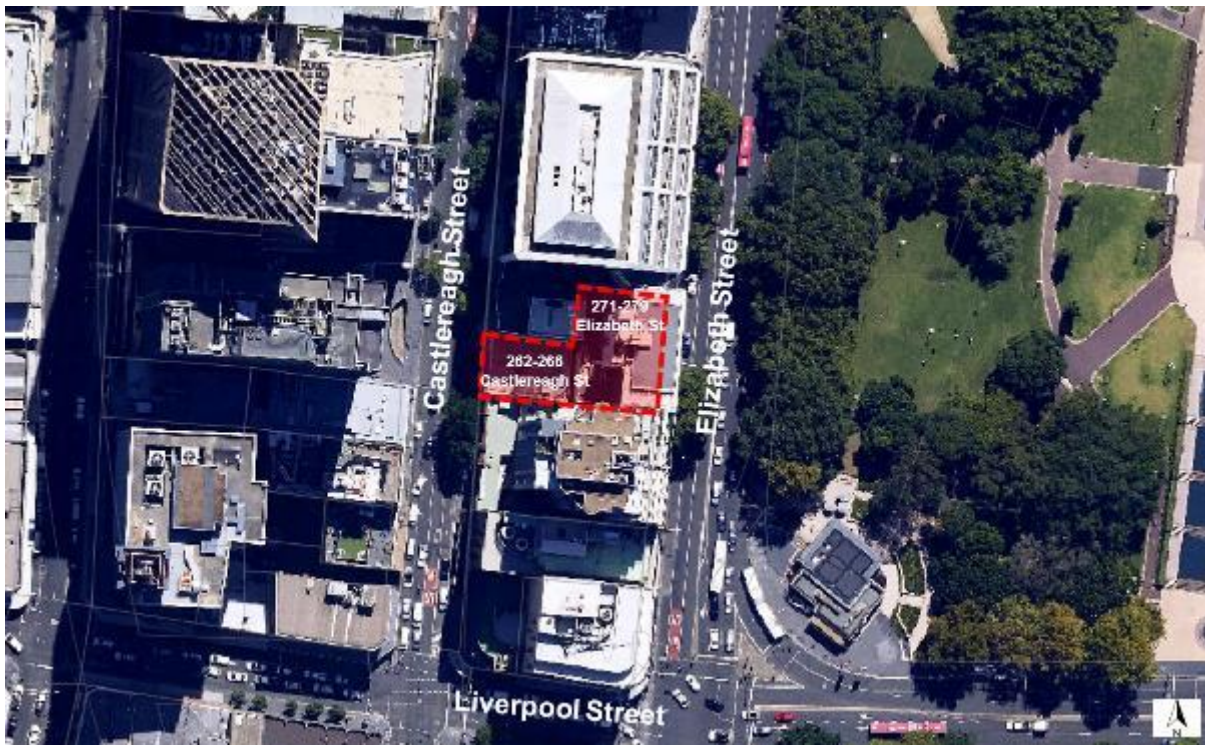


Figure 1: Aerial view of site and surrounds

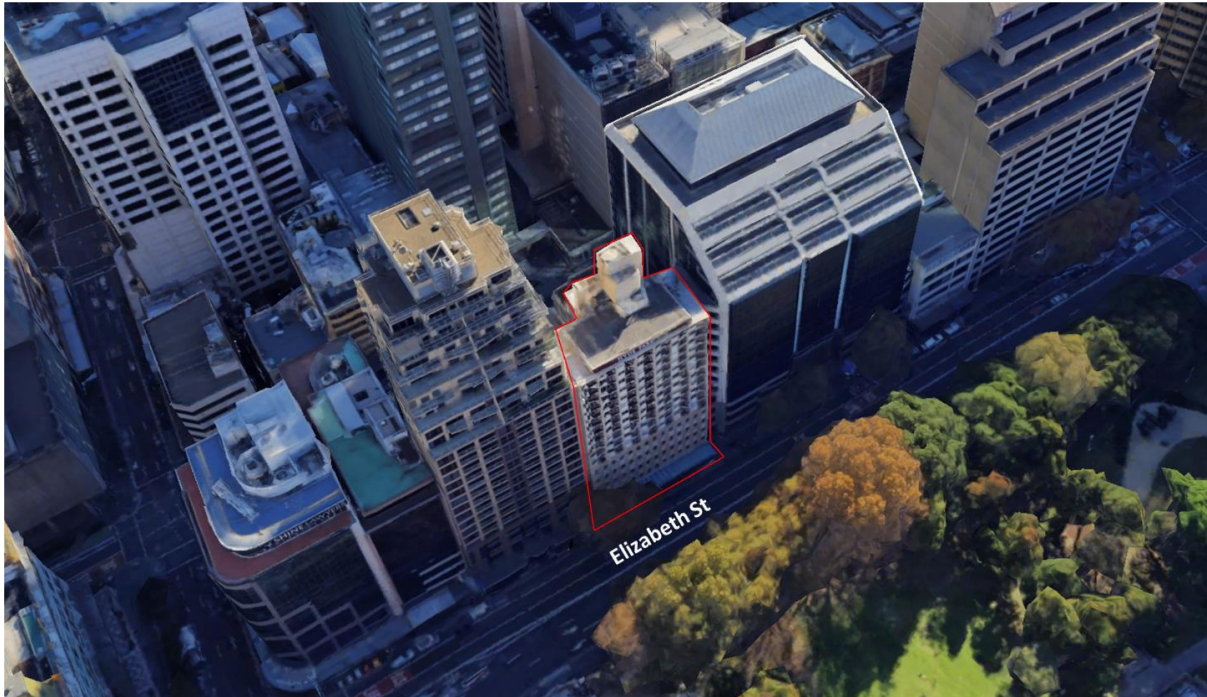


Figure 2: Aerial view of 271-279 Elizabeth Street



Figure 3: Aerial view of 262-266 Castlereagh Street and adjoining properties



Figure 4: Site's frontage to Elizabeth Street, view from Hyde Park facing west



Figure 5: Site's frontage to Elizabeth Street



Figure 6: Site and adjoining buildings along Elizabeth Street, facing south



Figure 7: Site and adjoining buildings along Elizabeth Street, facing north



Figure 8: Site's frontage To Castlereagh Street



Figure 9: Upward view of site and adjoining residential development to the south



Figure 10: Site and adjoining buildings along Castlereagh Street, facing north



Figure 11: Site and adjoining buildings along Castlereagh Street, facing south



Figure 12: Photomontage of the approved mixed-use towers development to the west of the site under SSD 10362 (D/2020/610). As detailed above, construction has not commenced on this development.

History Relevant to the Development Application

Development Applications

8. Development consent D/2014/764 is relevant to the subject site.
 - (a) Development consent D/2014/764 was granted on 18 May 2015 for the demolition of the existing building and construction of a new 18-storey hotel building at 262-268 Castlereagh Street as part of the existing hotel, The Hyde Park Inn, at 271 Elizabeth Street including 92 hotel suites, 1 ground floor retail premises, internal connections to the existing hotel and a basement level comprising of building services.
 - (b) The approved development had an FSR of 11.50:1 (10,119sqm GFA) and maximum height of 55m. The 5-storey podium had a height of 16.85m, with a tower above that was setback 8m. Figures 13 and 14 below show the approved elevations.

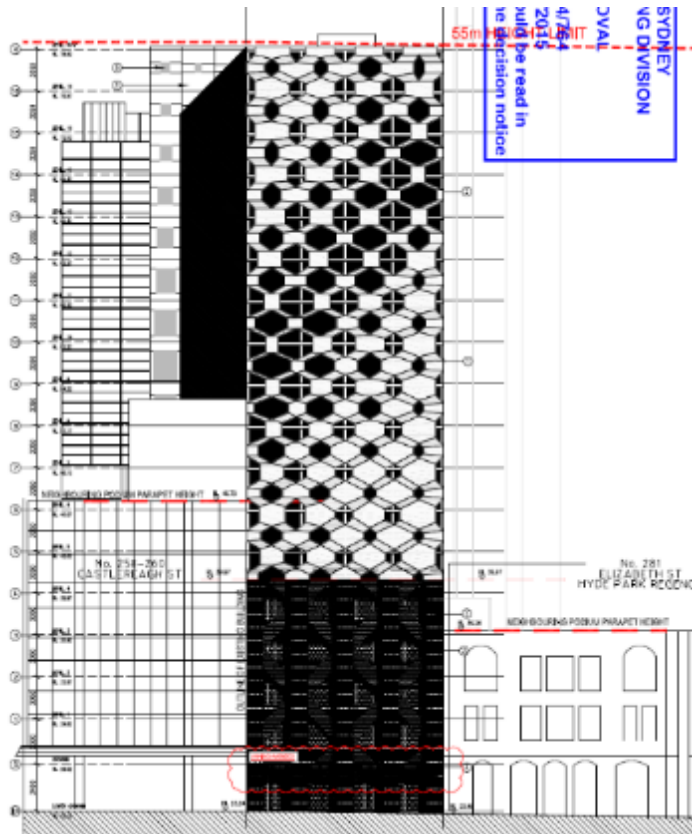


Figure 13: Castlereagh St (west) elevation approved under D/2014/764

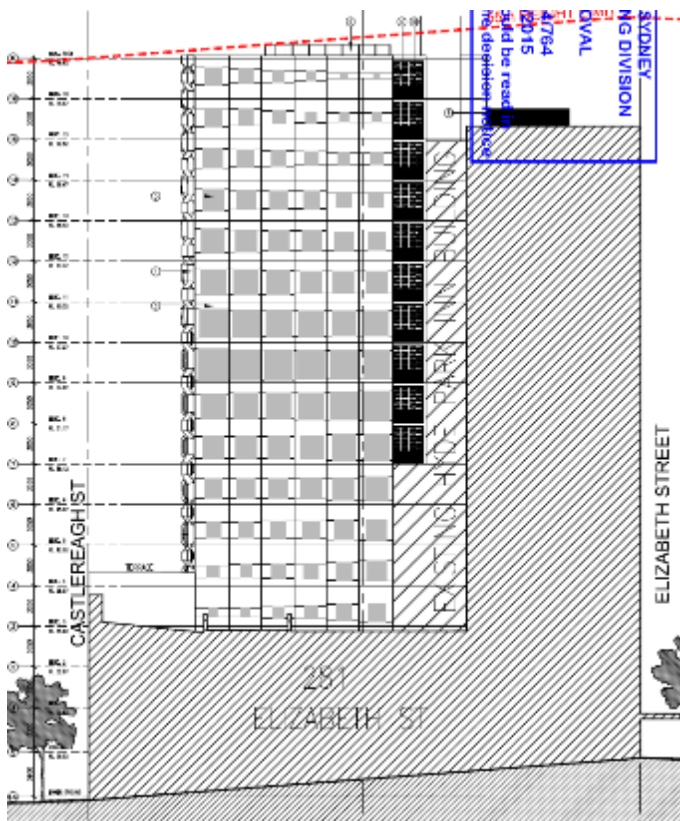


Figure 14: South elevation approved under D/2014/764

- (c) The approved works under D/2014/764 were not undertaken, and the consent has since lapsed.

Compliance Action

9. The site has previously been subject to compliance action which is now closed and is not relevant to the subject application.

Amendments

10. Following a preliminary assessment of the proposed development, a meeting was held on 26 May 2022 with the applicant and project team. For reference, elevations of the original scheme discussed at this meeting are provided below.

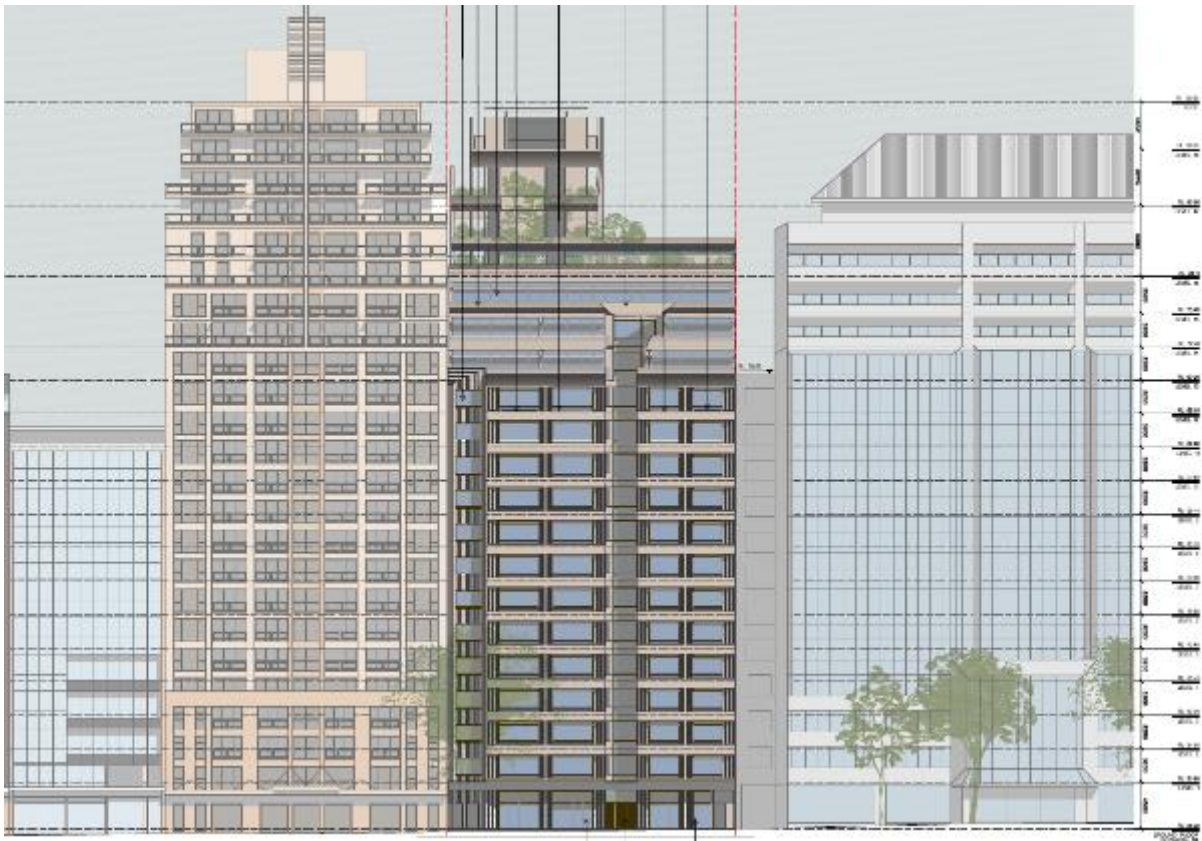


Figure 15: Originally lodged scheme - East elevation



Figure 16: Originally lodged scheme - Section



Figure 17: Originally lodged scheme - Typical 9-12 level floor plan

11. Key design issues discussed during the meeting are summarised below (other planning matters were also noted).
 - (a) The proposed roof top design (as illustrated in the section drawing in Figure 16 above) does not meet the requirements of Clause 5.6 of the Sydney LEP 2012 and as such, is not an architectural roof feature as defined under this clause. This clarification has impacts on the height of the development.

- (b) A 55m height development standard applies to the site under Clause 6.16 of the Sydney LEP 2012. This clause prohibits development above 55m on sites in Central Sydney where the site area is less than 1,000sqm. As outlined in point (a) above, the roof element above 55m was not supported and results in a development that exceeds the height control..
 - (c) The concept of a green roof feature may be explored.
 - (d) The proposed central void/light well at the Elizabeth Street frontage must adequately address wind and noise issues.
 - (e) The proposal's interface with the southern boundary to address any associated privacy and amenity impacts to residential units on neighbouring site.
12. In response to the matters raised at the meeting, the applicant submitted additional documentation on 13 July 2022, as summarised below:
- (a) Wind tunnel effects within central void: The proposed awning at ground level on Elizabeth Street will protect pedestrians at ground level, and wind movements will become stagnant within the central void/light well causing no impact to the ground level or courtyard at the base.
 - (b) Acoustics within central void/light well: The submitted Acoustic Assessment includes glazing specifications to achieve relevant requirements in the central void. The design intent for bedroom windows is to be operable via a side panel for natural ventilation allowing for continuous glazing to the Hyde Park aspect.
 - (c) An amended roof top design (see Figure 18 below) was provided, as well as a written response as to how the applicant was of the opinion that the roof design met the requirements for an architectural roof feature under the LEP.

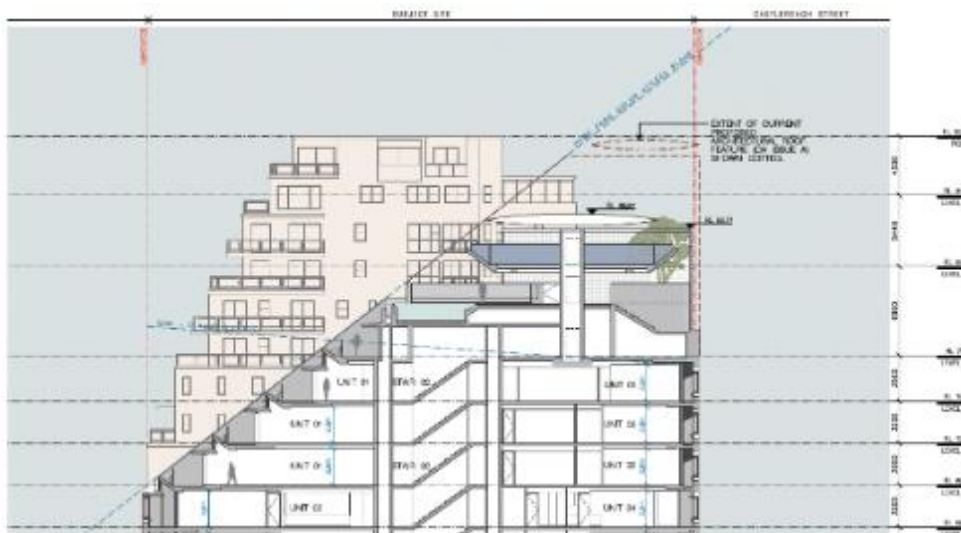


Figure 18: Amended 13 July 2022 scheme - Section

13. In correspondence, dated 14 and 21 July 2022, the City advised that the roof design was not supported and that the 55m height control must be adhered to. Any roof design must be architectural and not contain functional space.

14. On 3 August 2022, the applicant submitted a further revised architectural roof feature scheme, shown below.



Figure 19: Amended 3 August 2022 scheme - Section

15. On 12 August 2022, the City provided a response to the latest revised roof feature scheme advising that Council was still not satisfied that the amended design met all requirements of a defined architectural roof feature as specified in the LEP. It was reiterated that this feature cannot comprise functional space and any height projecting about the 55m control cannot contain the site's communal area. This must be accommodated elsewhere in the development.
16. In correspondence dated, 21 September 2022, the City requested that the applicant submit the amended design for the proposal (by 12 October 2022) ,including all matters listed below:
- (a) The amended roof feature design (if being pursued based on previous advice given).
 - (b) Communal open space area – is to be located within height limit. If 25% open space cannot be accommodated on site, other common internal areas also may be supported to meet 25%, however these areas must be commensurate with the scale of the development and provide functions that enhance residential amenity.
 - (c) Castlereagh St street wall height – should better respond to the retained 3 storey warehouse facade at 281-283 Elizabeth Street and the podium form of neighbouring western elevation of 255-269 Elizabeth Street.

- (d) Side setbacks – 4m requirement has not been provided, with the proposal having a predominant nil setback to both sides. An upper level setback may be required from the southern boundary to protect the amenity to the existing residential apartments located at 281-283 Castlereagh Street.
 - (e) Street wall setbacks – 8m upper level setbacks should be provided to comply with the Sydney DCP 2012.
 - (f) Elizabeth St void – there are potential issues with acoustic privacy and natural ventilation, and the void is to be modified to address these competing issues.
 - (g) Cross Ventilation – improvement in the design/layout to improve the compliance against the ADG.
 - (h) Private open space – several 3-bedroom units are under the ADG private open space requirements.
 - (i) Provision of light and air to the common circulation areas.
17. On 23 September 2022, the applicant responded with the deletion of the architectural roof feature, incorporation of communal open space on Level 1 and Basement Levels 3-5. Further changes (deletion of Basement 6) were also made on 12 October 2022.

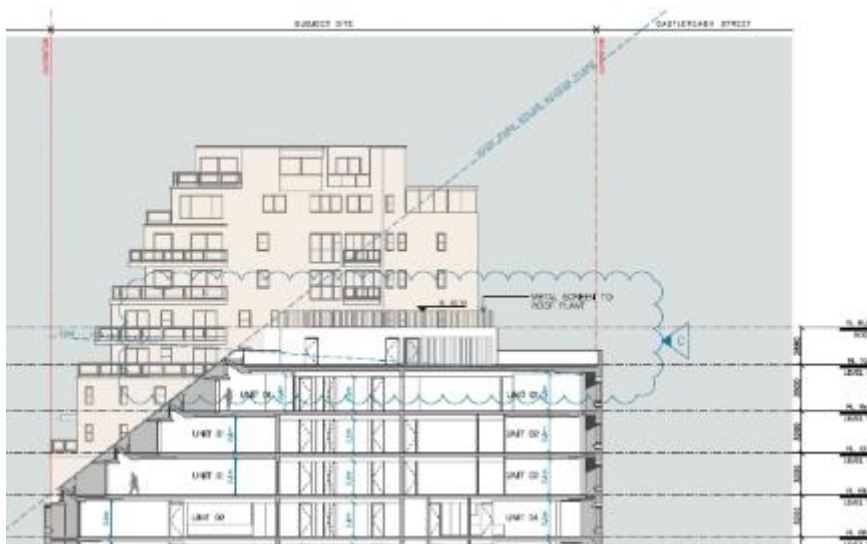


Figure 20: Amended 12 October 2022 scheme - Section

18. The amended scheme was presented to the Design Advisory Panel (DAP) on 27 October 2022. The feedback of the DAP was incorporated into the comprehensive request for amendments provided to the applicant in December (summarised below). A response to those matters raised by the DAP is considered in the discussion section of this report.

19. In correspondence dated 20 December 2022, following a comprehensive assessment of the application, a request for further information and amendments was sent to the applicant by the City. Key issues raised included:
- (a) Continued non-compliance with 55m height limit – Given the prohibitive nature of Clause 6.16(4) of the Sydney LEP 2012, the application must be amended so that the maximum height at all points of the building is below 55m.
 - (b) Building envelope above street wall height – Any variation against the Sydney DCP 2012 requirement for an 8m setback above the street frontage height of 45m requires justification and visual analysis. Any façade projections are to be minimised. A shallower recess on the Elizabeth Street frontage is required, which commences above Level 3.
 - (c) Residential amenity – Address amenity issues associated with the proposed light well/central void with regard to ventilation, noise and outlook. Review layouts to improve cross ventilation and private open space for apartments. Daylight and natural ventilation should be provided to all common circulation spaces above ground.
 - (d) Communal open space – Explore further opportunities to provide communal open spaces above the basement levels, which are capable of achieving solar access and include landscaping.
 - (e) Wind impacts – A quantitative wind effects report is required.
 - (f) Transport and access – Further detail and amendments required regarding the driveway crossover, car waiting bays, vertical swept path analysis, loading dock management. Bicycle parking and end of trip facilities are to be provided.
 - (g) Waste collection – An amended waste management plan is required.
 - (h) Public art – An update public art plan is required including amendments to budget and proposed art locations.
 - (i) Ecologically sustainable development – Thermal performance annotation for insulation and glazing and solar panels required to be shown on the plans.
 - (j) Flooding – An amended flood assessment report is to be submitted with recommended flood planning levels that are compliant with the City’s Interim Floodplain Management Policy.
 - (k) Public domain – Demonstrate that public domain levels and gradients on all site frontages are in accordance with the City’s Public Domain Manual or will be reconstructed and that proposed floor levels, particularly at building entrances and driveways have taken into consideration finished public domain levels.
 - (l) Acid sulfate soils – Further information required, with a preliminary assessment report.
 - (m) Archaeological potential – Amended archaeological report is required and archaeological potential is to be re-assessed.
 - (n) Landscaping – Further details regarding proposed landscaping and greening.

- (o) Survey information – Detailed Survey required.
 - (p) Sydney Metro requirements – Outstanding matters by Sydney Metro are required to be addressed for concurrence.
20. On 24 February 2023, the applicant submitted amended plans and additional information/documentation to respond to the City's requests, these included a reduction in height to 55m, the reduction in the number of apartment, the provision of communal open space on Level 1 of the building. Further supplementary information was sent through in March and April 2023.
21. Following a comprehensive assessment of the revised package, the applicant was advised on 26 April 2023, that the following matters required resolution prior to determination:
- (a) Flooding – The carpark access at Castlereagh Street must be revised to meet the flood planning level.. The City's Interim Floodplain Management Policy does not accept the use of flood barriers and it was required that the levels of the carpark access and ramp be redesigned to demonstrate compliance with the flood planning level.
 - (b) Wintergarden gross floor area (GFA) – The wintergardens below 30m are not included in the calculations for floor space, which is inconsistent with clause 4.5A of the SLEP 2012 4.5A. Amended GFA plans are to be provided prior to determination which include wintergardens to apartments within the first 9 storeys in the GFA calculation.
22. On 26 May 2023, the application submitted an updated flood study and amended architectural plans which included updated GFA plans and plans showing changes to the ground and basements levels including the loading dock arrangement, car lift location, and retail tenancy to meet the flood planning levels. Other relevant documents including an amended Transport Impact Assessment, Waste Management Plan were also submitted.

Proposed Development

23. The application, as modified, seeks consent for:
- (a) Demolition of existing building on site
 - (b) Site amalgamation of the two separate allotments
 - (c) Basement excavation to provide 5 basements levels including:
 - (i) Vehicular access from Castlereagh Street to the basement levels
 - (ii) Residential storage including bicycle storage areas
 - (iii) End of trip facilities
 - (iv) Residential car parking spaces (35 in total, including 8 accessible)
 - (v) Retail car parking spaces (2 in total, including 1 accessible)

- (vi) Motorcycle car parking spaces (5 in total)
 - (vii) Service vehicle bays (3 in total)
 - (viii) Loading dock
 - (ix) Waste storage
 - (x) Plant rooms and services.
- (d) A 15-storey tower that is 55m (RL 79.91) in height comprising:
- (i) Retail premises located within the basement, lower ground and upper ground floor(2 tenancies in total)
 - (ii) Communal rooms (internal) on Level 1 for residential apartments
 - (iii) 14-storeys of residential apartments (42 units in total)
 - (iv) Rooftop plant.
24. No signage nor operational details of the retail premises within the development are sought under this application.
25. Selected drawings and photomontages of the proposed development are provided on the following pages.



Figure 21: Proposed photomontage of the Elizabeth St elevation, view from Hyde Park facing west



Figure 22: Proposed photomontage of the Castlereagh St elevation, view facing north

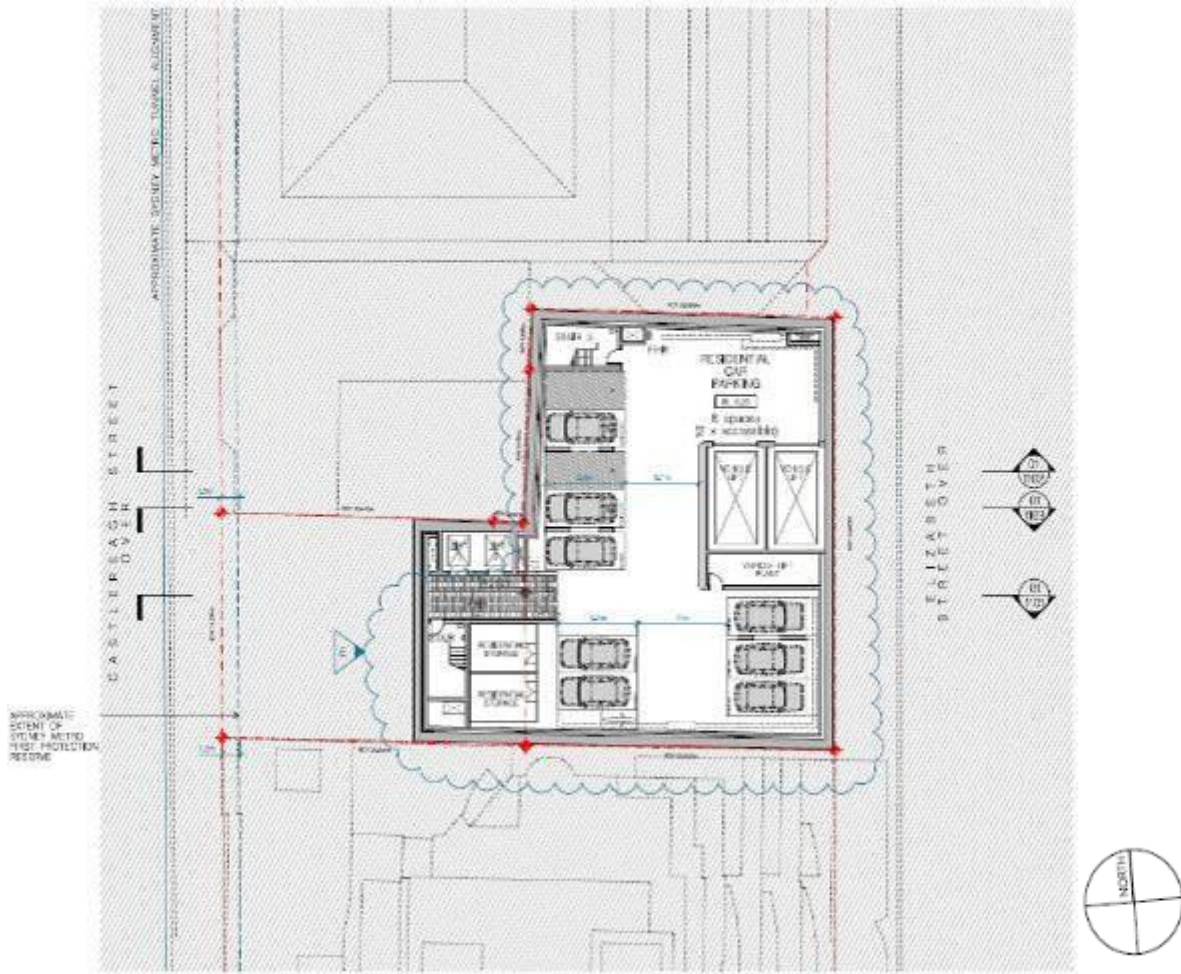


Figure 23: Proposed basement level 5 floor plan

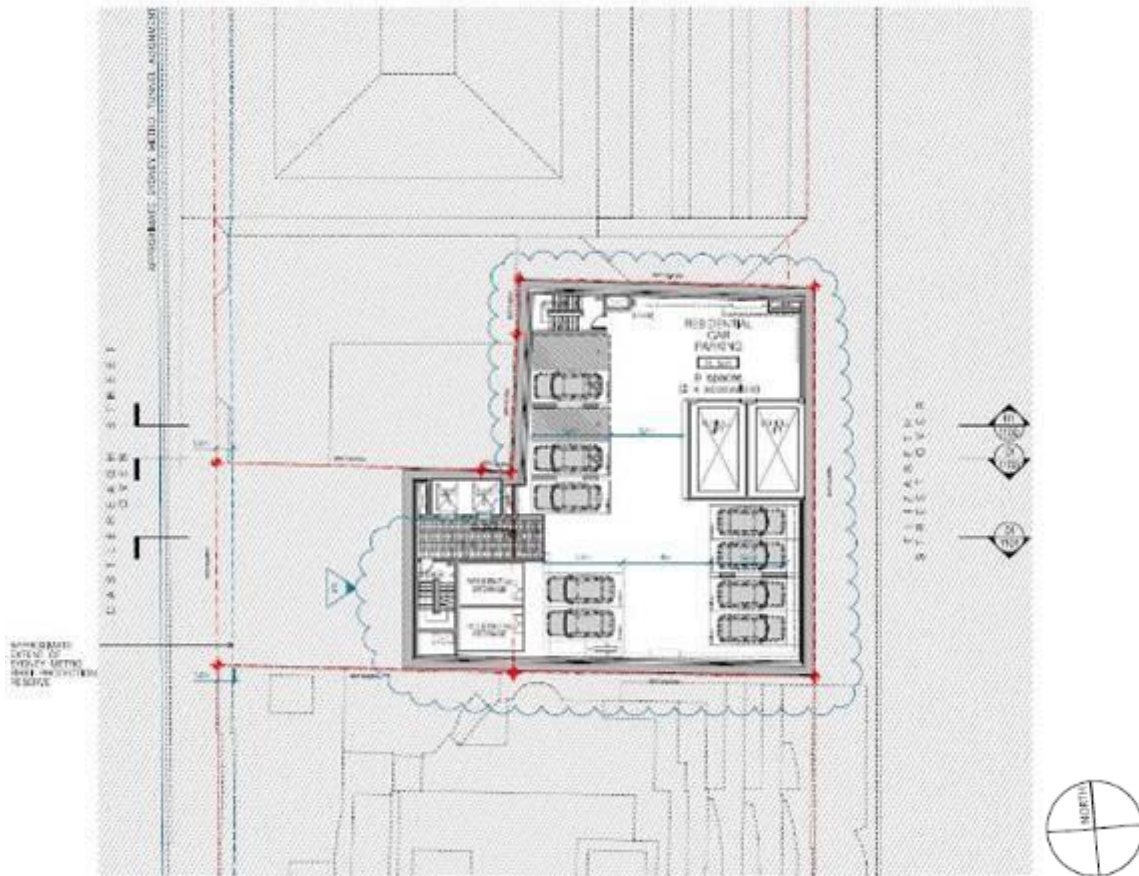


Figure 24: Proposed basement level 4 floor plan

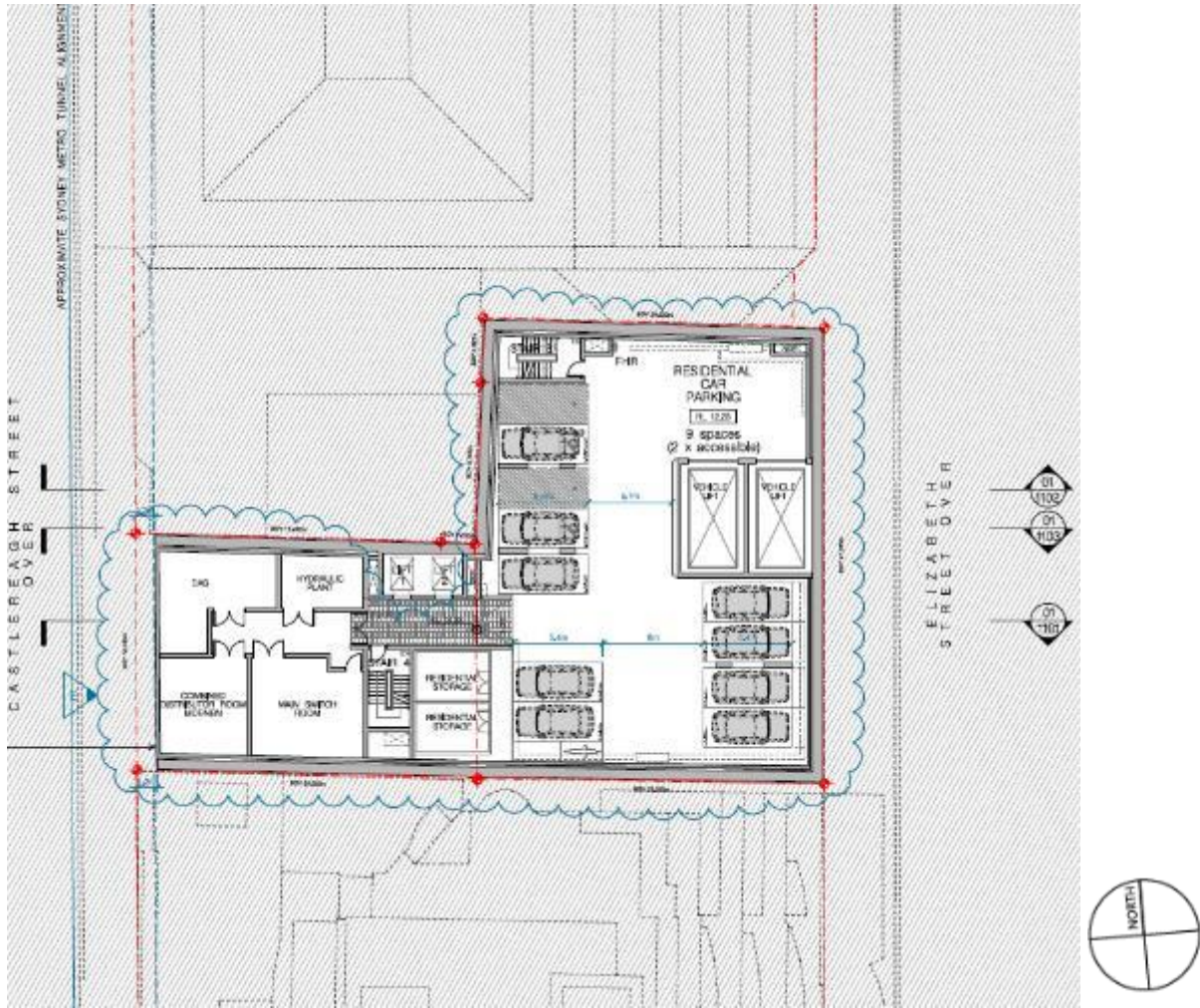


Figure 25: Proposed basement level 3 floor plan



Figure 26: Proposed basement level 2 floor plan

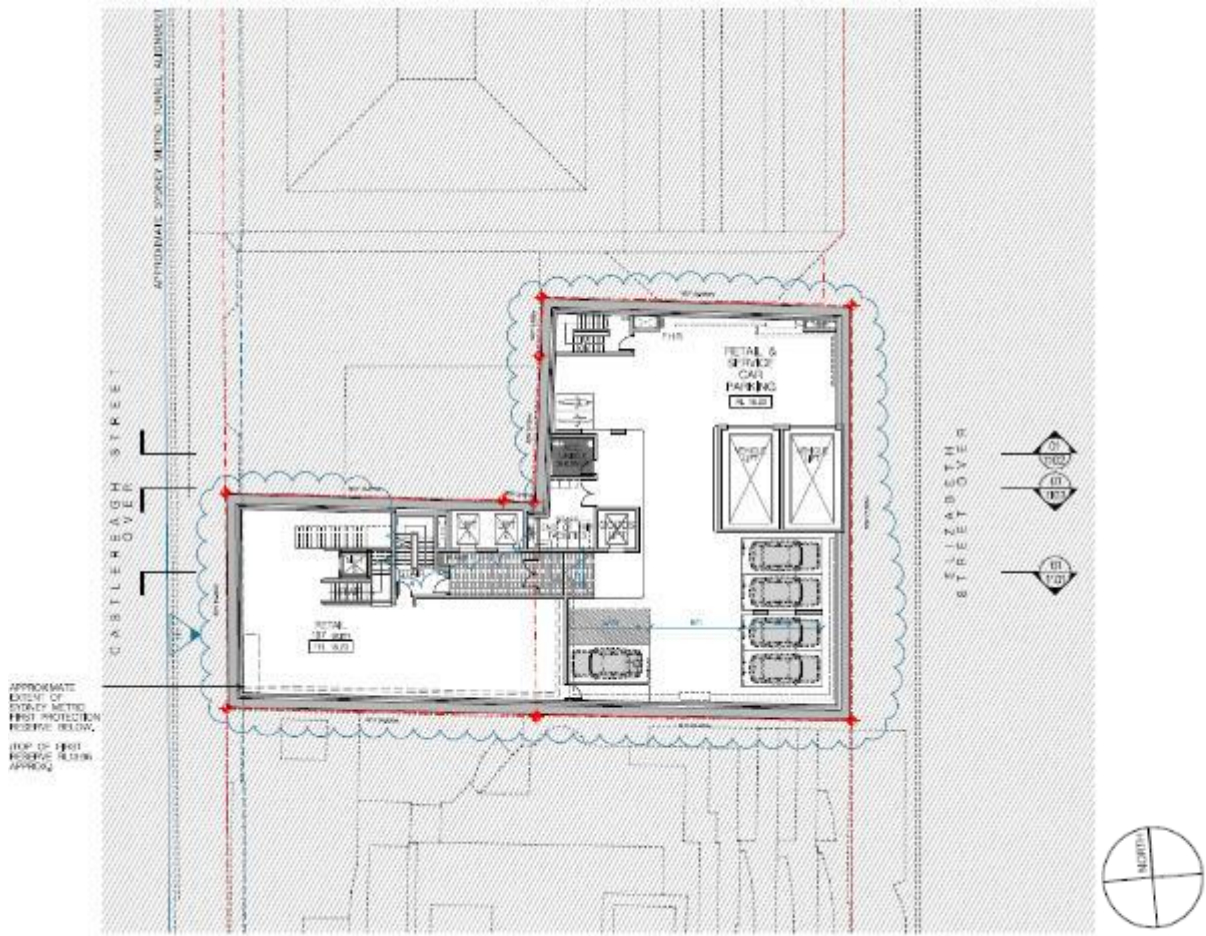


Figure 27: Proposed basement level 1 floor plan

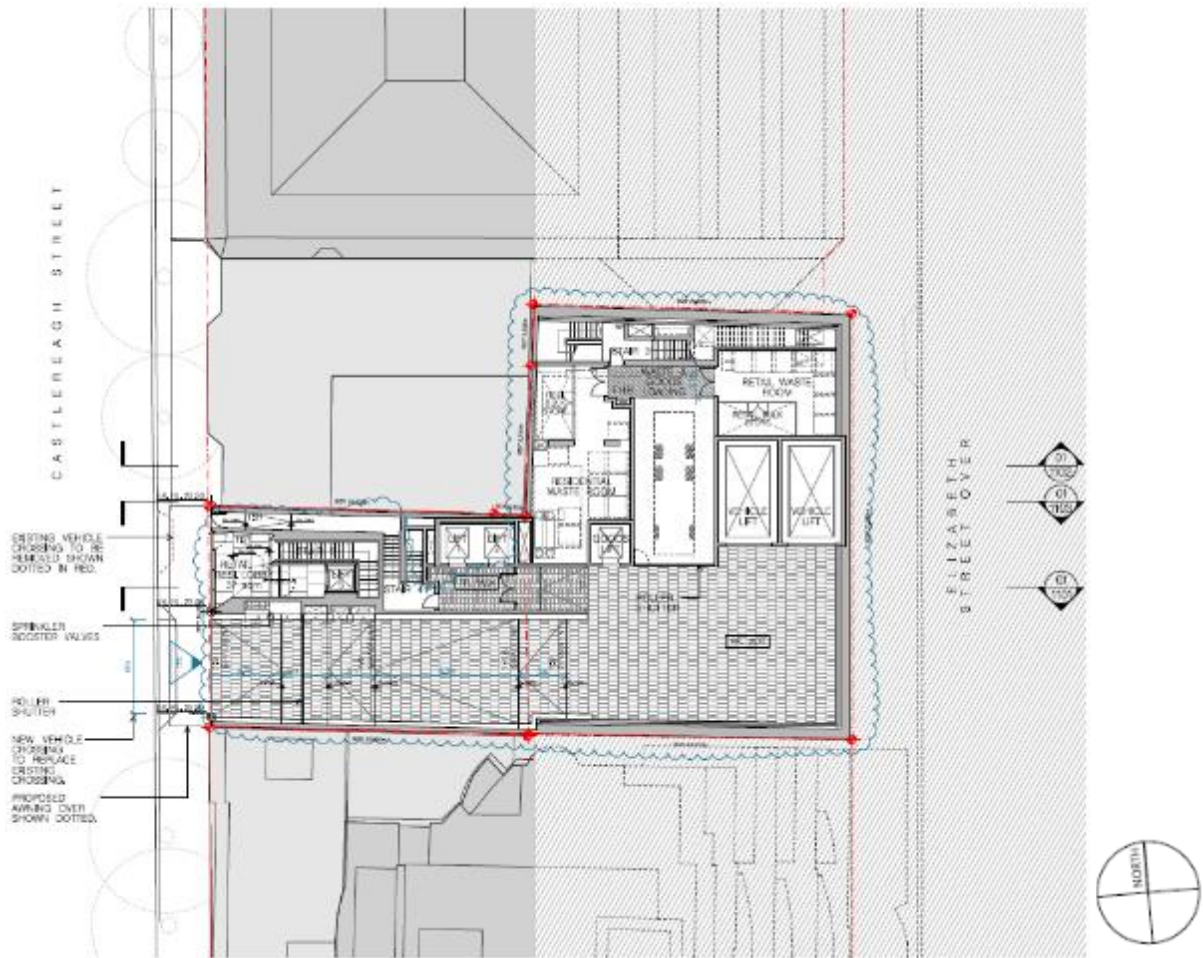


Figure 28: Proposed lower ground level floor plan

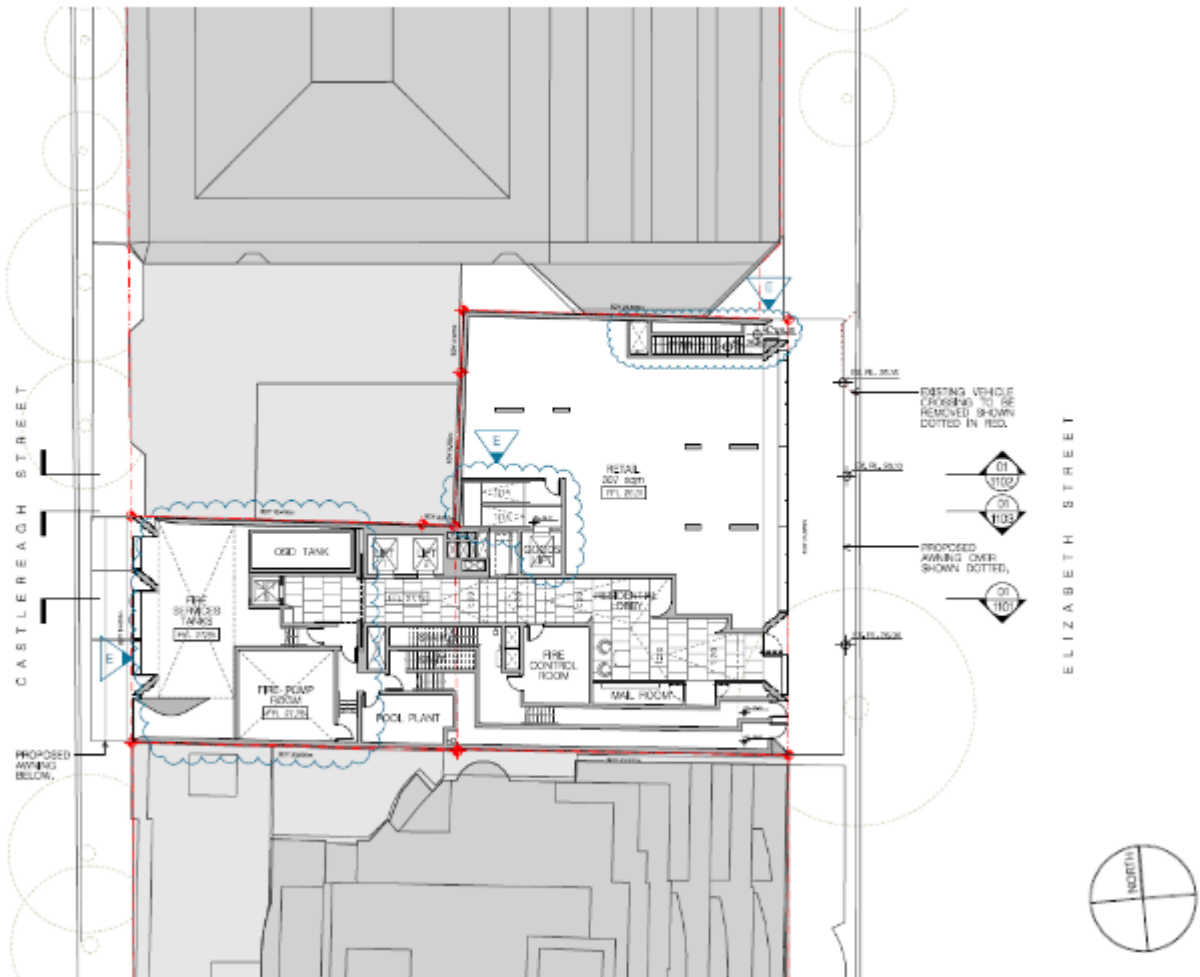


Figure 29: Proposed upper ground floor plan

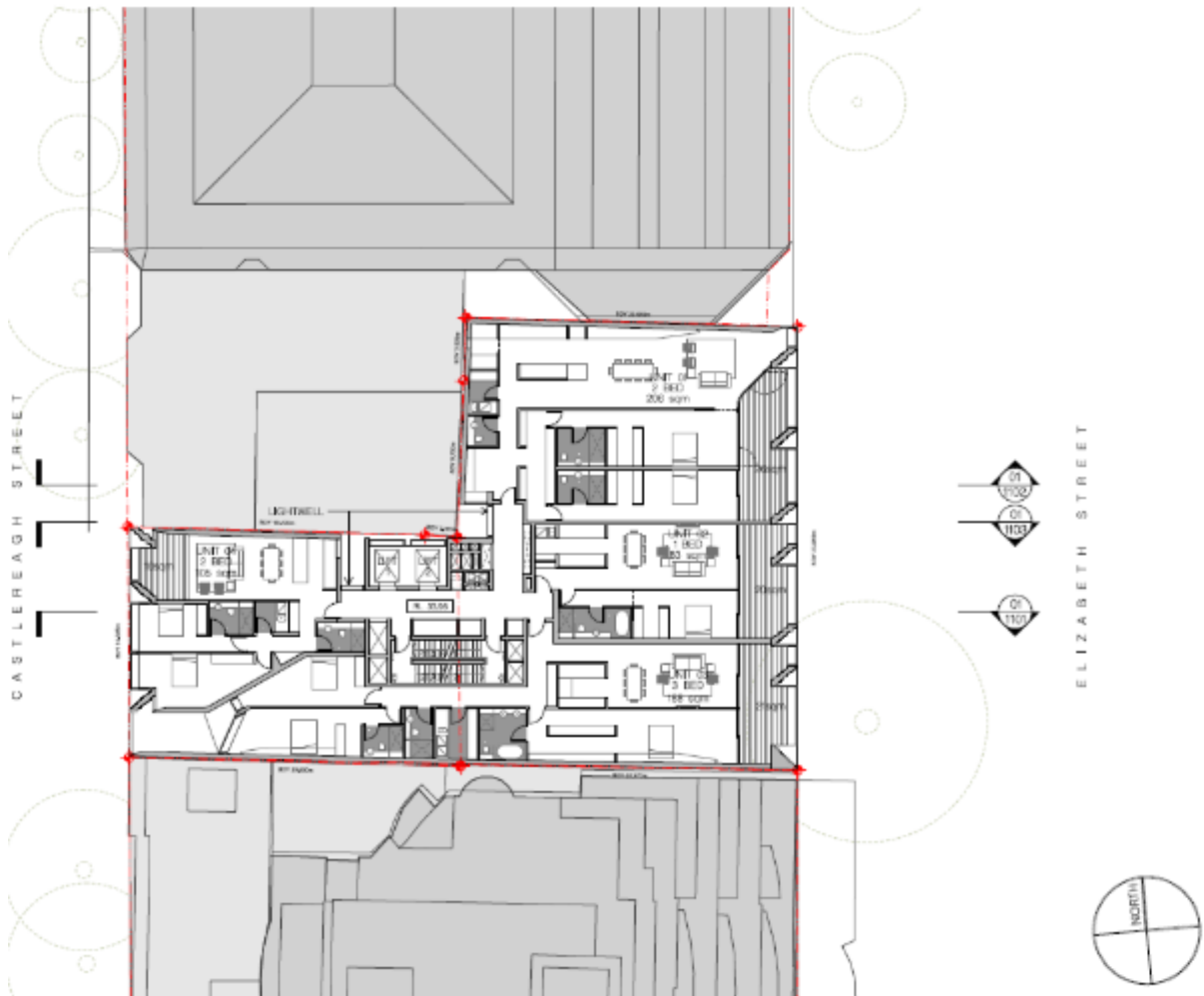


Figure 31: Proposed level 2 floor plan



Figure 32: Proposed level 3 floor plan

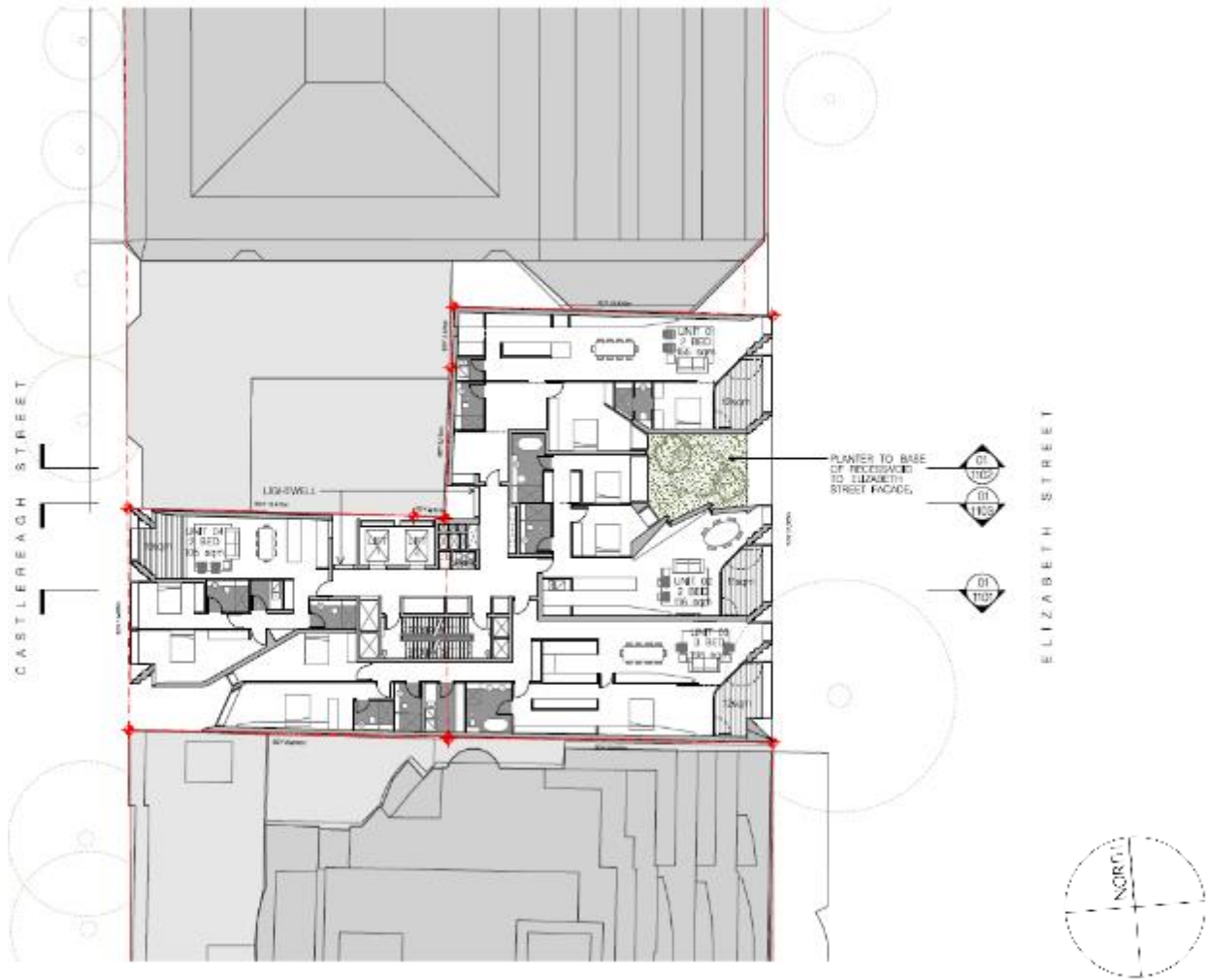


Figure 33: Proposed levels 4-8 (typical)

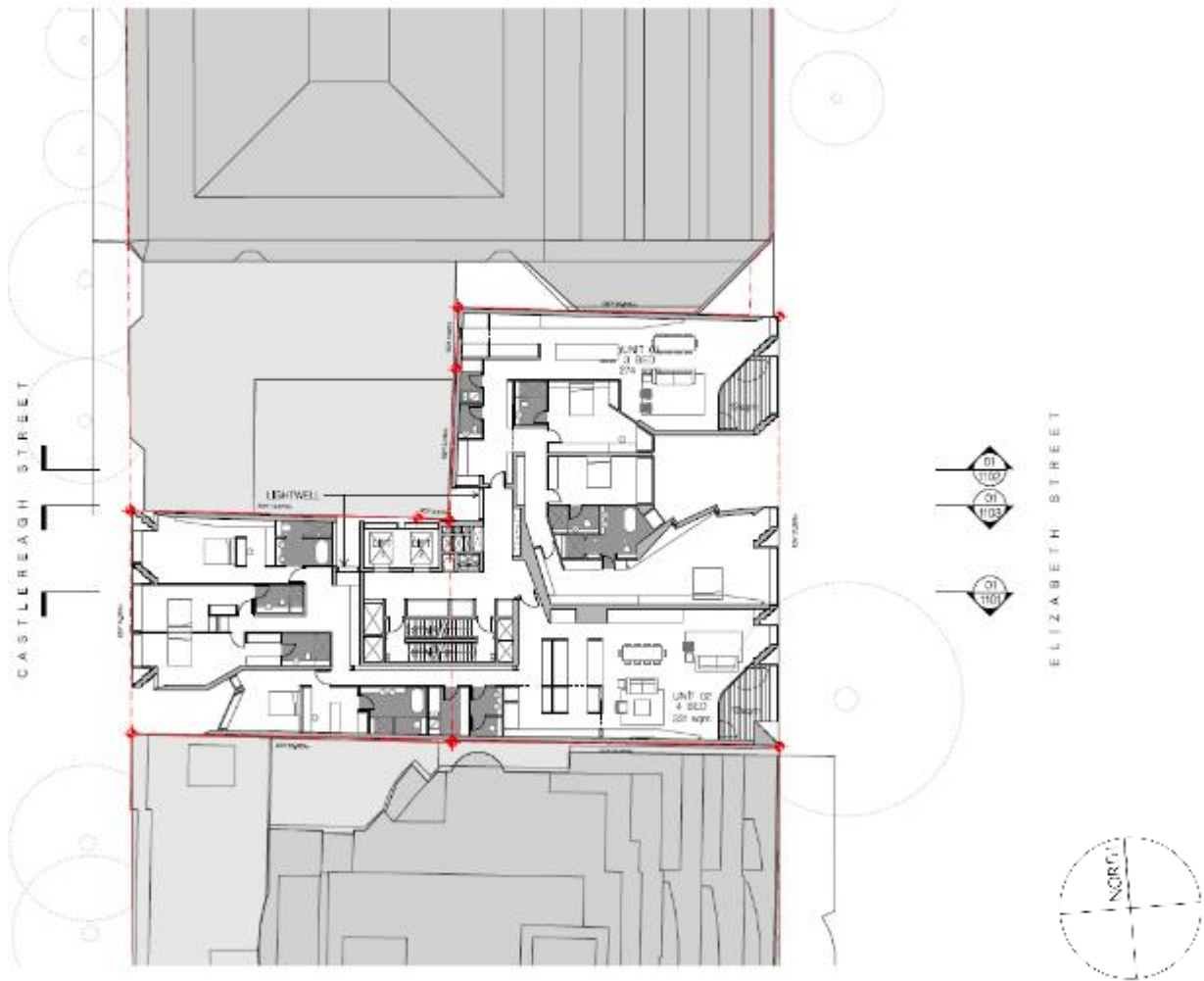


Figure 34: Proposed levels 9-12 (typical) floor plans



Figure 35: Proposed level 13 floor plan

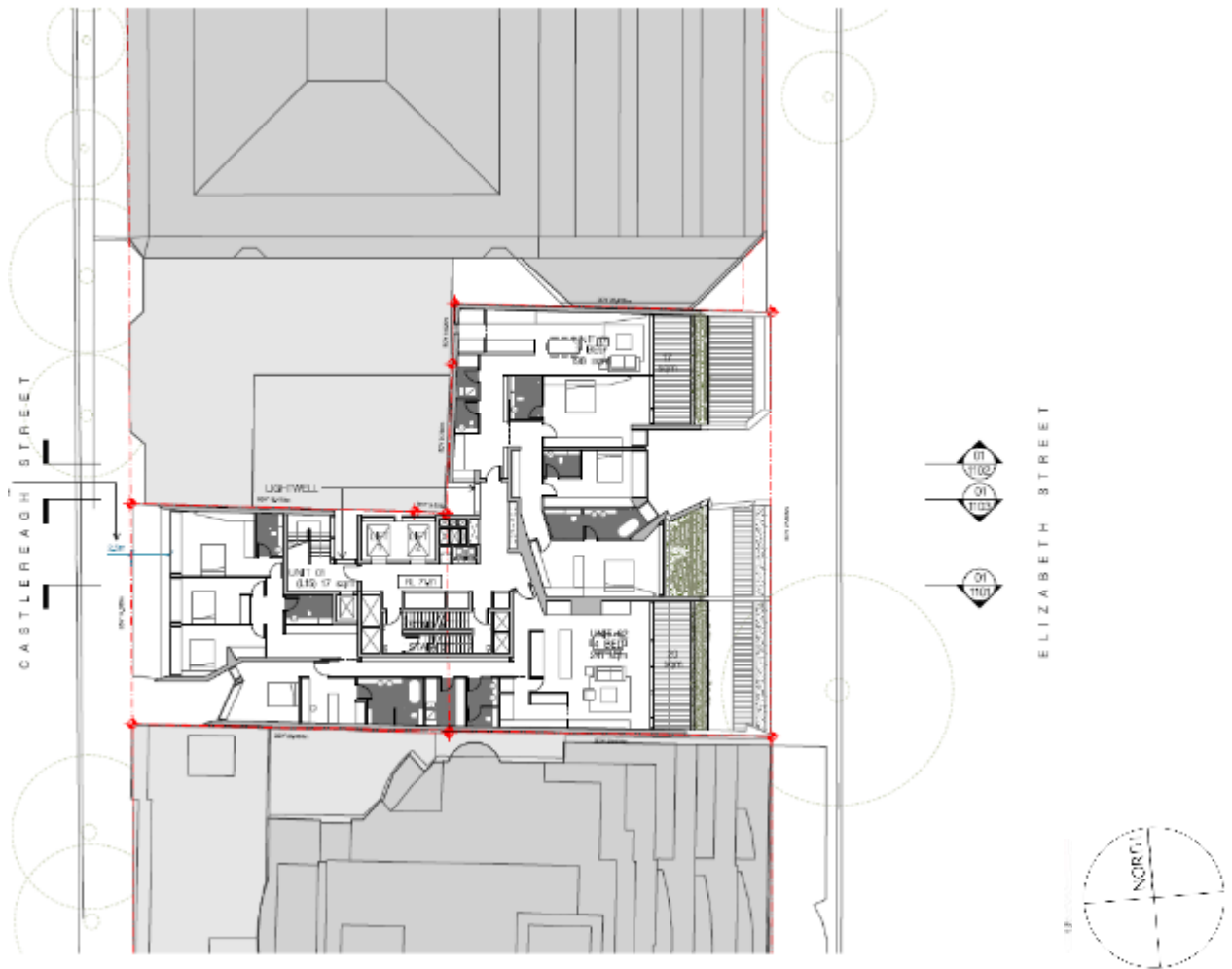


Figure 36: Proposed level 14 floor plan

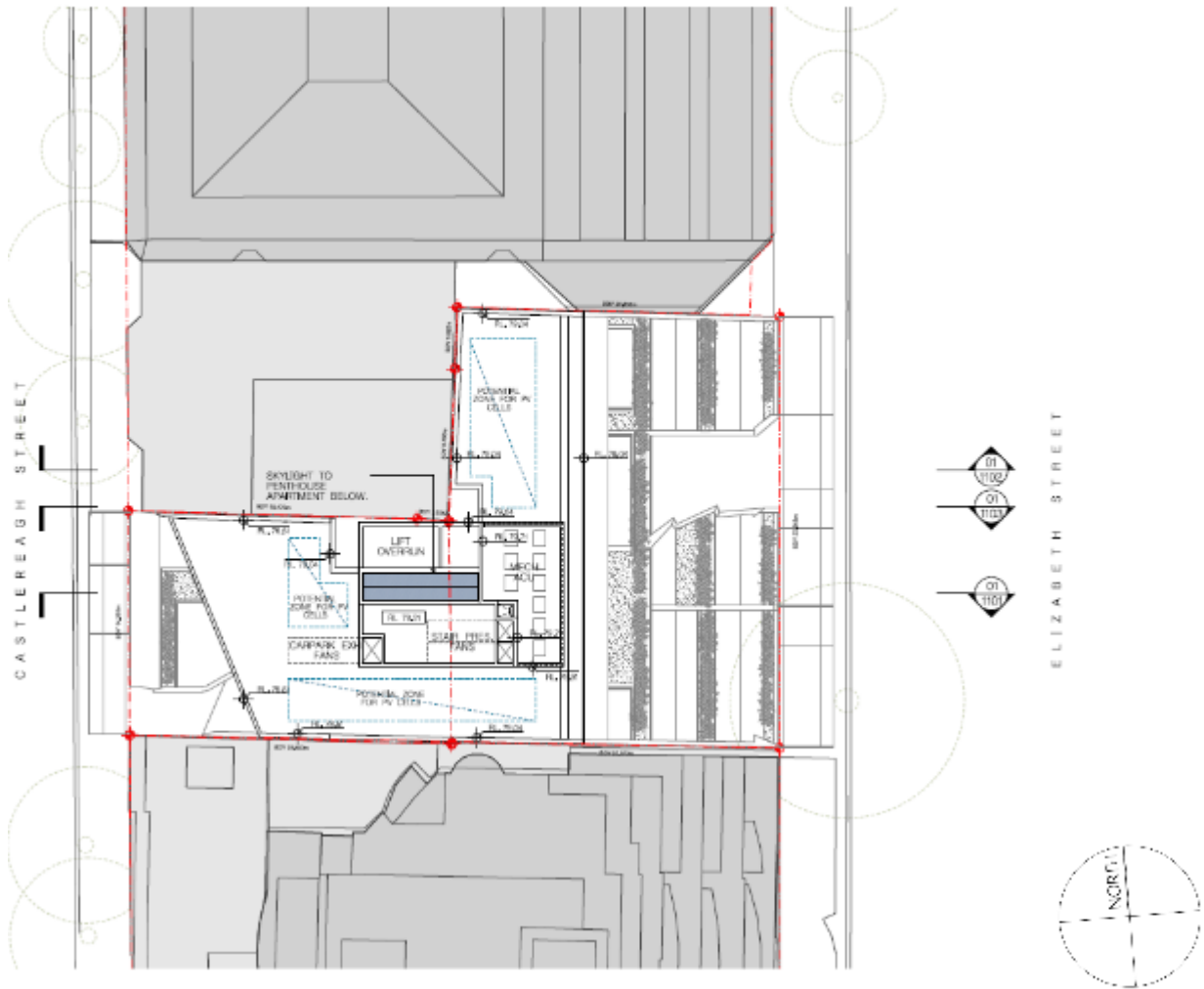


Figure 38: Proposed roof plan

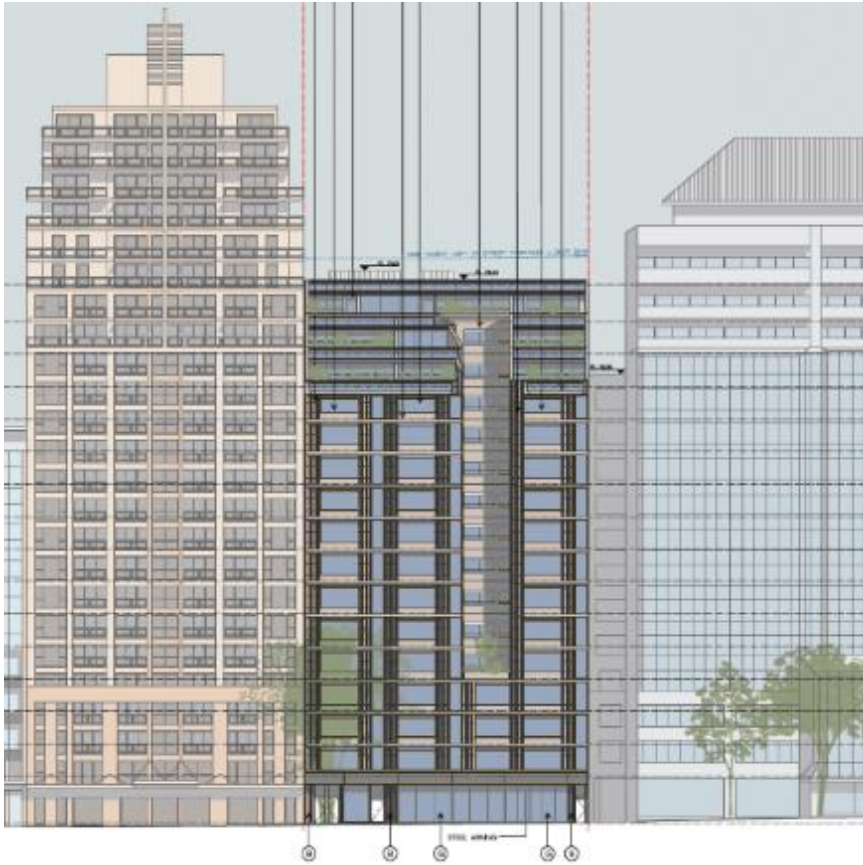


Figure 39: East elevation (Elizabeth Street)

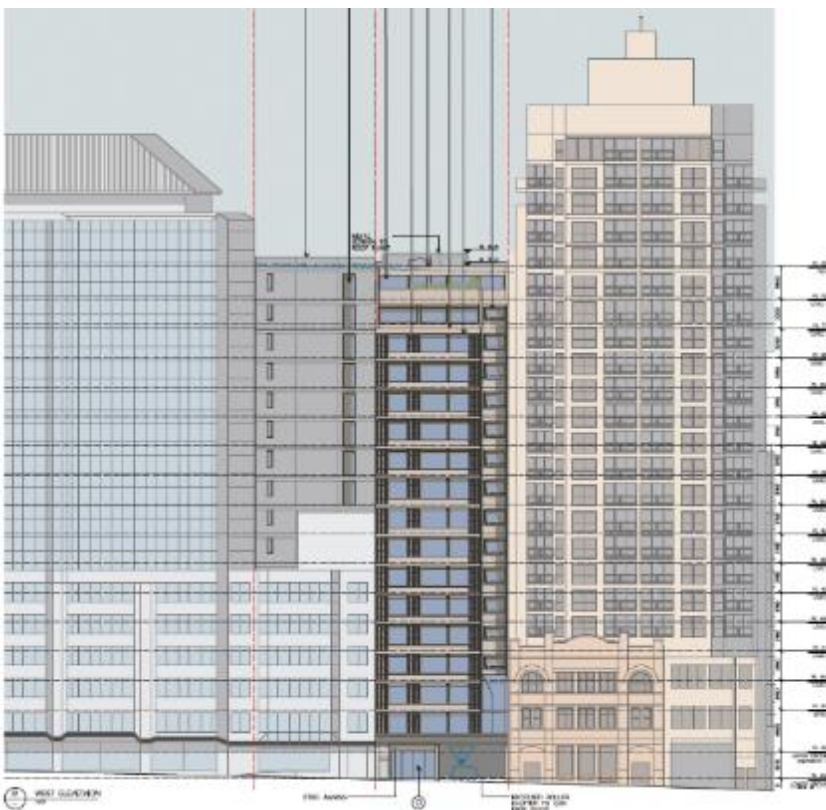


Figure 40: West elevation (Castlereagh Street)

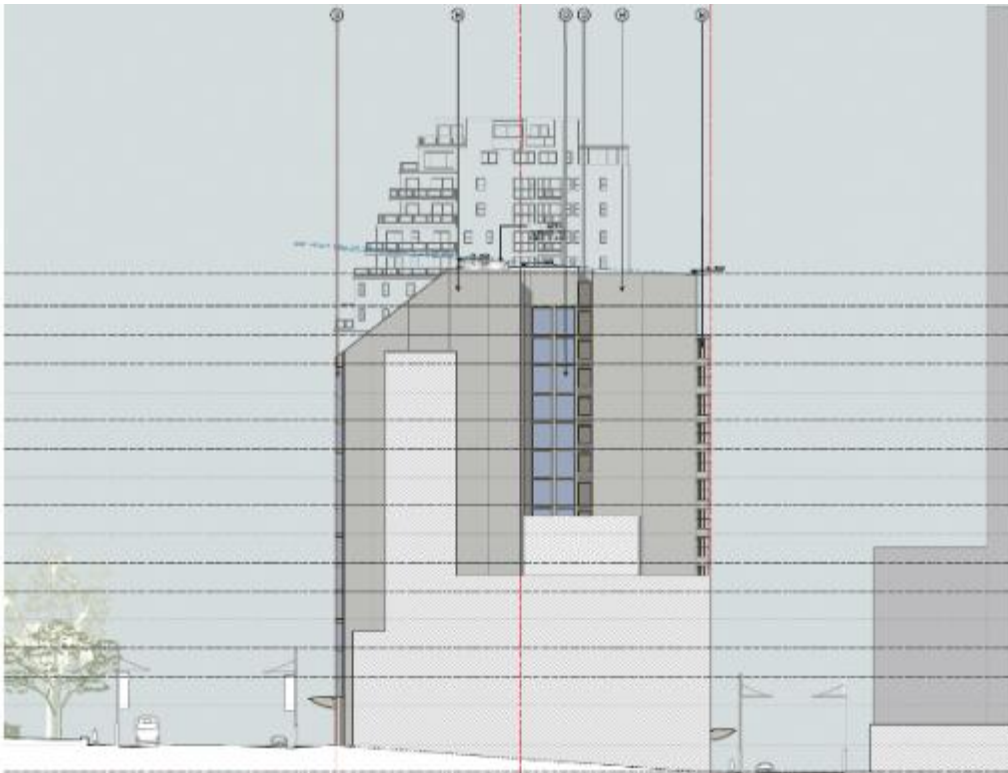


Figure 41: North elevation



Figure 42: South elevation

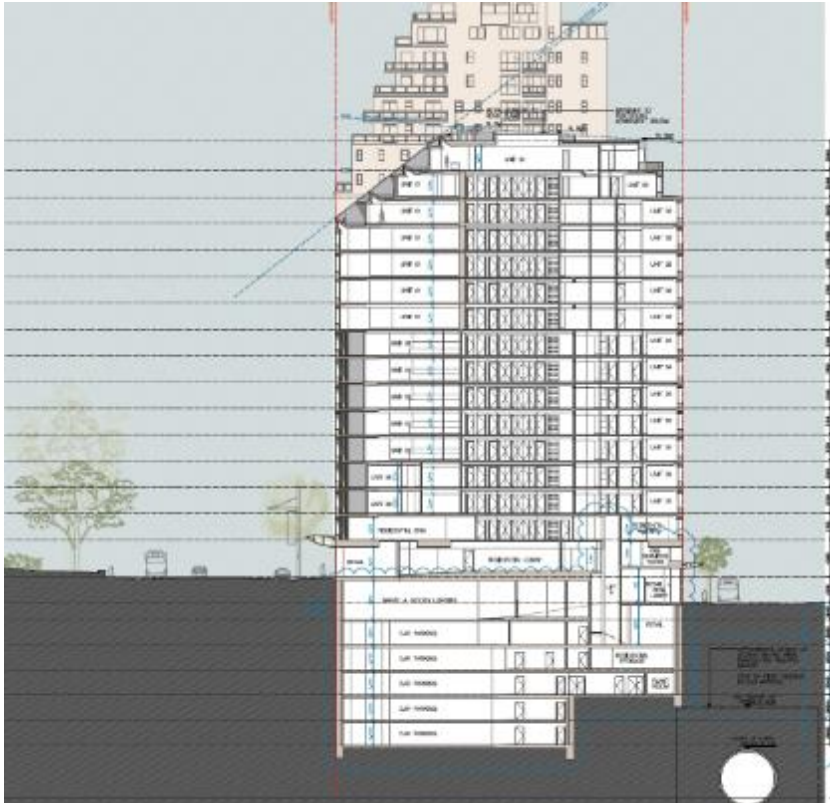


Figure 43: Section A

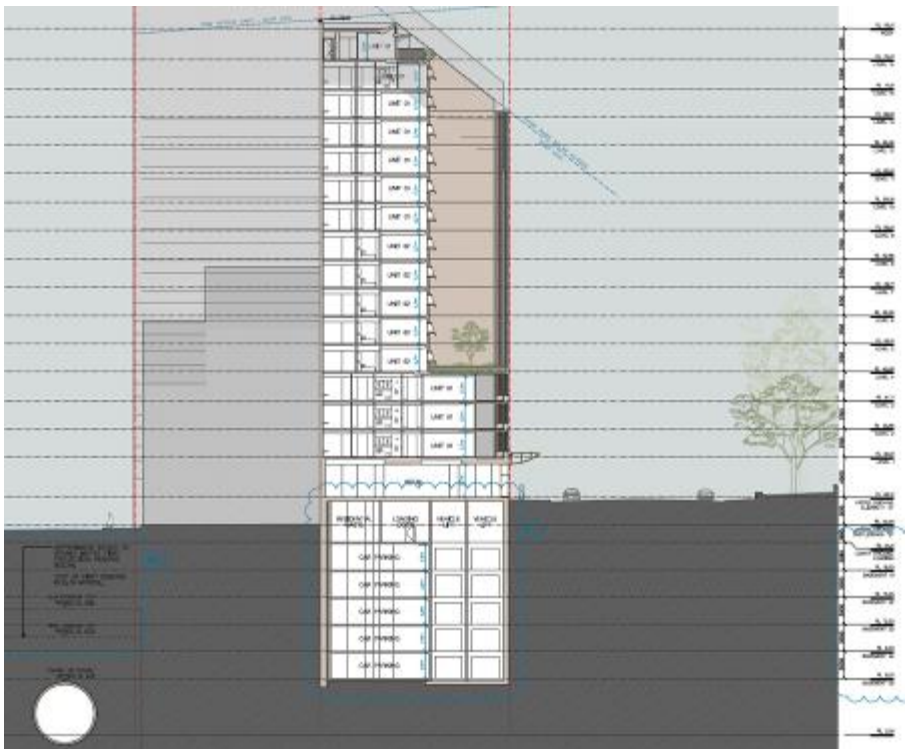


Figure 44: Section B

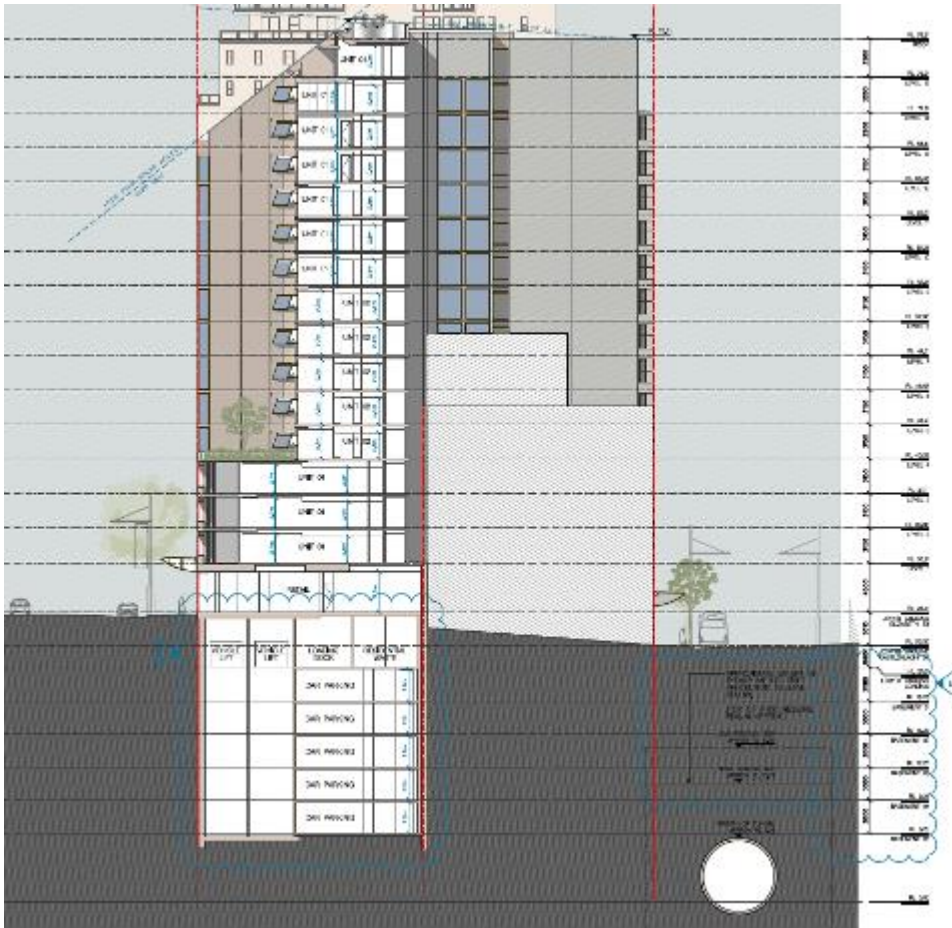


Figure 45: Section C

Assessment

26. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

City of Sydney Act 1988

27. Section 51N of the City of Sydney Act 1988 requires the Central Sydney Planning Committee (the Planning Committee) to consult with the Central Sydney Traffic and Transport Committee (CSTTC) before it determines a development application that will require, or might reasonably be expected to require, the carrying out of road works or traffic control works likely to have a significant impact on traffic and transport in the Sydney Central Business District.
28. The City's Transport and Access Unit has reviewed the application and considers that the proposed development does not require consultation with the CSTTC.

Water Management Act 2000

29. In accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, the application was forwarded to Water NSW as Integrated Development, as the proposed basement levels will have an impact on groundwater levels as groundwater is expected to be encountered with the depth of excavation.
30. Water NSW provided General Terms of Approval on 6 September 2022, which have been included in Attachment A of this report.

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4

Remediation of Land

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land 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.
33. A Preliminary Site Investigation (PSI) was prepared by JBS&G Australia for the site. The PSI found:

“Based on the findings of the site history, and subject to the limitations in Section 6, JBS&G concludes there is no evidence of significant or widespread contamination which would preclude ongoing commercial use or redevelopment for mixed residential and commercial purposes.”
34. The Council’s Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

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

35. The aim of State Environmental Planning Policy (SEPP) 65 is to improve the design quality of residential apartment development in New South Wales.
36. When determining an application for a residential flat development of three or more floors and containing four or more apartments, SEPP 65 requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 1.
37. The applicant has submitted a design verification statement and SEPP 65 design report prepared by Murcutt Candalepas (Reg No. 5957) with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.

38. An assessment of the proposal against the design quality is provided as follows:

(a) **Principle 1: Context and Neighbourhood Character**

The site is located within Central Sydney and will contribute to the vitality of the locality. The site is located in the SP5 Metropolitan Centre zone, and the proposal is generally in accordance with the objectives of the Sydney LEP 2012 and the Sydney DCP 2012.

The proposal is in keeping with its context and local character, with the provision of a uniform expression to the street wall height that is consistent along Elizabeth Street. The street wall is given relief by a central void with a landscaped planter at the base, which will provide light and air to future residents, whilst also being visible from the public domain to pedestrians and vehicles passing by. The use and detailing of the granite stone is complementary to surrounding buildings including the Anzac Memorial and St Mary's Cathedral.

The proposed presentation to Castlereagh Street is acceptable, given there is currently not a consistent street wall height along this section of Castlereagh Street. The setback on the southern boundary ensures that amenity is maintained for the neighbouring residential development.

(b) **Principle 2: Built Form and Scale**

The height and bulk of the building is consistent and contextually appropriate with other buildings within the immediate locality. The maximum height follows the sun access plane consistent with buildings along the Elizabeth Street frontage and is within the 55m height limit. The proposal will deliver a positive contribution to the Sydney skyline.

(c) **Principle 3: Density**

The proposal complies with the maximum permissible FSR for the site.

(d) **Principle 4: Sustainability**

The proposal is compliant with the minimum BASIX requirements. The proposal incorporates a range of benchmark sustainability measures and design initiatives for a high-rise residential building, summarised as:

- i. Passive solar gain properties achieved by light-coloured façade materials deep-set within the façade to protect the glazing from high-angle summer sun.
- ii. Orientation to majority of apartments to the east, and façade articulation to minimise western sun access.
- iii. Shuttering elements to reduce unwanted solar gains and increase control of the internal environment.

(e) **Principle 5: Landscape**

Due to the building covering the entire site and basement underneath, there is no deep soil proposed on the site which is considered acceptable in the context of Central Sydney. The proposal includes landscaped planters at the base of the central void and on the terraces in the upper levels.

(f) **Principle 6: Amenity**

Compliance with amenity is assessed further under the ADG section below. Overall, the proposal provides an acceptable level of residential amenity for future occupants taking into consideration the scale of development and site constraints.

(g) **Principle 7: Safety**

The safety and security of the public domain and the site itself is enhanced by increased activity within the site and casual surveillance of the surrounding streets from the residential apartments. There is a secure and separate entrance available for the sole use of residents. The proposal has generally been designed in accordance with the principles of Crime Prevention through Environmental Design (CPTED).

(h) **Principle 8: Housing Diversity and Social Interaction**

The proposal provides a mix of apartment types to encourage housing diversity. There are a range of indoor communal facilities to encourage social interaction amongst residents.

(i) **Principle 9: Aesthetics**

The proposal includes building forms with rectilinear proportions, and high levels of building articulation.

The proposed materiality is of a high standard and consistent with the existing and future desired character of the area. The facades are comprised of light beige granite cladding with detailed framing elements in a warmer-pinkish tone, as reflected in the adjacent Anzac War Memorial. Additional materials include off-form concrete walls and bronzed detailed elements, which are durable and appropriate for the local climate.

39. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Acceptable	<p>Several apartments exceed the 18m apartment depth, however, in these apartments they both exceed the minimum area requirements and are dual aspect (east-west) to maximise their amenity.</p> <p>The proposal meets the objectives in that the bulk of the development is consistent with the scale of the existing and desired future context of the locality, and the building depths support apartment layouts that provide for amenity (as detailed in the sections below) for future residents.</p>

2F Building Separation & 3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms 	Acceptable	<p>The proposal has been designed to ensure acceptable residential amenity outcomes consistent with the objectives. In particular, the following strategies are utilised to ensure visual privacy between units in units facing the central void:</p> <ul style="list-style-type: none"> • Articulated windows to avoid overlooking • Translucent glazing and glass blocks to building facades • Considered positions of openings and balconies to reduce overlooking <p>The ADG specifies that no building separation is necessary where building types incorporate blank party walls. The proposed development has blank walls to the sites to the north and south.</p> <p>Where light wells directly adjacent to the lift core face the neighbouring development to the north, it is recommended these openings be fitted</p>
<p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> • 18m between habitable rooms / balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms 		
<p>Nine storeys and above (over 25m):</p>		

2F Building Separation & 3F Visual Privacy	Compliance	Comment
<ul style="list-style-type: none"> • 24m between habitable rooms / balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms 		<p>with translucent glazing.</p> <p>To maintain visual privacy to the openings on the south-western side of the tower, these are oriented to the west, away from the southern neighbour.</p>

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Acceptable	<p>The proposal does not provide a minimum of 25% of the site area as communal open space. Notwithstanding this, the design has responded to the constraints of the CBD site and provided future occupants with a variety of internal communal spaces on Level 1 of the development. These spaces equate to an area of 458sqm, representing 52% of the total site area.</p> <p>Refer to the Discussion section for detail.</p>
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).	Yes	The communal spaces on Level 1 facing Elizabeth Street receive sunlight between 9.00am and 11.00am, and between 12.00pm and 1.00pm for the rooms facing Castlereagh Street.

3E Deep Soil Zones	Compliance	Comment
<p>Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 3m</p>	<p>Acceptable</p>	<p>No deep soil zones are provided. The design guidance in the ADG states that achieving deep soil zones may not be possible on some sites where:</p> <ul style="list-style-type: none"> • The location and building typology have limited or no space for deep soil at ground level (e.g., central business district (CBD), constrained sites, high density areas, or in centres) • There is 100% site coverage of non-residential uses at ground level <p>The proposal includes a building with 100% site coverage and ground and lower ground floor retail uses. The site is located in a highly urbanised area of the CBD with a number of high rise developments nearby. In this regard, the provision of the recommended deep soil would be unreasonable in this circumstance.</p> <p>The proposal includes landscaped areas at the base of the central void and on the upper level terraces, to assist with greening the site.</p>

3G Pedestrian Access and Entries	Compliance	Comment
<p>Building entries and pedestrian access connects to and addresses the public domain.</p> <p>Access, entries and pathways are accessible and easy to identify.</p>	<p>Yes</p>	<p>The residential lifts are provided with direct access from the Elizabeth Street lobby, which has a legible and accessible entry.</p>

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	83% or 35 out of a total of 42 apartments achieve a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	Zero apartments achieve no direct sunlight between 9am and 3pm at midwinter.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Acceptable	<p>The applicant states that 24 out of 31 (77%) apartments in the first nine storeys are cross ventilated, relying on the light well recesses directly to the north and west of the lift core.</p> <p>These light well recesses are not the primary air source for habitable rooms in apartments, and they do assist in cross ventilating apartments on a constrained site.</p> <p>The subject site is unusual in shape which limits the building footprint, and potential floor plans that can be designed to maximise cross ventilation. The existing built form of adjacent developments to the north and south prevents any use of side elevations to improve cross ventilation. The proposed design has maximised cross through apartments and then utilised light wells to further supplement cross ventilation through the floor plate.</p>

4B Natural Ventilation	Compliance	Comment
		<p>The proposed development has incorporated passive design techniques to further improve thermal comfort.</p> <p>Overall, it is considered that the objectives of the ADG Objective 4B-3 has been met, given the number of apartments with natural cross ventilation is maximised on a constrained site, to create a comfortable indoor environment for residents.</p>
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Acceptable	Whilst some cross-ventilated apartments exceed the 18m, these units exceed the minimum apartment size and unit with good amenity.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	All residential floor to floor heights are a minimum of 3.150m and are capable of providing 2.7m floor to ceiling heights to habitable rooms.
Non-habitable rooms: 2.4m	Yes	All residential floor to floor heights are a minimum of 3.150m and are capable of providing 2.4m floor to ceiling heights to habitable rooms.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² 	Yes	All apartment sizes are above the minimum specified size requirements.

4D Apartment Size and Layout	Compliance	Comment
<p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>		
<p>Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.</p>	Yes	All habitable rooms have access to an external window as required.
<p>Habitable room depths are to be no more than 2.5 x the ceiling height.</p> <p>8m maximum depth for open plan layouts.</p>	Acceptable	<p>The proposed apartments are significantly larger in area than the minimum internal areas required. As such, habitable room depths are greater than 2.5m x the ceiling height.</p> <p>Due to the generous apartment sizes and internal planning which includes habitable rooms located around a central void/light well, the intent of the Objective of 4D is met, in that the environmental performance of apartments is maximised.</p>
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	All apartments achieve the minimum areas and dimensions prescribed for bedrooms.

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments are to have a minimum balcony area of 4m² with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8m² with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m² with a minimum depth of 2.4m.</p>	Yes	All apartments provide adequately sized private open space in accordance with the ADG.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	A maximum of 4 apartments is provided off a circulation core.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	42 apartments are proposed to be serviced by 2 lifts, equating to 21 apartments per lift.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	Primary living areas and bedrooms do not open directly on to corridors.

4F Common Circulation and Spaces	Compliance	Comment
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Each common circulation space has access to daylight and natural ventilation.

4G Storage	Compliance	Comment
Minimum storage provision facilities: <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ (Minimum 50% storage area located within unit)	Yes	The apartments appear to be able to accommodate the minimum 50% requirement for storage. Additional storage is provided within the basement levels.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	The proposal includes several treatments incorporated into the design of the building to minimise noise pollution. The submitted Acoustic Assessment includes these as recommendations, listed below: <ul style="list-style-type: none"> • Glazing treatment for building facades • Balcony treatment for natural ventilation • Acoustic treatment to apartments on levels 4-8 facing the central void/light well to Elizabeth St • Acoustic treatment for level 1 communal spaces including the gym and lap pool

4J Noise and Pollution	Compliance	Comment
		A condition of consent is recommended to ensure compliance with the Acoustic Assessment, including the implementation of these recommendations.

State Environmental Planning Policy (Building Sustainability BASIX) 2004

40. A BASIX Certificate has been submitted with the amended development application (1273992M_02).
41. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

State Environmental Planning Policy (Transport and Infrastructure) 2021

42. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network

Clause 2.48 Determination of development applications – other development

43. The application is subject to Clause 2.48 of the SEPP as the development will likely to affect an electricity transmission or distribution network.
44. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors

Clause 2.99 – Excavation in, above, below or adjacent to rail corridors

45. The application is adjacent to the Sydney Metro rail corridor and was subsequently referred to Sydney Metro for comment.
46. It is recommended that authority be delegated to the Chief Executive Officer (CEO) to determine Development Application No. D/2022/152, after concurrence from Sydney Metro has been received.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment

47. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.

48. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

49. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the SP5 Metropolitan Centre zone. The proposed development is defined as residential accommodation and retail premises and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 55m is permitted. A height of 55m (RL 79.91) is proposed, therefore the proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio 6.4 Accommodation floor space	Yes	A maximum FSR of 8:1 is permitted. The site is identified as being located within "Area 2" and pursuant to Clause 6.4 (and the application being lodged prior to 30 June 2022), the following additional floor space is permissible based on the proposed uses: <ul style="list-style-type: none"> • Retail premises – 4.5:1 • Residential accommodation – 6:1

Provision	Compliance	Comment
		<p>Based on the proportion and mix of land uses, the maximum permissible FSR is 13.92:1 or 12,184sqm.</p> <p>An FSR of 11.8:1 or 10,325sqm is proposed, therefore the proposed development complies with the maximum floor space ratio development standard.</p>
4.5A Balconies on certain residential flat buildings	Yes	<p>The proposal includes wind-affected balconies which have been designed as wintergardens.</p> <p>The GFA of the proposed wind-affected balconies (for those apartments located above 30m - i.e. above level 9) have been excluded from the calculation of total floor space for the purposes of applying a FSR on the following basis:</p> <ul style="list-style-type: none"> • The excluded balconies' GFA do not exceed 15% of the GFA of the apartment to which each balcony is attached • All wind-affected balconies have been designed as external open spaces, • All wind-affected balconies have sufficient natural ventilation, the partial enclosure of the wind-affected balconies does not increase the apparent bulk of the building.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.21 Flood Planning	Yes	<p>The site is identified as being subject to flooding.</p> <p>During the assessment of the application, an updated flood study was provided which provided a revised flood level threshold based on accurate survey data.</p> <p>Council's Public Domain Unit have reviewed the updated information and amended plans and considers that the maximum flood planning level has been satisfied for the proposed vehicle basement access ramp criteria, and the proposed development satisfies the provisions of the standard.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 1 Additional floor space in Central Sydney		
6.11 Utilisation of certain additional floor spaces requires allocation of floor space	Yes	As the proposal does not exceed 55m, Heritage Floor Space (HFS) is not required to be allocated to the site.
Division 3 Height of buildings and overshadowing		
6.16 Erection of tall buildings in Central Sydney		The provision requires that sites less than 1,000sqm be restricted to a maximum height of 55m. The proposal complies.
6.17 Sun access planes	Yes	<p>The maximum building height permitted on the site is restricted by the Hyde Park sun access plane.</p> <p>The proposed development complies with the sun access plane development standard.</p>

Provision	Compliance	Comment
Division 4 Design excellence		
6.21C Design excellence	Yes	<p>The proposed development is considered to meet the provisions of design excellence under Clause 6.21C.</p> <p>The proposed development has been amended to address the comments made by the DAP (as outlined in the Discussion section below).</p> <p>The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development along the street and will contribute positively to the character of the area.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The location of the proposed building achieves an acceptable relationship with existing and proposed developments on adjoining and adjacent sites, in terms of setbacks and amenity.</p> <p>The proposed bulk, massing and modulation of the building is consistent with adjoining buildings and nearby development along both Elizabeth Street and Castlereagh Street.</p> <p>Overall, the proposal satisfies the considerations in Clause 6.21C(2) of the Sydney LEP 2012 and the development is considered to exhibit design excellence.</p>
6.21D Competitive design process	Not applicable	<p>A competitive design process is not required to be undertaken as the amended development is not greater than 55m, does not have a capital investment value of more than \$100,000,000, and a development control plan is not required to be prepared under Clause 7.20 (i.e., the site area is less than 1,500sqm).</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
<p>7.5 Residential flat buildings, dual occupancies and multi dwelling housing</p> <p>7.7 Retail premises</p>	Yes, subject to condition	<p>A maximum of 36 car parking spaces are permitted, with a maximum of 35 spaces permitted for the residential component, and 1 space permitted for the retail premises.</p> <p>The proposed development includes 35 residential car parking spaces, which complies.</p> <p>The proposed 2 car parking spaces for the retail component of the development does not comply. The LEP provides maximum rates that cannot be exceeded. As such, a condition of consent is recommended to ensure that only 1 retail space is provided.</p>

Division 3 Affordable housing		
7.13 Contribution for the purpose of affordable housing	Yes	<p>A contribution for the purpose of affordable housing applies to the development (under clause 7.13(1)(d)(ii)), as the proposal involves the demolition of the existing floor area and the subsequent creation of more than 100sqm of GFA.</p> <p>A condition of consent is recommended to reflect this.</p>

Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	<p>The site is located on land with Class 5 Acid Sulfate Soils. As the site is 447m from Class 2 Acid Sulfate Soils and proposed excavation, a preliminary assessment was required to be undertaken.</p> <p>The preliminary assessment confirmed that site will not be affected by Acid Sulfate Soils and an Acid Sulfate Soils Management Plan is not required. As such, the City's Environmental Health Unit have recommended relevant conditions to be included in the consent.</p>
7.16 Airspace operations	Yes	The proposed development will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport.
7.19 Demolition must not result in long term adverse visual impact	Yes	While the proposal includes demolition of the existing building, the proposal also includes construction of a new building under the same application. Council officers are therefore satisfied that the site will be comprehensively redeveloped under the consent.
7.20 Development requiring or authorising preparation of a development control plan	Not applicable	A development control plan is not required for the site as the site area is not more than 1,500sqm and the development does not exceed 55m in height.

Development Control Plans

Sydney Development Control Plan 2012

50. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

51. The site is located within the College Street/Hyde Park Special Character Area. The proposed development is in keeping with the unique character and the design principles of the Special Character Area, as follows:
- (a) It maintains and strengthens the sense of enclosure provided by the buildings to the west of Hyde Park, with the building being built to street alignment on Elizabeth Street.
 - (b) It protects and enhances solar access to Hyde Park, with a built form that complies with the sun access plane.
 - (c) It enhances and reinforces the precinct’s role as a major gateway to the City from the east, by ensuring that views when approaching the City are not adversely affected.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1.5 Public Art	Yes	<p>A revised Preliminary Public Art Plan was submitted during the assessment of the application and is considered acceptable by the City's Public Art team.</p> <p>The Plan is proposing two public artwork locations on the Elizabeth Street and Castlereagh Street facades, in the forms of either sculptural/panel attachments or artistic treatments to walls/recessed facade elements. These locations, proposed artwork forms and indicative artists show an appropriate approach to the strong architectural language/materials and site context.</p> <p>A condition of consent is recommended to ensure that the public artwork is further developed in accordance with this Plan.</p>
<p>3.2. Defining the Public Domain</p> <p>3.2.1 Improving the public domain</p>	Yes	<p>The proposed development is within the Hyde Park sun access plane and does not overshadow any publicly accessible open spaces. The proposal does not impede public views from the public domain.</p>
3.2.2 Addressing the street and public domain	Yes	<p>The proposed development positively addresses the site’s street frontages, with the provision of a retail tenancy and entry to the residential apartments on Elizabeth Street.</p>

Provision	Compliance	Comment
		<p>Castlereagh Street is activated by the entrance to the basement level retail tenancy. The vehicular entrance on Castlereagh Street integrates with the overall design and is visually recessive.</p> <p>The development incorporates high quality materials and finishes and visibility of the public art in publicly accessible locations.</p> <p>The alignment of all frontages are provided at the same level as the adjacent footpath to ensure all entries to the site are accessible.</p>
3.2.3 Active frontages	Partial	<p>Both site frontages on Elizabeth Street and Castlereagh Street are nominated as Category 2 active frontage. In accordance with the control, over 70% of each frontage is to be provided as an active frontage.</p> <p>The site's Elizabeth Street provides for sufficient site activation. The activation of the site's Castlereagh Street frontage is more challenging due to the narrowness of this frontage and the need to provide the fire stair egress and vehicular access location. In this instance, considering these constraints, the incorporation of lobbies for the basement retail tenancy and residential lobby is an acceptable design outcome.</p>
3.2.4 Footpath awnings	Yes	<p>Elizabeth Street awning:</p> <ul style="list-style-type: none"> • The site is required to have a continuous awning to Elizabeth Street. • The proposed development incorporates an awning along the site's extent to Elizabeth Street to maximise weather protection.

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • The maximum height of the awning is 4.2m, which complies and responds to the awning at the adjoining site to the south. • The width of the awning is approximately 3.4m which complies, however, does not address the 1.5m clearance from the face of the kerb requirement to accommodate street trees. • A condition of consent is required to amend this awning to maintain a 1.5m clearance, given its proximity to an existing street tree in this location. <p>Castlereagh Street awning:</p> <ul style="list-style-type: none"> • There is no requirement for a footpath awning to Castlereagh Street. • An awning is proposed along this street frontage to maximise weather protection. • The awning is approximately 4.2m in height, which is consistent with the awning of the adjoining building to the north and is considered acceptable. • A 1m clearance from the face of the kerb for smartpoles and vehicles has been provided.

Provision	Compliance	Comment
3.2.6 Wind effects	Yes	<p>A wind assessment report accompanies the application. The assessment details the wind tunnel testing that has been undertaken for the site and demonstrates that the proposal will not adversely affect wind conditions at the street level.</p> <p>A condition of consent is recommended to ensure that the proposal development incorporates the recommendations of this report.</p>
3.2.7 Reflectivity	Yes	<p>A Solar light Reflectivity Study was submitted with the application which recommends that all glazing and materials used on the external façade of the development have a maximum normal specular reflectance of visible light of 20%.</p> <p>A condition of consent is recommended requiring that the light reflectivity from the proposed materials will not exceed 20%.</p>
3.2.8 External lighting	Yes	Any external lighting will be subject to a separate application.
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology, subject to conditions.
3.6 Ecologically Sustainable Development	Yes	<p>The proposal will meet the sustainability requirement of BASIX relating to the residential component of the development, and Section J of the BCA which is applicable to the proposed non-residential uses (subject to conditions).</p> <p>A condition has been recommended to require compliance with the submitted 'Design for Environmental Performance' report submitted with the application to ensure that all ESD commitments are carried through to the certification and construction phases.</p>

Provision	Compliance	Comment
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under section 7.15 above.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>The proposal includes the consolidation of the two existing separate allotments.</p> <p>The application was referred to Council's Specialist Surveyor, who recommended several conditions to be included in the consent.</p> <p>Strata subdivision is to be subject to a separate application.</p>
3.9 Heritage	Yes	The proposed development is not considered to detract from the heritage significance of nearby heritage items. This has been discussed further in the Sydney LEP 2012 compliance table.
3.10 Significant Architectural Building Types	Yes	<p>The existing building at 262-266 Castlereagh Street is a warehouse building that was built in 1923.</p> <p>The building has largely lost its integrity, and Council's Heritage Specialist advises the proposed demolition to be acceptable. Refer to the Discussion section for detail.</p>
3.11 Transport and Parking	Partial compliance	<p>The configuration of the basement parking and waste management facilities has been reviewed by the City's Access and Transport and Cleansing and Waste Units and is considered satisfactory, subject to recommended conditions.</p> <p>The following components of the development in accordance with the Sydney DCP 2012 minimum requirements for transport and parking:</p> <ul style="list-style-type: none"> • 6m wide vehicle crossover • 35 x residential parking spaces • 3 x B99 size dedicated service vehicle parking spaces

Provision	Compliance	Comment
		<p>There is also limited detail on the proposed residential bicycle parking.</p> <p>Conditions are recommended for imposition to ensure compliance with maximum vehicle and bicycle parking allocations and facilities to comply with the relevant standards.</p>
3.12 Accessible Design	Yes	<p>The application is accompanied with an Access Report confirming the design is capable of complying with accessibility requirements under the BCA, DDA standards and the Sydney DCP 2012.</p> <p>The proposal provides 15% of apartments (7 in total) as adaptable dwellings. The proposal also provides 20% of apartments as liveable dwellings.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>
3.14 Waste	Yes	<p>Waste management facilities including sufficient areas for onsite waste collections have been accommodated within the development, and account for all proposed uses on site including the ability for a Council waste collection vehicle to service the site.</p> <p>A condition has been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>
3.16 Signage and Advertising	Yes	<p>No signage is proposed under this application. A condition is recommended requiring a separate DA to be submitted for the approval of a comprehensive signage strategy, including wayfinding signage, prior to the erection of any signage on the site.</p>

4.2 Residential Flat, Commercial and Mixed-Use Developments

52. Clause 6A of SEPP 65 states that any DCP provisions pertaining to:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation, and
- (h) storage,

are of no effect as they cannot be inconsistent with the design criteria and guidance provided by the ADG.

53. The remaining provisions are addressed in the following table:

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.2 Floor to ceiling heights and floor to floor heights	Partial compliance	<p>The proposed basement floor to floor height complies with the 4.5m minimum requirement, with 4.9m provided for the basement retail tenancy. The proposed upper ground floor to floor height also complies with 4.5m provided.</p> <p>The proposed lower ground floor to floor height of 4.2m is lower than the 4.5m DCP recommendation. Despite this, it is considered that the proposal meets the objectives of this provision, in that sufficient daylight access is provided into the building at this frontage and is acceptable.</p>
4.2.3 Amenity	Yes	<p>The proposal is generally acceptable with regard to residential apartment amenity considerations, subject to the conditions recommended in Attachment A.</p> <p>The proposed development maintains appropriate levels solar access to residential developments surrounding</p>

Provision	Compliance	Comment
		<p>the site. The proposal does result in minor additional shadowing to its southern neighbour at 281-283 Elizabeth Street in the afternoon at midwinter, however this shadow is acceptable, given:</p> <ul style="list-style-type: none"> • There is no impact on shadows cast in the morning hours at midwinter. • The minor non-compliances of the proposed development in relation to the Sydney DCP 2012 street wall and upper level setback controls, does not impact on the solar access received at midwinter to the neighbouring residential development. • A setback is provided to this shared southern boundary to further improve amenity to these southern neighbours.
4.2.3.2 Lightwells	Yes	<p>The proposed central void/light well fronting Elizabeth Street has been amended during the assessment (to increase its width and reduce its depth) to ensure that acceptable levels of amenity are provided to habitable rooms.</p> <p>The proposed light wells to the north and west of the lift core are not the only source of daylight to habitable rooms.</p> <p>The Acoustic Assessment includes recommended noise mitigation measures to attenuate and dampen breakout noise from windows opened for natural ventilation in the light wells and to minimise risk of noise intrusion between neighbours, which will be required to be incorporated into the design via condition.</p>
4.2.3.3 Internal common areas	Yes	<p>The internal common areas, corridors and lift lobbies have access to daylight and an outlook.</p>

Provision	Compliance	Comment
4.2.3.5 Landscaping	Yes	The proposed landscape design has been reviewed by the City's Landscape Assessment Officer, who has provided advice that the design is acceptable, subject to the landscape conditions in Attachment A.
4.2.3.10 Outlook	Yes	All apartments provide adequate outlook and views, and outlook from the surrounding development has been considered in the site planning and massing of the development.
4.2.3.11 Acoustic privacy	Yes	An Acoustic Assessment has been submitted with the application. The report has been reviewed by the City's Health and Building Unit. The advice received is that the recommendations of the report are acceptable. Conditions are recommended in Attachment A to require acoustic control and noise management measures are implemented.
4.2.3.12 Flexible housing and dwelling mix	Yes	The proposed dwelling mix is generally compliant with the DCP and provides the following mix: <ul style="list-style-type: none"> • 4.76% (2) one-bedroom units • 47.62% (20) two-bedroom units • 47.62% (20) three+ bedroom units
4.2.3.13 Wind affected balconies	Yes	The proposed balconies are generally designed in accordance with these provisions.
4.2.5.3 Development on busy roads and active frontages	Yes	The proposed development has been assessed against the noise criteria are stipulated in this section. The Acoustic Assessment concludes that the proposal is capable to meet these relevant standards, subject to recommendations (as required via condition).

Provision	Compliance	Comment
4.2.7 Heating and cooling infrastructure	Yes	The proposed heating and cooling infrastructure is consolidated in centralised locations throughout the development in order to ensure energy efficiency is achieved and to allow for the accommodation of future environmental technologies.
4.2.8 Letterboxes	Yes	The proposed design nominates a mailroom within the residential lobby for where the residential letterboxes will be located. The mailroom is integrated into the design and easily accessible while being secure to prevent mail left.

Section 5 – Specific Areas

Section 5.1 - Central Sydney

Provision	Compliance	Comment
5.1.1.2 Street frontage heights and street setbacks in Special Character Areas	Acceptable	<p>A maximum street frontage height of 45m and a front setback of 8m is specified for site in the College Street/Hyde Park Special Character Area.</p> <p>A compliant street frontage height of 45m is proposed to Elizabeth Street. An 8m setback is not provided above the street frontage height. Instead, the building steps in line with the sun access plane. This built form is consistent with the buildings that adjoin the site to the north and south and supported in this instance.</p> <p>The proposed street frontage height to Castlereagh Street does not comply, however is acceptable in the context of surrounding buildings. Refer to the Discussion section for detail.</p>
5.1.1.3 Side and rear setbacks and building form separations	Yes	A nil side and rear setback is permitted for buildings up to 55m. The proposal provides for a nil setback to the north and side, with windows located on or oriented towards, the northern and southern boundaries.

Provision	Compliance	Comment
		<p>A setback of 2.6m is provided to the southern boundary on the Castlereagh Street frontage to maintain amenity for the residential neighbouring site.</p> <p>It is noted that the openings to the light wells to the north and west of the lift core are setback between approximately 2m and 3m to allow for maintenance of the facade.</p>
5.1.1.4 Built form massing, tapering and maximum dimensions	Yes	<p>The DCP requires the maximum horizontal dimension for residential accommodation development to be 50m. The horizontal dimension of the building is 58m.</p> <p>The proposal complies with the floor plate and Building Envelope Area controls stipulated for a site of this size.</p>
5.1.2 Development outlook and demonstrating compliance	Yes	All windows and balconies provide a high level of unobstructed outlook and exceed the DCP controls specified.
5.1.3.2 Development adjacent to heritage items 5.1.3.3 Warehouse buildings	Yes	Refer to discussion in response to clause 5.10 of the Sydney LEP 2012 and 5.9 of the Sydney DCP 2012 in relation to heritage conservation.
5.1.4 Building exteriors	Yes	<p>The proposal will contribute positively to the streetscape with high quality architecture, meeting the objectives in this section.</p> <p>The Elizabeth Street frontage incorporates a compliant street wall height and rectilinear proportions that are consistent with adjoining buildings.</p> <p>The Castlereagh Street frontage provides for a street wall height which is appropriate to its context and includes a setback on the southern boundary to ensure that amenity is maintained for the adjoining residential development.</p>

Provision	Compliance	Comment
		<p>The use and detailing of the granite stone is consistent with the predominant masonry character and articulation of Central Sydney. The proposed glazing is light in colour.</p> <p>A condition is recommended for the exposed walls on Castlereagh Street for a visually interesting treatment is considered for these walls.</p>
5.1.7 Sun protection of public parks and spaces	Yes	Refer to the discussion and assessment provided in relation to the Hyde Park sun access plane and Clause 6.17 of the Sydney LEP 2012 in the table section above.
5.1.9 Managing wind impacts	Yes	<p>A Pedestrian Wind Environment Assessment prepared by Windtech submitted with the application concludes that any potential wind effects can be ameliorated with the consideration of the recommended treatment strategies into the design of the development.</p> <p>A condition of consent is recommended to ensure compliance with this report.</p>

Discussion

Design Advisory Panel

- 54. The proposal was presented to the Design Advisory Panel (DAP) at its meeting on 27 October 2022.
- 55. The recommendations of the DAP at its meeting and the design response of the amended scheme are detailed in the following table.

DAP advice	Design response
<p>The proposal is under the Hyde Park West Sun Access Place and complies with floorspace controls. The Panel noted that the proposal has an area less than 1000sqm but is currently taller than the 55m height limit for such sites which is prohibited. The City indicated it will resolve this issue with the proponent.</p>	<p>The amended scheme is no longer above 55m in height.</p>

DAP advice	Design response
<p>The Panel noted that the proposed communal open space is located underground in the basement. The Panel recognised that successful communal space needs not to be open and can be internalised and successful, like the residences on the corner of King and Phillip streets, however its communal space is not underground. There is an opportunity for communal space in the heritage building component.</p>	<p>The communal space has been relocated to Level 1.</p>
<p>The ground floor residential entry lobby is too small. It should be more generous.</p>	<p>The ground floor residential lobby entrance and corridor has been widened.</p>
<p>The Panel had significant concerns regarding apartment amenity. While window separation appears to be adequate, there are significant compromises regarding proper daylight access to apartments, outlook, noise separation and ventilation. The fissures or light wells are not wide enough and are too deep. Light would need to be reflected into the fissure to get the appropriate amenity and there is nothing to drive fresh air into the fissures. Openings need to be widened and not constricted.</p>	<p>The amended scheme provides for increased amenity, which is considered to be acceptable.</p> <p>The central void has been shortened and widened to ensure acceptable levels of daylight, outlook and ventilation are provided. As advised above, the design of the central void has been amended is to incorporate noise mitigation measures to attenuate and dampen breakout noise from windows opened for natural ventilation and to minimise risk of noise intrusion between neighbours (as required via condition).</p>
<p>The Panel suggested fewer apartments are required per floor to unlock apartment amenity. An alternative strategy could be larger terraces on the east which might improve apartment depth issues, however there were concerns about the usability of such terraces.</p>	<p>The amended scheme provides for a total of 42 apartments, resulting in a reduction of 6 apartments as originally lodged and considered by the DAP.</p>
<p>The issue of the need for a Competitive Design process will be resolved through the need for compliance with the height controls.</p>	<p>As above, the amended design results in a building no taller than 55m and as such, there is no requirement for a competitive design process.</p>

Demolition of Warehouse Building

56. Section 3.10 of the Sydney DCP 2012 seeks to conserve warehouse buildings older than 50 years.
57. The existing building at 262-266 Castlereagh Street is a warehouse building that was built in 1923 for a car showroom at ground floor and hotel accommodation on the upper levels. The site is also identified as an area of archaeological potential in the 1992 Central Sydney Archaeological Zoning Plan.

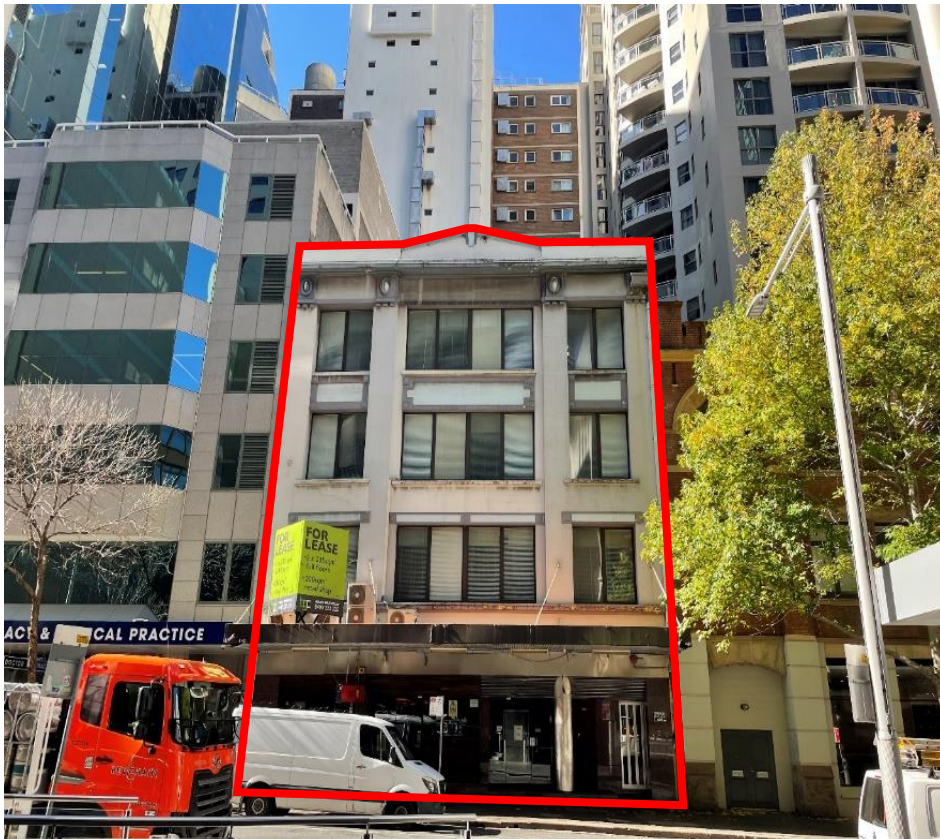


Figure 46: Existing warehouse building on site at 262-266 Castlereagh Street

58. Though the facade above ground level retains the original form, the windows and all ground level facade has been extensively modified. The building was originally constructed with timber floors that were partially replaced with reinforced concrete slabs when the fire stairs and lift were installed in the 1950s. The interior has been substantially altered and does not appear to retain original fabric or features.
59. The building has largely lost its integrity, and Council's Heritage Specialist advises the proposed demolition to be acceptable.
60. It is noted that the demolition of this building was approved previously under D/2012/764. Council's Heritage Specialist has recommended the inclusion of relevant conditions that were also included in the previous development consent under D/2012/764, such as the requirement for an archival process, the salvage, reuse and recycling of traditional building materials and heritage interpretation.

Street Frontage Height - Castlereagh Street

- 61. A maximum street frontage height of 45m and a front setback of 8m is specified for site in the College Street/Hyde Park Special Character Area under the Sydney DCP 2012.
- 62. The proposed development is inconsistent with the 45m street frontage height control on Castlereagh Street, with a street frontage height of 48.51m proposed. An upper level setback of 2.5m is proposed, rather than the DCP provisions of 8m. The DCP provisions also suggest that the street wall is to be built to the full width of the Castlereagh Street frontage.
- 63. The applicant has undertaken a street wall analysis (Figure 47) and visual impact study (Figure 48) to assess the existing and proposed context of buildings along the eastern side of Castlereagh Street at this location.



Figure 47: Street wall analysis of eastern side of Castlereagh Street, showing the existing site, the DCP compliant built form and the proposed development

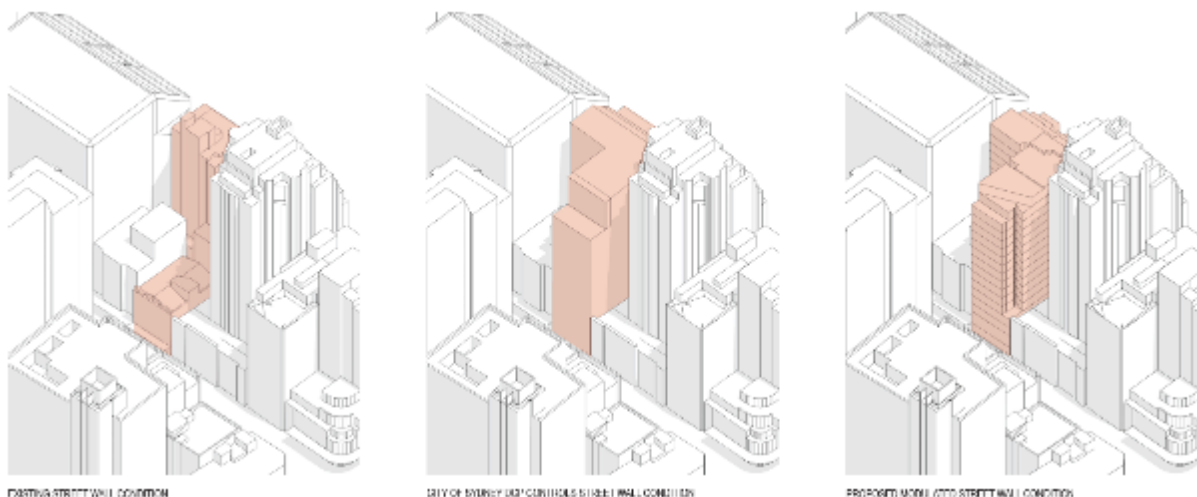


Figure 48: Isometrics of existing developments along Castlereagh Street, including the existing site, the DCP compliant built form and the proposed development

64. The above analysis indicates there is currently no consistent or established street frontage height along this section of Castlereagh Street. Additionally, the minor variance of the controls proposed facilitates a setback to the southern boundary, to ensure amenity is maintained for the southern neighbour.
65. Despite the non-compliances, the proposed built form is considered to meet the objectives of the controls, as follows:
- (a) The proposed street frontage height is appropriate to the site's context and location, with there being no existing consistent street frontage height.
 - (b) The proposal does not appear as a tall building above the street frontage height requirement, in that the proposed street frontage represents only a small variation.
 - (c) The proposed development will not have an adverse wind impact on the street and public places.
 - (d) The occupants of the future development on site, as well as the southern residential development, will have access to daylight and outlook with appropriate separation provided.
 - (e) The proposal maintains daylight and sunlight in streets and public spaces and has no major impact on view lines down Castlereagh Street.
66. As such, the proposed non-compliances are considered acceptable given the streetscape context and that the proposal delivers the objectives of the built form controls.

Communal Open Space

67. The design guidance that supports Objective 3D of the ADG outlines that where developments are unable to achieve the design criteria (25% of the site area for communal open space), such as sites in business zones or in dense urban areas, they should:
- (a) Provide communal spaces elsewhere such as a landscaped roof top terrace or a common room
 - (b) Provide larger balconies or increased private open space for apartments and
 - (c) Demonstrate good proximity to public open space and facilities and/or provide contributions to public open space.
68. As shown in Figure 49 below, the proposed development provides for common facilities on Level 1, including a gym and treatment room, lap pool, wellness centre, residential lounge and residents boardroom. Together, these common rooms have a combined area of 458sqm, which represents 52% of the total site area. This exceeds the minimum communal open space requirement of 218.82sqm or 25% of the site area, recommended by the ADG.

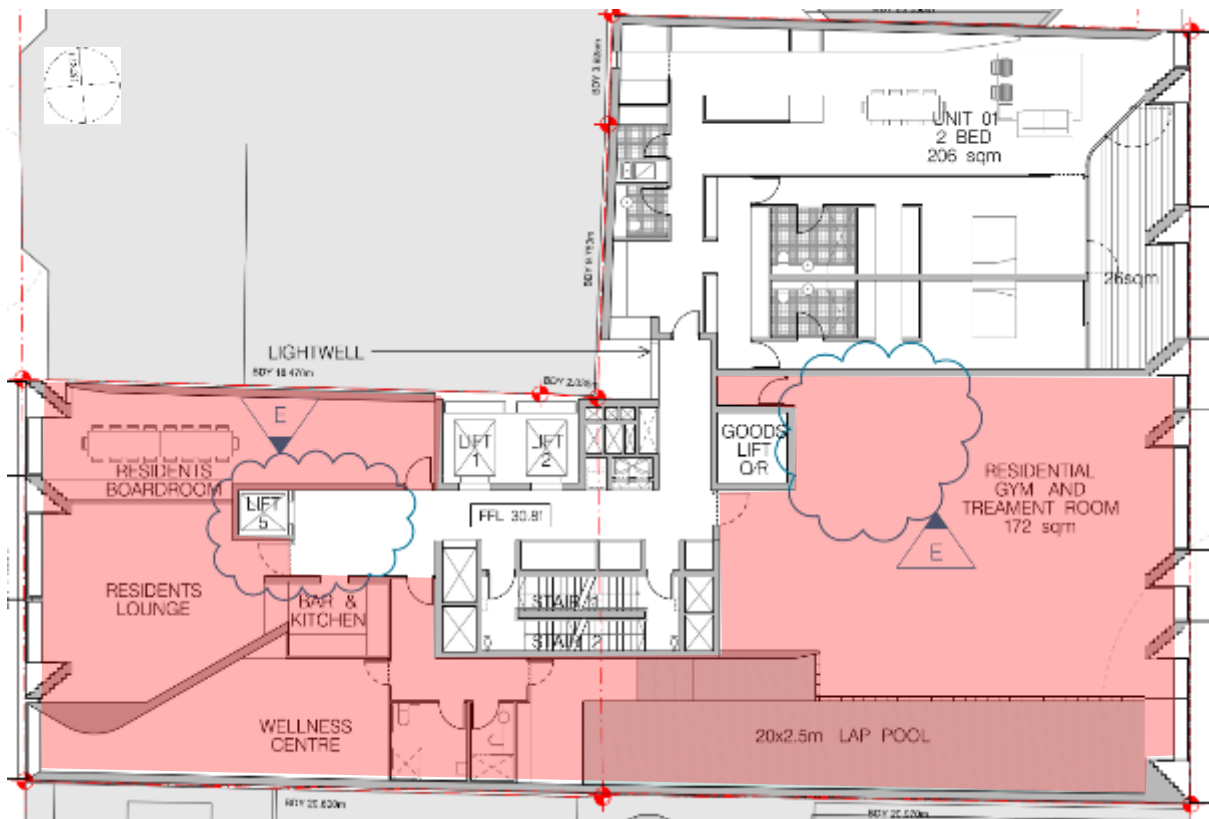


Figure 49: Level 1 Floor Plan, communal areas shaded in red

69. The proposed common rooms on Level 1 are considered to adequately provide for passive recreation as well as opportunities for social interaction of residents and is considered to contribute to residential amenity in a reasonable manner given its dense CBD context.
70. Further, in accordance with the design guidance outlined above, the proposed development includes increased private open space for apartments and is in close proximity being across the road from Hyde Park, Australia's oldest and most well-known public open space.

Location and Use of Lift 5

71. The proposal includes retail on Basement Level 1 with access from a shared retail, residential lobby accessed off Castlereagh Street, and Level 1 communal facilities.
72. This dual use of this lobby may have some intermingling issues between residents and retail customers, noting that this lift (Lift 5) will provide universal access to:
 - (a) the basement retail tenancy
 - (b) From the lower ground floor level (Castlereagh Street) through the ground floor level (Elizabeth Street), which houses both the residential lobby (and separate lifts to the upper residential floors of the building) and the retail tenancy fronting Elizabeth Street .
 - (c) Level 1 - the residential facilities level.
73. Due to the constrained footprint of this part of the site, there is not an opportunity for the provision of a second lift to only service the basement. As such, the use of the dual lift can be supported in this instance. However, in order to address safety and security the lift would need to be programmed to require swipe access for residents to go to the upper ground level and Level 1 only. As such, it is required via condition that a Plan of Management is prepared addressing these issues, to safeguard the safety and security issues of residents.

Consultation

Internal Referrals

74. The application was discussed with Council's:
 - (a) Design Advisory Panel;
 - (b) Building Services;
 - (c) Environmental Health;
 - (d) Heritage and Urban Design;
 - (e) Public Domain;
 - (f) Public Art Team;
 - (g) Surveyors;
 - (h) Transport and Assess;
 - (i) Sustainability Officer;
 - (j) Landscaping Officers;
 - (k) Tree Management; and
 - (l) Waste Management.

75. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals

Ausgrid

76. Pursuant to Section 2.47 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
77. A response was received raising no objections to the proposed development.

Trustees of the Anzac War Memorial

78. The application was referred to the Trustees of the Anzac War Memorial on 18 October 2022.
79. No objections were raised.

Sydney Metro

80. Pursuant to Clause 2.99 of the SEPP (Transport and infrastructure) 2021, the application was referred to Sydney Metro for concurrence.
81. It is recommended that authority be delegated to the Chief Executive Officer (CEO) to determine Development Application No. D/2022/152, after concurrence from Sydney Metro has been received.

Water NSW

82. In accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, the application was forwarded to Water NSW as Integrated Development, as the proposed basement levels will have an impact on groundwater levels as groundwater is expected to be encountered with the depth of excavation.
83. Copies of public submissions made to the City of Sydney during the notification period were forwarded to Water NSW during the assessment process.
84. General Terms of Approval were issued by Water NSW on 6 September 2022 and have been included in the schedules within the recommended conditions of consent.

Advertising and Notification

85. In accordance with the City of Sydney Community Participation Plan 2020, the proposed development was notified and advertised for a period of 28 days between 14 March 2022 and 12 April 2022. A total of 296 properties were notified and 2 submissions were received.

86. The submissions raised the following issues:
- (a) **Issue:** The design, size and uses included within the proposed architectural roof feature is not consistent with Clause 5.6 of the Sydney LEP 2012.
Response: The proposal has been amended and an architectural roof feature is no longer proposed as part of the application. The amended development complies with the 55m height limit.
 - (b) **Issue:** The uses proposed for the architectural roof feature across the upper levels have the potential to create adverse amenity impacts to adjoining properties, including 255 Elizabeth Street.
Response: As above, the amended scheme no longer incorporates an architectural roof feature and complies with the 55m height limit.
 - (c) **Issue:** A poor residential floorplate outcome that does not comply with key provisions of SEPP 65 and the ADG.
Response: As detailed in the Sections above, the proposal has been amended to address key amenity matters raised by Council.
 - (d) **Issue:** The need for a Stage 1 DA and Design Excellence Competition to be undertaken prior to any detailed design approval being granted.
Response: The amended proposal is within the 55m height limit, and therefore does not trigger the requirements for a Stage 1/Concept DA or a Design Excellence Competition.
 - (e) **Issue:** Impact on cultural heritage significance in that the proposed development will remove affordable accommodation provided for ex-service personnel.
Response: The existing use of the site is not identified in the Sydney LEP 2012 as one of cultural heritage significance. The relocation of ex-service personnel accommodation is to be consider by The Returned & Services League of Australia (NSW Branch), not Council officers.
87. As the amended scheme and additional documentation provided was not considered to result in any significant additional environmental impacts, re-notification in this instance is not required and is in accordance with the City's Community Participation Plan 2022.

Financial Contributions

Levy under Section 7.12 of the Environmental Planning and Assessment Regulation 2000

- 44. The cost of the development is in excess of \$250,000. The development is therefore subject to a levy under the Central Sydney Development Contributions Plan 2020.
- 45. A condition relating to this levy has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contribution to be paid prior to the issue of a Construction Certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

88. The site is located within the Central Sydney affordable housing contribution area. As the proposed development includes additional floor space, a contribution of 0.5 per cent is required for the non-residential component totalling \$53,588.27 (1,010sqm of total floor area), and a contribution of 1.5 per cent is required for the residential component totalling \$2,046,804.96 (12,859sqm of total floor area).
89. In accordance with Clause 7.13(2B) of the Sydney LEP 2012 the contribution amount has been halved as the development application was lodged prior to 1 July 2022.
90. A condition relating to this levy has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contribution to be paid prior to the issue of a Construction Certificate.

Relevant Legislation

91. Environmental Planning and Assessment Act 1979.
92. City of Sydney Act 1988.
93. Water Management Act 2000.

Conclusion

94. The application is for the demolition of existing buildings on site, site amalgamation and the construction of a mixed-use development with residential and retail land uses in a 15-storey building. These works have been assessed in accordance with the relevant planning controls.
95. The proposed development complies with key development standards applicable to the site, including the design excellence provisions, maximum height of buildings, gross floor area, and solar protection to Hyde Park in accordance with the provisions of the Sydney LEP 2012.
96. The application has undergone extensive consultation with the City's planning staff and the Design Advisory Panel. The application has been amended during the assessment to resolve a number of matters including previous height non-compliances, potential residential amenity issues, flooding matters, communal open space, the design of the ground plane, wind impacts, transport and access, and waste collection.
97. The proposal has been amended to address Council officers' concerns regarding compliance with the ADG and to improve residential amenity. The amended proposal is considered to be satisfactory, subject to conditions.
98. The application is Integrated Development, requiring approval of Water NSW under the Water Management Act 2000. General Terms of Approval have been issued by Water NSW and form part of the recommended conditions in Attachment A.
99. The proposal will provide new residential and retail land uses on a site which is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities.

100. The proposal achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future users of the site.
101. As a result of public notification, two submissions were received. The concerns raised in these submissions have been adequately addressed by the applicant as discussed within this report.
102. All matters raised by internal and external referrals have been adequately addressed, as discussed within this report.
103. The proposal is in the public interest and is recommended for approval by the CSPC.

GRAHAM JAHN AM

Director City Planning, Development and Transport

Mia Music, Senior Planner

Attachment A

Recommended Conditions of Consent

SCHEDULE 1

CONDITIONS OF CONSENT

PART A - GENERAL

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2022/152 dated 3 March 2022 and the following drawings prepared by Murcutt Candalepas:

Drawing Number	Drawing Name	Date
DA-0151 Rev E	Site Plan	22.05.23
DA-1201 Rev E	East Elevation	22.05.23
DA-1202 Rev E	West Elevation	22.05.23
DA-1203 Rev E	North Elevation	22.05.23
DA-1204 Rev E	South Elevation	22.05.23
DA-1001 Rev E	Basement Level 4 & 5	22.05.23
DA-1002 Rev E	Basement Level 2 & 3	22.05.23
DA-1003 Rev E	Basement Level 1 & Lower Ground Floor Plan	22.05.23
DA-1004 Rev E	Upper Ground Floor & Level 1 Floor Plans	22.05.23
DA-1005 Rev E	Level 2 & Level 3 Floor Plans	22.05.23
DA-1006 Rev E	Level 4-8 & Level 9-12 Typical Floor Plans	22.05.23
DA-1007 Rev E	Level 13 & 14 Floor Plans	22.05.23
DA-1008 Rev E	Level 15 & Roof Plan	22.05.23
DA-1050 Rev E	Universal Design	22.05.23
DA-1101 Rev E	Section A	22.05.23
DA-1102 Rev E	Section B	22.05.23
DA-1103 Rev E	Section C	22.05.23

and as amended by the conditions of this consent.

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

Reason

To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

(2) SECTION 7.12 CONTRIBUTIONS PAYABLE – SUBMITTED AND VERIFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

A monetary contribution is payable to the City of Sydney pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979* and the *Central Sydney Development Contributions Plan 2020*.

The Section 7.12 levy is determined by the development cost, as per the following table:

Development cost *	Levy
Up to and including \$250,000	NIL
More than \$250,000, up to and including \$500,000	1%
More than \$500,000, up to and including \$1,000,000	2%
More than \$1,000,000	2%

The Section 7.12 levy is payable to the City of Sydney in accordance with the following:

- (a) Prior to a Construction Certificate being issued, evidence must be provided of Council's written verification of the amount of the contribution as required in (b) below, and that the levy has been paid to the Council in accordance with this condition. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the City of Sydney. Direct debit, personal or company cheques will not be accepted.
- (b) The contribution must not be paid to the City of Sydney until it is accompanied by separate written verification by the City of Sydney of the specific amount payable. In order to obtain such verification, one of the following must be submitted:
 - (i) **For development between \$250,000 and \$3,000,000** – the City of Sydney *Cost Summary Report* must be completed by a suitably qualified person such as the Project Architect or Project Manager and submitted to the City of Sydney together with the copies of the plans the subject of the application for the Construction Certificate. An electronic copy of the *Cost Summary Report* is available from the City's website at www.cityofsydney.nsw.gov.au; or
 - (ii) **For development more than \$3,000,000** – The City of Sydney *Registered Quantity Surveyor's Detailed Cost Report* must be completed by a Quantity Surveyor registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate an equivalent qualification and submitted to the City of Sydney together with the copies of the plans the subject of the application for the Construction Certificate. An electronic copy of the *Registered Quantity Surveyor's Detailed Cost Report* is available from the City's website at www.cityofsydney.nsw.gov.au.

- (c) The Council will consider the documentation submitted under subclause (b) and determine the cost of the proposed development having regard to the information submitted and to such other matters as it considers appropriate and will notify the Accredited Certifier accordingly.
- (d) The development cost is to be determined in accordance with Section 2.3 of the Central Sydney Development Contributions Plan 2020, located in the version in force at the date of the grant of this consent.

Please contact Council's Planning Administration staff at Planningsystemsadmin@cityofsydney.nsw.gov.au to request a written Statement of Contributions Owing, prior to payment.

Reason

To ensure development contributions are paid to address the increased demand for public facilities, amenities, and services in Central Sydney by a growing residential and workforce population.

(3) AFFORDABLE HOUSING CONTRIBUTION – RESIDUAL LAND OR CENTRAL SYDNEY – PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION – PRIOR TO CONSTRUCTION CERTIFICATE

- (a) In accordance with the City of Sydney Affordable Housing Program and prior to the issue of a Construction Certificate, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid to the City of Sydney Council.
- (b) The contribution is \$2,100,393.23 (indexed as at 31 May 2023). This is calculated by establishing the sum of the equivalent monetary contribution \$10,611.53 multiplied by 0.5% of the total floor area for non-residential development (1,010sqm) and the equivalent monetary contribution \$10,611.53 multiplied by 1.5% of the total floor area for residential development (12,859sqm).
- (c) If the contribution is paid after the indexation period in which the consent is granted, being March 2023 to February 2024, the above contribution will be adjusted according to the Sydney LGA median strata dwelling price ('MDP') using the following formula.
- (d) Contribution payable at Time of Payment = $C \times \text{MDP2} / \text{MDP1}$, where:
 - (i) C is the original total contribution amount payable to the City of Sydney as shown above;
 - (ii) MDP2 is the Median Strata Dwelling Price in Sydney LGA taken from the most recent NSW Government Rent and Sales Report at the time of indexation of the equivalent monetary contribution rate; and
 - (iii) MDP1 is the Median Strata Dwelling Price in Sydney LGA taken from the NSW Government Rent and Sales Report used to establish the current equivalent monetary contribution rate, being March 2023 to February 2024.

Contact Council's Planning Assessment Unit at planningsystemsadmin@cityofsydney.nsw.gov.au for written confirmation of the amount payable, with indexation as necessary, prior to payment.

Reason

To ensure development contributions are paid to contribute to the provision of essential affordable rental housing infrastructure.

(4) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) The awning on Elizabeth Street frontage is to be amended to provide a clearance of 1.5m is provided from the face of the kerb, given its proximity to an existing street tree in this location.
- (b) The openings of the light wells adjacent the lift core shall be fitted with translucent glazing.

The modifications are to be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager prior to the issue of a Construction Certificate.

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

(5) BUILDING HEIGHT

- (a) The height of the building must not exceed RL 79.91 (AHD) to the top of the building and RL 69.31 (AHD) to the parapet on Elizabeth Street.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifier.

Reason

To ensure the constructed development complies with the approved height.

(6) APPROVED DESIGN ROOF - TOP PLANT

All roof-top plant and associated equipment must be located within the approved building envelope.

Reason

To ensure the constructed development complies with the approved height.

(7) FLOOR SPACE RATIO - CENTRAL SYDNEY

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 11.8:1 calculated in accordance with the Sydney Local Environmental Plan 2012. For the purpose of the calculation of FSR, the Gross Floor Area of the approved development is 10,325sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under Sydney Local Environmental Plan 2012 applicable at the time of development consent, to the satisfaction of the Principal Certifier.

Reason

To ensure the constructed development complies with the approved floor space ratio.

(8) USE – SEPARATE DA REQUIRED

No consent is granted or implied for the fitout or specific use of the retail premises.

A development consent or Complying Development Certificate (as appropriate) is required to be obtained for the fitout and use of each individual tenancy prior to that fitout or use commencing.

Reason

To require separate consent to be obtained for a use.

(9) SIGNAGE STRATEGY

A separate development application is to be submitted seeking approval of a signage strategy for the building. The signage strategy development application must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

Reason

To require separate consent to be obtained for a signage strategy.

(10) SIGNS - SEPARATE DA REQUIRED

A separate development application for any proposed signs (other than exempt or complying signs) must be submitted to and approved by Council prior to the erection or display of any such signs.

Reason

To require separate consent to be obtained for any signs.

(11) EXTERNAL LIGHTING

A separate development application is required to be lodged and approved prior to any external floodlighting or illumination of the building or site landscaping.

Reason

To clarify that consent has not been granted for the external floodlighting or illumination of the development.

(12) SWINGING DOORS OVER PUBLIC WAY

Any access doors to enclosures housing building services and facilities, such as hydrant and sprinkler booster assemblies or the like, must not open over the footway/roadway.

Reason

To ensure no element of the development obstructs the use of the public way.

(13) WASTE AND RECYCLING MANAGEMENT - GENERAL

The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018* which requires facilities to promote the efficient storage, separation, collection and handling of waste to maximise resources recovery.

Reason

To ensure that waste and recycling is appropriately managed.

(14) ALLOCATION OF ACCESSIBLE CAR PARKING SPACES

For residential development, accessible car parking spaces for people with mobility impairment are only to be allocated as visitor parking or to adaptable units. Where allocated to adaptable units, the unit(s) and car spaces must be assigned to the unit in any future strata subdivision of the building.

Reason:

To ensure accessible vehicle parking spaces are allocated to adaptable units.

(15) SIGNS AT EGRESS

The following signs must be provided and maintained within the site at the point(s) of vehicle egress:

- (a) Compelling drivers to "Give Way to Pedestrians and Bicycles" before crossing a footway on an existing or identified shared path route.

Reason:

To ensure the safety of surrounding pedestrians and cyclists.

(16) SIGN SYSTEM

- (a) A system of traffic Signal/ "Dock Occupied" lights and/or mirrors must be installed at the ends of any single lane ramp(s), to indicate traffic movement on the ramp(s). The "Dock occupied" signal must be integrated with the lift system and placed in a suitable location that can be visible from both Castlereagh Street level. This system must be detailed in the application for a Construction Certificate. Any system using traffic light signals must maintain a green signal to entering vehicles at the point of entry, and must maintain a red signal when an exiting vehicle is detected upon the ramp or driveway.
- (b) Details must be submitted to the satisfaction of the Registered Certifier and approved by the Registered Certifier prior to the issue of a Construction Certificate

Reason:

To maintain the orderly operation of vehicle parking areas.

(17) SECURITY GATES

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

Reason:

To ensure the public domain is kept free from physical obstructions.

(18) VEHICLE FOOTWAY CROSSING

- (a) A separate application is to be made to, and approved by, Council for the construction of any proposed vehicle footway crossing or for the removal of any existing crossing and replacement of the footpath formation where any such crossings are no longer required.
- (b) All disused or redundant vehicle crossings and laybacks must be removed and footway, kerb, gutter and road restoration reinstated in accordance with Council's standards, to suit the adjacent finished footway and edge treatment materials, levels and details, or as otherwise directed by Council officers. All construction and replacement works are to be completed in accordance with the approved plans prior to the issue of any Occupation Certificate.

Note: In all cases the construction materials should reinforce the priority of pedestrian movement over that of the crossing vehicle.

Reason:

To ensure all relevant approvals for traffic and parking works are obtained and designed in accordance with Council requirements.

(19) SERVICE VEHICLE SIZE LIMIT

The size of vehicles servicing the property must be a maximum length of 9.25m.

Reason:

To maintain the orderly operation of vehicle parking and loading areas.

(20) ASSOCIATED ROADWAY COSTS

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Sydney Streets Technical Specification" including amendments and "Sydney Streets Design Code".

Reason:

To ensure all roadway works are designed and constructed in accordance with Council requirements.

(21) COSTS OF SIGN POSTING

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

Reason:

To ensure all associated roadway works costs are borne by the developer.

(22) CHANGES TO KERBSIDE PARKING RESTRICTIONS

- (a) A separate submission must be made to the Local Pedestrian, Cycling and Traffic Calming Committee via the City Infrastructure and Traffic Operations Unit seeking the City's approval for any changes to kerb side parking arrangements. There is no guarantee kerb side parking will be changed, or that any change will remain in place for the duration of the development use.
- (b) The submission must include the following plans:
 - (i) A plan showing the existing kerb side parking restriction signs and stems.
 - (ii) A plan showing the proposed kerb side parking restriction signs and stems.

Both plans must include chainages to all signs and stems from the kerb line of the nearest intersection.

- (c) All costs associated with the parking proposal will be borne by the developer.

Note: As parking in the LGA is at a premium, it is recommended that the applicant should approach the Area Traffic Engineer North to discuss the proposal before making a submission.

Reason:

To require separate consent to be obtained for changes to kerb side parking arrangements.

(23) PARKING DESIGN

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Registered Certifier prior to a Construction Certificate being issued.

Reason:

To ensure parking facilities are designed in accordance with the Australian Standards.

(24) ALLOCATION OF PARKING

- (a) The number of car parking spaces to be provided for the development must comply with the table below. Details confirming the parking numbers must be submitted to the satisfaction of the Registered Certifier prior to the issue of a Construction Certificate.

Car Parking Type	Number
Residential spaces	27
Accessible residential spaces	8
Accessible retail parking	1
Motorcycle parking	3
Service vehicle spaces (Australian Standard AS2890 B99 size vehicle)	3
Medium rigid vehicle loading dock(s) (Capable to accommodate 9.25m long and 4.0m high Council Waste Collection Vehicle)	1

Reason:

To ensure the allocation of parking is in accordance with the Council's DCP.

(25) BICYCLE PARKING AND END OF TRIP FACILITIES

- (a) The minimum number of bicycle parking spaces and end of trip facilities to be provided within the site boundary for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Residential	42	Spaces must be a class 1 bicycle locker [1]
Residential visitor	4	Spaces must be Class 3 bicycle rails
Non-residential	2	Spaces must be Class 2 bicycle facilities
Non-residential visitor	6	Spaces must be Class 3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	1	
Personal lockers	8	

- (b) All bicycle parking spaces and end of trip facility must be provided on private land. The public domain cannot be used to satisfy this condition.

Note: A basement storage area on title that is large enough to store a bike and is no smaller than a class 1 bike locker this can be counted as a space.

- (c) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Registered Certifier confirming prior to and form part of the Construction Certificate being issued.

Reason:

To ensure the allocation of bicycle parking onsite that is in accordance with Australian Standards and the Council's DCP.

(26) ON-SITE LOADING AREAS AND OPERATION

- (a) All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.
- (b) At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

Reason:

To maintain the orderly operation of vehicle parking areas and to ensure the public domain is kept free from physical obstructions.

(27) GENERAL WASTE

The proposal must comply with the relevant provisions of Council's Guidelines for Waste Management in New Developments 2018 which requires facilities to

promote the efficient storage, separation, collection and handling of waste to maximise resources recovery.

Reason:

To ensure that waste and recycling is appropriately managed.

(28) USE OF LIFT 5 – PLAN OF MANAGEMENT

A Plan of Management addressing any intermingling issues between residents and customers of the basement retail using lift 5 which connects Castlereagh Street to the Elizabeth Street lobby, is to be prepared and submitted to the satisfaction of the Principal Certifier prior to the issue of a Construction Certificate

Reason:

To ensure the safety and security of the residents.

PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

(29) MATERIALS AND SAMPLES BOARD – MAJOR DEVELOPMENT

A physical material sample board which specifies all proposed materials, finishes and colours, (including visible rainwater goods and services) keyed to each building elevation must be submitted to and approved by Council's Director City Planning, Development and Transport prior to a Construction Certificate being issued. The materials and samples board must not include generic material or colour descriptions or use terminology such as 'or similar'.

Reason

To require the submission of a materials and samples board following assessment of the development.

(30) REFLECTIVITY

Prior to issue of the Construction Certificate the Accredited Certifier must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20%.

Reason

To ensure the development does not result in adverse reflectivity impacts and to protect the amenity of the public domain.

(31) TREATMENT OF PROPOSED EXTERNAL WALLS

Details of the treatment of the exposed walls on the Castlereagh Street frontage must be submitted to and approved by Director City Planning Development and Transport prior to the Construction Certificate being issued. Any work is required to be completed prior to the Occupation Certificate being issued or the commencement of the use, whichever is earlier.

Reason

To ensure an appropriate treatment to boundary walls.

(32) WIND MITIGATION

- (a) The wind mitigation strategies recommended in the Pedestrian Wind Environment Study (Rev 0) prepared by Windtech and dated 31 March 2023 (Trim reference: 2023/165631), are to be adopted to address any potential wind impacts.
- (b) Despite part (a), any wind mitigation measures that will result in an increased height to the roof top, any protrusion into the sun access plane, and any potential additional shadow impacts, are not approved.

Reason

To ensure the development is appropriately designed to mitigate adverse wind conditions and to protect the amenity of the public domain.

(33) LANDSCAPING OF THE SITE

- (a) A detailed landscape design including plans and details drawn to scale, and technical specification, by a registered landscape architect, must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager prior to the issue of a Construction Certificate. These documents must include:
 - (i) Location of existing and proposed planting on the site including existing and proposed trees, planting in natural ground, and planting on structure.
 - (ii) Location and details of existing and proposed services, walls, balustrades, hard surfaces, furniture, screens and shade structures, fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components
 - (iii) Details of earthworks and soil depths including finished levels and any mounding. The minimum soil depths for planting on structure must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers, excluding mulch and drainage layers. Mounding is to be limited to max. 200mm depth.
 - (iv) All furniture on Levels 13-15 high rise balconies must be fixed to the slab due to wind impacts. Details of furniture fixings
 - (v) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.
 - (vi) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer.
 - (vii) Landscape maintenance plan. This plan is to be complied with during occupation of the property and must include any relevant maintenance methodology for safe working at height such as access requirements, location of any anchor points, gates, and transport of materials and green waste.
- (b) All landscaping in the approved plan is to be complete prior to an Occupation Certificate being issued.

Reason

To ensure the development is supported by a good quality, buildable landscape scheme that meets the City's controls.

(34) PUBLIC ART

Public art must be installed to the City's satisfaction prior to the issue of any Occupation Certificate.

- (a) The public artwork must be in accordance with the UAP 271 Elizabeth Street & 262 Castlereagh Street Preliminary Public Art Plan R2 (UAP Ref. P2980), dated April 2023, the Sydney DCP 2012, the Public Art Policy, and the Interim Guidelines: Public art in private developments.
- (b) A Detailed Public Art Plan with final details of the proposed public artwork must be submitted to and approved by Council's Director City Planning, Development and Transport prior to issue of any Construction Certificate for above ground works.
- (c) Public artwork must be installed to the City's satisfaction, inspected and approved and the Final Public Art Report submitted and approved by Council's Area Planning Manager prior to the issue of any Occupation Certificate.

Note: Public Art must be reviewed and endorsed by the City's Public Art Team and/or the Public Art Advisory Panel prior to submission for Council approval. Further information is available online at <http://www.cityofsydney.nsw.gov.au/explore/arts-and-culture/public-art>. Please contact the Public Art Team at publicartreferrals@cityofsydney.nsw.gov.au for further information.

Reason

To ensure public art is installed to the City's satisfaction.

(35) ARCHAEOLOGICAL PROCESS

- (a) The development is to apply to Heritage NSW for a Section 140 Excavation Permit prior to commencement of any excavation or use Section 139 (4) exceptions to manage the potential of discovery of relics.
- (b) Should the development apply Section 139 (4) exceptions, the excavation and ground disturbance work must comply with conditions of Schedule of Exceptions to Subsection 139(1) & (2) of Heritage Act 1977, gazetted February 2022. Prior to commencement of any excavation or disturbance to the land, an archaeological monitoring research design must be prepared by a suitably qualified and experienced professional.
- (c) Archaeological monitoring must follow the procedures and requirements set out in Relics of Local Heritage Significance: A Guide for Archaeological Monitoring published by Heritage NSW (September 2022).
- (d) Should any archaeological remains or Aboriginal objects be discovered, Heritage NSW must be notified. A copy of recording of the finds and the final archaeological summary report is to be submitted to Council's Urban Design and Heritage Manager prior to issue of any Occupation Certificate, in addition to any requirements by Heritage NSW.

Reason

To ensure that the archaeology of the site is appropriately managed and protected.

(36) SALVAGE, REUSE AND RECYCLING OF TRADITIONAL BUILDING MATERIALS

Stone, bricks, roof tiles, joinery and decorative architectural elements to be demolished, which include stairs, windows and doors, chimney pieces and ceiling roses must be salvaged and where possible reused on the project.

Salvaged building materials surplus to the project must either be stored on site for future reuse or transferred to an established second building material dealer for recycling.

Documentation of the salvage methodology must be submitted to and approved by Council's Urban Design and Heritage Manager / Area Planning Manager prior to the issue of a Construction Certificate.

Reason

To ensure the salvaging and reuse of traditional building materials.

(37) HERITAGE INTERPRETATION PLAN

- (a) An interpretation plan for the site must be submitted to and approved by Council's Urban Design and Heritage Manager/Area Planning Manager prior to a Construction Certificate being issued. The plan is to be prepared by a suitably qualified and experienced heritage practitioner or historian.
- (b) The interpretation plan must detail how information on the history and significance of the site will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Public art, details of the heritage design, the display of selected artefacts are some of the means that can be used.
- (c) The plan must specify the location, type, making materials and contents of the interpretation device being proposed.
- (d) Prior to the Occupation Certificate being issued the approved interpretation plan must be implemented to the satisfaction of Council's Urban Design and Heritage Manager / Area Planning Manager.

Reason

To ensure that the heritage of the site is appropriately interpreted and incorporated into the development.

(38) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION AND OR OCCUPATION CERTIFICATES

- (a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by T. Wong, Renzo Tonin Acoustics dated 24 February 2023 ref TM226-01F02 titled 271-279 ELIZABETH ST AND 262-

266 CASTLEREAGH ST, SYDNEY Acoustic Assessment for Development Application Council Ref 2023/101782 must be implemented in the development prior to the commencement of its use.

- (b) Prior to the issue of any relevant Construction Certificate, the final construction drawings and final construction methodology must be assessed and reported to be in accordance with the requirements of the DA Acoustic Report in (a) above, with reference to relevant documentation. This must be done by a Suitably Qualified Acoustic Consultant* (see definition below). This work will be to the satisfaction of the accredited certifier.
- (c) Prior to the issue of any Occupation Certificate, a Suitably Qualified Acoustic Consultant* is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier that the development complies with the requirements set out in the Report and in (a) and (b) above.

Note: Suitably Qualified Acoustic Consultant means a consultant who possesses the qualifications to join the Australian Acoustical Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustical Consultants (grade of member firm).

- (d) All physical aspects of the building's structure installed in order to meet performance parameters in accordance with this condition must be maintained at all times.

Reason

To ensure all parties are aware of the supporting documentation that applies to the development.

(39) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION

Prior to the issue of a Construction Certificate, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above roof level and must be designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for all commercial tenancies proposed with the potential to become a food premises in future. Systems must be designed in accordance with *AS1668.2 – The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings*, and *AS1668.1 – The Use of Ventilation and Air-conditioning in Buildings – Fire and Smoke Control in Buildings*.

Reason

To ensure the mechanical ventilation complies with relevant standards.

(40) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

A site-specific noise management plan must be submitted to the Council for comment and approval prior to issue of any Construction Certificate. The Plan must be prepared by a suitably qualified acoustic consultant who is a person who possesses the qualifications to join the Australian Acoustic Society, Institution of

Engineers Australia (grade of member) or the Association of Australasian Acoustic Consultants (grade of member firm). The plan must include but not be limited to the following:-

- (a) Identification of noise sensitive receivers near to the site.
- (b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours /Noise Code of Practice 1992* for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
- (c) A representative background noise measurement ($L_{A90, 15 \text{ minute}}$) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (d) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (e) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.
- (f) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- (h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

Reason

To ensure an adequate construction noise and vibration management plan is prepared.

(41) ENERGY EFFICIENCY

- (a) The Section J report is to be updated to be consistent with the approved plans.
- (b) Level 1 communal areas with air conditioning proposed (as per BASIX report) are to have thermal fabric defined at or above NCC 2019 Deemed-to-Satisfy or Performance Solution requirements. Applicable spaces include Residential Gym, Golf Simulator, Lap Pool, Wellness Centre, Residential Lounge and Residents Boardroom. This is to be confirmed within updated Section J report or separate reporting.
- (c) In accordance with latest NatHERS technical note, ceiling penetrations including all recessed light fittings, vents, flues and exhaust fans are to be identified on plans. Alternatively, defaults are to be applied in line with Table 4 – Default ceiling penetration modelling, of NatHERS technical note.
- (d) In accordance with latest NatHERS technical note, plan markings are to be updated to identify that total window system Solar Heat Gain Coefficient (SHGC) is to be within $\pm 5\%$ of the window system used in modelling.
- (e) All plan sets depicting solar PV require annotation identifying required area (sqm) and proposed system Kilowatt Peak Capacity (KWp).

Reason

To ensure the environmental performance of the development.

(42) DESIGN FOR ENVIRONMENTAL PERFORMANCE

- (a) Prior to the issue of any Construction Certificate, the Principal Certifier must be satisfied that those matters listed in the following sections of the approved Design for Environmental Performance report are incorporated into the relevant construction plans and accompanying documentation:
 - (i) Section 3 – BASIX

A copy of the required completed BASIX certificate(s) accepted as part of this consent must be lodged with an application for a construction certificate and the items nominated as part of the subject BASIX certificate(s) must be specified on the plans submitted with the Construction Certificate application.

Note: Any requirement detailed in the accompanying BASIX Certificate must be included as a specific notation or inclusion on any future Construction Certificate plans and specification in accordance with Part 3 of Schedule 1 of the EP&A Regulation, 2000.
 - (ii) Section 4 – Energy Efficiency and Greenhouse Gas Abatement
 - (iii) Section 5 – Passive Design for Thermal Performance – Building Envelope Design
 - (iv) Section 6 – On site Renewable Energy Generation and Storage

- (v) Section 7 – Design for Resilience to Climate Change
 - (vi) Section 8 – Designing for mains potable water savings and water efficiency
 - (vii) Section 9 – Storm water quality
- (b) Changes to any commitments as listed in the approved Design for Environmental Performance report must be submitted to and approved by Council's Area Planning Manager/Coordinator prior to the issue of any relevant Construction Certificate.

Reason

To ensure the environmental performance of the development.

(43) DEMOLITION/SITE RECTIFICATION (if cost is over \$50m)

The following conditions apply to the development:

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued for construction of the substantive building.
- (b) Prior to the Construction Certificate being issued, documentary evidence must be provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.
- (c) Without limiting the generality of paragraph (b), the Deed must provide for:
 - (i) A bank guarantee to be provided in the sum of \$218,820 dollars as security for the costs of such works provided that:
 - a. the maximum liability under the Deed must not exceed \$218,820 dollars; and
 - b. the Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.
 - (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
 - a. demolition of the existing building has commenced but not been completed;
 - b. the existing building has been demolished; or
 - c. the site has been excavated; or
 - d. the erection of the structure has commenced;

- (iii) that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the Consent Authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:
 - a. make the building safe and of an appearance acceptable to Council at ground level;
 - b. allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - c. for the hole to be covered to allow it to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - d. in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenantable stage;

AND to call on such bank guarantee to cover the cost thereof.

- (d) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:
 - (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (iii) to take place on the site; and
 - (ii) in the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.
- (e) The Deed may, if the Director City Planning is satisfied, provide for an adjustment of the guarantee amount during the course of construction to reflect that, as the development progresses, the likelihood and nature of the appropriate site rectification works may change. The stages of reduction will be:
 - (i) Stage 1 – Completion of the site excavation and all construction works necessary to complete all parts of the Development to street level, including sealing of the slab at that level.
 - (ii) Stage 2 – Completion of all construction works necessary to complete the structure of the Development to the roof level.
 - (iii) Stage 3 – Issue of the Occupation Certificate.
- (f) If a claim for an adjustment is made, the Deed must also provide that any such claim is to be supported by the following:

- (i) Certification (from the principal certifier) that the relevant stage is complete;
- (ii) Detailed schedule of completed works carried out in the relevant stage;
- (iii) Quantity Surveyors costing of the likely site rectification works required at each remaining stage.

Reason

To allow for the appropriate management of sites where development (demolition/excavation/construction) has commenced and there is a suspension in activity resulting in a building site which has an unacceptable appearance.

(44) INSTALLATION OF ARTWORK AND IMAGES ON SCAFFOLDING (DEMOLITION / CONSTRUCTION WRAPS)

- (a) Where scaffolding is to be installed to undertake the proposed development an approved artwork/historic image installation must be provided on the scaffolding system to screen the development from the public place, minimise adverse visual impacts on the locality and add visual and public art in the streetscape.
- (b) The artwork installation must be printed, installed and maintained in accordance with Council's *Guidelines for Hoardings and Scaffolding*. Details of the proposed installation must be submitted to and approved by Council prior to the issue of a construction certificate or work commencing.

Note: The scaffolding system on which a required artwork wrap is to be installed must be designed to safely and adequately accommodate and support the wrap mesh material on which the artwork is printed/displayed. This includes designing the scaffold to address potential increased wind loads that may be encountered in the locality.

Reason

To minimise adverse visual impacts on the locality.

(45) UTILITY SERVICES

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of a Construction Certificate a survey is to be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation, if necessary, to determine the position and level of services.
- (b) Prior to the commencement of work the applicant is to obtain written approval from the utility authorities (e.g. Energy Australia, Sydney Water, and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

Reason

To ensure that utility authorities are advised of the development and their approval is obtained in connection with the relocation and/or adjustment of services affected by the development.

(46) CONSTRUCTION TRAFFIC AND PEDESTRIAN MANAGEMENT PLAN

- (a) A Construction Traffic Management Plan must be submitted to and approved by Council prior to a Construction Certificate being issued.
- (b) The approved plan must be complied with during any demolition and/or construction work.

Construction Traffic and Pedestrian Management Plans are to be prepared in accordance with Standard Requirements for Construction Traffic Management Plan on the City's website:

<http://www.cityofsydney.nsw.gov.au/business/business-responsibilities/traffic-management/construction-traffic-management-plans>

Reason:

To ensure that the impacts of construction traffic is appropriately managed.

(47) MECHANICAL PARKING FACILITIES (VEHICLE LIFT)

- (a) The following details being submitted to an approved by the Principal Certifying Authority prior to the issue of the issue of a Construction Certificate:
 - (i) A review of the proposed installation by the manufacturer and its suitability for implementation in accordance with the manufacturer's specifications including but not limited to compliance with AS/NZS 2890.1 2004 and its references to AS/NZS 28590.6.
 - (ii) Implementation of mechanisms addressing potential safety concerns including but not limited to:
 - a. Queuing potential and the need for onsite waiting space/s
 - b. The potential trip hazard posed by the platforms to pedestrians walking within the car parking areas
- (b) Any further information requested by the Principal Certifying Authority.

Reason:

To ensure the vehicle lift meets the relevant compliance and is safe.

(48) WASTE AND RECYCLING MANAGEMENT

- (a) The Waste and Recycling Management Plan accompanying this Development Application has not been approved by this consent .

- (b) A Waste and Recycling Management Plan, including demolition and construction waste and recycling details, is to be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager prior to a Construction Certificate being issued. The plan must comply with the Council's Guidelines for Waste Management in New Developments 2018.
- (c) The Waste and Recycling Management Plan must:
 - (i) Delete any reference to waste compaction which is not supported
 - (ii) Include the path of travel between the bin storage areas/bulky waste storage areas and the designated waste/recycling collection point is to have a minimum of 1,200mm wall-to-wall clearance, be slip-proof, of a hard surface, be free of obstructions and at no point have a gradient exceeding 1:14. The use of a lift is permitted, but consideration should be given to the inclusion of a service lift in this instance;
 - (iii) All nominated waste and recycling storage areas must be constructed to meet the relevant conditions required by Council's Guidelines for Waste Management in New Developments 2018.
 - (iv) Retail tenancies must have a commercial waste contract(s) in place prior to commencement of business trading;

Note: The building manager/strata title manager or body corporate is responsible for ensuring all tenants are kept informed regarding Council's policies, and best practice waste and recycling source separation.

UPON COMPLETION OF THE DEVELOPMENT

- (d) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must:
 - (i) Obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.
 - (ii) Must ensure that waste handling works have been completed in accordance with the Waste and Recycling Management Plan; other relevant development consent conditions; and Council's Guidelines for Waste Management in New Developments 2018.

Reason:

To ensure that waste and recycling is appropriately managed.

(49) DILAPIDATION REPORT - PUBLIC DOMAIN

Prior to an approval for demolition and preparatory works being granted or the issue of any Construction Certificate being issued, whichever is earlier, a photographic recording of the public domain site frontages is to be prepared as described in the *Public Domain Manual* and submitted to and approved by

Council's Public Domain Unit. The City's *Public Domain Manual* is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/>

The submission is to include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

Reason:

To establish and document the condition of the public domain for comparison as building work progresses and is completed.

(50) SURVEY INFRASTRUCTURE – IDENTIFICATION AND RECOVERY

Under Section 24 of the Surveying and Spatial Information Act 2002, it is an offence to remove, damage, destroy, displace, obliterate or deface any survey mark unless authorised to do so by the Surveyor-General. Accordingly, the applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or replace marks.

Prior to the issue of any Construction Certificate, documentary evidence must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include either:

- (a) A copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report); or
- (b) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site and that no survey infrastructure will be affected by the proposal.

Council's Principal Surveyor may request further information and/or add conditions to any Surveyor-General's Approval at their discretion.

Reason:

To ensure the preservation of existing survey infrastructure.

(51) PUBLIC DOMAIN LEVELS AND GRADIENTS – MAJOR

- (a) Prior to the issue of any Construction Certificate, a Public Domain Levels and Gradients submission for the building and site frontages must be submitted to and approved by the City's Public Domain Unit. The submission, must be prepared in accordance with the City's Public Domain Manual and submitted with a completed Application for Public Domain Levels and Gradients. Information on how to complete the submission can

be downloaded from the City's website at
<https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

- (b) Any requirements to comply with Disability Discrimination Act at the entrance to a building or publicly accessible space must be resolved inside the site boundary.

Note: Approved Public Domain Levels and Gradients plans are to be submitted with Public Domain Plan – Detailed Documentation for Construction Condition submission.

Reason:

To ensure public domain levels and gradients comply with Council's requirements.

(52) STORMWATER DRAINAGE DESIGN

Stormwater drainage design plans submitted with the DA are not approved or acceptable. Prior to issue of any Construction Certificate a detailed stormwater management plan prepared by suitable qualified and experienced professionals must be submitted to and approved by the City's Public Domain Unit and must include;

A certified stormwater drainage design complying with

- (a) Council's Sydney Streets Technical Specifications, Part A4 Stormwater Drainage Design;
- (b) Council's Sydney Streets Technical Specifications, Standard Drawings;
- (c) Council's Sydney Streets Technical Specifications, Part B10: Stormwater Drainage Construction;
- (d) Council's Stormwater Drainage Manual; and
- (e) All relevant Australian Standards.

This information is available for download from the City's website at
<https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

Note: A Deed of Agreement (Stormwater Deed) for all proposed connections to the City's drainage system, and a Positive Covenant for all OSD systems is required prior to issue of any Occupation Certificate.

Reason:

To ensure stormwater drainage design complies with Council's requirements.

(53) STORMWATER ON-SITE DETENTION

- (a) The requirements of Sydney Water with regard to the on-site detention (OSD) of stormwater must be ascertained and complied with. Evidence of the approval must be submitted to Council prior to issue of any Construction Certificate other than demolition.
- (b) Where an OSD is not required by Sydney Water one may still be required by the City.

Reason:

To ensure the requirements of Sydney Water are complied with.

(54) STORMWATER QUALITY ASSESSMENT

Prior to issue of any Construction Certificate a stormwater quality assessment report prepared by a suitably qualified engineer, with experience in water sensitive urban design (WSUD) demonstrating how the development will be designed to ensure that the flow of post-development pollutants from the site due to stormwater will be reduced, must be submitted to and approved by the City's Public Domain Unit.

Reason:

To ensure appropriate stormwater quality on the site.

(55) STORMWATER DRAINAGE DESIGN AND CONNECTION APPROVAL FOR STATE ROADS/OTHER AUTHORITIES

A detailed stormwater drainage plan prepared by a suitably qualified and experienced professional and complying with Council's Sydney Streets Technical Specifications, Part A4 Stormwater Drainage Design must be submitted to and approved by the relevant authority for connection to their assets prior to issue of any Construction Certificate. Evidence of this approval must be submitted to Council.

Reason:

To ensure the stormwater drainage design meets the relevant standards.

(56) FLOOD PLANNING LEVELS

- (a) The development, except Castlereagh Street basement carpark access, must be constructed to comply with the recommended flood planning levels indicated in Table 1.1 of the Flood Certificate report prepared by BMT Commercial Australia Pty Ltd dated 17 February 2023.
- (b) The basement carpark access crest must be constructed at RL23.41m AHD as determined by TTW report dated 12 May 2023.
- (c) Details must be submitted to the Principal Certifier prior to the issue of any Construction Certificate demonstrating that the development will comply with the above recommended flood planning levels.

Reason:

To ensure the development complies with Council's flooding requirements.

(57) PUBLIC DOMAIN LIGHTING UPGRADE

- (a) Prior to issue of any Construction Certificate for excavation, civil construction, drainage or building work (whichever is earlier), a concept Public Domain Lighting Upgrade Plan for pedestrian and street lighting in the public domain must be submitted to and approved by City's Public Domain Unit. The Lighting Plan must be prepared in accordance with the Sydney Streets Technical Specifications A5- Street Lighting Design and B8- Street Lighting Construction, Sydney Lights: Public Domain Design Code and Public Domain Manual. This information is available for download from the City's website at:

<https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

- (b) The lighting upgrade plan must cover all adjacent street frontages, being Castlereagh St and Elizabeth St and shall be designed to include the following requirements.

Reason:

To ensure pedestrian and street lighting in the public domain complies with Council's requirements.

(58) FOOTPATH AWNINGS

- (a) Footpath Awnings which are proposed to be constructed above the public domain (including a public footway) must have separate approval(s) obtainable through the lodgement of an application under Section 68 of the Local Government Act 1993 and/or Section 138/139 of the Roads Act 1993 prior to any Construction Certificate for the building.
- (b) Documentation must be submitted to the City's Construction and Building Certification Services Unit with the application demonstrating that the awning height complies with Development Control Plan 2012. Plans are to include dimensions confirming the awning width and setback from the kerb. Awning gutters are to be concealed from the public domain and plans are to confirm downpipes are located within or recessed into the ground floor frontage of the building.

Reason:

To ensure that the awnings comply with Council's requirements.

(59) FOOTATH AWNINGS LIGHTING

- (a) Provide under awning lighting complying with the requirements of Sydney DCP.

- (b) Lighting standards compliance of AS1158.3.1:2020 Category PA1 is to be achieved.
- (c) Complying illumination designs certified by a practicing lighting engineer must be submitted for council review and approval prior to a Construction Certificate being issued for awning construction.
- (d) Advice on site specific lighting requirements must be obtained from the City's Public Domain Unit before proceeding with the preparation of any final lighting design proposals.

Reason:

To ensure that the awning lighting complies with Council's requirements.

(60) TEMPORARY DEWATERING DURING CONSTRUCTION

- (a) Prior to discharging any water collected during excavation and construction into the City's stormwater drainage system, approval must be sought from the City's Public Domain Unit. A dewatering management plan must be submitted with an Application for Temporary Dewatering available to download on the City's website.
- (b) Other options for dewatering include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

Reason:

To ensure dewatering is managed appropriately.

(61) PUBLIC DOMAIN PLAN DETAILED DOCUMENTATION FOR CONSTRUCTION

- (a) The concept public domain plans submitted with the DA are not approved. A detailed public domain plan and all relevant documentation must be submitted to and approved by the City's Public Domain Unit prior to the construction of any public domain works. This Plan must document all works required to ensure that the public domain upgrade work complies with the City of Sydney's Public Domain Manual, Sydney Streets Code, Sydney Street Tree Masterplan, Sydney Lights: Public Domain Design Code, Sydney Streets Technical Specification. The plans are to explore opportunities to introduce new tree plantings on both Castlereagh Street and Elizabeth Street. The documentation must be checked, be accurate, and comply with specified requirements. Plans must be based on an accurate survey, to scale and fully coordinated across all disciplines and submissions. The supplied documentation must be For Construction issue and will be approved under Section 138 of the Roads Act 1993.
- (b) The Public Domain Manual and all other relevant documents are available for download from Council's website at

<https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>

- (c) The Public Domain Plan documentation must be submitted with an Application for Public Domain Plan Assessment and include the approved Public Domain Levels and Gradients documentation. If the proposed detailed design of the public domain requires changes to any previously approved levels, an Application for Public Domain Levels and Gradients must be submitted to and approved by the Public Domain Unit to reflect these changes prior to an approval being issued for the construction of public domain work.

Reason:

To ensure the public domain complies with Council's requirements.

(62) PAVING MATERIALS

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

Reason:

To ensure appropriate and safe paving materials are used.

(63) PUBLIC DOMAIN WORK – CONSTRUCTION APPROVAL UNDER SECTION 138 OF ROADS ACT 1993

Prior to the construction of any public domain works, approval under Section 138 / 139 of the Roads Act 1993 must be issued by the City's Public Domain Unit.

Reason:

To ensure relevant approvals for public domain work are obtained.

(64) HOLD POINTS

- (a) Prior to an approval being issued for the construction of public domain and / or planning agreement works, including civil, drainage and subsurface works, a set of hold points will be provided by the City's Public Domain Unit in accordance with the City's Public Domain Manual and Sydney Streets Technical Specification. The list of hold point inspections will be included in the Public Domain works approval letter.
- (b) These hold point inspections must be adhered to during construction works. Prior to the issue of any Occupation Certificate, confirmation from the City's Public Domain Unit, that hold point inspections have been completed and works have been accepted by the City must be provided to the Principal Certifier.

Reason:

To ensure hold points are adhered to during construction works.

(65) STORMWATER DRAINAGE CONNECTION

- (a) For approval of a connection into the City of Sydney's underground drainage infrastructure system an Application for Approval of Stormwater Drainage Connection must be submitted to the City, together with an application fee in accordance with the City of Sydney's adopted Schedule of Fees and Charges. This must be approved prior to approval being issued for the construction of public domain work.

Reason:

To ensure approval of connection into the Council's drainage system is sought.

(66) PUBLIC DOMAIN LIGHTING RETICULATION DESIGN

- (a) Prior to the issue of any relevant approval for the construction of public domain works, a detailed Public Domain Lighting reticulation Plan for pedestrian and street lighting in the public domain must be submitted to and approved by the City's Public Domain Unit in accordance with the City of Sydney's Sydney Lights: Public Domain Design Code, Sydney Streets Code, Sydney Streets Technical Specification and Public Domain Manual.

- (b) The Public Domain Manual and all other relevant documents are available for download from Council's website at

<https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>

- (c) This public domain lighting documentation shall include pole footing locations and structural details, location and details of underground electrical reticulation including connections and conduits, pit cabling and certifications as described in the City's Public Domain Manual. The public domain lighting is to be superimposed on the public domain plan to show any conflicts between lighting and the proposed landscape design.

Reason:

To ensure the public domain lighting documentation complies with Council requirements.

(67) PUBLIC DOMAIN WORKS SECURITY BOND

- (a) A Public Domain Works Security Bond will be required for the public domain works and repairing damage that may be caused to the public domain in the vicinity of the site, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual.
- (b) The City's Public Domain Unit must be contacted to determine the bond amount prior to lodgement. The bond must be lodged with the City prior to approval being issued for the construction of the public domain works.
- (c) The bond will be retained in full until all public domain works, including any rectification of damage to the public domain, are completed to City's standards, and the required work as executed documentation is approved.

On satisfying the above requirements and the issue of the Public Domain Works Letter of Completion Operational Acceptance by the City, 90% of the bond will be released. The remaining 10% balance will be held for the duration of the specified defects liability period.

Reason:

To ensure public domain works are completed and any damage to the public domain is rectified.

(68) DEFECTS LIABILITY PERIOD – PUBLIC DOMAIN WORKS

- (a) All works to the City's public domain, including rectification of identified defects, are subject to a 6 month defects liability period from the date of Completion. The date of Completion will be nominated by Council on the Public Domain Works Letter of Completion Operational Acceptance.

Reason:

To ensure all works to the City's public domain are protected under a liability period.

(69) PUBLIC DOMAIN WORKS COMPLETION

- (a) The Public Domain works are to be constructed in accordance with the Public Domain Works Approval letter stamped plans for Public Domain Levels and Gradients, Stormwater Drainage, Public Domain Lighting, Public Domain Manual, Stormwater Drainage Manual, Sydney Lights: Public Domain Design Code and Sydney Streets Technical Specification.
- (b) The public domain work must be inspected, and a Public Domain Works Letter of Completion Operational Acceptance must be issued by Council's Public Domain Officer prior to the issue of any Occupation Certificate or before the commencement of use, whichever is earlier.

Reason:

To ensure the public domain works are completed in accordance with the approved documents and Council's requirements.

(70) PUBLIC DOMAIN COMPLETION – WORKS AS EXECUTED DOCUMENTATION

- (a) Prior to a Public Domain Works Letter of Completion Operational Acceptance being issued for public domain works, works-as-executed (As-Built) plans and documentation, must be submitted to and accepted by the City of Sydney for all public domain works, including where required Stormwater, Public Domain Lighting and Road construction. Details of the plans and documentation required for approval will be advised by the City's Public Domain Unit.

Reason:

To ensure Council receives works-as-executed documentation for public domain works.

(71) STORMWATER COMPLETION DEED OF AGREEMENT AND POSITIVE COVENANT

Prior to the issue of any Occupation Certificate:

- (a) The Owner is required to enter into a Deed of Agreement (Stormwater Deed) with the City of Sydney and obtain registration of Title of a Positive Covenant for all proposed connections to the City's underground drainage system. The deed and positive covenant will contain terms reasonably required by the City and will be drafted by the City's Legal Services Unit at the cost of the applicant, in accordance with the City's Fees and Charges.
- (b) A Positive Covenant must be registered on the property title for all drainage systems involving On-Site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection. The positive covenant will contain terms reasonably required by the City and will be drafted by the City's solicitor at the cost of the applicant, in accordance with the City's Fees and Charges.

Reason:

To protect underground drainage system.

(72) SURVEY INFRASTRUCTURE – RESTORATION

- (a) Prior to any Occupation Certificate being issued for the development, documentary evidence of restoration must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include:
 - (i) Certification that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal or by the City's Principal Surveyor under condition "Survey Infrastructure – Identification and Recovery" have been complied with;
 - (ii) Certification that all requirements requested under any Surveyor-General's Approval for Deferment of Survey Marks from condition "Survey Infrastructure – Pre-Subdivision Certificate works" have been complied with and;
 - (iii) Time-stamped photographic records of all new survey infrastructure relating to the site clearly showing the mark itself and sufficient context to aid in identifying the mark on site.

Reason:

To ensure all requirements for survey mark removal are complied with.

(73) PUBLIC DOMAIN DAMAGE SECURITY BOND

- (a) A Public Domain Damage Security Bond calculated on the basis of 135 square metres of Stone Paver and 50 square metres of Asphalt site frontage must be lodged with the City in accordance with the City of Sydney's adopted fees and charges. The bond must be provided as security for repairing any damage to the public domain in the vicinity of the site.
- (b) The City's Public Domain Unit must be contacted to determine the bond amount prior to lodgement. The Bond must be lodged with the City prior to an approval for demolition being granted or any Construction Certificate being issued, whichever is earlier.
- (c) The bond in this condition will be released in full when the Public Domain Works Security Bond is lodged with the City.

Reason:

To ensure public domain works are completed and any damage to the public domain is rectified.

(74) PROTECTION OF STONE KERBS

- (a) The existing stone kerbs on the Castlereagh St and Elizabeth Street frontage of the site are to be retained and properly protected during demolition, excavation and construction works.
- (b) To avoid damage to stone kerbs during excavation and construction works for the development, temporary removal and storage of the stone kerbs may be approved by Council. Removed, serviceable stone kerbs (i.e. those that are in good condition as agreed by Council officers) must be re-installed in accordance with the City of Sydney's standard details and specifications after the construction works have been completed. A temporary concrete kerb will need to be constructed to retain the footpath until the stone kerbs can be reinstalled.
- (c) Note the following:
 - (i) All costs associated with the works are to be borne by the developer.
 - (ii) Damaged kerbs are to be replaced to match existing to Council's satisfaction or as otherwise advised by Council officers.
 - (iii) Where new vehicle crossings or temporary crossings are to be constructed to access the property, the affected kerb stones should be salvaged and reused wherever possible.
 - (iv) All new driveway laybacks and kerbs are to be constructed with stone kerbs to match existing stones or as specified by City officers.
 - (v) Council approval is required before kerbs are removed.
 - (vi) Council approval is required prior to the cutting of existing stone kerbs for stormwater kerb outlets.

- (vii) A bond may be required for stone kerbs and gutters in accordance with the City of Sydney's adopted Schedule of Fees and Charges. If so, this will be included with the Public Domain Damage Bond.

Reason:

To protect surrounding stone kerbs.

(75) DRAINAGE AND SERVICE PIT LIDS

- (a) All existing or proposed drainage and utility service pit lids throughout the public domain shall be to City of Sydney specifications and heel / bicycle safe, slip resistant, infill with material to match surrounding surface, finished flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Infill pit lids are to be detailed where specified by the Council's Public Domain Officer. Private pits are not permitted within the public domain. All details of pit lids must be shown on the public domain plan and must be approved by the City's Public Domain Unit prior to the issue of an approval for public domain works.

Reason:

To ensure drainage and service pit lids within the public domain are appropriately designed and installed.

(76) TACTILE GROUND SURFACE INDICATORS AND HANRAILS

All tactile ground surface indicators, handrails and other elements required to provide access into the building / property must be located entirely within the private property boundary.

Reason:

To ensure ground surface indicators, handrails and other elements required to provide access into the building/property are appropriately located.

(77) DILAPIDATION REPORT – MAJOR EXCAVATION / DEMOLITION

- (a) Subject to the receipt of permission of the affected landowners, dilapidation report/s, including a photographic survey of the adjoining properties (and any other properties identified by the qualified structural engineer engaged to undertake the report) are to be prepared by a structural engineer registered with the National Engineering Register prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Accredited Certifier and the Council prior to the issue of a Construction Certificate.

UPON COMPLETION OF EXCAVATION / DEMOLITION

- (b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s,

together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifier and the Council prior to the issue of any Occupation Certificate.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.

Reason:

To ensure that dilapidation reports are prepared and to identify damage to adjoining/nearby properties resulting from building work on the development site.

(78) TEMPORARY GROUND ANCHORS, TEMPORARY SHORING AND PERMANENT BASEMENT / RETAINING WALLS AFFECTING THE ROAD RESERVE

For temporary shoring including ground anchors affecting the road reserve, a separate application under Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council.

Reason:

To ensure that approval under the Roads Act is obtained.

(79) CONSOLIDATION PLAN

- (a) Prior to the issue of any approval for demolition or Construction Certificate, the initial boundary definition survey work necessary for the preparation of a consolidation plan redefining the boundaries of the subject site shall be carried out by a surveyor registered under the Surveying and Spatial Information Act, 2002. The registered surveyor must provide a letter or email to the Principal Certifier certifying that the initial survey work and calculations to define the subject boundaries has been completed, prior to the issue of the Construction Certificate.
- (b) Prior to the issue of any Staged or Final Occupation Certificate, the consolidation plan must be lodged and registered with the office of NSW Land Registry Services, showing the new components of the building and creating any easements as necessary. Evidence of registration of the consolidation plan shall be supplied to the Principal Certifier prior to the issue of any Staged or Final Occupation Certificate for the building. Should the registered surveyor form the opinion that registration of the consolidation plan prior to construction is necessary due to the potential for disagreement with the boundary fixation, then the requirements in subclause (b) relating to showing the new components of the building on the plan need not apply.

Advisory note: It is recommended that the Construction Certificate plans provide for the external walls of the building to be set back a minimum of 20 millimetres from the boundaries to allow for construction tolerances and minimise risk of encroachment and consequent delays and expenses. Approval of the consolidation plan by council prior to lodgement with NSW-LRS is not required.

Reason:

Registration of the consolidation plan is required prior to CC as the architectural design has not been based upon a boundary survey, and design has been undertaken in close proximity to boundaries without further survey, contrary to the notes on the survey plan.

(80) RESTRICTION ON USE OF CAR SPACES

A restriction on the use of land benefiting The Council of the City of Sydney shall be created pursuant to Section 88B of the Conveyancing Act, 1919 in association with the consolidation plan, with terms to the satisfaction of council, incorporating subclauses (a) and (b) below:

- (a) The on-site car parking spaces, exclusive of service and visitor car spaces, are not to be used other than by an occupant, tenant or resident of the subject building.
- (b) No storage is to take place in commercial car spaces

Any future strata subdivision shall also provide for the above restriction to be created, burdening all residential and commercial lots in the strata plan including a car space

A restriction burdening common property only in a future strata plan, shall not satisfy this condition.

Reason:

To ensure the orderly operation of the strata scheme and compliance with the provisions of the Sydney DCP 2012.

(81) PARKING ON COMMON AREAS

No part of any common driveway area, apart from the visitor vehicle spaces which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles, boats or other items that may obstruct the passage of vehicles and pedestrians. Any future strata subdivision of the buildings is to include an appropriate documentary restriction pursuant to Section 88B of the Conveyancing Act 1919, so burdening common property, with the Council being the authority to release, vary or modify the restriction.

Reason:

To ensure the orderly operation of the strata scheme and compliance with the provisions of the Sydney DCP 2012.

(82) STRATA TITLE PARKING SPACES

All parking spaces other than visitor parking or service spaces must form part of a residential or commercial strata unit in any future strata subdivision. No parking spaces or storage spaces are to have their own individual strata title.

Reason:

To ensure the orderly operation of the strata scheme and compliance with the provisions of the Sydney DCP 2012.

(83) STRATUM SUBDIVISION

Any proposal for stratum subdivision of the site will require development consent and therefore the lodgement of a separate development application, and subsequent approval from Council, of the Subdivision Plan and issue of a Subdivision Certificate under the provisions of Section 6.15 of the Environmental Planning & Assessment Act 1979.

Reason:

To ensure compliance with the provisions of the EP&A Act, 1979.

(84) STRATA SUBDIVISION – APPROVAL OF STRATA PLAN REQUIRED

A separate application must be made to Council or an accredited certifier to obtain approval of a Strata Plan and issue of a Strata Certificate under the Strata Schemes Development Act 2015.

Reason:

To ensure compliance with the provisions of the EP&A Act, 1979.

(85) ADAPTABLE HOUSING

Prior to a Construction Certificate being issued, information from an appropriately qualified access consultant is to be submitted to the Registered Certifier:

- (a) Confirming that the required number of residential units are able to be adapted for people with a disability in accordance with the *Building Code of Australia*.
- (b) Demonstrating (in a checklist) compliance with Australian Standard AS4299.

Reason

To ensure the provision of adaptable housing.

(86) LETTERBOXES

- (a) Details of the location and design of all letterboxes are to be submitted to and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager prior to the issue of a Construction Certificate.
- (b) Letterboxes are to be discreetly located, must not obstruct and/or dominate the public way and must be of a type and specification that minimises opportunities for mail theft.
- (c) Where possible, consideration should be given to locating letterboxes within secure building lobbies.

Note: The applicant is strongly advised to contact Australia Post to discuss how the letterboxes within the lobby will be accessed.

Reason

To ensure letterboxes are located in an appropriate location on the site to prevent mail theft.

(87) FLOOR TO CEILING HEIGHT

Prior to a Construction Certificate being issued, the Registered Certifier must ensure that all living rooms and bedrooms in sole occupancy units must have a minimum finished floor to ceiling height of not less than 2.7 metres.

Reason

To ensure an adequate minimum floor to ceiling height to provide an acceptable level of amenity.

(88) ELECTRICITY SUBSTATION

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Ausgrid, prior to a Construction Certificate being issued or the commencement of the use, whichever is earlier.

Reason

To ensure that the provision of a substation to service the development is appropriately incorporated into the design of the building in a manner that minimises streetscape impacts.

(89) UTILITY SERVICES

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of a Construction Certificate a survey is to be carried out of all utility services within and adjacent to the site including relevant

information from utility authorities and excavation if necessary, to determine the position and level of services.

- (b) Prior to the commencement of work the applicant is to obtain written approval from the utility authorities (e.g. Energy Australia, Sydney Water, and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

Reason

To ensure that utility authorities are advised of the development and their approval is obtained in connection with the relocation and/or adjustment of services affected by the development.

PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

(90) SURVEY SETOUT PRIOR TO COMMENCEMENT

PRIOR TO FOUNDATION STAGE

All footings and walls adjacent to a boundary or setback line must be set out by a surveyor registered under the Surveying & Spatial Information Act, 2002, and a copy of the survey report provided to the Principal Certifier

Reason:

To ensure works are carried out within the property boundaries

(91) HAZARDOUS MATERIALS SURVEY REQUIRED

A Hazardous Materials Survey Report must be prepared by a certified Occupational Hygienist (*Australia Institute of Occupational Hygienists*) and submitted to the satisfaction of Council's Area Coordinator Planning Assessments / Area Planning Manager prior to any demolition / refurbishment work commencing at the site. The report must identify and record the type, location and extent of any hazardous materials on the site and make recommendations as to their safe management and/or removal to ensure the site is made safe for demolition, construction and future use/occupation.

Reason

To ensure that hazardous materials on the site are identified and appropriately managed.

(92) RODENT TREATMENT PROGRAMME – PRE-DEMOLITION AND/OR EXCAVATION

- (a) Prior to the commencement of any demolition and/or excavation works, a programme of baiting and monitoring of rodent activity is to be put in place at the site.
- (b) A licensed Pest Control Operative must carry out all pest control work and prepare a report, confirming that there is no evidence of any rodent activity at the site prior to the commencement of any works on site. The report must be submitted to and be approved/endorsed by Council's Area Coordinator Planning Assessments/Area Planning Manager.

Reason

To ensure that the potential impact of rodents during the demolition, excavation and construction phase is appropriately managed.

(93) EROSION AND SEDIMENT CONTROL - BETWEEN 250 AND 2,500SQM

The Erosion and Sediment Control Plan accompanying this Development Application has not been approved by this consent.

Prior to the commencement of demolition/excavation/construction work, an Erosion and Sediment Control Plan (ESCP) must be submitted to and be approved by the Principal Certifier. The ESCP must:

- (a) Conform to the specifications and standards contained in *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004); the *Guidelines for Erosion and Sediment Control on Building Sites* (City of Sydney, 2004); and the *NSW Protection of the Environment Operations Act 1997*.
- (b) Include a drawing(s) that clearly shows:
 - (i) location of site boundaries and adjoining roads
 - (ii) approximate grades and indications of direction(s) of fall
 - (iii) approximate location of trees and other vegetation, showing items for removal or retention
 - (iv) location of site access, proposed roads and other impervious areas
 - (v) existing and proposed drainage patterns with stormwater discharge points
 - (vi) north point and scale
- (c) Specify how soil conservation measures will be conducted on site including:
 - (i) timing of works
 - (ii) locations of lands where a protective ground cover will, as far as is practicable, be maintained
 - (iii) access protection measures
 - (iv) nature and extent of earthworks, including the amount of any cut and fill
 - (v) where applicable, the diversion of runoff from upslope lands around the disturbed areas
 - (vi) location of all soil and other material stockpiles including topsoil storage, protection and reuse methodology
 - (vii) procedures by which stormwater is to be collected and treated prior to discharge including details of any proposed pollution control device(s)
 - (viii) frequency and nature of any maintenance program
 - (ix) other site-specific soil or water conservation structures.

Reason

To ensure that appropriate erosion and sediment control measures are put in place during construction to protect the environment.

(94) APPLICATION FOR HOARDINGS AND SCAFFOLDING INSTALLED ON OR ABOVE A PUBLIC ROAD AND OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD

- (a) Where a hoarding and/or scaffolding (temporary structures) are proposed to be installed on or above a road reservation (footway and/or roadway), a separate application under Section 68 of the *Local Government Act 1993* and Sections 138/139 of the *Roads Act 1993* must be submitted to and approved by Council for such structures.
- (b) Where an approval (Permit) is granted allowing the placement of temporary structures on or above a public road the structures must comply fully with Council's *Hoarding and Scaffolding Policy; Guidelines for Hoardings and Scaffolding*; and the conditions of approval (Permit) granted including:
 - (i) maintaining a current and valid approval for the full duration that the temporary structure/s is in place;
 - (ii) maintaining temporary structure/s in a structurally sound and stable condition for the full duration of installation (Clause 2.11.1);
 - (iii) bill posters and graffiti being removed within 24 hours of their placement (Clause 2.11.2);
 - (iv) maintaining temporary structures and the public place adjoining the work site in a clean and tidy condition including repainting and/or repair of graphics (Clauses 2.11.1, 2.11.4, 2.14.1 and 3.9.3);
 - (v) maintaining a watertight deck (Type B hoardings) to prevent liquids including rainwater, falling onto the footway/roadway surfaces (Clauses 3.9.1 and 3.9.4);
 - (vi) approved site sheds on the decks of a Type B hoarding being fully screened from the public place (Clause 3.9.5);
 - (vii) material and equipment not being placed or stored on the deck of Type B hoardings, unless specifically approved by Council (Clause 3.9.4);
 - (viii) providing and maintaining operational artificial lighting systems under Type B hoardings including at high-bay truck entry points (Clause 3.9.9); and
 - (ix) ensuring all required signage, artwork or historic images are provided and fully maintained to the City's requirements (Clauses 3.4, 3.9.3, 3.9.6, 3.9.8, 3.10.1 and 4.2).

If it is proposed to operate a hoisting device including a building maintenance unit above a public road which swings, hoists material/equipment and/or slews/wind vanes any part of the device over the public road, a separate application under Section 68 of the *Local Government Act 1993* and Sections 138/139 of the *Roads Act 1993* must be made to Council to obtain approval.

Note: 'Building maintenance unit' means a power-operated suspended platform and associated equipment on a building specifically designed to provide

permanent access to the faces of the building for maintenance (*Work Health and Safety Regulation 2017*).

Reason

To ensure the necessary approval is obtained for temporary structures over a public road.

(95) SYDNEY WATER CERTIFICATE (TAP-IN)

- (a) The approved plans must be submitted to Sydney Water's "Tap-in" online service to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Sydney Water's "Tap-in" online service is available at www.sydneywater.com.au, (see Plumbing, Building & Development and then Sydney Water "Tap-in").
- (b) The Consent Authority or a Principal Certifier must ensure that Sydney Water has appropriately stamped the plans before the commencement of work.

Reason

To ensure the development satisfies Sydney Waters requirements.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

(96) HOURS OF WORK AND NOISE – CBD

The hours of construction and work on the development must be as follows:

- (a) All work, including demolition, excavation and building work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (e.g., loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.00am and 7.00pm on Mondays to Fridays, inclusive, and 7.00am and 5.00pm on Saturdays, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Team, prior to works proceeding.

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Reason

To protect the amenity of the surrounding area.

(97) NOTIFICATION OF EXCAVATION WORKS OR USE OF HIGH NOISE EMISSION APPLIANCES/PLANT

The immediately adjoining neighbours must be given a minimum of 48 hours notice that excavation, shoring or underpinning works or use of high noise emission appliances / plant are about to commence.

Reason

To protect the amenity of the surrounding area.

(98) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS

A site notice is to be prominently displayed at the boundary to each frontage of the site for the purposes of informing the public of appropriate project details and relevant approvals. The notice(s) is to satisfy all of the following requirements:

- (a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (b) The notice is to be durable and weatherproof and is to be displayed throughout the construction period;
- (c) A copy of the first page of the development approval, building approval (including any modifications to those approvals) and any civic works approvals is to be posted alongside the notice in weatherproof casing;
- (d) The approved hours of work, the Principal Certifier including contact address and certification details, the name of the site manager, the responsible managing company, its address and 24 hour contact phone number for any enquiries, including construction/noise complaint, and the estimated date of completion of the project are to be displayed on the site notice;
- (e) The notice(s) is to be mounted at eye level on the perimeter hoardings and is also to state that unauthorised entry to the site is not permitted.
- (f) All notices and signs must be displayed in locations as specified in the City's Guidelines for Hoardings and Scaffolding.

Reason

(Prescribed condition EP&A Regulation, clauses 98A (2) and (3)).

(99) USE OF HIGH NOISE EMISSION APPLIANCES / PLANT

- (a) The operation of high noise emission appliances, plant and/or machinery such as pile – drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* is restricted to the hours of (EHO to specify hours)
- (b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436- 2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

Reason

To protect the amenity of the surrounding area.

(100) HAZARDOUS AND INDUSTRIAL WASTE

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the NSW Work Cover Authority pursuant to the provisions of the following:

- (a) *Protection of the Environment Operations Act 1997*
- (b) *Protection of the Environment Operations (Waste) Regulation 2005*
- (c) *Waste Avoidance and Resource Recovery Act 2001*
- (d) *Work Health and Safety Act 2011*
- (e) *Work Health and Safety Regulation 2017.*

Reason

To ensure hazardous/ industrial waste is managed appropriately.

(101) COVERING OF LOADS

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

Reason

To ensure loads are managed appropriately and do not impact local amenity.

(102) ACCESS DRIVEWAYS TO BE CONSTRUCTED

Approved driveways are to be constructed for all vehicular access to the construction site in accordance with the requirements of Council's "Driveway Specifications" to the satisfaction of Council.

Reason

To allow adequate vehicular access to the site.

(103) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site, where possible.
- (b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval

for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

- (d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate application under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council.

Reason

To protect the amenity of the public domain.

(104) NO OBSTRUCTION OF PUBLIC WAY

Unless otherwise approved by Council, the public way must not be obstructed by any materials, vehicles, waste receptacles, skip-bins or the like. Non-compliance with this requirement may result in the issue of a notice by Council to stop all work on the site.

Reason

To protect the amenity of the public domain.

(105) USE OF MOBILE CRANES

The following requirements apply:

- (a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.
- (b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (c) The use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of approved hours of construction can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

Reason

To ensure mobile cranes are used appropriately.

(106) SYDNEY WATER CERTIFICATE

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council or the Principal Certifier prior to any Occupation Certificate or subdivision/strata certificate being issued.

Reason

To ensure the requirements of Sydney Water are met.

(107) TREES THAT MUST BE RETAINED

- (a) The existing trees detailed in Table 1 below must be retained and protected in accordance with the conditions of consent throughout the construction and development.

Table 1 – Tree Retention:

Tree No	Botanical (Common Name)	Location
1	Platanus x hybrida	Elizabeth Street frontage
2	Liquidambar styraciflua	Castlereagh Street frontage
3	Fraxinus americana	Castlereagh Street frontage

NOTE: reference shall be made to the Arboricultural Impact Assessment Report prepared by Earthscape dated January 2022 for tree numbers and locations.

(108) TREE PROTECTION PLANS

All detailed architectural, building, engineering (structural, stormwater and drainage services) and landscape documentation submitted for the Construction Certificate shall clearly show on all drawings the retention of trees as required by these conditions of consent, the position of their trunks, full diameter of their canopies, Structural Root Zones (SRZs) and Tree Protection Zones (TPZs).

Reason

To ensure the protection and ongoing health of the street trees.

(109) COMPLIANCE WITH ARBORICULTURAL IMPACT ASSESSMENT

All recommendations, Tree Protection, and Methodology Statements contained in the Arboricultural Impact Assessment Report prepared by Earthscape dated January 2022 must be implemented during the demolition, construction and use of the development.

Reason

To ensure the protection and ongoing health of the street trees.

(110) SITE SUPERVISION AND REPORTING

- (a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone of any tree listed for retention. The Arborist must certify compliance with each key milestone as detailed below:
 - (i) Installation of tree protection measures;
 - (ii) During installation of the hoarding and scaffolding. The Project Arborist shall ensure tree branches are not pruned, removed or damaged;
 - (iii) During demolition of any ground surface materials (paving, concrete, grass etc) within the Tree Protection Zone (TPZ) of any tree to be retained;
- (b) An Arboricultural Compliance Report which includes photographic evidence and details of the health and condition of trees, must be submitted to Council's Area Planning Manager at each hold-point listed below:
 - (i) Certification tree protection measures have been installed in accordance with the conditions prior to the commencement of works;
 - (ii) Certification of compliance with each key milestone listed above within 48 hours of completion;
 - (iii) Quarterly reporting for the duration of construction and development within the site;
 - (iv) Details of any other works undertaken on any tree to be retained or within TPZ/s;
 - (v) A final compliance report shall be submitted prior to the issuing of the Occupation Certificate.

Reason

To ensure the protection and ongoing health of the street trees.

(111) STREET TREE PROTECTION

All street trees directly outside the site must be retained and protected in accordance with the Australian Standard 4970 Protection of Trees on Development Sites. All street trees must be protected during the construction works as follows:

- (a) Tree trunk and major limb protection must be undertaken prior to the commencement of any works. The protection must be installed and certified by a qualified Arborist (AQF level 3) and must include:
 - (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunks at all times;
 - (ii) Tree trunk/s and/or major branches, must be protected by wrapped hessian or similar material to limit damage, and
 - (iii) Timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion,
 - (iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project.
- (b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.
- (c) Temporary signs, or any other items, shall not be fixed or attached to any street tree.
- (d) Materials or goods, including site sheds, must not be stored or placed:
 - (i) around or under the tree canopy; or
 - (ii) within two (2) metres of tree trunks or branches of any street trees.
- (e) Any excavation within in any area known to, or suspected of having street tree roots greater than 40mm diameter must be undertaken by hand.
- (f) Any trenching works for services / hydraulics / drainage etc must not be undertaken within the Tree Protection Zone distances detailed in the Arboricultural Impact Assessment Report prepared by Earthscape dated January 2022. Alternative installation methods for services, such as directional boring/drilling, or redirection of services shall be employed where large woody roots greater than 40mm diameter are encountered during the installation of any services.
- (g) Existing sections of kerbs adjacent to any street tree must not be removed without approval from the Council's Tree Management Officer.

- (h) Any damage sustained to street tree/s as a result of construction activities (including demolition) must be immediately reported to the Council's Tree Management Officer on 9265 9333. Any damage to street trees as a result of construction activities may result in a prosecution under the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979.

Reason

To ensure the protection and ongoing health of the street trees.

(112) STREET TREE PRUNING

- (a) The consent from Council's Tree Management Officer must be obtained prior to the undertaking of any street tree pruning works including tree roots greater than 40mm diameter. Only minor pruning works will be approved by Council.
- (b) Any pruning that has been approved by Council, must be carried out by a qualified Arborist (AQF3), and must be in accordance with AS4373 Australian Standards 'Pruning of Amenity Trees'.

Reason

To ensure that pruning works to trees are carried out in an appropriate manner.

(113) LIGHTING OF SITE OUTSIDE OF STANDARD CONSTRUCTION HOURS

Lighting of the site while any work is undertaken outside of Council's standard hours of construction must ensure that at no time must the intensity, hours of illumination or location of the lighting cause objectionable glare or injury to the amenity of the neighbourhood or Obtrusive Light in accordance with the definition in Australian Standard AS4282-1997 *Control of the obtrusive effects of outdoor lighting*. If in the opinion of Council, injury is likely to be caused, the intensity, hours of illumination and location of the lighting must be varied so that it does not cause injury to nearby residents.

Reason

To protect the amenity of the surrounding area.

(114) CLASSIFICATION OF WASTE

Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the *Environment Operations Act 1997* and the *NSW DECC Waste Classification Guidelines, Part1: Classifying Waste (July 2009)*. The classification of the material is essential to determine where the waste may be legally taken. The *Protection of the Environment Operations Act 1997* provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

Reason

To ensure that waste from site is classified and disposed of appropriately.

(115) IMPORTED FILL MATERIALS

All fill imported onto the site must be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site shall also be compatible with the existing soil characteristic for site drainage purposes.

The City may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported onto the site should be validated by either one or both of the following methods during remediation works:

- (a) Imported fill must be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (1995) Sampling Design Guidelines.

Reason

To ensure that imported fill is not contaminated.

(116) NOTIFICATION – NEW CONTAMINATION EVIDENCE

Council's Area Planning Manager and the Principal Certifier must be notified of any new information which comes to light during demolition, excavation or construction works which has the potential to alter previous conclusions about site contamination.

Reason

To ensure that the site is appropriately remediated.

(117) STOCKPILES

- (a) No stockpiles of soil or other materials must be placed on footpaths or nature strips unless prior approval has been obtained from the City's Construction Regulation Team.
- (b) All stockpiles of soil or other materials must be placed away from drainage lines, gutters or stormwater pits or inlets.
- (c) All stockpiles of soil or other materials likely to generate dust or odours must be covered.
- (d) All stockpiles of contaminated soil must be stored in a secure area and be covered if remaining more than 24 hours.

Reason

To ensure that stockpiles of soil or other materials are appropriately managed.

(118) ASBESTOS REMOVAL WORKS

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Safework NSW, holding either a Friable (Class A) or a Non-Friable (Class B) Asbestos Removal Licence which ever applies.

A copy of the relevant licence must be made available to any authorised Council officer on request within 24 hours.

- (b) Five days prior to the commencement of licensed asbestos removal, Safework NSW must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification must identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.
- (c) All work must be carried out in accordance with the Work Health and Safety Regulation 2017 and the NSW Government and SafeWork NSW document entitled How to manage and control asbestos in the work place: Code of Practice (Safework NSW) December 2011 and the City of Sydney Managing Asbestos Policy dated 21 October 2013 and associated guidelines.
- (d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal must be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.
- (e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs must be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs must be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs must be in accordance with AS 1319 -1994 Safety Signs for the Occupational Environment for size, illumination, location and maintenance.
- (f) Asbestos waste must only be transported and disposed of at an EPA licensed waste facility.
- (g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).
- (h) No asbestos laden skips or bins are to be left in any public place without the written approval of Council.

- (i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

- (i) contact person for the site
- (ii) telephone and facsimile numbers and email address and
- (iii) site activities and time frames.

Reason

To ensure that the handling and removal of asbestos from the site is appropriately managed.

(119) COMPLIANCE WITH POSITIVE COVENANT

Evidence of compliance with the terms of the positive covenant registered on the title of Lot 10 in DP 1274140 as Dealing AB731430 must be provided to the Principal Certifier prior to the issue of an Occupation Certificate for the building. It is recommended that steps are taken at an early stage to arrange the necessary access to adjoining properties to carry out the work.

Reason:

To satisfy the terms of the registered positive covenant

(120) CHECK SURVEY DURING CONSTRUCTION

AT FOUNDATION STAGE

Upon commencement of basement wall construction, by the time the perimeter wall has reached one metre in height, all work on the site shall cease unless a survey and report prepared by a registered surveyor has been submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment. Any encroachments of the subject building over the side boundaries or street alignments must be removed prior to continuation of building construction work, or alternatively a letter supplied from the registered proprietor(s) of the adjoining lot(s) confirming that they are aware of the nature & extent of the encroachment, and undertaking to execute all necessary documentation to permit the creation of an easement to permit the encroachment to remain. Encroachments on public roads must be approved by Council's Area Planning Manager, if supported, otherwise the encroachments must be removed. Where soldier piers are proposed, they must be checked by a registered surveyor prior to concrete pour.

Reason:

To ensure that the building either does not encroach, or alternatively that any encroachments are formalised on title.

(121) CHECK SURVEY ON MAIN SLAB AT EACH LEVEL PRIOR TO POUR

Prior to the concrete pour of the main slab at each level, a survey shall be made by a surveyor registered under the Surveying & Spatial Information Act, 2002, confirming that the formwork adjacent to boundaries is clear of those existing or proposed boundaries and is in accordance with approved setbacks. This survey shall be provided to the Principal Certifier prior to the concrete pour. The concrete pour must not take place until the Principal Certifier receives a survey proving that the formwork has been constructed within the boundaries of the site, and is compliant with the setbacks approved under this consent.

Reason:

To ensure that the floor slab at each level will be clear of the boundaries.

(122) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION

- (a) Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.
- (b) Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974*.
- (c) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the issue of any Occupational Certificate.
- (d) If the discovery is on Council's land, Council must be informed.

Reason

To ensure that the archaeology of the site is appropriately managed and protected.

PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

(123) IDENTIFICATION SURVEY

Prior to the issue of any staged or final Occupation Certificate for a part or the whole of the building - a Final Identification Survey prepared by a Surveyor registered under the Surveying & Spatial Information Act, 2002 must be submitted at the completion of the building work certifying the location of the building in relation to the boundaries of the site, showing clearly annotated wall to boundary offsets at all boundary corners. Any encroachments of the building over the site boundaries must be rectified prior to the issue of a staged or final Occupation Certificate for the whole or any part of the building, or suitable easements registered on title.

Reason:

To ensure the completed building lies wholly within the property boundaries and to protect the property rights of the adjoining registered proprietors

(124) PHYSICAL MODELS

- (a) Prior to the issue of any Occupation Certificate an accurate 1:500 scale model of the development as constructed must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager for the City Model in Town Hall House.

Note:

- (i) The models must be constructed in accordance with the Model Specifications available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements> Council's modellers must be consulted prior to construction of the model.
- (ii) The models are to comply with all of the conditions of the Development Consent.
- (iii) The models must be amended to reflect any further modifications to the approval (under Section 4.55 of the *Environmental Planning and Assessment Act*) that affect the external appearance of the building.

Reason

To ensure the provision of an appropriate physical model of the development.

(125) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO OCCUPATION CERTIFICATE

- (a) Prior to any Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager for the electronic Visualisation City Model.

- (b) The data required to be submitted within the surveyed location must include and identify:
 - (i) building design above and below ground in accordance with the development consent;
 - (ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;
 - (iii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

- (c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements> Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.

Reason

To ensure the provision of an appropriate electronic model of the development.

(126) LOADING AND SERVICE MANAGEMENT PLAN

- (a) A Loading Management Plan demonstrating the management of all delivery and servicing activities and vehicles and its impact on surrounding streets is required to be submitted and approved by the Council. The Loading Management Plan is to include the following:
 - (i) A detailed outline all delivery and servicing activities to be carried out for all uses onsite (residential, commercial, retail, online shopping, delivery, resident/tenant move in move out etc)
 - (ii) A detailed outline of vehicle types required to conduct activities in point (a) above
 - (iii) A detailed outline of the frequency of visits per day and/or week of vehicles outlined in point (i) above
 - (iv) Details of how activities and vehicles outlined in points (a), (b) and (c) above will be managed to optimise use of the onsite loading dock and minimise use of public streets for loading, parking or circulating while waiting to access on the onsite loading dock. Both inhouse consolidation and consolidation with the neighbouring sites/business to get deliveries will help to reduce traffic on road and such practice is highly encouraged

- (v) Booking/ management of the 3x Service vehicle space and integration with the “dock occupied” signal
 - (vi) The proposed MRV loading dock must not be reserved for the any other single tenancy, and must be available to all users within the site. A management plan, loading dock manager, loading schedule or similar must be prepared so all users including residents are aware of their entitlements and to avoid too many deliveries being at the dock at any one time
 - (vii) The need for any induction for the users of the building regarding using car lift, using of waiting areas for vehicle queuing, understanding “dock occupied” signal etc.
- (b) The details must be submitted to and approved by the area manager of the Council prior to the Occupation Certificate for the site/use being granted. Once approved, this management plan must be provided to all tenants and external users.

Reason:

To maintain the orderly operation of vehicle parking areas and to ensure the public domain is kept free from physical obstructions.

(127) WASTE AND RECYCLING COLLECTION CONTRACT – COMMERCIAL

Prior to any Occupation Certificate being issued, the building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. Waste is to be stored and collected from within the curtilage of the site at all times.

Reason:

To ensure that waste and recycling is appropriately managed.

(128) BASIX

All commitments listed in each relevant BASIX Certificate for the development must be fulfilled prior to any Occupation Certificate being issued.

Reason

To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under clause 75 EP&A Regulation 2021).

(129) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL

The following conditions apply to car parking:

- (a) The on-site car parking spaces are not to be used other than resident of the subject building for parking of vehicles related to residence in the unit with which the space is associated. No storage should take place for commercial businesses in car parking spaces.

- (b) The strata subdivision of the site is to include a restriction on user pursuant to Section 39 of the *Strata Schemes (Freehold Development) Act, 1973* as amended, so burdening all utility car parking allotments in the strata plan and/or an appropriate documentary restriction pursuant to Section 88B of the *Conveyancing Act 1919*, burdening all car parking part lots in the strata plan.

Reason

To ensure the on-site car parking spaces are not to be used other than by a resident of the building.

(130) RESTRICTION ON RESIDENTIAL DEVELOPMENT

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the building (levels 1-15) must be used as permanent residential accommodation only and not for the purpose of a boarding house or hostel, hotel or motel accommodation, serviced apartments, tourist and visitor accommodation or the like, other than in accordance with the Sydney Local Environmental Plan 2012.
- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from residential accommodation as defined in the Sydney Local Environmental Plan 2012. The covenant is to be registered on title prior to any Occupation Certificate being issued or the use commencing, whichever is earlier. The covenant must contain terms reasonably required by Council and will be drafted by Council's solicitor, at the cost of the applicant, in accordance with the City's Fees and Charges.
- (c) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (d) No person can advertise or organise the use of residential apartments approved under this consent for short term accommodation or share accommodation.

Reason

To ensure the residential accommodation portion of the site is used for permanent residential purposes.

(131) PRODUCTS BANNED UNDER THE BUILDING PRODUCTS (SAFETY) ACT 2017

- (a) No building products that are banned, or products that are subject to a ban if used in a particular way, under the Building Products (Safety) Act 2017 are to be used in the construction of the development approved in this development consent.
- (b) Prior to the issue of any Occupation Certificate, the principal certifier is to confirm that none of the building products used on the building are subject to a building product use ban under the Building Products (Safety) Act

2017 or, if a product is only subject to a ban if used in a particular way that it is not used in any way contrary to the Building Products (Safety) Act 2017.

Reason

To ensure that no banned products are used in the development.

PART F – OCCUPATION AND ONGOING USE

(132) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

Reason

To ensure the site is authorised for occupation.

(133) NOISE – COMMERCIAL PLANT / INDUSTRIAL DEVELOPMENT

- (a) Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA [Noise Policy for Industry 2017 \(NPfI\)](#) unless agreed to by the City's Area Planning Manager. Further:
 - (i) Background noise monitoring must be carried out in accordance with the long-term methodology in [Fact Sheet B](#) of the NPfI unless otherwise agreed by the City's Area Planning Manager.
 - (ii) Commercial plant is limited to heating, ventilation, air conditioning, refrigeration and energy generation equipment.

For internal residential and commercial amenity only

- (b) An $L_{Aeq,15\text{ minute}}$ (noise level) emitted from the development must not exceed the $L_{A90,15\text{ minute}}$ (background noise level) by more than 3dB when assessed inside any habitable room of any affected residence or noise sensitive commercial premises at any time. Further:
 - (i) The noise level and the background noise level must both be measured with all external doors and windows of the affected residence closed.
 - (ii) Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected premises.
- (c) Corrections in [Fact Sheet C](#) of the NPfI are applicable to relevant noise from the development measured in accordance with this condition, however duration corrections are excluded from commercial noise.

Reason

To protect the acoustic amenity of surrounding properties.

(134) CAR PARK VENTILATION

The car park must be ventilated in accordance with the *National Construction Code (previously known as Building Code of Australia)* and, where necessary, Australian Standard AS1668, Parts 1 and 2. Ventilation must be controlled by carbon monoxide monitoring sensors to ensure compliance with occupant health requirements.

Reason

To ensure car park ventilation complies with relevant standards

(135) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties.

Reason

To protect neighbouring properties.

(136) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

Reason

To protect the public way.

(137) WASTE AND RECYCLING COLLECTION – COMMERCIAL

- (a) Waste storage and the collection of waste and recycling must only occur during the designated zone collection times as outlined in the City's Waste Policy – Local Approvals Policy for Managing Waste in Public Places 2017.
- (b) Waste and recycling bins must not be placed on the street for collection. Services must be conducted within the property boundary or as a wheel-out/wheel-back service.
- (c) Unimpeded access must be provided for collection vehicles to set down within 10 metres of waste storage areas during zone collection times on collection days.

Reason:

To ensure that waste and recycling is appropriately managed.

SCHEDULE 2

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2021* apply:

- Clause 69 Compliance with *National Construction Code (previously known as Building Code of Australia)* and insurance requirements under the *Home Building Act 1989*
- Clause 70 Erection of signs
- Clause 71 Notification of *Home Building Act 1989* requirements
- Clause 72 Conditions relating to entertainment venues
- Clause 73 Conditions relating to maximum capacity signage
- Clause 74 Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 2 conditions of the *Environmental Planning and Assessment Regulation 2021*. This can be accessed at: <http://www.legislation.nsw.gov.au>

SCHEDULE 3

TERMS OF APPROVAL – WATER NSW

The Terms of Approval for Integrated Development as advised by Water NSW are as follows:

(138) GT0115-00001

Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.

(139) GT0116-00001

Before any construction certificate is issued for any excavation under the development consent, the applicant must:

- (a) Apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and
- (b) Notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity.

Advisory note:

- (i) An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity.
- (ii) A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.

(140) GT0117-00001

- (a) A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity.

Advisory note:

- (i) This approval is not a water access licence.
- (ii) A water year commences on 1 July each year.

- (iii) This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW.
- (iv) Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.

(141) GT0118-00001

- (a) If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must:
 - (i) Record water taken for which the exemption is claimed, and
 - (ii) Record the take of water not later than 24 hours after water is taken, and
 - (iii) Make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and
 - (iv) Keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124
 - a. Not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or
 - b. If WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.

(142) GT0119-00001

- (a) All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.

(143) GT0120-00001

- (a) The design and construction of the building must prevent:
 - (i) Any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation;
 - (ii) Obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure

to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and

- (iii) Any elevated water table from rising to within 1.0 m below the natural ground surface.

(144) GT0121-00001

- (a) Construction phase monitoring bore requirements GTA:
 - (i) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW.
 - (ii) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application.
 - (iii) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.

(145) GT0122-00001

- (a) Construction Phase Monitoring programme and content:
 - (i) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW):
 - a. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW.
 - b. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater;
 - c. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW;
 - d. QA: Include details of quality assurance and control
 - e. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories.

- (ii) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme).

(146) GT0123-00001

- (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW.
- (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW):
 - (i) All results from the Approved Monitoring Programme; and
 - (ii) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website.
- (c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/water-licensing/dewatering.

(147) GT0150-00001

- (a) The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual.

(148) GT0151-00001

- (a) Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

(149) GT0152-00001

- (a) This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

(150) GT0155-00001

- (a) The following construction phase monitoring requirements apply (Works Approval):
 - (i) The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW.
 - (ii) The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme).
 - (iii) The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report.

SCHEDULE 4

CONCURRENCE CONDITIONS – SYDNEY METRO

The concurrence conditions are advised by Sydney Metro are as follows:

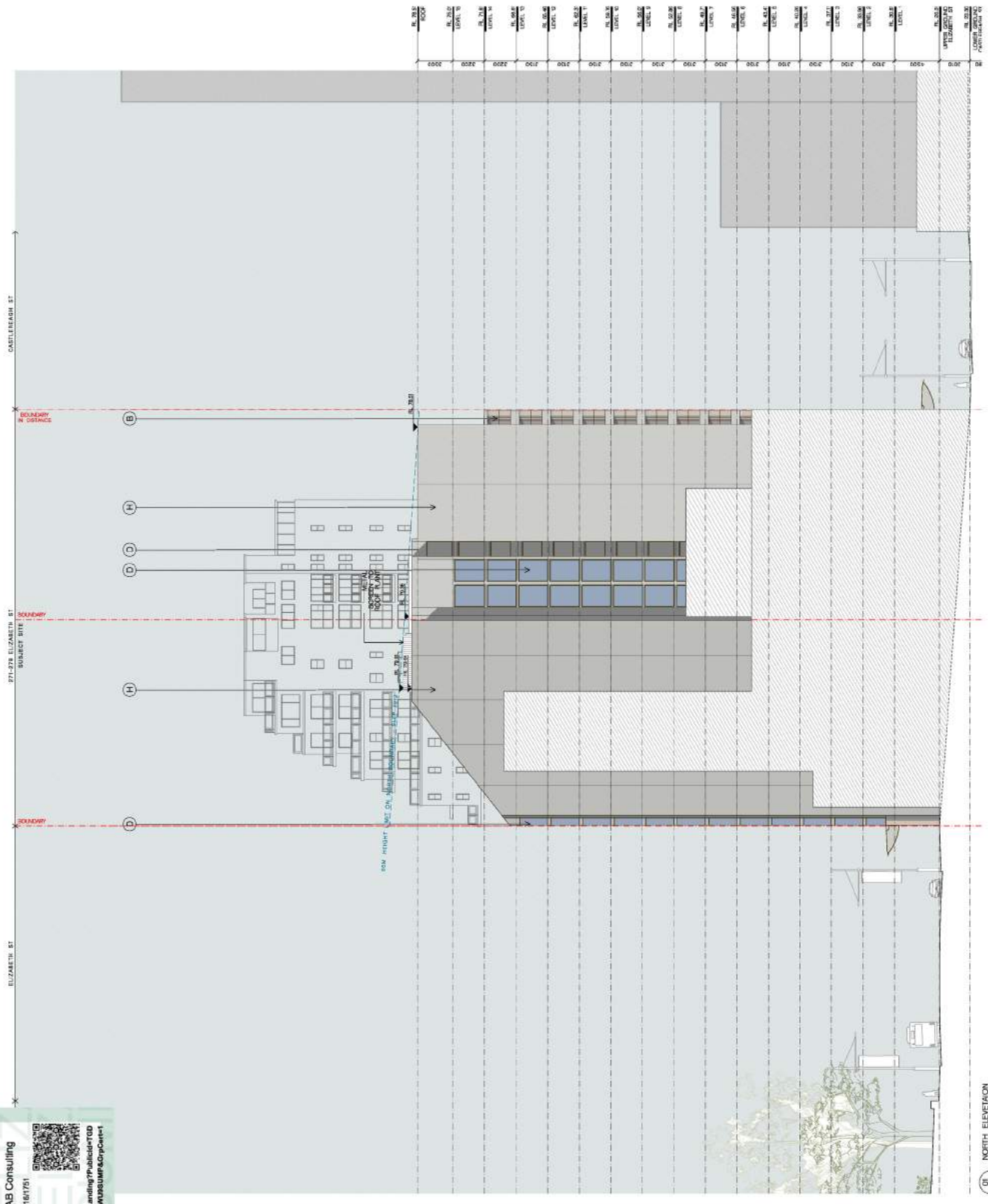
Attachment B

Selected Drawings

7.6 Average star rating
NATIONWIDE HOUSE
 www.nationwide.gov.au

Class 2 summary
 TGDWU9SUMP 27/02/2023

Assessor
 E-LAB Consulting
 Accreditation No. DMN161751
 Address
 771 Elizabeth St,
 Sydney, NSW, 2000
 https://www.e-lab.com.au/ContactUs/Details.aspx?ID=100
 W9SUMP&D=epc&e=1



01 NORTH ELEVATION

THE DEVELOPMENT APPLICATION PROCESS

PROJECT INFORMATION
 Project: 271 ELIZABETH ST
 271-273 ELIZABETH STREET & 282-286 CASTLEBRASH STREET, SYDNEY, NSW
 Client: CLEVER PARK PTY LTD
 1/008 ANSON ST, SYDNEY NSW 1588
 Tel: 02 9291 1217

APPLICANT INFORMATION
 Name: Mervyn Chalkias
 288 Jones Street
 Kings Cross Sydney NSW 1585
 Tel: 02 9291 1217

CONTRACT INFORMATION
 Contract No: DA - 1203
 Date: 15/02/2023

PLANNING SERVICES
 ICI ENGINEERING
 Level 10, 110 Clarence St
 Sydney NSW 2000
 Tel: 02 9291 1217

STRUCTURE & CIVIL
 ABUP
 Level 10, 110 Clarence St
 Sydney NSW 2000
 Tel: 02 9291 1217

TRADING SERVICES
 TPTP
 Level 10, 110 Clarence St
 Sydney NSW 2000
 Tel: 02 9291 1217

PLANNING
 PLANNING LAB
 City, Trade Development Services, 505
 Macquarie Ave, Sydney, NSW 2000
 Tel: 02 9291 1217

LANDSCAPE
 ASPECT
 Level 10, 110 Clarence St
 Sydney NSW 2000
 Tel: 02 9291 1217

HERITAGE
 HERBS
 Level 10, 110 Clarence St
 Sydney NSW 2000
 Tel: 02 9291 1217

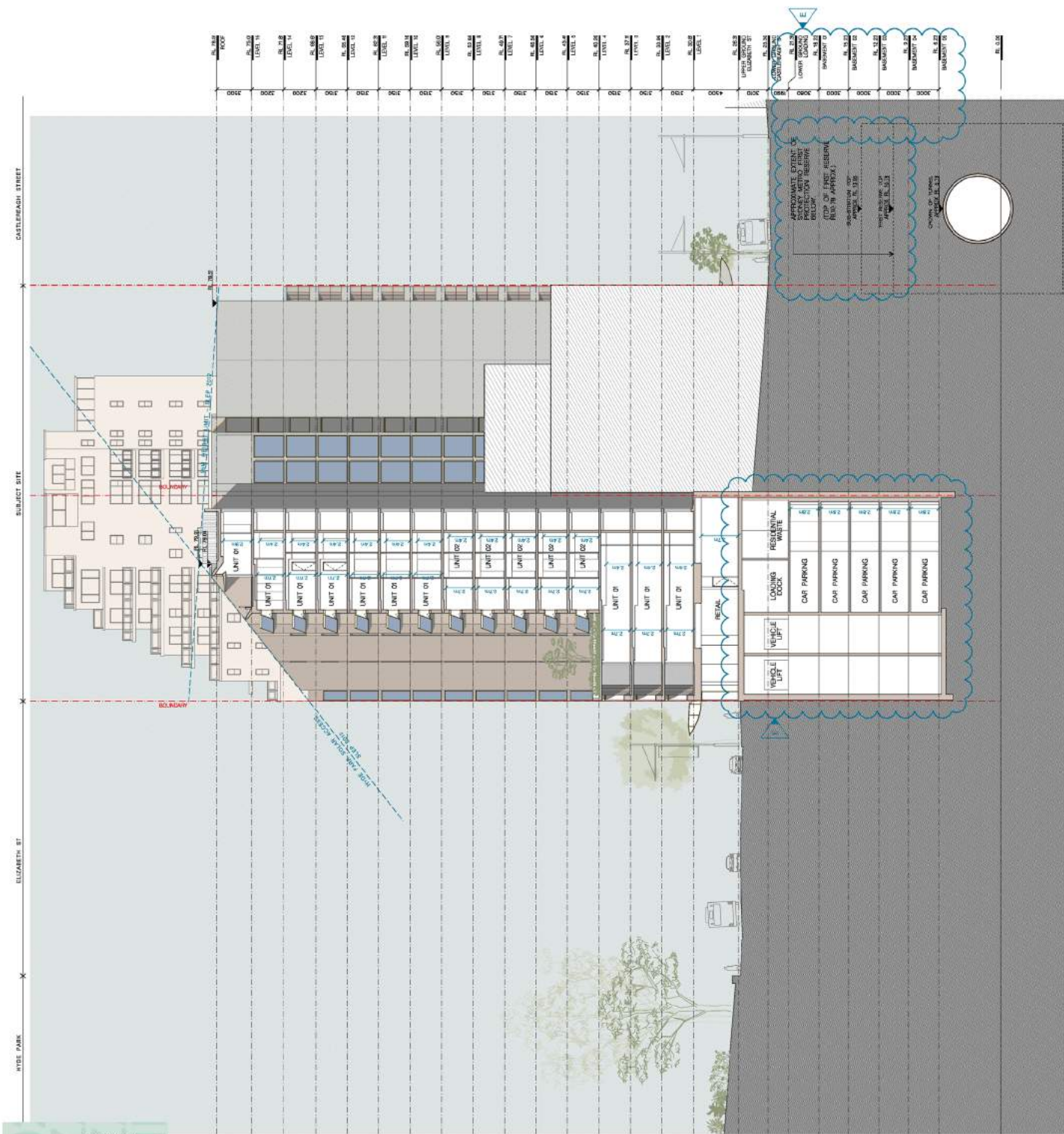
SOIL INVESTIGATION
 JENSEN HUGHES
 Level 10, 110 Clarence St
 Sydney NSW 2000
 Tel: 02 9291 1217

TRADING SERVICES
 TPTP ENGINEERING
 Level 10, 110 Clarence St
 Sydney NSW 2000
 Tel: 02 9291 1217

CONTRACT INFORMATION
 Contract No: DA - 1203
 Date: 15/02/2023

7.6 Average star rating
NATIONWIDE HOUSE
www.nationwidehouse.com.au

Class 2 summary
 TGDWU9SUMP 27/02/2023
 Assessor: E-LAB Consulting
 Accreditation No.: DMN161751
 Address: 771 Elizabeth St, Sydney, NSW, 2000
<https://www.e-lab.com.au/RC/Codes/auditing/75161751/TGDWU9SUMP&D=pc414>



<p>CLASSIFICATION CLASSIFICATION: CLASS 2 CLASSIFICATION CODE: 2</p>	<p>CLIENT CLIENT: CLIFTON PARK PTY LTD CLIENT ADDRESS: 271 ELIZABETH ST, SYDNEY NSW 2000 CLIENT CONTACT: 1800 000 000</p>	<p>PROJECT PROJECT: 271 ELIZABETH ST, 271-275 ELIZABETH STREET & 282-286 CASTLEBRACH STREET, SYDNEY NSW PROJECT ADDRESS: 271 ELIZABETH ST, SYDNEY NSW 2000 PROJECT CONTACT: 1800 000 000</p>	<p>DATE DATE: 27/02/2023</p>
<p>DESIGNER DESIGNER: TYN ENGINEERS DESIGNER ADDRESS: 1/111 GOSFORD ST, SYDNEY NSW 2000 DESIGNER CONTACT: 1800 000 000</p>	<p>ENGINEER ENGINEER: TYN ENGINEERS ENGINEER ADDRESS: 1/111 GOSFORD ST, SYDNEY NSW 2000 ENGINEER CONTACT: 1800 000 000</p>	<p>STRUCTURE & CIVIL STRUCTURE & CIVIL: ABUP STRUCTURE & CIVIL ADDRESS: 1/111 GOSFORD ST, SYDNEY NSW 2000 STRUCTURE & CIVIL CONTACT: 1800 000 000</p>	<p>PLANNING PLANNING: PLANNING LAB PLANNING ADDRESS: 1/111 GOSFORD ST, SYDNEY NSW 2000 PLANNING CONTACT: 1800 000 000</p>
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<p>VEHICLE LIFT VEHICLE LIFT: TYN ENGINEERS VEHICLE LIFT ADDRESS: 1/111 GOSFORD ST, SYDNEY NSW 2000 VEHICLE LIFT CONTACT: 1800 000 000</p>	<p>RESIDENTIAL WHITE RESIDENTIAL WHITE: TYN ENGINEERS RESIDENTIAL WHITE ADDRESS: 1/111 GOSFORD ST, SYDNEY NSW 2000 RESIDENTIAL WHITE CONTACT: 1800 000 000</p>	<p>RETAIL RETAIL: TYN ENGINEERS RETAIL ADDRESS: 1/111 GOSFORD ST, SYDNEY NSW 2000 RETAIL CONTACT: 1800 000 000</p>	<p>APPROXIMATE EXTENT OF PROJECT APPROXIMATE EXTENT OF PROJECT: TYN ENGINEERS APPROXIMATE EXTENT OF PROJECT ADDRESS: 1/111 GOSFORD ST, SYDNEY NSW 2000 APPROXIMATE EXTENT OF PROJECT CONTACT: 1800 000 000</p>

Document is Restricted

Item 5.**Development Application: 330 Botany Road, Alexandria - D/2021/1484**

File No.: D/2021/1484

Summary

Date of Submission: 20 December 2021. Amended plans and additional information were submitted up until 29 May 2023.

Applicant/Developer/Owner: City West Housing Pty Limited

Architect: SJB Architects

Planning Consultant: Ethos Urban

Cost of Works: \$119,609,875

Zoning: Zone E3 Productivity Support

Proposal Summary: **Proposal**

The subject development application (DA) seeks consent for:

- a concept building envelope for a mixed-use development;
- a vehicle access location from the new Green Square to Ashmore Connector Road (GS2AC); and
- indicative uses including:
 - lower ground level and basement parking, services, storage and commercial uses
 - ground level commercial uses, residential apartments for the purpose of providing affordable housing and common open space and
 - residential apartments for the purpose of providing affordable housing and common open spaces on the levels above.

Assessment

Over the course of the assessment the proposal has been amended to reduce the height of the envelope, respond to existing and approved setbacks along Botany Road and to minimise overshadowing to neighbouring residential properties.

Additional information has been submitted including on remediation, site-specific flood assessment, overshadowing analysis and an amended public benefit offer.

Conditions are recommended that require minor modifications to the envelope drawings to accurately illustrate easements that affect a portion of the site at its north-west corner and deep soil zones.

Conditions are also recommended that require further investigation of unresolved issues through the competitive design and subsequent design development processes. These conditions pertain to the achievement of natural ventilation and classified road noise mitigation, natural cross ventilation, improvement of the public domain interface with the Green Square to Ashmore Connector Road and to the equitable distribution of common open space across the site. These requirements may result in a reduced apartment yield for the development, however, design solutions to offset any impacts to yield may be explored through future competitive and detailed design processes.

The concept proposal and design excellence strategy establish an envelope and suitable parameters for a future competitive design process. Subject to the recommended conditions, the envelope can accommodate a detailed building design of appropriate height, bulk and scale, that responds to the character of the area and which is capable of achieving design excellence.

Notification

First exhibition period - the subject DA was publicly exhibited for 28 days from 9 February to 10 March 2022. In response to the public exhibition of the application, one enquiry about accessing DA documents was received, but it did not raise any substantive issues about the proposal.

Second exhibition period - following DA amendments to increase the bulk of the proposed envelope the amended application documents were publicly exhibited for 14 days (and which was extended over the holiday period) from 21 December 2022 to 26 January 2023. No submissions were received.

Third exhibition period - following further DA amendments to the proposed envelope the amended application documents were publicly exhibited for 14 days from 27 April to 12 May 2023. No submissions were received.

Voluntary Planning Agreement

The owner of the site has made a formal offer to enter into a Voluntary Planning Agreement (VPA) with the City.

The VPA will provide for the delivery of community infrastructure as follows:

- dedication of transfer land comprising a 2.4m wide strip of land along the site frontage to O'Riordan Street, a 0.5m wide strip of land along the site frontage to the new GS2AC Road and a 1.4m wide strip of land along the site frontage to Botany Road;
- embellishment of the transfer lands for footpath widening and associated works with a value of \$192,930.40 and
- payment of \$4,399,987.60 as a monetary contribution towards the provision of community infrastructure in Green Square.

The draft VPA is required to be publicly exhibited for 28 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Consent Authority

The proposed development has an estimated cost of works more than \$50 million and is therefore required to be determined by the Central Sydney Planning Committee (CSPC).

Summary Recommendation: It is recommended that authority be delegated to the Chief Executive Officer to determine the application, following the conclusion of the public exhibition of the Voluntary Planning Agreement, and considering any public submissions received in response.

Consideration should be given to granting deferred commencement consent requiring the Voluntary Planning Agreement to be executed prior to the consent becoming operative and subject to the recommended conditions contained in this report.

- Development Controls:**
- Sydney Local Environmental Plan 2012
 - Sydney Development Control Plan 2012
 - SEPP (Biodiversity and Conservation) 2021
 - SEPP (Building Sustainability Index: BASIX) 2004
 - SEPP (Housing) 2021
 - SEPP No 65 - Design Quality of Residential Apartment Development
 - SEPP (Resilience and Hazards) 2021
 - SEPP (Transport and Infrastructure) 2021

- Attachments:**
- A - Recommended Conditions of Consent
 - B - Draft Plan of Subdivision
 - C - Envelope Drawings
 - D - Reference Scheme Drawings
 - E - Public Benefit Offer
 - F - Design Excellence Strategy
 - G - Sydney Airport Controlled Activity Approval
 - H - Sydney Water Response Letter

Recommendation

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer to determine Development Application No. D/2021/1484, following the conclusion of the public exhibition of the draft Voluntary Planning Agreement and considering any public submissions received in response;
- (B) authority be delegated to the Chief Executive Officer to determine whether the Design Excellence Strategy for 330-332 Botany Road, Alexandria, prepared by Ethos Urban on behalf of City West Housing and dated 17 May 2023, as shown at Attachment F to the subject report, ought to be approved pursuant to Section 3.3.1 of the Sydney Development Control Plan 2012 and Section 1.2 of the Competitive Design Policy; and
- (C) if the Chief Executive Officer determines to approve the application, consideration be given, pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, to granting deferred commencement consent to Development Application No. D/2021/1484 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The concept proposal is for a building envelope for a mixed-use development including commercial uses and residential apartments for the purpose of providing affordable housing. The proposal secures public benefits comprising land dedication and embellishment works for footpath widening and payment of a monetary contribution towards community infrastructure provision in Green Square. The mixed-use development contains shop-top housing for the purposes of affordable housing and may be carried out on the land which is identified as "Business Area" on the Locality and Site Identification Map and in accordance with the provisions contained at clause 7.13A of the Sydney Local Environmental Plan 2012.
- (B) The proposed envelope complies with the 33m to 40m height controls pursuant to clause 4.3 and are capable of accommodating development that complies with the floor space ratio controls pursuant to clauses 4.4, 6.14 and 6.21D of the Sydney Local Environmental Plan 2012.
 - (i) The concept proposal is capable of satisfying the relevant objectives of the Sydney Development Control Plan 2012.
 - (ii) The concept proposal and Design Excellence Strategy establish a concept building envelope and suitable parameters for a competitive design process. Subject to the recommended conditions, the proposed envelopes can accommodate a detailed building design of an appropriate bulk and scale, that responds to the character of the area, and which is capable of achieving design excellence.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 10 DP 1247504, known as 330 Botany Road, Alexandria. It is irregular in shape with area of 6708 sqm. It has a frontage of 61.555m to Botany Road to the east, a frontage of 129.685m to the future Green Square to Ashmore Connector (GS2AC) Road, which is currently under construction, to the south and a frontage of 29.925m to O'Riordan Street to the west.
2. Levels on the site fall from the south-east corner (RL 14.782) to its south-west corner (RL 10.687) by 4.095m.
3. The previously existing warehouse buildings were demolished, except for a remnant wall structure that extends part way along its northern site boundary. The site is otherwise clear of buildings and is covered by low scrubby vegetation.
4. A right of carriageway 3.66m wide affects the north-west corner of the site and benefits the adjacent property to the north at 18 O'Riordan Street. Other easements affect the site including an easement to drain water 0.55m wide and which runs along the northern boundary with 18 O'Riordan Street.
5. Adjacent to the north at 326-328 Botany Road is a low-rise warehouse building. Adjacent to the north and north-west, are two recently constructed 8 storey hotel developments at 16 and 18 O'Riordan Street.
6. On the opposite, eastern side of Botany Road are currently vacant, future development sites. These are known as site's 8A and 8B in the Green Square Town Centre and are located at 377-495 Botany Road, Zetland.
7. On the opposite south-eastern corner of the intersection of Botany Road and Geddes Avenue is a development site (known as the 'Bridgehill' site) at 499 Botany Road, where three mixed-use buildings up to a height of 15 storeys are currently under construction.
8. Immediately to the south of the site is a parcel of land that is the site of the future Green Square to Ashmore Connector (GS2AC) and which is currently under construction.
9. Further south of the GSAC Road is the property (known as the St George Community Housing site) at 338 Botany Road, which is owned by the City but is the subject of a concept consent [D/2019/87 (as amended)] for an envelope for a mixed-use development comprising commercial uses and residential apartments for the purpose of providing affordable housing.
10. On the southern side of the GS2AC Road and west of the property at 338 Botany Road is the property known as the 'Markham' site or 22 O'Riordan Street and which contains a one to two storey warehouse building. This building previously accommodated a car showroom and repair workshop. Development consent [D/2021/529 (as amended)] was granted for a commercial building up to six storeys in height, associated road widening, a through site link and landscaping on this site.
11. On the opposite, western side of O'Riordan Street are several two-storey office buildings.

12. The site is not identified as containing a heritage item. It is not in the vicinity of a heritage item, and it is not located within a heritage conservation area.
13. The site is located within the locality of North Alexandria, which is within both the Green Square urban renewal area and the Southern Enterprise Area. Its Botany Road frontage is within the Village Main Streets signage zone. The site is subject to flooding.
14. A site visit was carried out on 9 April 2022. Photos of the site and surrounds are below.

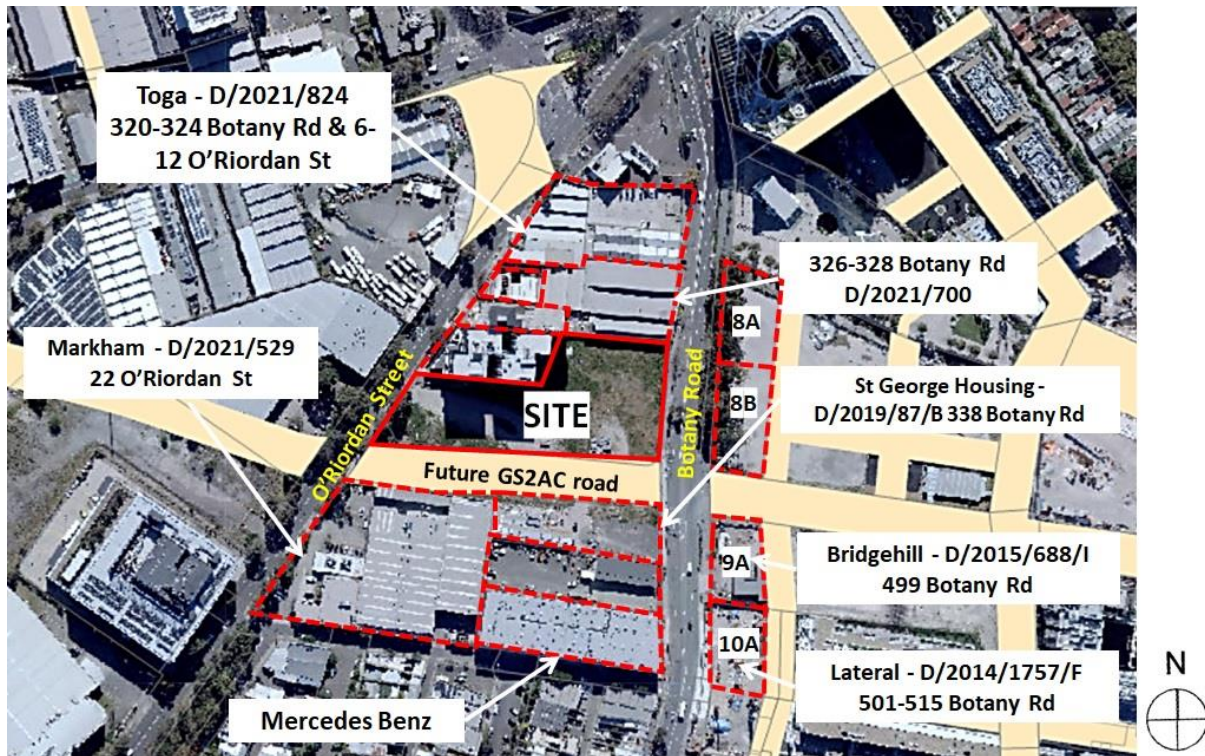


Figure 1: Aerial view of site and surrounds.



Figure 2: Botany Road frontage of St George Community Housing site, GS2AC Road and subject site.



Figure 3: Botany Road frontage of future GS2AC Road.



Figure 4: Frontage of subject site to future GS2AC Road and which is currently under construction (viewed from its eastern end, looking west).



Figure 5: View from south-east corner of subject site to the east along Geddes Avenue.



Figure 6: Botany Road frontage of subject site.



Figure 7: Botany Road frontage of subject site, looking south along Botany Road.

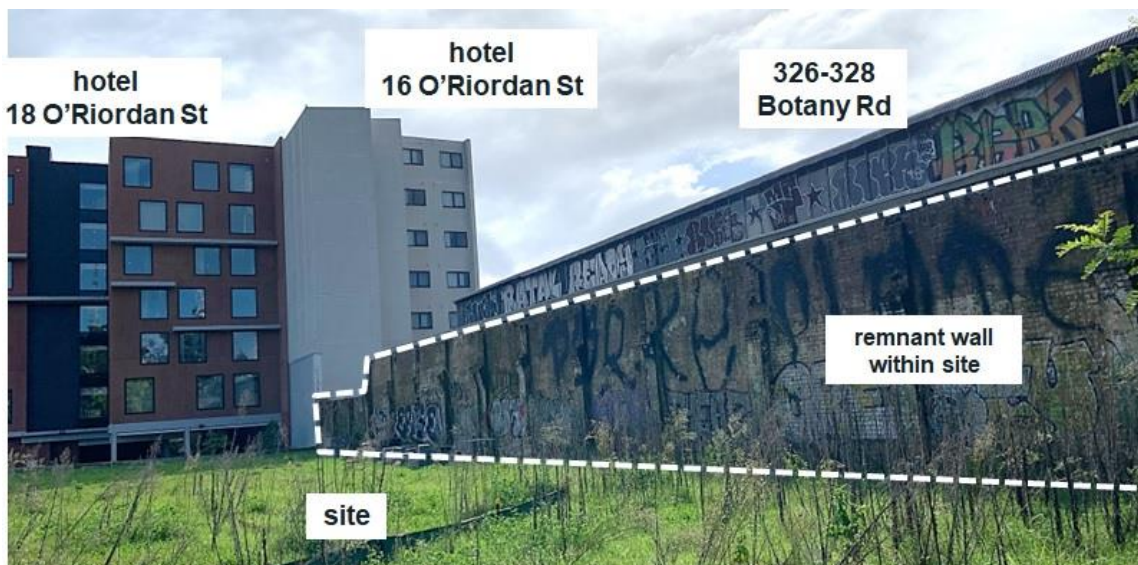


Figure 8: Remnant wall that extends along part of northern boundary of subject site.



Figure 9: Property at 326-328 Botany Road adjacent to the north of the subject site.



Figure 10: View to sites 8A-8D in the Green Square Town Centre on the eastern side of Botany Road.



Figure 11: View to Bridgehill mixed use development site at 499 Botany Road.



Figure 12: View to Lateral mixed use development site at nos. 501-515 further south on Botany Rd.



Figure 43: Frontage of the Markham commercial development site at 22 O'Riordan Street.



Figure 14: The future GS2AC Road and subject site frontage to O'Riordan Street.



Figure 15: Frontage of subject site to future GS2AC Road and which is currently under construction (viewed from its western end, looking east).



Figure 56: Hotel development at 18 O’Riordan St. adjacent to the north of the subject site.



Figure 17: View from subject site to the south along O’Riordan Street.

History Relevant to the Development Application

History of the Subject Site

15. D/2011/1855 – On 12 December 2011 development consent was granted for alterations and additions to an existing warehouse building and for the use of the ground and first floors for office and warehouse uses.
16. D/2012/1491 – On 19 November 2012 development consent was granted for the fit out of the ground floor, mezzanine and part of the first floor of the existing industrial warehouse building for temporary light industrial use for the period 1 November 2012 to 3 March 2013.
17. Planning Proposal: Minor Policy and Housekeeping Amendment to Sydney Local Environmental Plan 2012 -
 - (a) On 30 November 2017 and 11 December 2017 respectively, the Central Sydney Planning Committee (CSPC) and the Council approved the Planning Proposal to amend the Floor Space Ratio (FSR) Map to reflect the redistribution of floor space to the individual development parcels to be created upon the subdivision of Council owned sites at:
 - (i) 94-104 Epsom Road (Epsom Road Depot) and 132-140 Joynton Avenue (Gunyama Park and Aquatic Centre), Zetland; and
 - (ii) 330-338 Botany Road and 20 O’Riordan Street, Alexandria, located along the GS2AC Road.
 - (b) These revised controls came into force once the site was subdivided and other requirements were addressed.
18. D/2017/1341 – On 13 June 2018 development consent was granted for consolidation and subdivision of four existing lots in two stages:
 - (a) Stage 1 to create 4 new lots - two for use as Affordable Housing Developments, one for a future road (Lot 11) and one as a small residual lot to be transferred; and
 - (b) Stage 2 to dedicate Lot 11 as public road.
19. S/2018/58 – On 21 December 2018 subdivision certificates were issued for subdivision into four lots.

History of Adjacent Sites

326-328 Botany Road

20. D/2019/657 – On 11 December 2019, deferred commencement development consent was granted for a concept building envelope for commercial uses and public domain improvement works including land dedication. An associated VPA was executed and registered on title and the consent made operative on 16 November 2020.
21. CMP/2019/6 - From August to September 2020 a competitive design alternatives process was undertaken. Three architectural firms participated being MHNDU, WMK and Cox Architecture. Cox Architecture’s submission was selected as the winning design.

22. D/2021/700 - On 26 September 2022, deferred commencement development consent was granted for demolition of existing structures, excavation, remediation, subdivision and construction of a commercial building including basement car-parking, vehicle access from Botany Road, land dedications and embellishment works for footpath widening to its O'Riordan Street and Botany Road frontages. This consent has not been made operative at the present time.

16 O'Riordan Street

23. D/2013/1871 - On 29 July 2014, deferred commencement consent was granted for demolition of the existing factory and workshop and construction of an 8-storey building for use as hotel accommodation containing 100 rooms, foyer, managers flat, staff amenity area and ground level car and bicycle parking and public domain improvement works including land dedication. An associated VPA was executed and registered on title and the consent made operative on 14 April 2015. Construction of the approved hotel was completed in 2018.

18 O'Riordan Street

24. D/2015/1734 - On 24 October 2016, deferred commencement consent was granted for demolition of an existing car service centre, site remediation and construction and use of an 8-storey hotel containing 142 guest rooms, lobby lounge, bar/café, conference/function room, kitchen facilities, gymnasium, ancillary office and staff break out areas and ground level car and bicycle parking and public domain improvement works including land dedication. An associated VPA was executed and registered on title and the consent made operative on 22 December 2017. Construction of the approved hotel was completed in 2020.

22 O'Riordan Street (Markham)

25. D/2019/686 – On 25 September 2020, deferred commencement consent was granted for a concept building envelope for commercial use, including future footpath widening, landscaping and through-site link. An associated VPA was executed and registered on title and the consent made operative on 25 September 2020.
26. CMP/2019/8 - From 7 September and 19 October 2020 a competitive design alternatives process was undertaken. Three architectural firms participated being Fitzpatrick and partners, Sissons and Hassell. Hassell's submission was selected as the winning design.
27. D/2021/529 – On 11 November 2021, development consent was granted for the detailed design of a commercial building, road widening, through-site link, landscaping, and a signage strategy. This consent has not been acted upon. The site currently contains a one to two storey former car sales showroom and repair workshop.

338 Botany Road (St George Community Housing)

28. D/2019/87 – On 12 July 2021, deferred commencement development consent was granted for a 33m high concept building envelope with indicative retail, office and affordable residential housing uses. An associated VPA was executed and registered on the title of the land and the consent made operative on 17 March 2020.
29. CMP/2019/2 – From 10 August to 18 September 2020 a competitive design alternatives process was carried out for the site. Three architectural firms participated being DKO, Smith & Tzannes and Chenchow Little. Chenchow Little's submission was selected as the winning design.

499 Botany Road (BridgeHill)

30. The BridgeHill site is within the Green Square Town Centre and is subject to the site-specific provisions of the Sydney LEP (Green Square Town Centre - Stage 2) 2013. As such it was not required to undergo a staged DA process.
31. D/2015/688 – On 15 August 2016 deferred commencement consent was granted for construction of a 16-storey mixed use development containing 130 dwellings and five retail tenancies. An associated VPA was executed and registered on the title of the land and the consent made operative on 21 December 2016.

377-495 Botany Road, Zetland (GSTC sites 8A and 8B)

32. On the opposite, eastern side of Botany Road are the currently vacant future development sites 8A and 8B and which are located in the Green Square Town Centre.
33. The Green Square Town Centre DCP 2012 provides indicative built form massing of up to 24 storeys on the northern site (8A) and up to 17 storeys on the southern site (8B).

Compliance Action

34. There are no compliance actions relevant to the site.

History of the Subject DA

Pre-DA consultation

35. The applicant engaged with council officers in pre-DA consultations during the period February to November 2021. This involved several submissions of preliminary plans and other information, meetings and written correspondence.
36. Over the course of these pre-DA consultations, Council Officers issued advice about:
 - (a) the need for a staged (concept) DA process;
 - (b) community infrastructure provision and VPA processes;
 - (c) application of LEP cl. 7.13A Affordable housing in Business Area;
 - (d) additional height or FSR available through the competitive design process;
 - (e) how to obtain flood models from the City;
 - (f) contamination, remediation, acid sulfate soils;
 - (g) tree management;
 - (h) flood planning;
 - (i) above ground parking;
 - (j) street frontage height, articulation and tall buildings;
 - (k) setbacks, active frontages and footpath awnings;
 - (l) providing acoustic privacy and natural ventilation;

- (m) solar access and overshadowing requirements;
- (n) deep soil, common open space and landscaping;
- (o) waste management;
- (p) public art; and
- (q) DA documentation and submission requirements.

Post-lodgement

37. The subject concept DA was lodged on 20 December 2021.

Advice of the Design Advisory Panel (DAP)

38. The proposal was presented to DAP on 5 May 2022.

39. Issues discussed by DAP included:

- (a) concern that numerous issues have not been adequately addressed including, but without being limited to, the siting and location of envelopes and setbacks, building separation, level change issues and public domain encroachments to the GS2AC Road, orientation of the open space framework and solar access to communal open space;
- (b) analysis of overshadowing impacts to adjacent properties must be undertaken to inform the proposed concept envelope;
- (c) the setback on Botany Road needs to be consistent with recently approved buildings to the north;
- (d) public domain improvements are supported, however flood planning levels must be resolved;
- (e) the stairs and raised walkway running along the frontage to the new GS2AC Road and encroachments into the public domain setback to this frontage are unacceptable;
- (f) the reference scheme appears to breach the proposed building envelope and comprises many single orientation apartments to Botany Road with poor amenity;
- (g) neighbouring buildings (already built and / or approved) would overshadow the ground level common open space throughout the day. More thought regarding solar access and an in-depth shadow assessment is required; and
- (h) public art and strategies for landscaping and open space provision are questioned.

Post-lodgement (continued)

40. Following receipt of the above DAP advice, Council Officers sent a comprehensive issues letter to the Applicant making recommendations as to how various problems with the proposed development concept might be addressed.

41. Issues identified in the letter are summarised as follows:
 - (a) problems with the envelope and reference scheme drawings;
 - (b) minor non-compliances with the height controls;
 - (c) flood planning;
 - (d) contamination and remediation;
 - (e) landscaping and tree management;
 - (f) siting, separation and setbacks;
 - (g) through site links and site permeability;
 - (h) ADG and DCP requirements pertaining to overshadowing and solar access, acoustic privacy and natural ventilation, and private open space, common open space and deep soil;
 - (i) vehicle access, bicycle and car-parking;
 - (j) waste management;
 - (k) the design excellence strategy and ESD target benchmarks; and
 - (l) public art.
42. In response to issues raised by Council Officers, the Applicant provided amended DA documentation during the period between mid-December 2022 and the beginning of February 2023.
43. Following an assessment of the amended DA information Council Officers sent a second issues letter to the Applicant making recommendations as to how outstanding concerns with the proposed development concept might be addressed.
44. Issues identified in this second letter are summarised as follows:
 - (a) overshadowing and solar access;
 - (b) landscaping; and
 - (c) the design excellence strategy and ESD target benchmarks.
45. In response to issues raised by Council Officers, the Applicant provided further amended DA documentation from April to the end of May 2023.
46. The final submitted amendments and additional information are summarised as follows:
 - (a) Revised envelope and reference scheme drawings;
 - (b) an arborists report;
 - (c) revised remediation action plan and interim audit advice;

- (d) revised acoustic report;
 - (e) revised natural ventilation report;
 - (f) preliminary public art plan;
 - (g) revised flood report;
 - (h) revised waste management plan;
 - (i) revised ESD report;
 - (j) revised traffic and parking assessment;
 - (k) revised design excellence strategy;
 - (l) revised landscape concept plan;
 - (m) detailed solar access and overshadowing report and supporting analysis information; and
 - (n) revised digital and physical models.
47. The final concept DA as amended by submission of the revised drawings and additional information summarised above is the subject of this assessment report.

Proposed Development

48. The subject DA seeks consent for:
- (a) a concept building envelope for a mixed-use development, with indicative future land uses comprising:
 - (i) lower ground level and basement parking, services, storage and commercial uses
 - (ii) ground level commercial uses, residential apartments for the purpose of providing affordable housing and common open space
 - (iii) residential apartments for the purpose of providing affordable housing and common open spaces on the levels above
 - (iv) Note: the reference scheme comprises commercial tenancies with a total gross floor area of 1553 sqm and 253 residential apartments.
 - (b) a vehicle access location from the new Green Square to Ashmore Connector Road (GS2AC);
49. The submitted design excellence strategy sets out a competitive design process for the site and specifies that up to 10% additional floor space is sought in accordance with the design excellence provisions contained in clause 6.21D of the LEP. Subject to the achievement of design excellence through competitive design processes and in a subsequent DA for the detailed design of the building, the proposed development may be able to achieve up to 10% additional floor space.

50. The owner of the site has made a written offer to Council to enter into a Voluntary Planning Agreement (VPA) that is consistent with the infrastructure requirements as specified in the Sydney DCP 2012. The draft VPA that has been prepared in association with the subject development application provides for the following public benefits:
- (a) dedication of transfer land comprising:
 - (i) a 2.4m wide strip of land along the site frontage to O'Riordan Street;
 - (ii) a 0.5m wide strip of land along the site frontage to the new GS2AC Road; and
 - (iii) a 1.4m wide strip of land along the site frontage to Botany Road;
 - (b) embellishment of the transfer lands for footpath widening and associated works with a value of \$192,930.40; and
 - (c) payment of \$4,399,987.60 as a monetary contribution towards the provision of community infrastructure in Green Square.
51. Drawings of the reference scheme have been lodged with the application to demonstrate how a detailed building design may be able to be configured within the proposed concept envelopes. These reference scheme drawings are not approved as part of any consent granted and are for assessment purposes only.
52. Drawings of the proposed development are provided below.

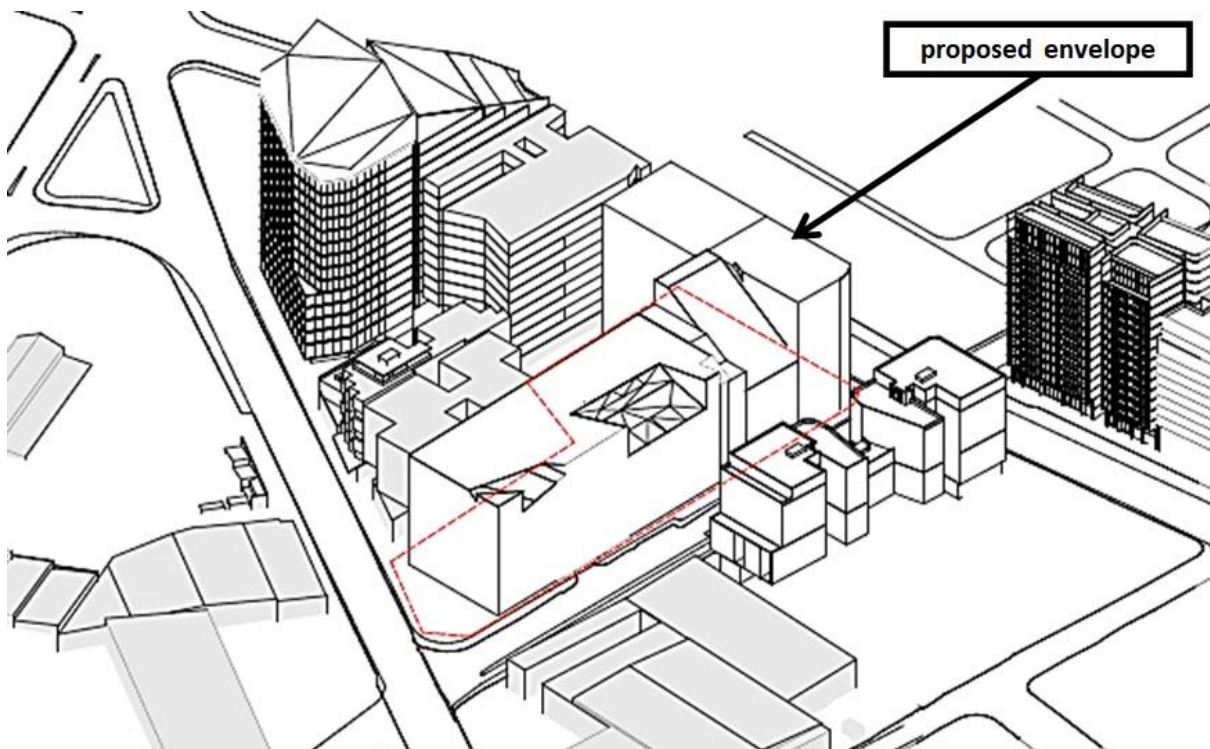


Figure 18: Axonometric drawing of proposed envelope.

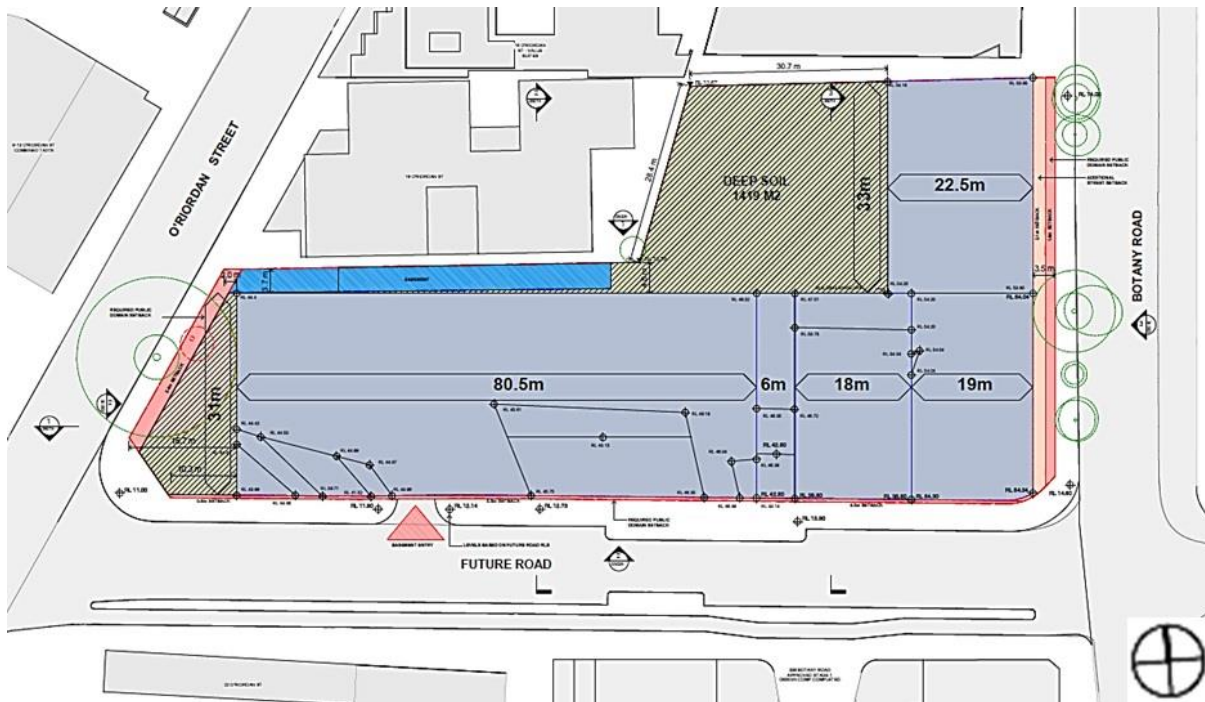


Figure 19: Envelope - plan.

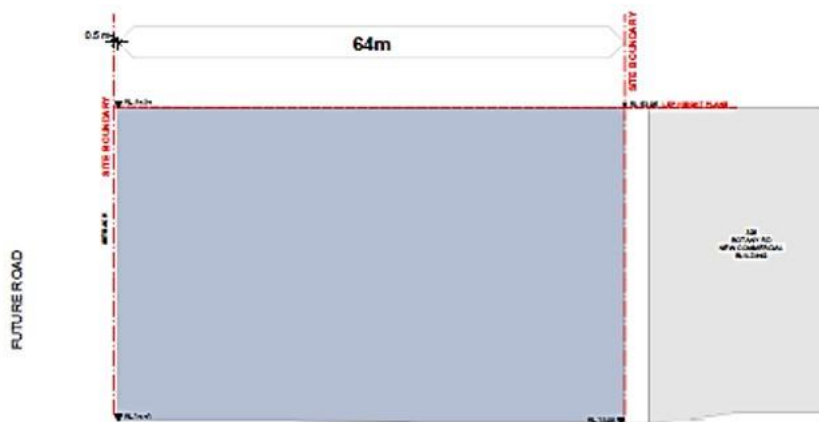


Figure 20: Envelope - east elevation.

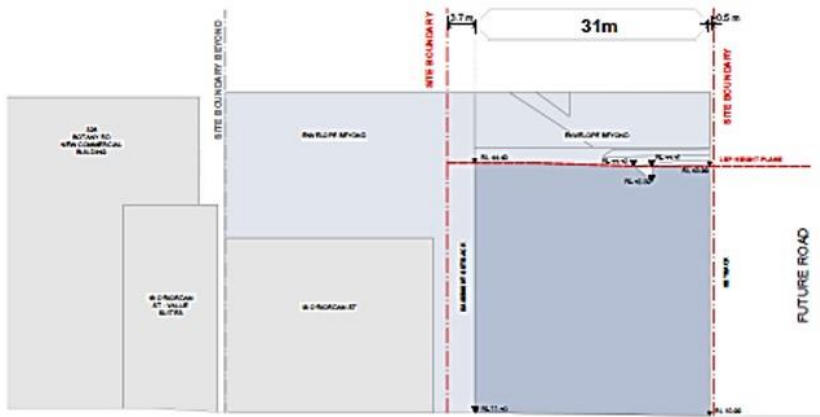


Figure 21: Envelope - west elevation.

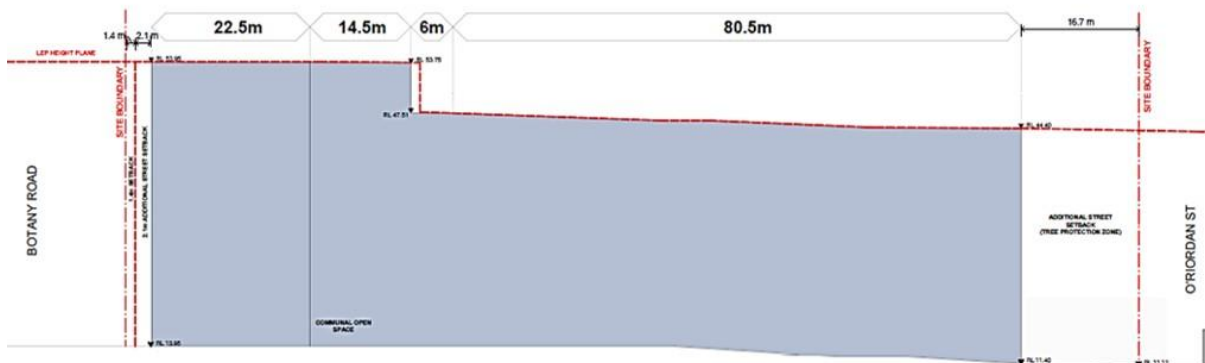


Figure 22: Envelope - north elevation.

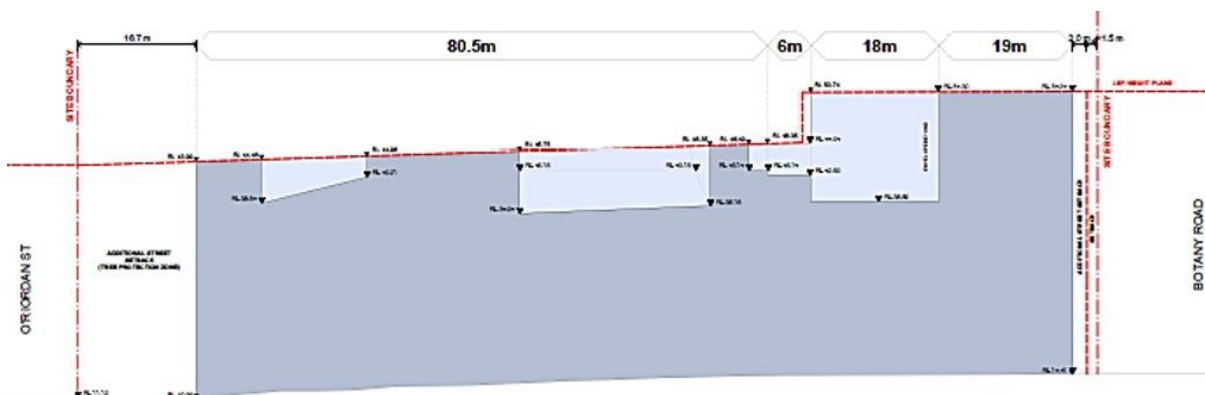


Figure 23: Envelope - south elevation.

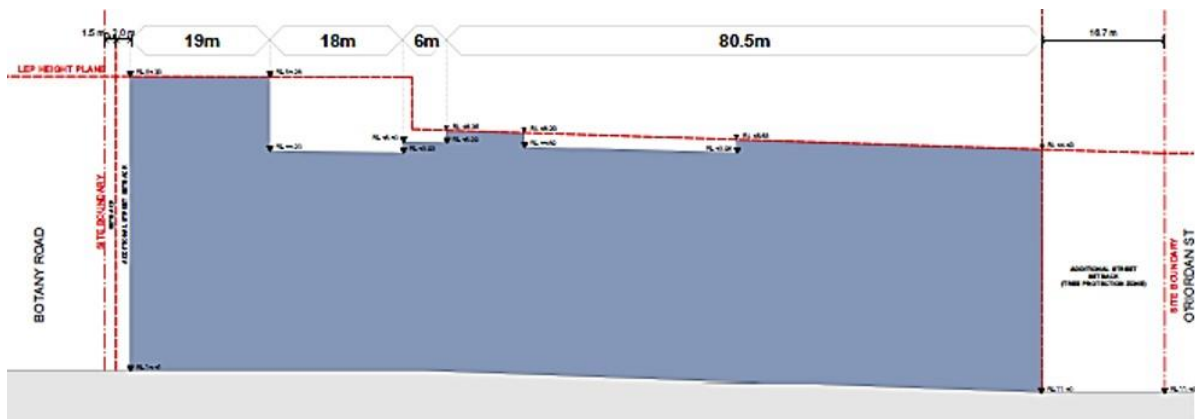


Figure 24: Envelope - section 01.

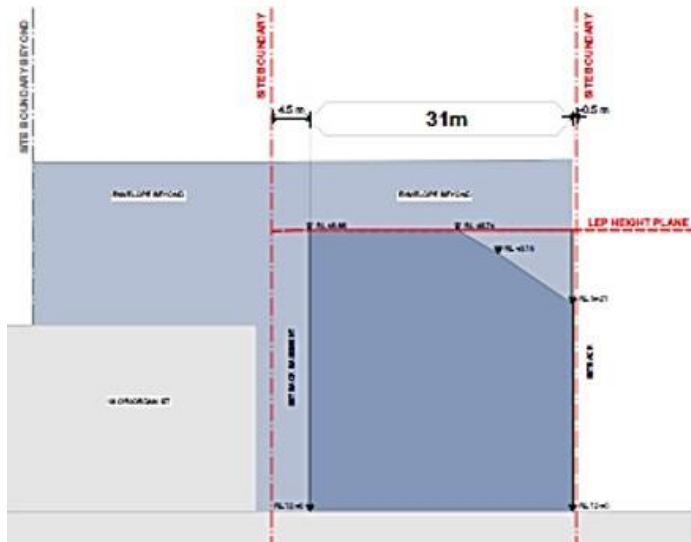


Figure 25: Envelope - section 02.

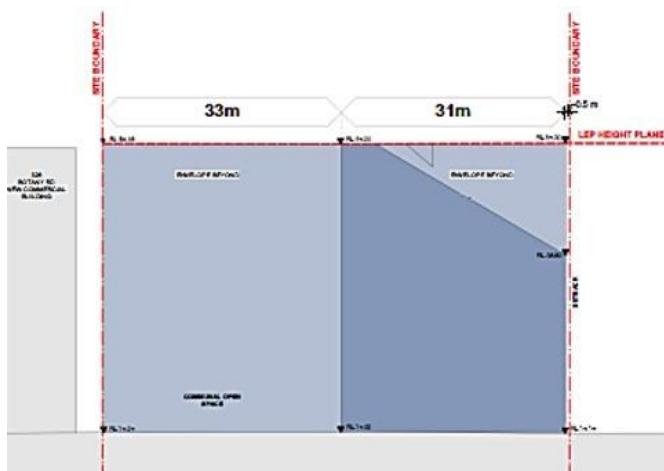


Figure 26: Envelope - section 03.

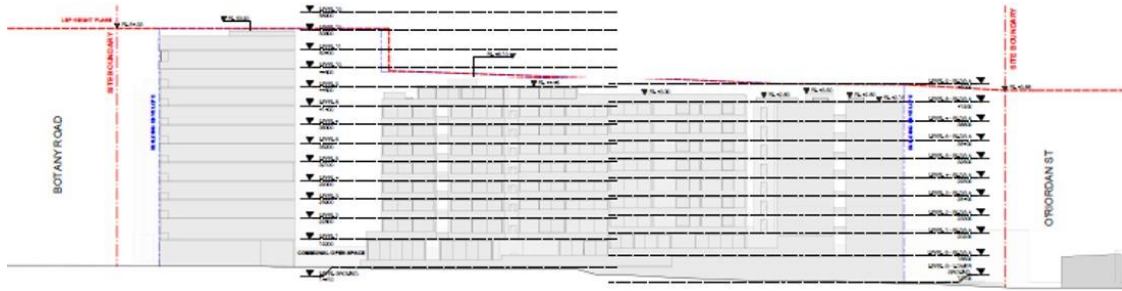


Figure 27: Reference scheme - north elevation.

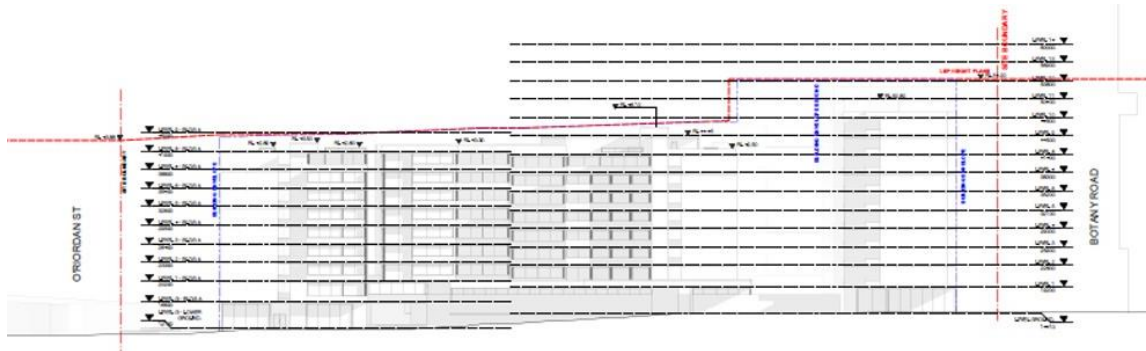


Figure 28: Reference scheme - south elevation.

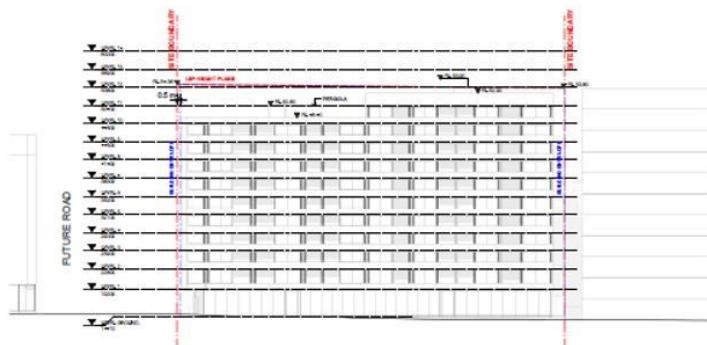


Figure 29: Reference scheme - east elevation.

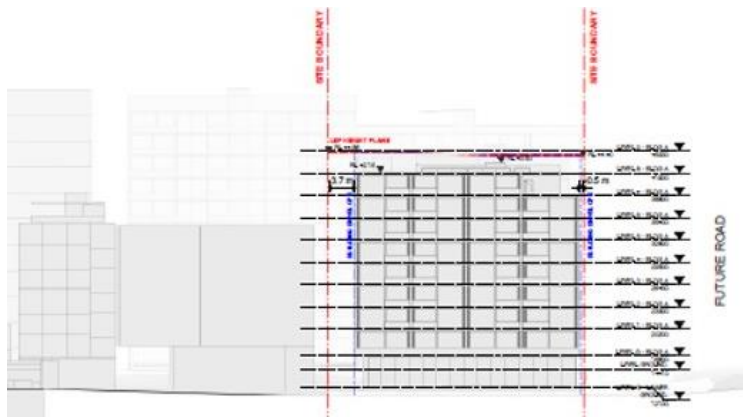


Figure 30: Reference scheme - west elevation.

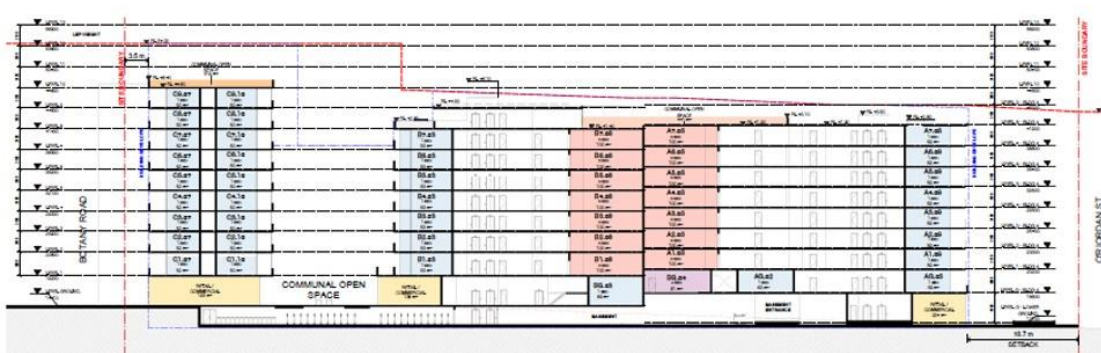


Figure 31: Reference scheme - section east-west.



Figure 32: Reference scheme - section north-south.

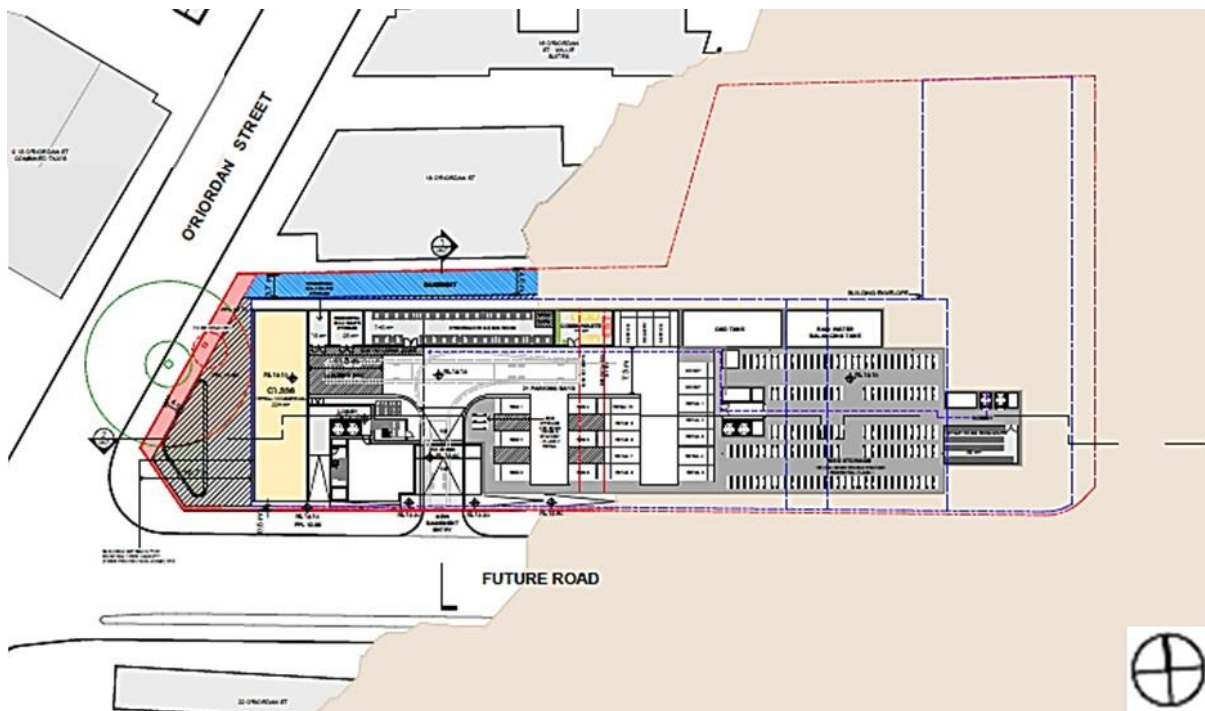


Figure 33: Reference scheme - lower ground level plan.

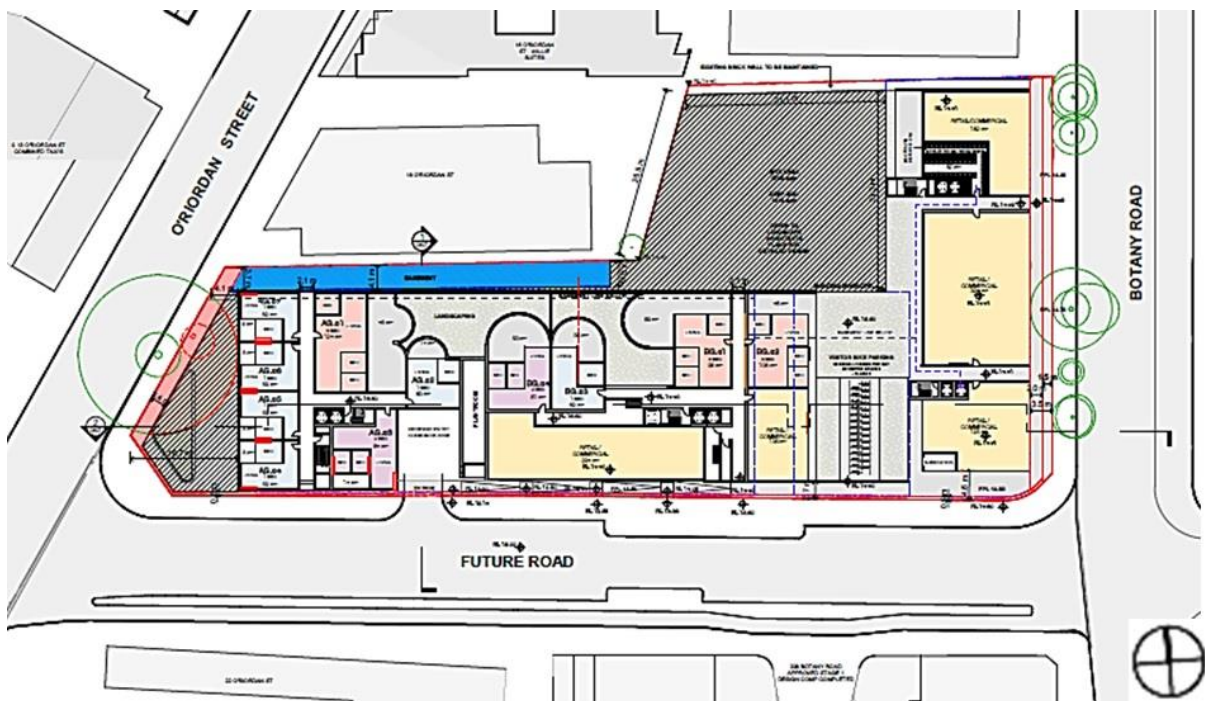


Figure 34: Reference scheme - ground level plan.

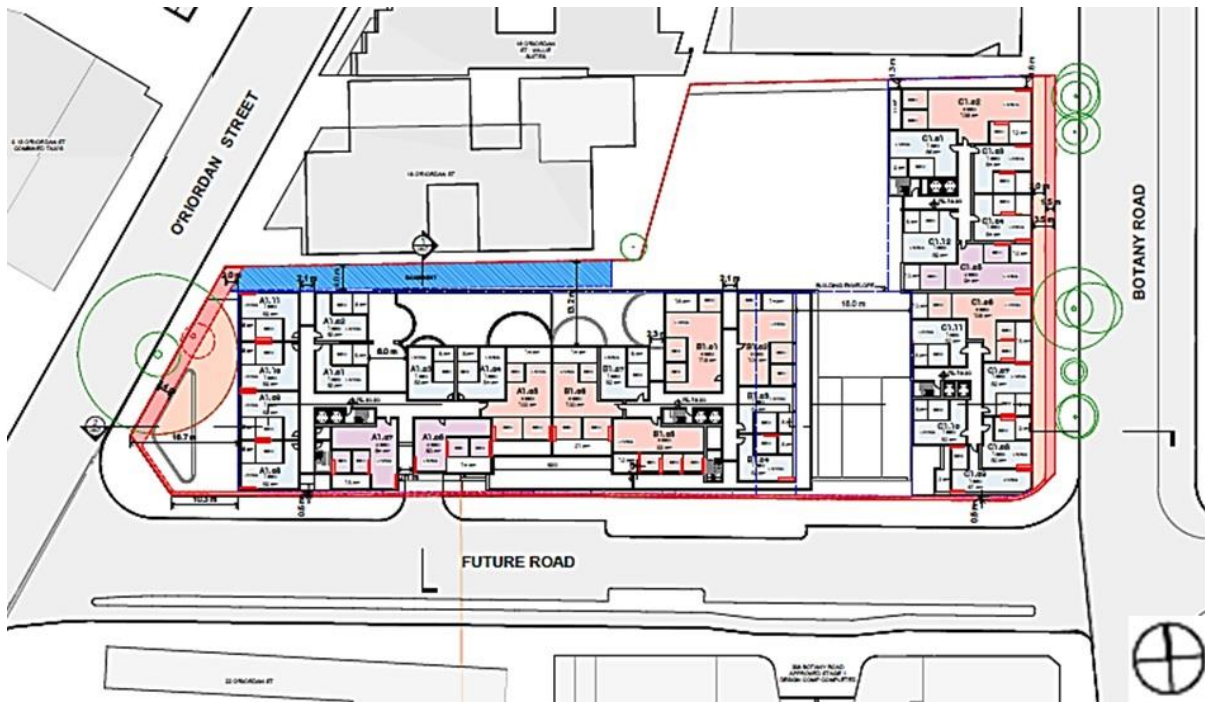


Figure 35: Reference scheme - level 01 plan.

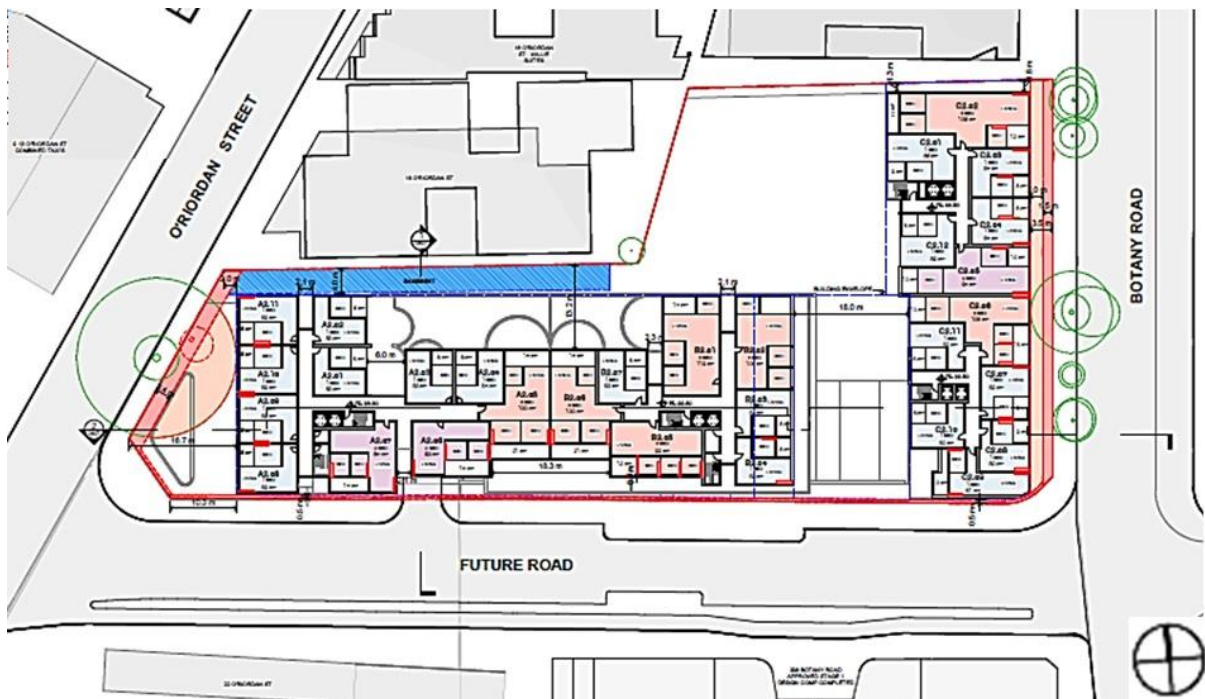
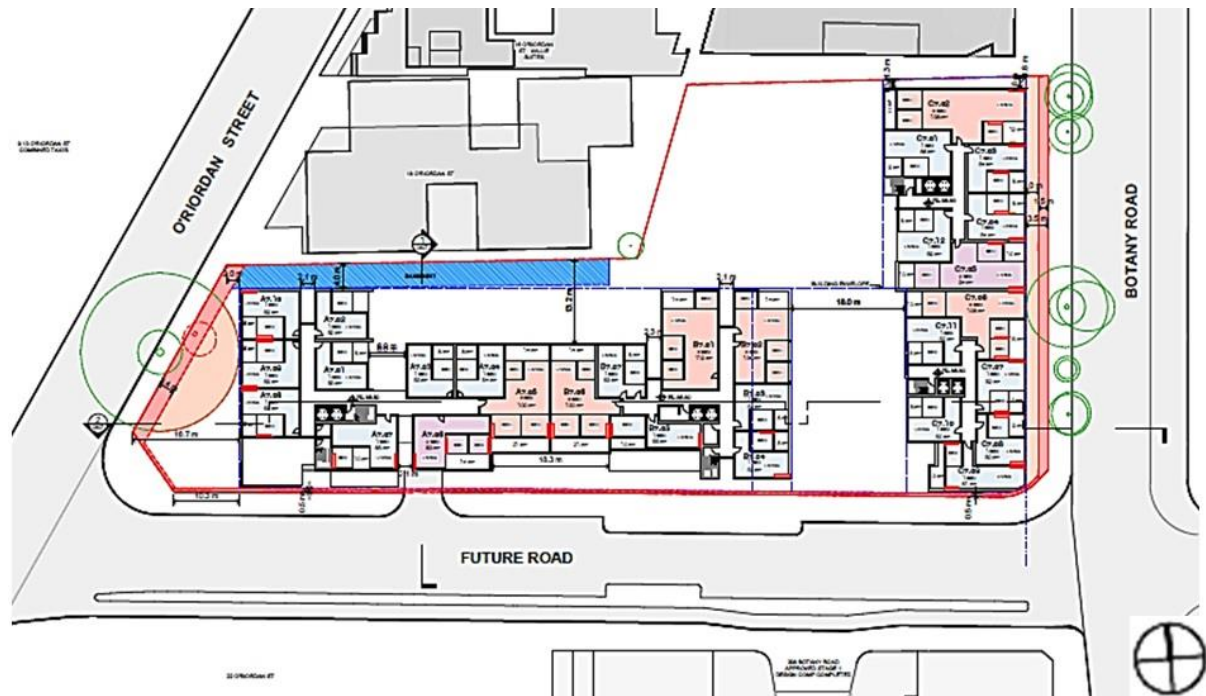


Figure 36: Reference scheme - level 02 plan.



Figure 37: Reference scheme - levels 03-06 plans.



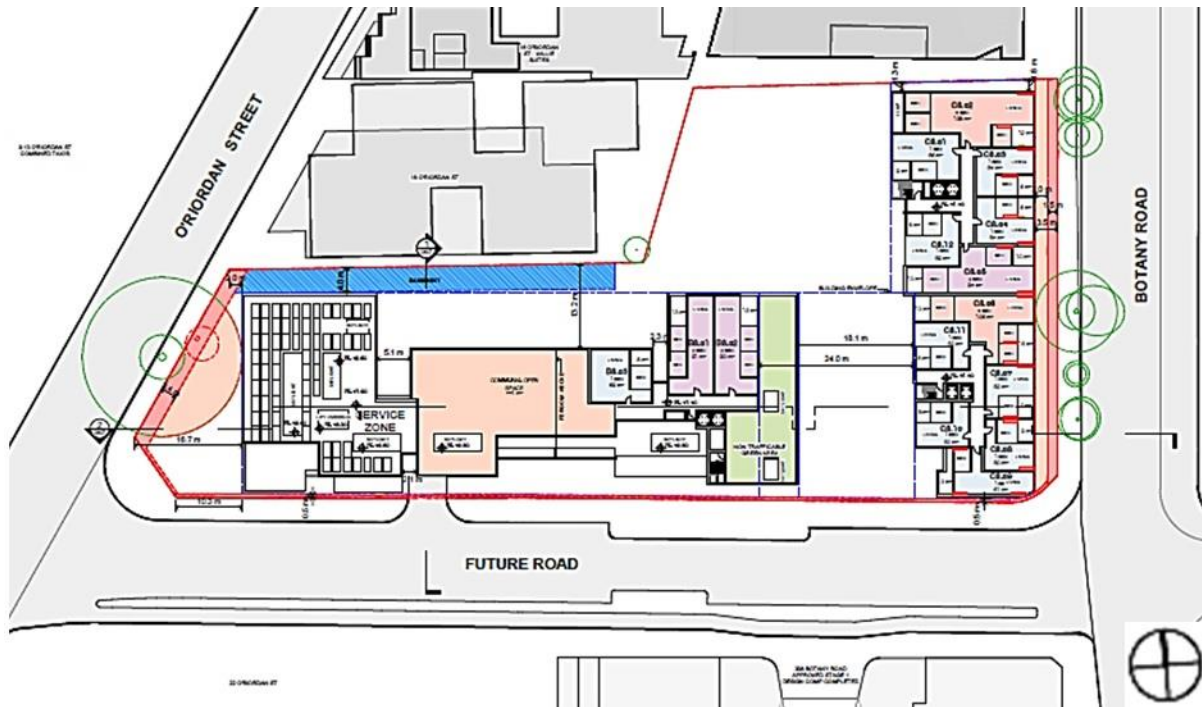


Figure 39: Reference scheme - level 08 plan.

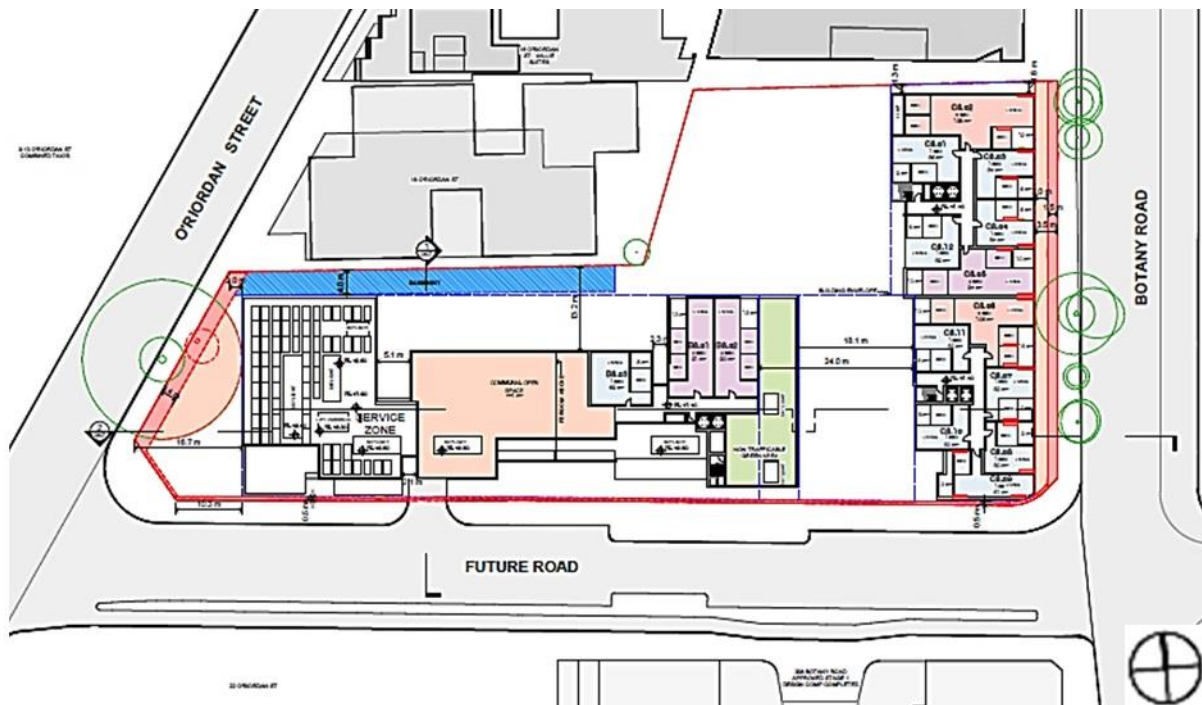


Figure 40: Reference scheme - level 09 plan.

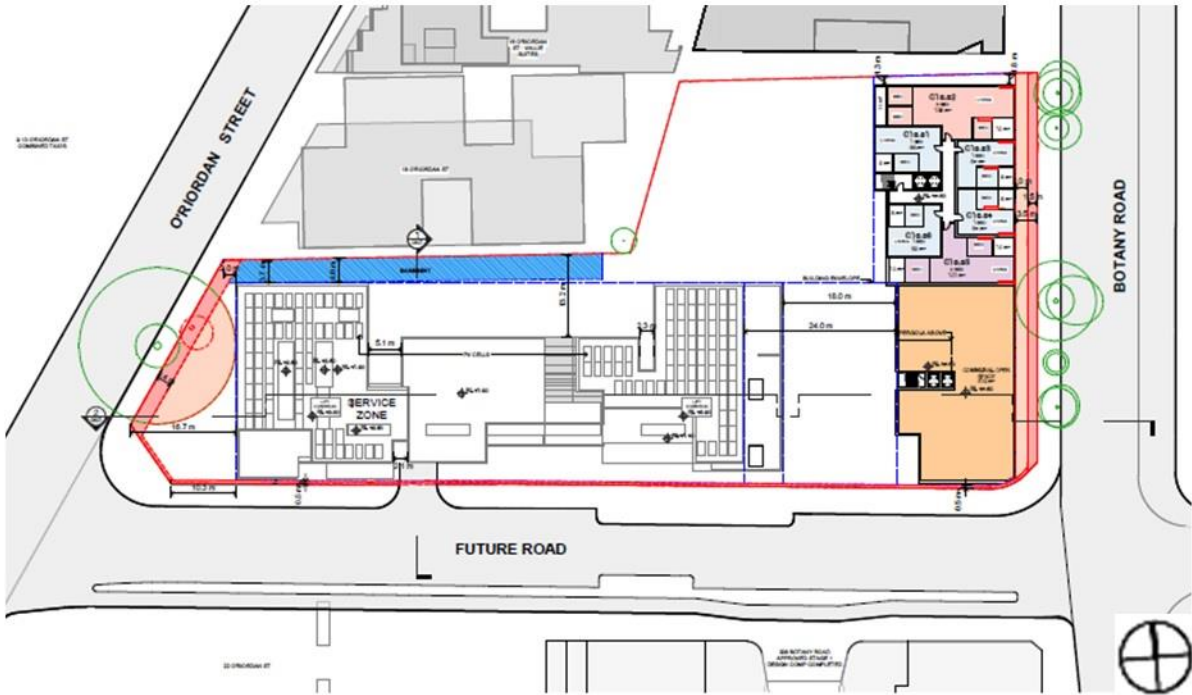


Figure 41: Reference scheme - level 10 plan.

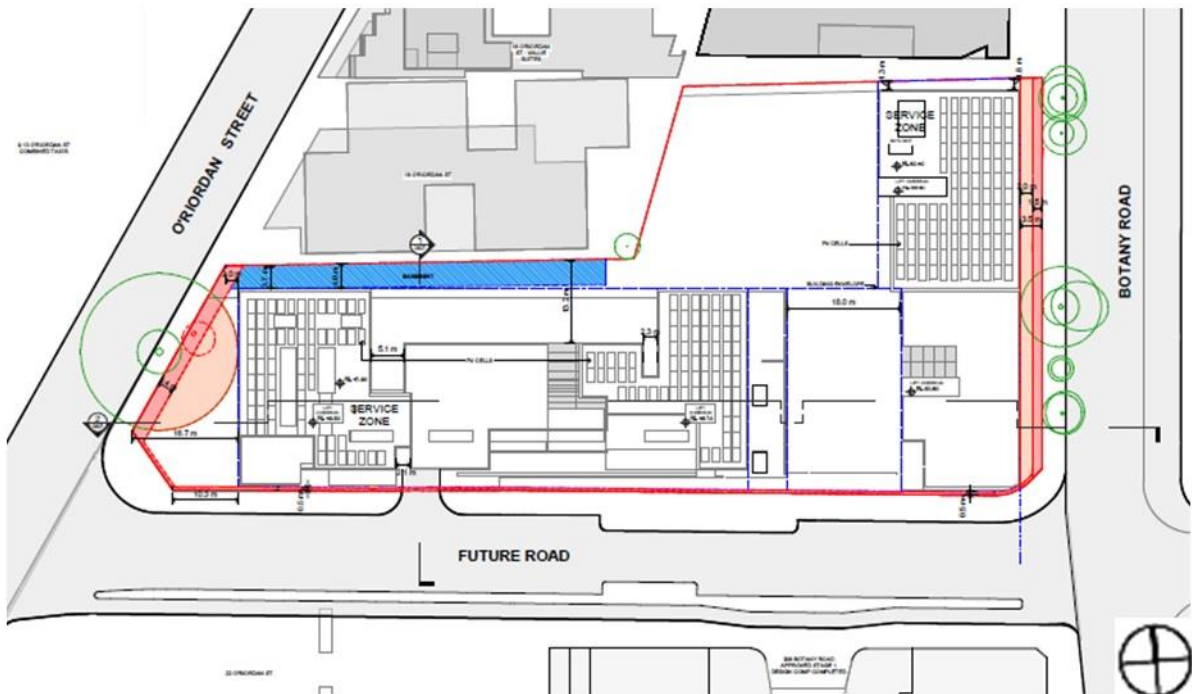


Figure 42: Reference scheme - roof plan.

Assessment

53. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

54. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land 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.
55. Many environmental site assessments have been undertaken since 2004 and which have identified the following contaminants:
- (a) fill materials with elevated levels of heavy metals, semi and non-volatile petroleum hydrocarbons and polycyclic aromatic hydrocarbons (PAHs);
 - (b) fill materials that potentially contain asbestos;
 - (c) point sources of petroleum hydrocarbon contamination, historically associated with the Mobil service station that previously operated at the site's western end, adjacent to its O'Riordan Street frontage;
 - (d) elevated levels of heavy metals have been reported in groundwater migrating onto the site; and
 - (e) elevated levels of chlorinated ethene vapours have been identified in the central and eastern portions of the site.
56. A Remediation Action Plan (RAP) relating to the site, accompanied by a letter of interim advice has been submitted with the development application.
57. The RAP proposes:
- (a) to excavate petroleum hydrocarbon impacted soils, bioremediate the excavated soils and validate the soils for re-use as backfill on the site. Any excavated petroleum hydrocarbon impacted soils that cannot be suitably remediated for re-use will be removed for off-site disposal;
 - (b) heavy metal, asbestos and PAH impacted fill-based soils will be addressed by on-site containment (i.e. areas that are not being dedicated to the City) below concrete slabs, pile foundations or a geotextile marker layer in the case of landscaped areas; and
 - (c) contaminants present in areas to be dedicated to the City are to be excavated and disposed of off-site. Excavations are to be clean filled.
58. Interim audit advice prepared by an NSW EPA Accredited Auditor has been submitted as part of the subject DA. The Site Auditor's advice confirms that the site can be made suitable for the proposed uses subject to the implementation of the RAP.

59. The Council's Environmental Health Unit have reviewed the information provided and accept the Site Auditor's advice that the site can be made suitable for the proposed uses.

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

60. The aim of State Environmental Planning Policy (SEPP) 65 is to improve the design quality of residential apartment development in New South Wales.
61. When determining an application for a residential flat development of three or more floors and containing four or more apartments, SEPP 65 requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 1 of the SEPP.
62. The applicant has submitted a design verification statement and SEPP 65 design report prepared by John Pradel (reg.7004) and Adam Haddow (reg.7188) of SJB Architects, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide (the ADG). The statement satisfies the requirements contained in Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000.
63. An assessment of the proposal against the design quality is provided as follows:

- (a) Principle 1 and 2: Context and Neighbourhood Character and Built Form and Scale

The proposed envelope complies with the LEP height controls for the site. The proposed envelopes comply with public domain setback requirements and align with the existing and approved setbacks of adjacent buildings to the north.

Detailed testing of the envelope has been undertaken to demonstrate siting, bulk, scale, and orientation to minimise overshadowing of residential apartments on neighbouring properties in accordance with the design guidance and criteria to Apartment Design Guide (ADG) objectives 3B-2 and 4A-1.

The subject proposal establishes envelopes to accommodate development of an appropriate bulk and scale that is capable of providing a sympathetic detailed design response to the key natural and built features of the area.

- (b) Principle 3: Density

The reference scheme demonstrates that the proposed envelopes are capable of accommodating development of a density envisaged under the relevant planning controls.

Conditions recommended elsewhere in this report require unresolved issues to be addressed through the competitive design and subsequent design development processes.

As discussed elsewhere in this report these requirements will likely result in a reduced development yield. However, solutions to resolve yield loss can be explored through the competitive design process.

(c) Principle 4: Sustainability

The energy efficiency and sustainability of the design will form part of the subsequent DA for the detailed of the building.

ESD target benchmarks have been incorporated into the Design Excellence Strategy that is recommended for approval.

(d) Principle 5: Landscape

The reference scheme provides common open spaces at ground level adjacent to the northern boundary, on the level 8 rooftop of the GS2AC Road building and on the level 10 rooftop of the Botany Road building with a cumulative area of 2,053 sqm (31% of the site area). All common open space areas have a minimum dimension exceeding 6m.

An area of approximately 22% (1485sqm) of deep soil is proposed and which includes a consolidated deep soil area with minimum dimensions exceeding 10m located adjacent to the northern boundary.

A condition is recommended requiring deep soil to be provided in accordance with approved concept envelope plans.

(e) Principle 6: Amenity

The subject concept proposal is for an envelope and indicative land uses only, with the amenity for future residents to be assessed upon lodgement of a subsequent DA for the detailed design of the building.

The concept proposal includes a reference scheme to demonstrate that the proposed envelope can accommodate a building that complies with the SEPP design quality principles and objectives.

An assessment of the reference scheme, sometimes referred to as the 'proof of concept', concludes that the site can provide an adequate level of amenity in keeping with ADG objectives pertaining to residential floor to ceiling heights, solar access and natural ventilation (as outlined in the ADG compliance table below).

Amenity objectives, such as those pertaining to minimum sizes of apartments, private open space, common circulation and storage will be assessed in detail upon lodgement of a subsequent DA for the detailed design of the building.

(f) Principle 7: Safety

The subject proposal is for an envelope and indicative land uses only, with the detailed design of the building to be the subject of a competitive design process and a subsequent DA.

It is considered that the buildings can be designed to address safety and the relevant Crime Prevention Through Environmental Design (CPTED) considerations.

(g) Principle 8: Housing Diversity and Social Interaction

The proposed concept envelopes can accommodate common open space and common areas to provide opportunities for social interaction among residents.

The reference scheme provides the following dwelling mix:

- (i) 0% (0) studios
- (ii) 67% (170) 1 bed
- (iii) 11% (27) 2 bed
- (iv) 22% (56) 3 bed.

However, the number and mix of apartments is not approved as part of the concept DA consent.

Any subsequent DA for the detailed design of the building will be assessed against the requirements of this SEPP principle.

(h) Principle 9: Aesthetics

The subject proposal is for an envelope and indicative land uses only, with the detailed design and aesthetics of the building to be the subject of a competitive design process and a subsequent DA.

64. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Able to comply	<p>The part of the envelope facing the GS2AC Road is 31m deep and the part of the envelope facing Botany Road is 22.5m deep.</p> <p>The deepest apartments in the reference scheme have a depth of up to about 20m and which exceed the recommended maximum building depth requirements.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>

2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms 	Able to comply	<p>The part of the envelope fronting the GS2AC Road is separated from the northern boundary to the property at 18 O'Riordan Street by between 3.7m to 4.8m.</p> <p>The reference scheme contains west-facing apartments at the eastern end of the GS2AC Road building, from the third storey up, that have openings to habitable and non-habitable rooms separated by only 2.3m from the blank walls of adjacent apartments and which do not provide minimum separation distances and are not consistent with the design guidance to this objective. Refer to the assessment against ADG objective 3F Visual privacy below.</p> <p>Otherwise, the reference scheme demonstrates that a detailed design can achieve the ADG building separation design criteria at a height of up to four storeys.</p> <p>Compliance with these requirements will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>
<p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> • 18m between habitable rooms / balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms 	Able to comply	<p>The part of the envelope fronting the GS2AC Road is separated from the northern boundary to the property at 18 O'Riordan Street by between 3.7m to 4.8m.</p> <p>The reference scheme contains west-facing apartments at the eastern end of the GS2AC Road building, from the fifth to the eighth storey, that have openings to habitable and non-habitable rooms separated by only 2.3m from the blank walls of adjacent apartments and which do not provide minimum separation distances and are not consistent with the design guidance to this objective. Refer to the assessment against ADG objective 3F Visual privacy below.</p>

2F Building Separation	Compliance	Comment
		<p>Otherwise, the reference scheme demonstrates that a detailed design can achieve the ADG building separation design criteria at a height of five to eight storeys.</p> <p>Compliance with these requirements will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 24m between habitable rooms / balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms 	<p>Able to comply</p>	<p>The part of the envelope fronting the GS2AC Road is separated from the northern boundary to the property at 18 O'Riordan Street by between 3.7m to 4.8m. The reference scheme appears to provide a window to a corridor (i.e., a non-habitable space) that is setback about 9m from this side boundary and which does not achieve the minimum 12m separation from the northern side boundary. But as the neighbouring property at 18 O'Riordan Street presents a blank wall to its southern elevation and which faces the aforementioned corridor window there are no privacy issues arising from this non-compliance.</p> <p>The reference scheme contains a west-facing apartment at the eastern end of the GS2AC Road building, at the ninth storey, that has openings to habitable and non-habitable rooms separated by only 2.3m from the blank walls of adjacent apartments and which do not provide minimum separation distances and are not consistent with the design guidance to this objective. Refer to the assessment against ADG objective 3F Visual privacy below.</p> <p>Otherwise, the reference scheme demonstrates that a detailed design can achieve the ADG building separation design criteria at a height of nine storeys and above.</p> <p>Compliance with these requirements will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>

3B Overshadowing	Compliance	Comment
<p>Living areas, private open space and communal open space should receive solar access in accordance with objectives 3D Communal and public open space and 4A Solar and daylight access.</p> <p>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.</p>	Yes	<p>338 Botany Road (St George Community Housing)</p> <p>Under existing conditions 51% (54 of 104) of the apartments in the reference scheme of the approved concept proposal for 338 Botany Road receive at least 2 hours of sun at midwinter and 7% (7 of 104) receive no direct sun.</p> <p>In accordance with the design guidance to this objective, the proposed envelope maintains these headline compliance levels, but reduces by a maximum of 20%, the time that those apartments that already receive less than 2 hours, but more than 15 minutes of sun receive direct sunlight.</p> <p>499 Botany Road (BridgeHill)</p> <p>Under existing conditions 71% (91 of 128) of the apartments in the approved development at 499 Botany Road receive at least 2 hours of sun at midwinter and 0% (0 of 128) receive no direct sun.</p> <p>Submitted view from the sun diagrams and overshadowing analysis indicate that the apartments in the south-west facing (Botany Road) elevation of the BridgeHill building are not relied upon to achieve the currently ADG compliant levels of solar access. Subsequently, the lower level apartments in the south-west facing elevation of the BridgeHill building and which are subject to increased overshadowing by the proposed development do not result in unacceptable impacts to the overall levels of solar access for this building.</p>

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Able to comply	<p>The reference scheme provides common open space at ground level adjacent to the northern boundary (1094 sqm), on the level 8 rooftop of the GS2AC Road building (441sqm) and on the level 10 rooftop of the Botany Road building (519 sqm) with a cumulative area of 2,053 sqm (31% of the site area), all of which have a minimum dimension in excess of 6m.</p> <p>Compliance with these requirements will be assessed upon lodgement of any subsequent DAs for the detailed design of buildings.</p>
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	<p>The reference scheme demonstrates that:</p> <ul style="list-style-type: none"> • ground level common open space receives almost no direct sunlight between 9am and 3pm at midwinter • the level 8 rooftop common open space receives sunlight to almost its entire area (approximately 98% of its area) between 9am and 3pm at midwinter • the level 10 rooftop common open space receives sunlight to almost its entire area (approximately 90% of its area) between 9am and 3pm at midwinter. <p>As the rooftop common open spaces receive sunlight throughout the day, they are the principal useable common open space areas for the development.</p> <p>To ensure principal useable common open space is equitably distributed in the detailed design of the building, a condition is recommended for a requirement to be included in the competitive design process brief, for common open space to be provided in an area or areas of a useable size and configuration, directly and equitably</p>

3D Communal and Public Open Space	Compliance	Comment
		<p>accessed from common circulation areas, entries and lobbies, and designed so that the principal common open space area or areas achieve minimum solar access requirements as stated at provision 4.2.3.8 of the DCP.</p> <p>Compliance with these requirements will be assessed upon lodgement of any subsequent DAs for the detailed design of buildings.</p>

3E Deep Soil Zones	Compliance	Comment
<p>Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m</p>	<p>Yes</p>	<p>The reference scheme demonstrates that approximately 22% (1485sqm) of deep soil can be provided across the site, and which includes a consolidated deep soil area with minimum dimensions in excess of 10m located adjacent to the northern boundary.</p> <p>Refer to the Issues section in this report.</p>

3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> • 6m between habitable rooms / balconies • 3m between non-habitable rooms <p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> • 9m between habitable rooms / balconies • 4.5m between non-habitable rooms <p>Nine storeys and above (over 25m):</p>	<p>Able to comply</p>	<p>The ground level apartment BG.02 of the reference scheme addresses and has windows to habitable rooms to the publicly accessible visitor bicycle parking space between the Botany Road and GS2AC Road buildings. This apartment would have poor amenity due to the poor visual and acoustic privacy impacts arising from its design, it is contrary to the design guidance to ADG objective 3F-2 and would unlikely be supported if proposed at detailed design DA stage.</p> <p>The reference scheme contains west-facing apartments at the eastern end of the GS2AC Road building that have openings to habitable and non-habitable rooms separated by only 2.3m from the blank walls of adjacent apartments and which do not provide minimum</p>

3F Visual Privacy	Compliance	Comment
<ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 6m between non-habitable rooms 		<p>separation distances in accordance with the design guidance to ADG objective 3F-1.</p> <p>A condition is recommended for particular attention to be given to addressing ADG objective 3F-1 through competitive and detailed design processes.</p> <p>Otherwise refer to the assessment against ADG objective 2F Building separation above.</p>

4A Solar and Daylight Access	Compliance	Comment
<p>70% of units to receive a minimum of 2 hours of direct sunlight between 9am and 3pm at midwinter to living rooms and private open spaces.</p>	Yes	<p>The reference scheme demonstrates that 70% (177 of 253) of apartments are able to receive a minimum of 2 hours of direct sun between 9am and 3pm at midwinter to living rooms and private open space.</p> <p>Compliance with these requirements will be assessed upon lodgement of any subsequent DAs for the detailed design of buildings.</p>
<p>Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.</p>	Yes	<p>The reference scheme demonstrates that 11% (29 of 253) of apartments receive no direct sun between 9am and 3pm at midwinter.</p> <p>Compliance with these requirements will be assessed upon lodgement of any subsequent DAs for the detailed design of buildings.</p>

4B Natural Ventilation	Compliance	Comment
<p>All habitable rooms are naturally ventilated.</p>	Able to comply	<p>All of the concept envelope elevations that face the street are affected by traffic noise.</p>

4B Natural Ventilation	Compliance	Comment
		<p>The submitted acoustic report recommends noise attenuation measures, including some such as plenums, which are to provide the noise reductions necessary to achieve both the relevant internal noise criteria and the natural ventilation objectives of the ADG.</p> <p>The reference scheme incorporates the recommended noise attenuation measures; however it appears that in some instances suitable spatial allowances have not been made such that some rooms that contain plenums would fail to achieve the minimum room dimensions in accordance with ADG requirements.</p> <p>This issue is to be addressed through the competitive design process and subsequent detailed design DA and may result in a reduction in achievable yield for the development.</p> <p>Refer to the Issues section in this report.</p>
<p>Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.</p>	<p>Able to comply</p>	<p>Forty-four percent (49 of 111) of non-noise affected apartments within the first nine-storeys of the reference scheme are naturally cross ventilated. This is counting the 8 apartments (AG.01 to A7.02) that are not naturally cross ventilated, but which could easily incorporate a window in their northern elevations to be configured as corner, and therefore naturally cross ventilated, apartments.</p> <p>This non-compliance will need to be addressed through the competitive design process and subsequent detailed design DA and will likely result in a reduction in achievable yield for the development.</p> <p>Refer to the Issues section in this report.</p>

4B Natural Ventilation	Compliance	Comment
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Able to comply	<p>The deepest apartments in the reference scheme have a depth of up to about 20m and which exceed the recommended maximum building depth requirements.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Able to comply	<p>The indicative sections provided in the reference scheme drawings indicate 3.1m floor to floor heights and which would provide sufficient tolerance at construction to provide 2.7m floor to ceiling heights.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Able to comply	<p>The indicative sections provided in the reference scheme drawings indicate from 3.6m to 4.5m floor to floor heights at lower ground, ground and level 01 and which would provide sufficient tolerance at construction to provide between 3.2m to 4.1m floor to ceiling heights on these levels.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	<p>Able to comply</p>	<p>An assessment of the reference scheme indicates 1 beds: 50-69sqm, 2 beds: 81-97sqm and 3 beds: 96-138sqm in size and that comply with the ADG minimum apartment size requirements.</p> <p>As noted elsewhere in this compliance table some rooms may not be able to achieve ADG minimum dimensions and sizes due to insufficient space being allocated to plenums in plan. This may be addressed by losing a room somewhere across the noise affected facade to make a suitable spatial allocation to accommodate the recommended plenum widths.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>

4E Private Open Space and Balconies	Compliance	Comment
<p>One bed apartments are to have a minimum balcony area of 8m² with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m² with a minimum depth of 2.4m.</p>	<p>Able to comply</p>	<p>An assessment of the reference scheme indicates:</p> <ul style="list-style-type: none"> • 1 beds with balconies 8-9sqm; • 2 beds with balconies 10-17sqm; • 3 beds with balconies 12-17sqm: 96-138sqm in size; and <p>that comply with the ADG minimum apartment size requirements.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.</p>

4E Private Open Space and Balconies	Compliance	Comment
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m ² and a minimum depth of 3m.	Able to comply	An assessment of the reference scheme indicates ground and podium level balconies in excess of the ADG minimum size requirements.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Able to comply	The reference scheme demonstrates compliance with this requirement. Compliance with these requirements will be assessed upon lodgement of any subsequent DAs for the detailed design of buildings.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Able to comply	The reference scheme demonstrates compliance with this requirement. Compliance with these requirements will be assessed upon lodgement of any subsequent DAs for the detailed design of buildings.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Able to comply	The reference scheme demonstrates compliance with this requirement. Compliance with these requirements will be assessed upon lodgement of any subsequent DAs for the detailed design of buildings.
Daylight and natural ventilation are provided to all common circulation spaces.	Able to comply	Compliance with these requirements will be assessed upon lodgement of any subsequent DAs for the detailed design of buildings.

4G Storage	Compliance	Comment
Minimum storage provision facilities: <ul style="list-style-type: none"> • Studio: 4m3 • 1 bed: 6m3 • 2 bed: 8m3 • 3 bed: 10m3 (Minimum 50% storage area located within unit)	Able to comply	As detailed designs including the number of apartments and basement levels will be determined as part of the DAs for the detailed design of buildings, compliance with this objective will be assessed at that later stage.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	Refer to the assessment against the acoustic privacy controls at provision 4.2.3.11 in the DCP compliance tables below.

State Environmental Planning Policy (Housing) 2021

65. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.
66. As noted elsewhere in this report, SEPP Chapter 2, Part 2, Divisions 1, 2, 3 and 5, and which are aimed at encouraging the provision of affordable housing, do not apply to sites within the Southern Employment Lands (also referred to as the Southern Enterprise Area in this report).
67. The site is in the Southern Enterprise Area and is not subject to the provisions of the SEPP.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

68. Any future development application for the detailed design of the building will be required to satisfy BASIX requirements.
69. A condition is recommended to advise that any future residential scheme must comply with SEPP (Building Sustainability Index: BASIX) 2004, and that a BASIX certificate must be submitted with any future development application for the detailed design of the building.
70. Target benchmarks for ecologically sustainable development including BASIX targets for the development are discussed elsewhere in this report.

State Environmental Planning Policy (Transport and Infrastructure) 2021

71. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network**Clause 2.48 Determination of development applications – other development**

72. The application is subject to Clause 2.48 of the SEPP as the development will be carried out within 5m of an exposed overhead electricity power line.
73. As such, the application was notified to Ausgrid and Transgrid through the NSW Planning Portal (ref. CNR-35166), on 9 February 2022.
74. On 11 April 2022, Council's planning officer uploaded the one public enquiry about accessing DA documents received in response to the notification and exhibition of the subject DA to the NSW Planning Portal.
75. Transgrid provided a response on 2 May 2022, to advise that no comments would be provided at this stage.
76. Ausgrid provided a response on 9 May 2022, to advise that the proposal was supported subject to the recommendations for the detailed design of the buildings to comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.
77. This recommendation provided by Ausgrid in the referral dated 9 May 2022 is included in the conditions of consent set out in Attachment A to this report.

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors**Clause 2.98 – Excavation in, above, below or adjacent to rail corridors**

78. The application is adjacent to an underground rail corridor and was subsequently referred to Transport for NSW [TfNSW (Sydney Trains)] through the NSW Planning Portal (ref. no. CNR-35166), on 9 February 2022.
79. On 11 April 2022, Council's planning officer uploaded the one public enquiry about accessing DA documents received in response to the notification and exhibition of the subject DA to the NSW Planning Portal.
80. On 3 May 2022, TfNSW (Sydney Trains) provided its concurrence, the conditions of which are included in the conditions of consent set out in Attachment A to this report.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations**Clause 2.119 – Development with frontage to classified road**

81. The application is subject to Clause 2.119 of the SEPP as the site has frontages to Botany Road and O'Riordan Street, both of which are classified roads.
82. As such, the application was notified to TfNSW [Roads and Maritime Services (RMS)] through the NSW Planning Portal (ref. CNR-35166), on 9 February 2022.

83. On 11 April 2022, Council's planning officer uploaded the one public enquiry about accessing DA documents received in response to the notification and exhibition of the subject DA to the NSW Planning Portal.
84. On 2 May 2022, TfNSW (RMS) provided its concurrence under section 138 of the Roads Act 1993, the conditions of which are included in the conditions of consent set out in Attachment A to this report.
85. The proposed development satisfies the provisions of Clause 2.119 of the SEPP, as vehicle access to the site will be from its non-classified road frontage to the GS2AC Road. As such the safety, efficiency and ongoing operation of the classified roads will not be adversely affected by the development, subject to the recommended conditions of consent.
86. Refer to the External Referrals section of this report.

Clause 2.120 – Impact of road noise or vibration on non-road development

87. The subject site has frontages to Botany Road and O'Riordan Street both of which carry an average daily traffic volume of 20,000 vehicles and as such is subject to the requirements of clause 2.120 of the SEPP.
88. Council's Environmental Health Specialist has reviewed the submitted acoustic report and has advised that subject to the noise attenuation strategies recommended in the acoustic report the proposed development can achieve the relevant internal noise criteria specified at clause 2.120 of the SEPP.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017

89. The provisions of SEPP (Biodiversity and Conservation) 2021 have been considered in the assessment of the development application.
90. Refer to the assessment of impacts upon existing trees in the DCP compliance tables elsewhere in this report.

Local Environmental Plans

Sydney Local Environmental Plan 2012

91. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 (the LEP) is provided in the following sections.

Planning Proposal - Enterprise Area Review - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

92. The Planning Proposal - Enterprise Area Review - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment were publicly exhibited from 15 November to 13 December 2021.
93. The subject DA was lodged on 20 December 2021. The provisions of the Planning Proposal came into force on 30 September 2022 and have been considered in this assessment.

- 94. The Planning Proposal revised height and floor space ratio controls in the locality of North Alexandria. While the site is in the locality of North Alexandria, none of the changes to LEP controls affect the subject site.
- 95. Some changes to DCP controls do affect the subject site and which are addressed in the assessment of the proposal against the relevant DCP controls elsewhere in this report.

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2022

- 96. The Department of Planning and Environment has replaced business and industrial zones with a simplified framework of employment and supporting zones.
- 97. The Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2022 and six self-repealing SEPPs, repeal the business and industrial zones, modifies objectives and land use permissibility, and makes savings and transitional provisions to facilitate the reforms.
- 98. The new zoning and related provisions commenced operation on 26 April 2023 and have been considered in this assessment.
- 99. The subject site was in Zone B7 Business Park. It is now in Zone E3 Productivity Support. Refer to the assessment against the relevant zoning provisions in the LEP compliance table below.

Part 2 Permitted or prohibited development

Part 7 Local provisions - general

Provision	Compliance	Comment
1.9 Application of SEPPs	Yes	As noted elsewhere in this report SEPP (Housing) 2021 Chapter 2, Part 2, Divisions 1, 2, 3 and 5, and which are aimed at encouraging the provision of affordable housing, do not apply to sites within the Southern Employment Lands (also referred to as the Southern Enterprise Area in this report).
2.3 Zone objectives and Land Use Table 7.13A Affordable housing in Business Area	Permitted with consent	The site is in Zone E3 Productivity Support. The proposal is for a mixed-use development containing shop top housing for the purposes of providing affordable housing. Residential accommodation and retail premises are prohibited in the zone. The site is located on land identified as 'Business Area' on the LEP's Locality and Site Identification Map. Clause 7.13A prescribes that development in the Business Area for the purposes of

Provision	Compliance	Comment
		<p>shop-top housing is permitted with consent subject to satisfying the consent authority in regard to the following matters:</p> <ul style="list-style-type: none"> • the shop-top housing will be affordable housing • the affordable housing will be provided by a public authority or social housing provider • the affordable housing will be provided in accordance with the City's Affordable Housing Program • the development is compatible with existing and approved uses in the vicinity of the site • no part of the ground floor that fronts the street will be used for residential purposes and • the development is not likely to have adverse environmental effects or create unacceptable environmental risks. <p>As outlined elsewhere in this report the subject concept proposal addresses those matters listed above and for this reason, is permitted with consent notwithstanding the proposed development being prohibited in the Zone E3 Productivity Support.</p>

Part 4 Principal development standards

Part 6 Local provisions - height and floor space

Provision	Compliance	Comment
4.3 Height of buildings	Yes	<p>LEP clause 4.3 specifies maximum building heights ranging from 33m to 40m for the site.</p> <p>A height of 33m to 40m is proposed.</p> <p>The proposed development complies with the maximum height of buildings development standard.</p>
<p>4.4 Floor space ratio</p> <p>6.14 Community infrastructure floor space at Green Square</p> <p>6.21C Design excellence</p> <p>6.21D Competitive design process</p>	Able to comply	<p>LEP clause 4.4 specifies a maximum permissible floor space ratio (FSR) of 2:1.</p> <p>LEP clause 6.14 provides an opportunity for a further 1.5:1 FSR where community infrastructure is provided.</p> <p>As part of the subject application, the owner of the site has made a formal offer to enter into a Voluntary Planning Agreement (VPA) with the City. This VPA is for the dedication of 228sqm of land to the City, for the purposes of footpath widening on each of its street frontages with a value of \$45,644, embellishment works with a value of \$192,930.40 and a monetary contribution of \$4,399,987.60 for community infrastructure provision in Green Square.</p> <p>In accordance with LEP clause 6.21D up to 10% additional FSR (0.35:1) may be approved subject to a competitive design process being carried out, a winning scheme being selected and that winning scheme exhibiting design excellence at detailed design DA stage.</p> <p>Considering all of the relevant FSR provisions contained in the LEP, the maximum permitted FSR for the development is 3.85:1 (25,825.8 sqm GFA).</p>

Provision	Compliance	Comment
		<p>The reference scheme has a FSR of 3.56:1 (23,875 sqm GFA) and which complies with the permissible FSR for the site.</p> <p>No actual works or FSR are approved as part of any concept approval. A condition has been recommended that requires that the floor space ratio of the detailed design must not exceed the permissible floor space ratio for the site.</p> <p>Recommended conditions to address various issues, including acoustic privacy, natural ventilation and natural cross ventilation, may reduce the achievable yield, from that shown in the reference scheme, of a future detailed building design located within the proposed envelope.</p> <p>The subject concept proposal has been assessed against the relevant requirements of 6.21C(4) including site suitability, proposed uses, bulk and massing, street frontage heights and other environmental impacts. The concept proposal demonstrates that subject to the recommended conditions a suitable detailed building design can be achieved for the site. LEP clause 6.21(4) which allows for a potential 10% FSR increase will be considered in the assessment of any subsequent DA for the detailed building design.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is not identified as containing a heritage item. It is not in the vicinity of a heritage item and it is not located within a heritage conservation area.</p> <p>The proposed development will not have any adverse heritage impacts.</p>
5.21 Flood planning	Able to comply	The site is affected by flooding and is within the Alexandra Canal catchment.

Provision	Compliance	Comment
		<p>A site-specific flood study has been submitted and recommends flood planning levels (FPLs) for the development.</p> <p>Council's Public Domain Infrastructure Specialist has reviewed the proposal. The recommendations of the site-specific flood study are supported, and conditions recommended for the endorsed FPLs to be incorporated into any detailed building design submitted as part of any future DA for the site.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
<p>7.5 Residential flat buildings, dual occupancies and multi dwelling housing</p> <p>7.7 Retail premises</p>	Able to comply	<p>The reference scheme indicates car parking could be provided at the lower ground level, a portion of which is within the basement.</p> <p>Car parking numbers for commercial, retail and residential uses can only be assessed as part of a subsequent development application for the detailed design of the building.</p> <p>The permissible number of car parking spaces are determined by the amount of commercial floor space and the residential dwelling mix and which is only indicative at this concept stage.</p>
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Able to comply	Any subsequent DA for the detailed design of the building will be subject to an assessment against the requirements of the City's Affordable Housing Program (the Program). It is noted that the Program specifies that development that provides affordable housing in accordance with the Program's Principles may be exempted from such a contribution.

Provision	Compliance	Comment
		Program Principles include that affordable housing is of a standard that is consistent with other housing in the City of Sydney.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	<p>The site is located on land with Class 5 Acid Sulfate Soils. A site-specific assessment of acid sulphate soils was submitted as part of the subject DA and which concludes that there are no acid sulphate soils present on the site.</p> <p>As such the proposed development does not require the preparation of an Acid Sulfate Soils Management Plan.</p>
7.16 Airspace operations	Able to comply	<p>The proposed envelope breaches the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport.</p> <p>As such the DA was referred to Sydney Airport which provided recommendations as to the approvals that would be required prior to any works commencing on the site and which are provided at Attachment G to this report.</p> <p>Refer to the External Referrals section in this report.</p>
7.17 Development in areas subject to airport noise	n/a	The subject site is not located within ANEF Contour 20 or higher and as such is not subject to the requirements of this clause.
7.19 Demolition must not result in long term adverse visual impact	n/a	No demolition is proposed under the subject application.
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>As the site area is greater than 5,000sqm, preparation of a site specific DCP is required.</p> <p>Pursuant to the provisions of Section 4.23(2) of the Environmental Planning and Assessment Act 1979, the lodgement of a concept proposal DA</p>

Provision	Compliance	Comment
		<p>may be considered by the consent authority as satisfying this obligation.</p> <p>As detailed elsewhere in this report, subject to the recommended conditions the concept proposal adequately addresses the matters for consideration specified under this clause including, height, bulk, massing, streetscape and environmental impacts.</p>
<p>7.23 Large retail development outside of Green Square Town Centre and other planned centres</p>	<p>Able to comply</p>	<p>The subject site is on land identified as restricted retail development on the Retail Premises Map. As such, development consent cannot be granted for the purposes of individual shops or markets with a gross floor area of greater than 1,000sqm.</p> <p>While indicative ground floor shop tenancies of less than 1,000sqm in area are proposed, the quantum of gross floor area is not approved as part of this concept DA.</p> <p>As such, any subsequent DA for the detailed design of the building will be required to comply with this control.</p>
<p>7.25 Sustainable transport of southern employment land</p>	<p>Able to comply</p>	<p>This clause requires the consent authority to consider whether the development will promote sustainable transport modes and minimise traffic.</p> <p>A future detailed design is capable of complying with this clause given the site's proximity to public transport routes, the non-variable maximum LEP parking limits and DCP requirements for the provision of bicycle and car share parking spaces within the development.</p> <p>As no works are approved as part of this concept DA the clause does not apply, however it will be a matter to be addressed by any subsequent DA for the detailed design of the building.</p>

Provision	Compliance	Comment
		Conditions are recommended to specify information to be provided as part of any subsequent DA for the detailed design of the building to adequately address this clause.

Development Control Plans

Sydney Development Control Plan 2012

100. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Planning Proposal – Enterprise Area Review - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

101. The Planning Proposal - Enterprise Area Review - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment were publicly exhibited from 15 November to 13 December 2021.

102. The Planning Proposal effected changes to DCP controls that apply to the subject site including those pertaining to active frontages, height in storeys and setbacks above street frontage height.

Section 2 – Locality Statements

103. The site is located within the locality of North Alexandria. The proposed development is in keeping with the character and the design principles for the locality in that it will contribute to the provision of commercial floor space in proximity to the Green Square Town Centre and a high-quality public domain by providing suitable setbacks, land dedications and embellishments.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1.1 Streets, lanes and footpaths 3.1.1.4 Footpaths	Able to comply	Construction of footpaths on land to be dedicated for footpath widening to both the Botany Road and O'Riordan Street site frontages have been secured in the Voluntary Planning Agreement associated with this DA. Footpaths are to be designed and constructed in accordance with the Sydney Streets Design Code.

Provision	Compliance	Comment
3.1.4 Public open space	Yes	The proposed concept envelope does not have any overshadowing impacts to public open space in the vicinity of the site.
3.1.5 Public art	Yes	<p>Subject to the recommended conditions, the submitted Preliminary Public Art Plan (the PPAP) is able to satisfy the requirements of the City's Interim Guidelines for Public Art in Private Developments.</p> <p>The recommended conditions require amendments to the PPAP as follows:</p> <ul style="list-style-type: none"> • revision of the public art budget to include payment for first nations community consultation participants • include an acknowledgement that Indigenous Cultural Consultant(s) may be required to guide the consultation with first nations stakeholders • amendment of the public art budget to exclude Marketing Photography and Publicity Costs • amend the artwork lifespan to be a minimum of 25 years and • amend artwork maintenance requirements to reflect a minimum artwork lifespan of 25 years.
3.1.6 Sites greater than 5000sqm	No, but acceptable.	<p>As the site is at the southern end of the block and has a frontage to the new GS2AC Road it is considered that provision of a through-site link, as required by this control, is unnecessary.</p> <p>Similarly, as the proposed apartments are for the purposes of affordable housing, the proposed development will promote the diversity of housing in the area notwithstanding the non-provision of maisonette apartments in the reference scheme.</p>

Provision	Compliance	Comment
		In accordance with the requirements of this control the concept proposal incorporates a Preliminary Public Art Plan and which is addressed above.
<p>3.2.1 Improving the Public Domain</p> <p>3.2.1.1 Sunlight to publicly accessible spaces</p>	Yes	Refer to the assessment against DCP provision 3.1.4 Public Open Space above.
<p>3.2.2 Addressing the street and public domain</p> <p>3.2.3 Active frontages</p>	Able to comply	<p>Previously, the site's Botany Road and O'Riordan Street frontages were identified as active frontages on the DCP's active frontages map.</p> <p>The Enterprise Areas Review Planning Proposal made changes to mapped active frontage locations in North Alexandria. Now, the site's interface to the GS2AC Road is identified as an active frontage on the DCP's active frontages map.</p> <p>The reference scheme demonstrates that the flood planning levels recommended in the site-specific flood planning assessment can be achieved. However, the southern elevation of the reference scheme features a long series of ramps (over 40m in length) running parallel to the GS2AC Road and which reduce the activation of this frontage.</p> <p>Conditions are recommended for design requirements to be included in any competitive design process brief for competitors to explore design solutions to:</p> <ul style="list-style-type: none"> • minimise the creation of any physical barriers to the commercial/retail tenancies fronting the GS2AC Road and to increase the portion of the ground floor that is close to being at grade with the footpath and • provide some articulation of the north-east corner to minimise the visual impact of the blank facade

Provision	Compliance	Comment
		<p>in views to the site from the north looking south and to achieve a harmonious street wall relationship with the approved development at 326-328 Botany Road.</p> <p>Refer to the Issues section in this report.</p>
3.2.4 Footpath awnings	Able to comply	<p>The DCP active frontage provision (3.2.3) addressed above, calls for footpath awnings to be provided to all DCP prescribed active frontages.</p> <p>LEP clause 7.13A requires commercial uses to all ground floor street frontages in order for residential accommodation to be permitted in Zone E3 Productivity Support. A condition is recommended for design requirements to be included in any competitive design process brief for footpath awnings to be provided to each of its street frontages.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>A Design Excellence Strategy (DEX Strategy) has been submitted with the application and which establishes a design excellence process for the development of the site.</p> <p>Conditions are recommended to approve the DEX Strategy and for design requirements to be incorporated into any future competitive design process brief.</p> <p>A competitive design process is to be undertaken prior to lodgement of any future DA for the detailed design of the building. This competitive design process must adhere to the DEX Strategy and conditions of consent for the development to be eligible for up to 10% additional FSR.</p> <p>This provision requires submission of a landscape concept plan as part of any concept DA. A landscape concept plan was submitted but contains inappropriate/insufficient details and does not specify canopy cover targets, minimum deep soil provisions and</p>

Provision	Compliance	Comment
		<p>various inconsistencies with the envelope drawings For these reasons, the submitted landscape concept plan is not approved by this consent.</p> <p>Refer to the assessment against DCP provision 5.8.2.5.1 Landscaping in the Southern Employment Lands section of the DCP compliance table below.</p>
3.4 Hierarchy of Centres, City South	Able to comply	Refer to the assessment against LEP clause 7.23 in the LEP compliance table above.
3.5 Urban Ecology	Able to comply	<p>The City's Tree Management Specialist has reviewed the proposal and supports the removal of one Monterey Cypress tree (T05) contained within the site near its O'Riordan Street frontage and which is poorly structured and is in an unsuitable location given it may grow to be relatively large.</p> <p>Conditions are recommended for the nine street trees and one tree on a neighbouring site to be retained.</p> <p>A condition is recommended requiring a revised landscape concept plan to specify a canopy cover target of at least 15% of the site area in accordance with the requirements of this provision.</p>
3.6 Ecologically Sustainable Development	Yes	<p>ESD target benchmarks have been incorporated into the DEX Strategy that is recommended for approval.</p> <p>Proposed ESD initiatives to achieve the ESD target benchmarks include inclusion of green roofs and solar PV.</p>
3.7 Water and Flood Management	Able to comply	Refer to the assessment against LEP clause 5.21 in the LEP compliance table above.

Provision	Compliance	Comment
3.8 Subdivision, Strata Subdivision and Consolidation	Able to comply	The application was referred to Council's Specialist Surveyor, who supported the proposal, subject to conditions of consent including those for the envelope drawings to be amended to correctly illustrate easements that affect the site.
3.9 Heritage	Able to comply	Refer to the assessment against clause 5.10 in the LEP compliance table above.
3.11 Transport and Parking	Able to comply	Refer to the assessment against transport and car-parking provisions contained in clauses 7.5, 7.7 and 7.25 in the LEP compliance table above.
3.12 Accessible Design	Able to comply	Conditions are recommended for any subsequent DA for the detailed design of the building to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.
3.13 Social and Environmental Responsibilities	Able to comply	In accordance with the public domain interface and active use requirements discussed elsewhere in this report it is considered that any future detailed design can provide adequate passive surveillance in accordance with the relevant CPTED principles.
3.14 Waste	Able to comply	<p>Council's Waste Management Specialists have reviewed the submitted Waste Management Plan and reference scheme design and have raised the following concerns:</p> <ul style="list-style-type: none"> the bin holding zone on the lower ground level is not adequately sized to allow all bins to be presented for collection near the loading bay. As a result, the distance that fully laden bins would need to be manually moved from the loading bay to within the adjacent bin room exceeds the maximum handling distance of 10m as prescribed by the City's

Provision	Compliance	Comment
		<p>Guidelines for Waste Management in New Development</p> <ul style="list-style-type: none"> • the lower ground level design requires residents to cross the loading bay and/or vehicle circulation areas to access the O’Riordan Street building’s bin holding room and will need to be improved in terms of access and safety in any future detailed building design • the use of larger bins (i.e., 1100L bins) is recommended for collection and transfer of waste from the Botany Road building’s ground level bin room, to reduce the number of bin movements required. <p>Conditions are recommended requiring:</p> <ul style="list-style-type: none"> • a waste management strategy that sets out minimum spatial requirements and key principles for the design of waste areas to be submitted to and approved by Council officers prior to the commencement of the competitive design process and • a waste management plan prepared in accordance with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development is to be submitted as part of any subsequent DA for the detailed design of the building.
3.16 Signage and Advertising	Able to comply	A condition is recommended requiring a signage strategy to be submitted as part of any subsequent DA for the detailed design of the building.
3.17 Land Contamination	Yes	The application includes suitable information for its assessment against the provisions of SEPP (Resilience and Hazards) 2021.

Section 4 – Development Types

104. Note: Some relevant DCP provisions that would otherwise be listed in the table below have not been addressed as they are matters to which clause (6A) of SEPP 65 applies and which renders those provisions to be of no effect.

4.2 Residential Flat, Commercial and Mixed-Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Able to comply	<p>Previously, the DCP permitted development to a maximum height of 11 storeys to Botany Road and 10 storeys to O’Riordan Street.</p> <p>The Enterprise Areas Review Planning Proposal made changes to the height in storeys controls as they apply in the locality of North Alexandria.</p> <p>Now, there is no specified maximum height in storeys that applies to the site.</p> <p>The number of storeys is not approved as part of this concept DA. However, the reference scheme comprises the building fronting Botany Road which is 11 storeys in height and the building fronting the GS2AC Road and which is 9 storeys in height.</p> <p>The building height in storeys control is a matter to be considered through the competitive design process and ultimately upon determination of the subsequent DA for the detailed design of the building.</p> <p>This provision does specify a maximum street frontage height in storeys of 5 storeys to the GS2AC Road and requires the street frontage height of proposed development to respond to the street frontage heights of the buildings adjacent to the north on Botany Road and O’Riordan Street.</p> <p>The street frontage heights of the buildings adjacent to the north are as follows:</p>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • 326-328 Botany Road - 10 storeys; and • 18 O'Riordan Street - 1.5 to 2 storeys. <p>It is considered that the proposed concept envelope allows for a suitable response to the street frontage heights of the adjacent buildings to the north.</p>
4.2.2 Building setbacks	Able to comply	Refer to the assessment against provision 5.8.3.3 in the DCP compliance table below.
4.2.3.5 Landscaping	Able to comply	<p>This provision specifies the matters to be addressed by a landscape plan submitted as part of a DA for the detailed design of a building.</p> <p>A condition is recommended requiring a sufficiently detailed landscape plan to be submitted with any subsequent DA for the detailed design of the building.</p>
4.2.3.6 Deep soil	Yes	<p>A minimum of 10% of the site area (670.8sqm) is to be provided as deep soil, and which is to include a consolidated deep soil area with a minimum dimension of 10m. All remaining deep soil areas are to have a minimum dimension of 3m.</p> <p>The subject concept proposal provides approximately 22% (1485sqm) of deep soil across the site.</p> <p>A large consolidated deep soil zone with minimum dimensions exceeding 10m is provided adjacent to the northern boundary and satisfies the requirements of this control.</p> <p>Refer to the Issues section in this report.</p>
4.2.3.8 Common open space	Able to comply	The DCP requires common open space to be provided with an area equal to 25% of the site area, with a minimum dimension of 6m.

Provision	Compliance	Comment
		<p>The reference scheme provides common open space at ground level adjacent to the northern boundary (1094 sqm), on the level 8 rooftop of the GS2AC Road building (441sqm) and on the level 10 rooftop of the Botany Road building (519 sqm) with a cumulative area of 2,053 sqm (31% of the site area), all of which have a minimum dimension exceeding 6m.</p> <p>The DCP requires at least 30% of the required common open space area to receive a minimum of 2 hours of direct sunlight between 9am and 3pm on 21 June.</p> <p>The reference scheme demonstrates that:</p> <ul style="list-style-type: none"> • ground level common open space receives almost no direct sunlight between 9am and 3pm at midwinter • the level 8 rooftop common open space receives sunlight to almost its entire area (approximately 98% of its area) between 9am and 3pm at midwinter and • the level 10 rooftop common open space receives sunlight to almost its entire area (approximately 95% of its area) between 9am and 3pm at midwinter. <p>As the rooftop common open spaces receive sunlight throughout the day, they are the principal useable common open space areas for the development.</p> <p>To ensure principal useable common open space is equitably distributed in the detailed design of the building, it is recommended it be included in the competitive design brief for common open space to be provided in an area or areas of a useable size and configuration, directly and equitably accessed from common circulation areas, entries and lobbies, and designed</p>

Provision	Compliance	Comment
		so that the principal common open space area or areas achieve minimum solar access requirements as stated at provision 4.2.3.8 of the DCP.
4.2.3.11 Acoustic privacy	Able to comply	<p>Botany Road and O'Riordan Street are classified roads that carry more than 20,000 average daily traffic movements. As such the proposed development is subject to the noise criteria specified at clause 2.120 of the SEPP (Transport and Infrastructure) 2021.</p> <p>The submitted acoustic report identifies that the reference scheme apartments facing any of the site's street frontages cannot achieve the relevant internal noise criteria.</p> <p>The acoustic report offers a range of noise mitigation measures including plenums to reduce noise while allowing for natural ventilation of apartments in accordance with ADG objectives.</p> <p>Some noise mitigation devices recommended in the acoustic report differ from those outlined in the natural ventilation report. A condition is recommended requiring these differing recommendations to be coordinated to provide the most useful resource possible for participants in the competitive design process.</p> <p>Refer to the Issues section of this report.</p>
4.2.3.12 Flexible housing and dwelling mix	Able to comply	<p>The reference scheme comprises the following dwelling mix:</p> <ul style="list-style-type: none"> • 0% (0) studios - does not comply • 67% (170) 1 bed - does not comply • 11% (27) 2 bed - does not comply • 22% (56) 3 bed - complies.

Provision	Compliance	Comment
		<p>The number and mix of apartments is not approved as part of any concept DA consent granted.</p> <p>Any subsequent DA for the detailed design of the building will be assessed against the requirements of this control.</p>
4.2.4 Fine grain, architectural diversity and articulation	Able to comply	<p>This provision specifies a maximum building frontage length of 65m on streets with a width of 18m or more.</p> <p>Botany Road is 25m wide, O'Riordan Street is 20m wide and the GS2AC Road is 26m wide adjacent to the subject site.</p> <p>While the length of the Botany Road and O'Riordan Street frontages are less than 65m, the length of the envelope to the GS2AC Road is about 146m long.</p> <p>The building frontage length to the GS2AC Road of the reference scheme is approximately 88m long and does not comply with this control.</p> <p>This provision allows for non-compliance with the maximum frontage lengths subject to design measures to modulate the scale, grain, articulation, materiality and architectural character of such long frontages.</p> <p>A condition is recommended for these design requirements to be incorporated into the future competitive design process brief.</p>
4.2.5.1 Tall buildings	Able to comply	<p>The proposed concept envelope is 40m in height and is capable of accommodating a tall building as defined by this provision.</p> <p>A condition is recommended for any tall building (>35m in height) to be vertically proportioned in height, form and architectural articulation, to be incorporated as a design requirement in any future competitive design process brief.</p>

Provision	Compliance	Comment
4.2.5.3 Development on busy roads and active frontages	Yes	<p>Botany Road and O'Riordan Street carry over 20,000 average daily traffic movements.</p> <p>Subsequently, those parts of the concept envelope fronting Botany Road and O'Riordan Street are subject to this provision which requires non-residential uses to be provided at ground level.</p> <p>In accordance with the requirements of this provision the concept proposal locates commercial premises at the ground floor level fronting Botany Road and O'Riordan Street.</p>
4.2.6 Waste and recycling Management	Able to comply	Refer to the assessment against provision 3.14 in the DCP compliance table above.
4.2.7 Heating and cooling infrastructure	Able to comply	Any subsequent DA for the detailed design of the building will be assessed against the requirements of this control which encourage heating and cooling infrastructure to be consolidated into a centralised basement location near the street frontage.
4.2.8 Letterboxes	Able to comply	Any subsequent DA for the detailed design of the building will be assessed against the requirements of this control which require the provision of lockable mailboxes located close to the major street entry to the site.

Section 5 – Specific Areas

5.2 Green Square

Provision	Compliance	Comment
<p>5.2.1 Green Square Urban Strategy</p> <p>5.2.2 Objectives for Green Square</p>	Able to comply	The subject proposal is in keeping with and will support the realisation of the Green Square Urban Strategy and the objectives for Green Square.

Provision	Compliance	Comment
5.2.3 Community Infrastructure	Yes	<p>The proposal relies on an additional 1.5:1 community infrastructure floor space.</p> <p>The applicant has made a public benefit offer and agreed to enter into a VPA to deliver this infrastructure.</p> <p>Refer to the Issues section in this report.</p>

5.8 Southern Enterprise Area

Provision	Compliance	Comment
5.8.1 General	Able to comply	The subject concept proposal is in keeping with and will support the realisation of the Southern Enterprise Area Urban Strategy.
5.8.2.3 Affordable housing	Able to comply	<p>The proposed affordable housing development is in close proximity to employment, services and infrastructure and will not constrain employment activities on adjacent sites.</p> <p>As outlined elsewhere in this report, the concept is able to satisfy the relevant requirements of SEPP 65 and the ADG and which contain building separation requirements similar to those specified in this provision.</p> <p>The proposed development will be able to satisfy the requirements of this provision, and which will be assessed as part of any subsequent DA for the detailed design of the building.</p>
5.8.2.4 Addressing land use conflict	Yes	An acoustic report has been submitted as part of the subject concept DA and which has addressed the NSW Government's Development near Rail Corridors and Busy Roads – Interim Guidelines as well as other relevant policies relating to acoustic privacy and natural ventilation.

Provision	Compliance	Comment
5.8.3.1 Subdivision	Able to comply	<p>The draft plan of proposed subdivision that is to be annexed to the VPA has been reviewed by the City's Specialist Surveyor and is accepted.</p> <p>The following matters are to be addressed by conditions and advisory notes recommended for imposition on any consent granted:</p> <ul style="list-style-type: none"> • the landscape concept plan requires amendment to delete part of the proposed line of tree plantings adjacent to the northern boundary and closest to the O'Riordan Street frontage and which would encroach on an existing right of carriageway that benefits the property at 18 O'Riordan Street; • the drawing titled Envelope - Site Plan (SK-0103E) requires amendment to reduce the area shown in blue hatching and which is labelled EASEMENT to accurately reflect the configuration of the right of carriageway and easement for drainage that exist in the north-west corner of the site; and • an easement for batter of variable width, on a portion of the site adjacent to the new GS2AC Road, poses a conflict with the proposed development. This easement benefits the Council. It is recommended that the release of this easement be sought prior to the determination of any subsequent DA for the detailed design of the building.
5.8.3.2 Building height	Able to comply	Refer to the assessment against provision 4.2.1.1 in the DCP compliance table above.

Provision	Compliance	Comment
5.8.3.3 Building alignment and setbacks	Yes	In accordance with the requirements of this provision the proposed concept envelope extends to the post-dedication property boundary with the new GS2AC Road, which is identified as an active frontage.
5.8.3.4 Active frontages and street level design	Able to comply	Refer to the assessment against provision 3.2.3 in the DCP compliance table above.
5.8.3.5 Building layout and design	Able to comply	<p>DCP provisions requires new development to respond to the desired character of the area including:</p> <ul style="list-style-type: none"> • facades are to be articulated using a variety of architectural elements and design languages, and are to comprise a proportion of solid surfaces, preferably masonry material to reflect the established character of the area • buildings located on corner sites must reinforce the corner by massing and facade orientation • rooftop structures such as plant rooms, solar panels, air conditioning and ventilation systems are to be incorporated into the design of the building and concealed within the roof form or located within a well-designed, integrated roof top element. <p>A condition is recommended for these requirements to be incorporated into any future competitive design process brief.</p>
5.8.3.6.1 Landscaping	Yes	Refer to the assessment against provision 4.2.3.6 in the DCP compliance table above and to the discussion of Deep Soil in the Issues section below.
5.8.3.7 Parking, access and loading	Able to comply	Refer to the assessment against transport and car-parking provisions contained in clauses 7.5, 7.7 and 7.25 in the LEP compliance table above.

Provision	Compliance	Comment
5.8.3.8 Adaptable parking	Able to comply	<p>The reference scheme provides 38% (6 of 16) private car-parking spaces as above ground car-parking spaces.</p> <p>All above ground car-parking is screened from the public domain and is capable of being adapted. The above ground parking spaces have adequate floor to ceiling height, could be provided access to light and air and appropriate services were those areas adapted for another use.</p> <p>The reference scheme demonstrates compliance with this control. While not approved at concept stage, parking will be assessed upon lodgement of the Stage 2 development application.</p>
5.8.4.1 Public open space	Yes	Refer to the assessment against provision 3.1.4 in the DCP compliance table above.
5.8.4.2.1 Street network - General	Yes	A dedication for public domain setbacks to Botany Road (1.4m wide), O'Riordan Street (2.4m wide) and the GS2AC Road (0.5m wide) are to be secured through the Voluntary Planning Agreement associated with this DA and in accordance with the DCP Public Domain Setbacks map.
5.8.4.2.2 Street network - North Alexandria	Yes	The subject proposal is compatible with the street network established under this provision.
5.8.4.2.3 Pedestrian and cycle network	Yes	A dedication for public domain setbacks to Botany Road (1.4m wide), O'Riordan Street (2.4m wide) and the GS2AC Road (0.5m wide) are to be secured through the Voluntary Planning Agreement associated with this DA and in accordance with the DCP Public Domain Setbacks map.

Provision	Compliance	Comment
5.8.5 Managing transport demand	Able to comply	Refer to the assessment against transport and car-parking provisions contained in clauses 7.5, 7.7 and 7.25 in the LEP compliance table above.
5.8.6 Stormwater management and laneways	Able to comply	Refer to the assessment against LEP clause 5.21 in the LEP compliance table above.
5.8.6.2 Urban ecology	Able to comply	Refer to the assessment against provision 3.5 in the DCP compliance table above.

Issues

Natural ventilation, natural cross ventilation and acoustic privacy

Insufficient spatial allocations for plenums

105. The reference scheme demonstrates that a spatial allocation has been made within noise affected apartments (i.e. those facing the street) to allow for vertical plenums to mitigate noise while allowing for natural ventilation as recommended in the submitted Ventilation Report.
106. Detail drawings submitted to address this issue illustrate plenums, 300mm wide, laid over the reference scheme floor plans as shown in Figure 43 below.



Figure 43: Plenums arranged in plan on the reference scheme.

107. As shown in Figure 44 below, the Ventilation Report contains diagrams that illustrate the typical arrangement of a vertical plenum, excluding the structure. That is, it shows the 160mm clear plenum width, the 50mm acoustic linings and 20mm plasterboard to both sides of the plenum and which adds up to a width of 300mm in total. However, these diagrams and the spatial allowance within the reference scheme plans do not account for the outer structure and cladding of the plenums, particularly where they are located on an external wall.

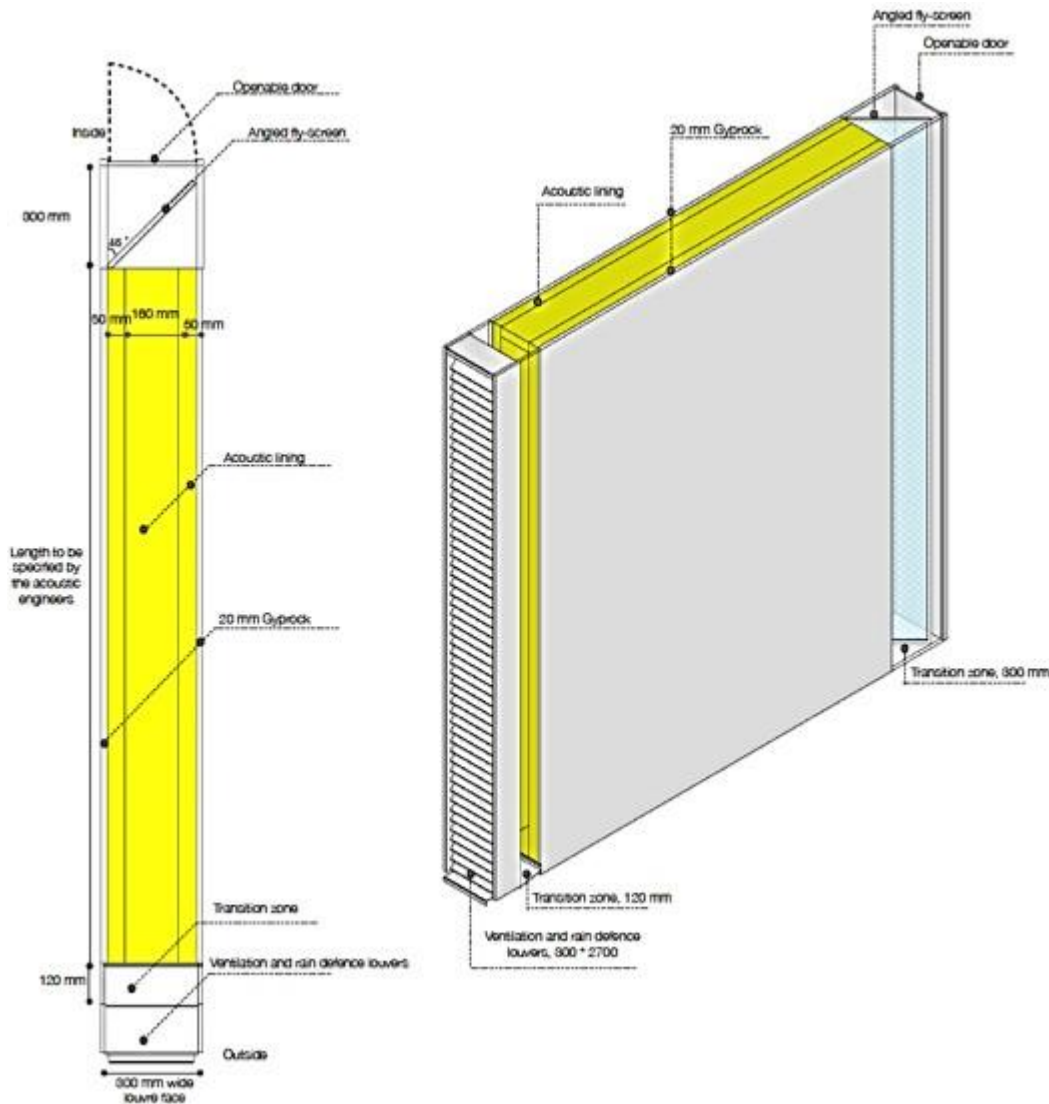


Figure 44: Typical detail of proposed attenuated natural ventilation plenum (source Natural Ventilation 330-332 Botany Road, Rev. C, 1 December 2022, Flux).

- 108. Considering some of the plenums will be greater than 300mm wide, some of the rooms shown on the reference scheme plan would not achieve the minimum size requirements specified in the ADG (such as the 3m minimum width for a bedroom).
- 109. While this issue is to be addressed through the competitive design process and subsequent detailed design DA it may result in a reduction in achievable yield for the development. Design solutions to offset any impacts to yield may be explored through future competitive and detailed design processes

Natural cross ventilation

- 110. Forty-four percent (49 of 111) of non-noise affected apartments within the first nine-storeys of the reference scheme are naturally cross ventilated. This is counting the 8 apartments (AG.01 to A7.02) that are not naturally cross-ventilated, an example - apartment A1.02 - is shown in Figure 45 below, but which could easily incorporate a window in their northern elevations to be configured as corner, and therefore naturally cross ventilated, apartments.

111. The satisfaction of ADG objectives will need to be addressed through the competitive design process and subsequent detailed design DA by introducing windows as illustrated in Figure 45 below, as well as by introducing breaks in the building massing and which will likely result in a reduction in achievable development yield.

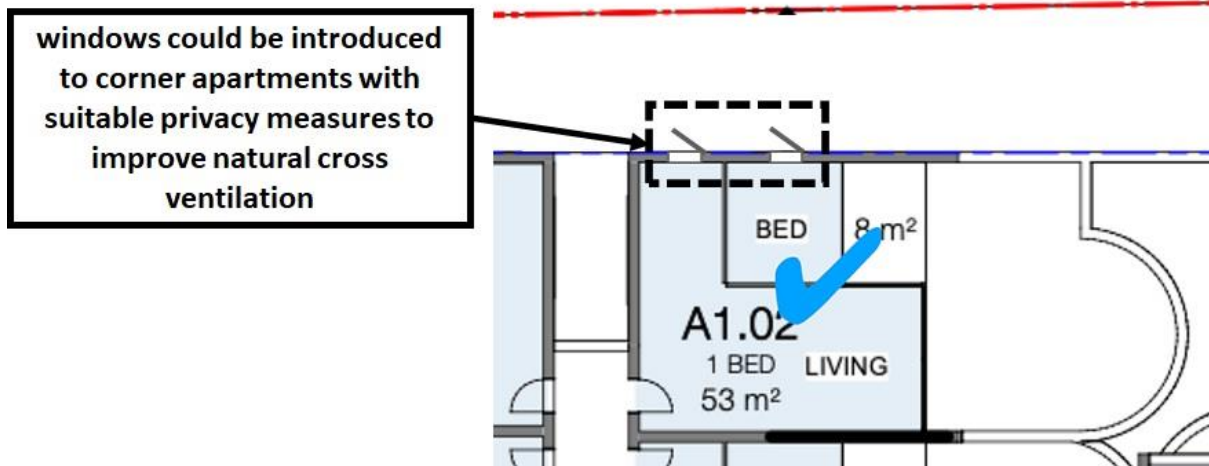


Figure 45: Illustration of corner apartments that have been included in the applicant's tally of naturally cross ventilated apartments.

Kit of part solutions to noise mitigation and natural ventilation

112. The Acoustic and Natural Ventilation reports offer different 'kit of part' solutions, that is a variety of design measures to mitigate noise as well as to achieve the natural ventilation requirements of the ADG. These kits are intended to be appended to the competitive design process brief as a useful resource for competitors to adopt in their designs to address noise and ventilation concerns.
113. For example, the Acoustic Report offers a 'partially enclosed wintergarden' whereas the Natural Ventilation Report does not, perhaps as it may not offer a feasible ventilation solution.
114. To reconcile these different recommendations a condition is recommended for a revised acoustic/ventilation appendix to be submitted to and approved by Council officers prior to the endorsement of the competitive design process brief to ensure it provides a useful and coordinated resource for competitors.

Public domain interface with the GS2AC road

115. Previously, the site's Botany Road and O'Riordan Street frontages were identified as active frontages on the DCP's active frontages map.
116. As noted elsewhere in this report, the Enterprise Areas Review Planning Proposal made changes to mapped active frontage locations in North Alexandria. Now, the site's interface to the GS2AC Road is identified as an active frontage on the DCP's active frontages map.
117. The reference scheme demonstrates that the flood planning levels recommended in the site-specific flood planning assessment can be achieved. However, as shown in Figure 46 below, the southern elevation of the reference scheme features blank walls and a long series of ramps (over 40m in length) running parallel to the street and which reduce the activation of this frontage to the new GS2AC Road.

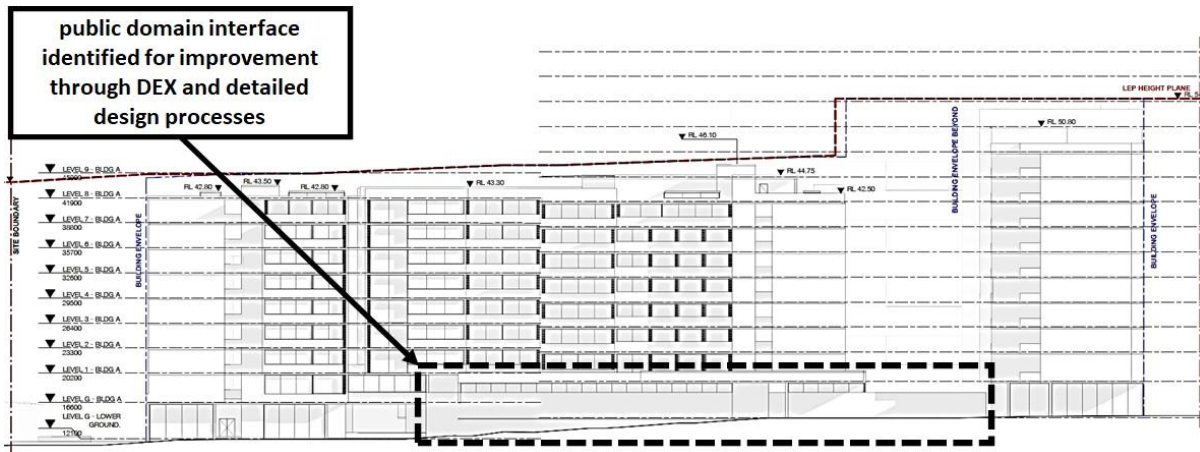


Figure 46: Public domain interface to GS2AC Road is to be improved through competitive and detailed design processes.

118. Conditions are recommended for design requirements to be included in any competitive design process brief for competitors to explore design solutions to:
- (a) minimise the difference between the internal ground floor level and the level of the public domain to avoid creating a physical barrier, such as steps or ramps, to the shop windows of commercial tenancies fronting the GS2AC Road;
 - (b) increase the portion of the ground floor that is close to being at grade with the footpath;
 - (c) maximise activation, visibility into and out of the commercial tenancies from the street; and
 - (d) maximise the number of direct entries to these tenancies from the street.

Voluntary Planning Agreement

119. Submitted DA documents include an offer to Council to enter into a Voluntary Planning Agreement (VPA) to provide the public domain setbacks as required under DCP provision 5.2.3 and a monetary contribution towards community infrastructure provision in Green Square.
120. The offer was accepted and the subsequent draft VPA that has been prepared in association with the subject development application provides for the following public benefits:
- (a) dedication of a 1.4 metre wide strip of land along the Botany Road frontage, a 2.4 metre wide strip of land along the O'Riordan Street frontage and 0.5 metre wide strip of land to its new frontage to the Green Square to Ashmore Connector Road (with an area of 228.32 sqm) with a residual value of \$45,664;
 - (b) embellishment works including construction of new footpaths over the dedicated land in accordance with Council's technical specifications and with a value of \$192,930.40; and
 - (c) a monetary contribution towards community infrastructure provision in Green Square with a value of \$4,399,987.60.

121. The draft VPA will undergo a 28 day public exhibition period in accordance with the requirements of section 7.5 of the Environmental Planning and Assessment Act 1979.
122. The application is recommended for deferred commencement consent to require the for the draft VPA to be publicly exhibited, for submissions to be considered and for the owner of the site to execute this planning agreement and register it on title before the consent becomes operative. This will ensure that the consent cannot be acted upon without assurance that the public benefits will be delivered in accordance with the provisions of this agreement.

Deep soil

123. DCP provision 4.2.3.6 requires a minimum of 10% of the site area (670.8sqm) to be provided as deep soil and which is to include a consolidated deep soil area with a minimum dimension of 10m. All remaining deep soil areas are to have a minimum dimension of 3m.
124. The proposed concept envelope plans include the following notation 'DEEP SOIL 1419 M2'. However, a measurement of the area of the deep soil zones comes to approximately 1485sqm and which is equal to 22% of the site area.
125. A large consolidated deep soil zone with minimum dimensions exceeding 10m is provided adjacent to the northern boundary.
126. For these reasons the reference scheme demonstrates that deep soil provision can be achieved in accordance with the DCP's deep soil requirements.
127. Conditions are recommended for the drawing titled Envelope - Site Plan (no. SK-0103E) to be amended as follows and as illustrated in Figure 47 below:
 - (a) the narrow strip shaded in green and with black hatching to indicate deep soil and which is located between the envelope fronting the GS2AC Road and the northern boundary, is to be reconfigured to include that part of the area marked in light blue hatching to indicate 'Easement' that is to be redrawn to accurately reflect the configuration of the right of carriageway and easement for drainage that exist in the north-west corner of the site (i.e. the easement area will be reduced);
 - (b) both of the deep soil zones are to be annotated as 'DEEP SOIL' and with the area of each deep soil zone specified in square metres;
 - (c) conditions are recommended for any structures in deep soil zones to be constructed of lightweight materials such as timber decking or water permeable paving to allow for filtration of rainwater into the ground.

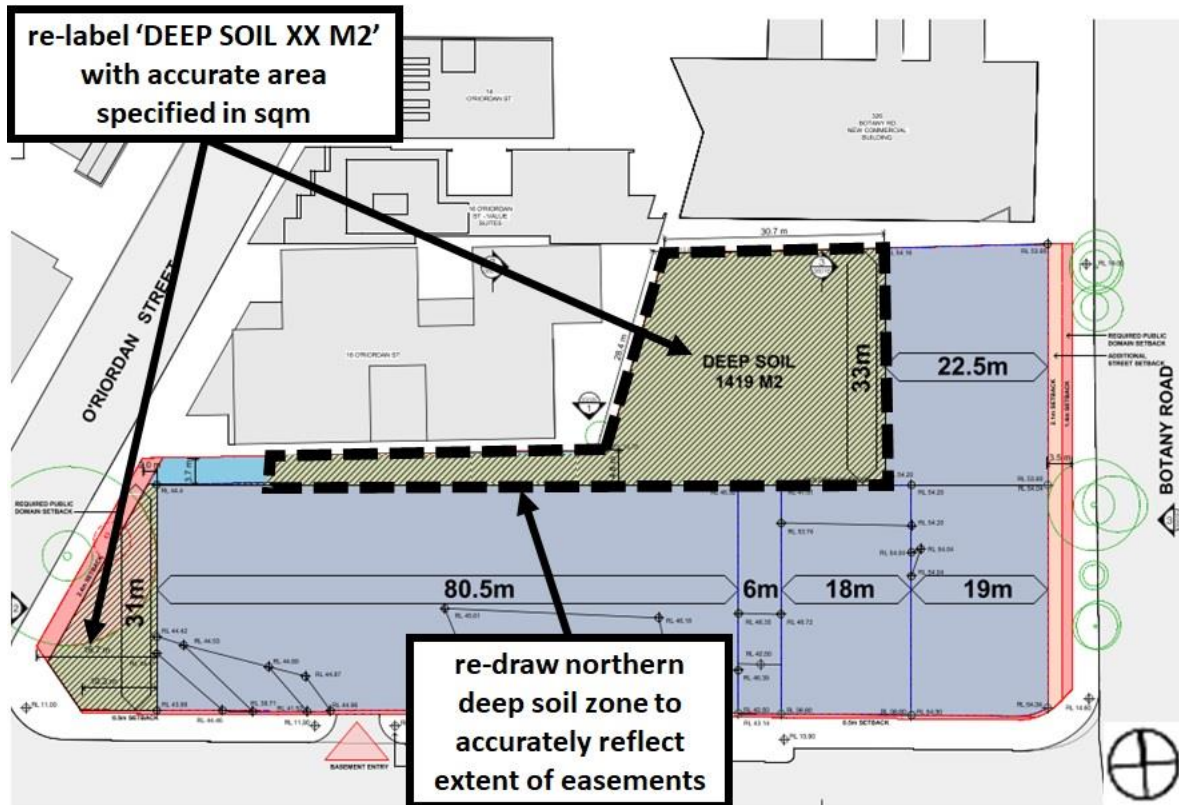


Figure 47: Recommended design modifications to accurately illustrate deep soil zones.

Consultation

Internal Referrals

128. The assessment process has been informed by advice from Council's Specialist Surveyor, Public Domain, Tree Management, Landscape Design, Environmental Health, Safe City, Urban Design, Public Art, ESD and Waste Management Specialists, Legal Officers, Design Excellence team, Transport Planner, Quantity Surveyor and VPA Coordinator.
129. Where appropriate, conditions recommended by these referrals have been included for imposition on any consent given.

External Referrals

Sydney Airport

130. The subject site is in an area defined in schedules of the Civil Aviation (Building Control) Regulations 1988 which limit the height of structures to RL 51.00m AHD without prior approval of the Civil Aviation Safety Authority pursuant to s.183 of the Airports Act 1996.
131. The proposed envelopes have a maximum height of up to RL 54.34m AHD, as such the application was notified to Sydney Airport through the NSW Planning Portal (ref. no. CNR-35166), on 9 February 2022.

132. On 11 April 2022, Council's planning officer uploaded the one public enquiry about accessing DA documents received in response to the notification and exhibition of the subject DA to the NSW Planning Portal.
133. On 12 April 2022, Sydney Airport provided recommendations as to the approvals that would be required prior to any works commencing on the site and which are provided at Attachment G to this report.

Transport for NSW

134. Pursuant to Section 138 of the Roads Act 1993, the application was notified to TfNSW [Roads and Maritime Services (RMS)] through the NSW Planning Portal (ref. no. CNR-35166), on 9 February 2022.
135. On 11 April 2022, Council's planning officer uploaded the one public enquiry about accessing DA documents received in response to the notification and exhibition of the subject DA to the NSW Planning Portal.
136. On 2 May 2022, TfNSW (RMS) provided its concurrence under section 138 of the Roads Act 1993, the conditions of which are included in the conditions of consent set out in Attachment A to this report.

Sydney Water

137. Pursuant to Section 78 of the Sydney Water Act 1994, the application was notified to Sydney Water through the NSW Planning Portal (ref. no. CNR-35166), on 9 February 2022.
138. On 11 April 2022, Council's planning officer uploaded the one public enquiry about accessing DA documents received in response to the notification and exhibition of the subject DA to the NSW Planning Portal.
139. On 12 May 2022, Sydney Water issued recommendations as to the planning of water servicing of the proposed development and which are provided at Attachment H to this report.

Advertising and Notification

First exhibition period

140. In accordance with the City of Sydney Community Participation Plan 2019, the subject DA was publicly exhibited for 28 days from 9 February to 10 March 2022.
141. In response to the public exhibition of the application one enquiry, about accessing DA documents was received, but it did not raise any substantive issues about the proposal.

Second exhibition period

142. Following DA amendments to increase the bulk of the proposed envelope the amended application documents were publicly exhibited for 14 days (and which was extended over the holiday period) from 21 December 2022 to 26 January 2023. No submissions were received.

Third exhibition period

143. Following further DA amendments to the proposed envelope to increase the height of the proposed envelope the amended application documents were publicly exhibited for 14 days from 27 April to 12 May 2023. No submissions were received.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

144. Whether a Section 7.11 contribution will be imposed upon any consent granted to any subsequent DA for the detailed design of the building will be considered at the time that any such DA is determined.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

145. Whether a Section 7.13 contribution will be imposed upon any consent granted to any subsequent DA for the detailed design of the building will be considered at the time that any such DA is determined.

Relevant Legislation

146. Environmental Planning and Assessment Act 1979.

Conclusion

147. The subject development application (DA) seeks consent for a concept building envelope for a mixed-use development with a vehicle access location from the new Green Square to Ashmore Connector Road (GS2AC) and indicative uses including:
- (a) lower ground level and basement parking, services, storage and commercial uses;
 - (b) ground level commercial uses, residential apartments for the purpose of providing affordable housing and common open space;
 - (c) residential apartments for the purpose of providing affordable housing and common open spaces on the levels above.
148. The Public Benefit Offer has informed a draft VPA associated with the application and which will undergo a 28-day public exhibition period in accordance with the requirements of section 7.5 of the Environmental Planning and Assessment Act 1979. A deferred commencement condition is recommended to enable the draft VPA to be executed and registered on title.
149. The concept proposal and Design Excellence Strategy establish a concept building envelope and suitable parameters for a competitive design process. Subject to the recommended conditions, the proposed envelop is able to generally accommodate a detailed building design of an appropriate bulk and scale, that responds to the character of the area and which is capable of achieving design excellence.

150. For these reasons it is recommended that authority be delegated to the Chief Executive Officer (CEO) to determine the application, following the conclusion of the public exhibition of the draft VPA and considering any public submissions received in response. It is recommended that the CEO consider granting deferred commencement development consent subject to the recommended conditions requiring the VPA to be executed and registered on title prior to the consent becoming operative.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Ben Chamie, Area Planning Coordinator

Attachment A

Recommended Conditions of Consent
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PART A - DEFERRED COMMENCEMENT CONDITIONS

SCHEDULE 1

- (A) The consent is not to operate until the following condition is satisfied:
- (1) VOLUNTARY PLANNING AGREEMENT**
- (a) The Voluntary Planning Agreement between the COUNCIL OF THE CITY OF SYDNEY and CITY WEST HOUSING PTY LTD, that delivers public benefits associated with the approved development is publicly exhibited, executed and submitted to Council; and
 - (b) The guarantee must be provided to Council in accordance with the Voluntary Planning Agreement; and
 - (c) The Voluntary Planning Agreement, as executed, must be registered on the title of the land; and
 - (d) The payment of the monetary contribution must be provided to Council in accordance with the Voluntary Planning Agreement.
- (B) Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within **24 months** of the date of determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to section 4.53(6) of the Environmental Planning and Assessment Act 1979.
- (C) The consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied.
- (D) Upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent, as detailed in Part B Conditions of Consent (Once the Consent is Operation).

PART A1 – CONDITIONS OF CONSENT

(1) STAGED DEVELOPMENT APPLICATION

Pursuant to Division 4.22 of the Environmental Planning and Assessment Act 1979, this Notice of Determination relates to a concept development application. A subsequent development application (DA) is required for any works to be carried out on the site.

Reason

To specify the status of this approval as a concept development consent and that it does not authorise the carrying out of works on any part of the site.

(2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2021/1484 dated 20 December 2021 and the following drawings prepared by SJB Architects:

Drawing Number	Drawing Name	Date
SK-0103E / 14	Envelope – Site Plan	29/05/2023
SK-0501E / 11	Envelope – Elevation – East & West	24/05/2023
SK-0502E / 17	Envelope – Elevation – North & South	29/05/2023
SK-0601E / 11	Envelope - Sections	24/05/2023

and as amended by the conditions of this consent.

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

Reason

To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

(3) MATTERS NOT APPROVED

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

- (a) any demolition, tree removal, excavation, remediation and/or construction;
- (b) the height in storeys or street frontage height in storeys of the development;

- (c) the layout and number of residential apartments or non-residential tenancies;
- (d) the depth, extent, number, layout and design of basement levels and/or configuration of car parking;
- (e) the number of car parking spaces, bicycle spaces, car share or loading spaces/zones;
- (f) the precise quantum of floor space; and
- (g) up to 10% design excellence uplift in floor space.

Reason

To specify the matters that are not approved by this consent and that are to be determined under a subsequent DA for the detailed design of the building.

(4) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT

The terms of the planning agreement entered into in accordance with the VOLUNTARY PLANNING AGREEMENT condition contained in the Deferred Commencement Conditions at Part A of this consent must be complied with.

Reason

To ensure the development complies with all terms of the planning agreement.

(5) DESIGN MODIFICATIONS – ENVELOPE DRAWINGS

The design of the concept envelope must be modified as follows:

- (a) the easement drawn in light blue hatching on drawings titled Envelope - Site Plan (SK-0103E), Envelope – Elevation – East & West (SK-0501E) and Envelope – Sections (SK-0601E), must be amended to reflect the right of carriageway and easement adjacent to the northern boundary as specified on DP 1247504 and detailed in any related dealings and s88B instruments;
- (b) the area shaded in green and with black hatching to indicate deep soil and which is located between the envelope fronting the GS2AC Road and the northern boundary, is to be reconfigured to include that part of the area marked in light blue hatching to indicate Easement that is to be redrawn in accordance with (a) above (i.e. the easement area will be reduced and deep soil area increased);
- (c) both of the deep soil zones are to be annotated as DEEP SOIL and with the area of each separate deep soil zone in square metres also annotated on the drawing

The modifications are to be submitted to and approved by Council's Director City Planning, Development and Transport prior to the issue of a Construction Certificate.

Note: The approved envelope encroaches on an easement for batter of variable width on a portion of the site adjacent to its frontage to the GS2AC Road.

This easement benefits Council. It is recommended that the release of this easement is sought prior to lodgement of any subsequent DA for the detailed design of the building.

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

(6) BUILDING HEIGHT

- (a) Building height proposed as part of any subsequent DA for the detailed design of the building must not exceed the heights expressed as RLs (AHD) shown on drawings listed in the APPROVED DEVELOPMENT condition above;
- (b) This condition does not restrict development comprising building height:
 - (i) proposed or erected by or on behalf of a public authority on land identified in the Voluntary Planning Agreement for transfer (and/or dedication) for the purpose of public amenities such as street furniture, street lighting, landscape structures or the like;
 - (ii) located in the ground level common open space areas for the purpose of landscape structures and communal facilities that do not comprise floor space (or GFA) and do not compromise deep soil provision.

Reason

To ensure the constructed development complies with the approved height.

(7) FLOOR SPACE RATIO

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio (FSR) of development contained within the site must not exceed the maximum permitted FSR calculated in accordance with the Sydney Local Environmental Plan 2012.
- (b) Notwithstanding (a) above, the development contained within the site may be eligible for up to 10% additional floor space pursuant to the provisions of Clause 6.21D(3) of the Sydney Local Environmental Plan 2012 if the consent authority is satisfied that the subsequent DA for the detailed design of the building exhibits design excellence and is the result of a competitive design process.

Reason

To specify the relevant floor space ratio controls applicable to the development.

(8) DEVELOPMENT TO BE CONTAINED WITHIN ENVELOPE

The detailed design of the building must be contained within the approved envelope except for footpath awnings and/or projections beyond private property

boundaries over or into the public road/footpath in accordance with the requirements of Schedule 4 of the Sydney DCP 2012.

Reason

To ensure that the detailed building design is not inconsistent with the approved concept envelope.

(9) DISTRIBUTION OF FLOOR SPACE WITHIN ENVELOPE

The approved concept proposal envelope establishes the maximum parameters for the competitive design process and the future built form on the site. The detailed design of the building must not occupy the entirety of the envelope. The maximum permissible floor space of the detailed design must be consistent with the relevant provisions of the Sydney LEP 2012, the Sydney DCP 2012 and the conditions of this consent.

Reason

To specify the relevant parameters for the detailed building design.

(10) COMPETITIVE DESIGN PROCESS

A competitive design process shall be conducted in accordance with the provisions of the Sydney Local Environmental Plan 2012 and:

- (a) in accordance with 'Design Excellence Strategy for 330-332 Botany Road, Alexandria dated 17 May 2023, prepared by Ethos Urban on behalf of City West Housing; and
- (b) prior to the lodgement of any subsequent DA for the detailed design of the building.

The detailed design of the building/s must exhibit design excellence, in accordance with Clause 6.21C of Sydney Local Environmental Plan 2012.

Reason

To specify the approved Design Excellence Strategy for the development.

(11) DETAILED DESIGN OF BUILDINGS

Consistent with the relevant parts of the Sydney DCP 2012, the design brief for the competitive design process and the building design submitted as part of any subsequent DA for the detailed design of the building, must address the following design requirements:

- (a) the design of the building fronting the Green Square to Ashmore Connector Road (the GS2AC Road) must minimise the difference between the internal ground floor level and the level of the public domain to minimise the creation of any physical barrier, such as steps or ramps, to the shop windows of commercial tenancies fronting the GS2AC Road, to increase the portion of the ground floor that is close to being at grade with the footpath, to maximise activation, visibility into and out of the commercial

tenancies from the street and to maximise the number of direct entries to these tenancies from the street;

- (b) the north-east corner of the building fronting Botany Road must be suitably articulated to minimise the visual impact of the blank facade in views to the site from the north looking south and to achieve a harmonious street wall relationship with the approved development at 326-328 Botany Road;
- (c) footpath awnings must be provided to all three street and road frontages;
- (d) common open space is to be provided in an area or areas of a useable size and configuration, directly and equitably accessed from common circulation areas, entries and lobbies, and designed so that the principal common open space area or areas achieve minimum solar access requirements as stated at provision 4.2.3.8 of the Sydney DCP 2012;
- (e) the building elevation to the new GS2AC Road must be broken into two or more building masses that present different architectural characters to the public domain in accordance with the design requirements of provision 4.2.4 of the Sydney DCP 2012. Including that these 'broken down' buildings are to be articulated into smaller elements and are to be separated by full height breaks in accordance with the separation, visual and acoustic privacy objectives of the Apartment Design Guide;
- (f) to account for construction tolerances and to minimise risks associated with encroachment, the detailed design of any part of the building fronting Botany Road must clearly demonstrate a minimum setback of 20mm from the northern boundary of the site;
- (g) facades are to comprise a proportion of solid surfaces, preferably masonry material to reflect the established character of the area;
- (h) the corner of Botany Road and the GSAC Road is to be reinforced by appropriate massing and facade orientation;
- (i) rooftop structures such as plant rooms, solar panels, air conditioning and ventilation systems are to be incorporated into the design of the building and concealed within the roof form or located within a well-designed, integrated roof top element;
- (j) any design for a tall building (>35m in height) is to be vertically proportioned in height, form and articulation; and
- (k) ground level apartments adjacent to common open space and / or common circulation areas and apartments at upper levels within the envelope fronting the GS2AC Road must be designed to address the requirements specified in the design guidance to ADG objectives 2F Building separation and 3F-1 Visual privacy.

Reason

To specify the matters that have been identified through the concept DA assessment as requiring further resolution through the competitive design process and detailed design development.

(12) ACOUSTIC / VENTILATION BRIEF

- (a) Prior to the commencement of the competitive design process, a kit of acoustic privacy / natural ventilation solutions (the 'kit of parts') is to be submitted to and approved by the Director City Planning Development and Transport.
- (b) The kit of parts is to provide a coordinated resource of design measures to mitigate noise as well as to achieve the natural ventilation requirements of the Apartment Design Guide and is to be appended to any competitive design process brief.
- (c) The kit of parts must consolidate the recommendations contained in the:
 - (i) Acoustic Advice for Concept DA and Design Competition, ref. no. TM235-01F02 DA and Design Competition Advice (r3), dated 7 December 2022 and as prepared by Renzo Tonin and Associates; and
 - (ii) Natural Ventilation 330-332 Botany Road, Rev C, dated 1 December 2022 and as prepared by Flux Consultants Pty Ltd.
- (d) The kit of parts must not include detail solutions based on the reference scheme.

Reason

To provide consistent and useful information on acoustic and natural ventilation performance to participants in the competitive design process.

(13) LANDSCAPE CONCEPT PLAN

- (a) The landscape plan titled 330 Botany Road, Alexandria / City West Housing, as prepared by Arcadia is not approved by this consent.
- (b) Prior to the commencement of any competitive design process for the site a landscape concept plan must be submitted to and approved by the Director City Planning Development and Transport.
- (c) The landscape concept plan must:
 - (i) be consistent with the approved concept envelopes as amended by the DESIGN MODIFICATIONS – ENVELOPE DRAWINGS condition above;
 - (ii) provide a concise landscape strategy that identifies landscape constraints and setbacks;
 - (iii) specify the requirements for the landscape spaces, including minimum areas of unimpeded deep soil areas, an urban canopy cover target of at least 15% of the site area within 10 years of completion, communal open space at ground level and on rooftops, green roofs, and substation locations;

- (iv) not contain indicative tree plantings in the right of carriageway that extends from O’Riordan Street part way along the northern boundary towards the east;
- (v) how retained street trees will be integrated into the design;
- (vi) establish a clear commitment to designing landscape sustainably and in a manner that integrates landscape and building design.

Reason

To require a landscape concept plan to provide landscape design guidance to competitors in the competitive design process and through detailed design development stages.

(14) DETAILED LANDSCAPE PLAN

- (a) Any subsequent DA for the detailed design of the building must include a detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer. The plan must include:
 - (i) Details of tree protection and methodology statements;
 - (ii) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;
 - (iii) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers;
 - (iv) Location, numbers, type and supply of plant species, with reference to the relevant Australian Standard;
 - (v) A minimum 15% canopy cover across the site, provided by trees that will reach a minimum height of eight metres;
 - (vi) Deep soil provision in accordance with the DEEP SOIL condition below;
 - (vii) New tree plantings with tree species that can achieve a minimum mature height of eight metres and canopy spread of five metres. Palms, fruit trees and species recognised to have a short life span will not be accepted;
 - (viii) Tree selection shall include a diverse range of species which must be consistent with the expected mature heights and growth within the Sydney area;
 - (ix) New trees must be planted in natural ground with adequate soil volumes to allow maturity to be achieved. Planter boxes will not be accepted for tree planting;

- (x) New trees must be appropriately located away from existing buildings and structures to allow maturity to be achieved without restriction;
 - (xi) Details of planting procedure and maintenance;
 - (xii) Details of drainage, waterproofing and watering systems.
- (b) The detailed landscape plan must address the requirements of provisions 4.2.3.5 of the Sydney DCP 2012 and the relevant guidance provided in the City of Sydney Landscape Code, Volume 2, All Development Except Single Dwellings.

(15) DEEP SOIL

Deep soil must be provided in the locations (or equivalent locations) illustrated on the drawing titled Envelope Site Plan, SK-0103E, prepared by SJB and as modified in accordance with the DESIGN MODIFICATIONS – ENVELOPE DRAWING condition above. Deep soil zones must be unencumbered by structures within, above or below the zone except those constructed of lightweight materials such as timber decking or water permeable paving that allow for filtration of rainwater into the ground.

Reason

To ensure deep soil is provided in the detailed building design.

(16) WASTE AND RECYCLING MANAGEMENT

- (a) Prior to the commencement of any competitive design process for the site, a Waste Management Strategy (WMS) must be submitted to and approved by Council's Area Planning Manager / Coordinator and which once approved, may be appended to the design brief for the competitive design process. The WMS must address the following requirements:
- (i) estimates of waste streams (waste, recycling and food waste) that will be generated and the number of bins and collection frequency to manage the waste generated calculated in accordance with the rates specified in the City's *Guidelines for Waste Management in New Developments*;
 - (ii) the minimum spatial requirements (minimum room sizes, minimum door sizes, manoeuvring space, size of bin holding areas etc) for waste management systems and facilities based on the estimated waste generation of the ongoing operation of the development and must account for specified bin sizes (240L, 660L or 1100L);
 - (iii) safe and convenient access for waste collection staff with a maximum walking distance from any entrance of a residential dwelling to the waste and recycling storage area is not to exceed 30 metres;
 - (iv) maximum manual handling distance by council contractors of 10m;
 - (v) waste management and collection must be accommodated wholly within the site;

- (vi) access for a 10.6m long Council garbage truck and vertical clearance of 4 metres clear of all ducts, pipes and other services;
 - (vii) waste collection vehicles to be able to enter and exit the premises in a forward direction;
 - (ix) waste management systems and facilities that promote safe and convenient access for all users;
 - (x) separate waste storage area for residential and commercial aspects of developments. Commercial tenants must not have access to residential waste storage areas.
- (b) Details are to be provided with the subsequent DA for the detailed design of the building to demonstrate that adequately sized waste management facilities including waste storage areas and truck access and loading is provided in accordance with the relevant requirements of the Sydney DCP 2012 and the City's *Guidelines for Waste Management in New Developments*.

Reason

To ensure that waste and recycling management requirements are considered during the competitive design process and through detailed design development.

(17) ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Details are to be provided with the subsequent DA for the detailed design of the building to confirm that the building has adopted the following ESD targets set out in the Design Excellence Strategy referred to in COMPETITIVE DESIGN PROCESS condition above:

- (a) a BASIX energy score of 35 [or appropriate BASIX energy score as relevant to the State Environmental Planning Policy (Sustainable Buildings) 2022];
- (b) a BASIX water score of 40;
- (c) minimum 7 star NatHERS average rating across the development;
- (d) electrification of all building components, including in all dwellings, centralised services and commercial/retail premises;
- (e) inclusion of green roof elements;
- (f) inclusion of on-site renewable energy generation via photovoltaic panels; and
- (g) connection to the Green Square Town Centre recycled water system on Geddes Avenue and the new Green Square to Ashmore Connector Road.

The ESD targets are to be included in the competitive design process brief and carried through the competition phase, design development, construction, and through to completion of the project.

Reason

To specify the ESD target benchmarks for the development.

(18) RESIDENTIAL LAND USE

- (a) The residential component of the development must be designed to comply with the principles of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development, the guidelines of the Apartment Design Guide (the ADG), and the provisions of the Sydney DCP 2012, with particular attention to the following matters:
 - (i) ADG objectives 2F Building separation and 3F-1 Visual privacy;
 - (ii) ADG objective 4B-1 Natural ventilation;
 - (iii) ADG objective 4B-3 Natural cross ventilation;
ADG objective 4J Noise and pollution – with noise and natural ventilation addressed through siting and layout, facade treatment and design and lastly through attenuated passive ventilation devices;
 - (iv) DCP provision 3.2.3 Active frontages – with active frontages to be provided to the GS2AC Road frontage;
 - (v) DCP provision 3.2.4 Footpath awnings – with a continuous awning to be provided to all three street frontages; and
 - (vi) DCP provision 4.2.3.8 Amenity - Common open space – as it pertains to solar access to the principal useable common open space areas.
- (b) A BASIX certificate in accordance with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (or any relevant upgrade) must be submitted with any subsequent DA for the detailed design of the building.

Reason

To identify particular planning requirements for the attention of competitors in the competitive design process and for the architects commissioned to undertake the detailed design of the building.

(19) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO COMPETITIVE DESIGN PROCESS

- (a) Prior to the commencement of any competitive design process for the site, an accurate 1:1 electronic CAD model of the envelope approved by this consent must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager for the electronic Visualisation City Model.
- (b) The data required to be submitted within the surveyed location must include and identify:
 - (i) above ground envelope design in accordance with the development consent;

- (ii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

- (c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements> Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.

Reason

To ensure the provision of an appropriate electronic model of the development.

(20) PUBLIC ART

- (a) The Preliminary Public Art Plan prepared by Amanda Sharrad for City West Housing and dated November 2021, has not been approved by this consent.
- (b) The Preliminary Public Art Plan must be modified as follows:
 - (i) Remuneration for First Nations participants - the public art budget must be revised to specifically include payment for First Nations community consultation participants;
 - (ii) Indigenous Cultural Consultant(s) - it is noted that traditional Custodians and First Nations residents of the City West Housing development will be specifically consulted and involved throughout the process to ensure that the public art offering is culturally relevant and appropriate, it should be acknowledged that Indigenous Cultural Consultant(s) may be required on the project team to guide the consultation process;
 - (iii) Marketing photography and publicity costs - the public art budget must be revised to exclude Marketing Photography and Publicity Costs. These costs must be re-directed to general development costs;
 - (iv) Artwork lifespan - the artwork lifespan must be amended to be a minimum of 25 years, rather than 'up to' 25 years. The Artwork Life-Span section on page 20 is to be amended to include: "Artwork(s) should be commissioned with permanent intent and sustainability as a primary objective;
 - (v) Maintenance - artwork maintenance requirements are to be amended to reflect a minimum life expectancy of 25 years, rather than 20 years. The wording in the Maintenance section on page 20, is to be

adjusted to align with the wording and intent to commission artwork(s) with an anticipated lifespan of at least 25 years as detailed at (iv) above.

- (c) The Preliminary Public Art Plan modified in accordance with (b) above must be submitted as part of any subsequent DA for the detailed design of the building.

Reason

To ensure an appropriate Preliminary Public Art Plan is prepared for the development.

(21) TREES IDENTIFIED FOR REMOVAL

- (a) For the purposes of the competitive design process and subsequent DA for the detailed design of the building the tree detailed in Table 1 below is identified for removal.
- (b) No consent is granted or implied for any tree removal works under this consent. Consent for tree removal must be sought under a subsequent DA for the detailed design of the building.

Table 1 – Tree Removal:

Tree No	Botanical (Common Name)	Location
5	<i>Cupressus macrocarpa</i> (Monterey Cypress Pine)	330 Botany Road

Reason

To identify trees that may be removed subject to any subsequent DA for the detailed design of the building.

(22) TREES IDENTIFIED FOR RETENTION

- (a) For the purposes of the competitive design process and subsequent DA for the detailed design of the building the trees detailed in Table 2 below are identified for retention.

Table 2 – Tree Retention:

Tree No	Botanical (Common Name)	Location
1 - 4	<i>Melaleuca quinquenervia</i> (Broad-Leaved Paperbark)	O’Riordan Street

7	<i>Platanus x acerifolia</i> (London Plane)	Botany Road
8 & 11	<i>Robinia pseudoacacia</i> 'Frisia' (Golder Robinia)	
9	<i>Melaleuca quinquenervia</i> (Broad-Leaved Paperbark)	
10	<i>Lophostemon confertus</i> (Brush Box)	

Reason

To identify trees that must be retained.

(23) TREES IDENTIFIED FOR PROTECTION (trees on neighbouring sites)

- (a) For the purposes of the competitive design process and subsequent DA for the detailed design of the building the trees detailed in Table 3 below are identified for retention and protection.

Table 3 – Trees to be protected:

Tree No	Botanical (Common Name)	Location
6	<i>Corymbia maculata</i> (Spotted Gum)	18 O'Riordan Street

Reason

To identify trees on neighbouring sites that must be retained and protected throughout the development.

(24) STREET TREES AND DETAILED DESIGN APPLICATION

- (a) All street trees surrounding the site must be included for retention in any subsequent detailed design DA.
- (b) Any design elements (awnings, street furniture, footpath upgrades etc) within the public domain must ensure appropriate setbacks are provided from the street tree to allow maturity of the tree to be achieved.
- (c) The location of any new driveways must not require the removal of any existing street trees. The driveway must be appropriately set back so it does not have adverse impacts both below and above ground upon any existing street trees.

Reason

To specify that retention of street trees is to be considered during design development.

(25) ACOUSTIC REPORT

An Acoustic Impact Assessment must be undertaken by a suitably qualified acoustic consultant and submitted with any subsequent DA for the detailed design of the building in accordance with the provisions of the *Sydney Local Environmental Plan 2012*, *Sydney Development Control Plan 2012*, the NSW Government's *Development near Rail Corridors and Busy Roads - Interim Guideline* and the *State Environmental Planning Policy (Infrastructure) 2007*.

Reason

To specify that an acoustic report must be submitted as part of any subsequent DA for the detailed design of the building.

(26) FLOOD PLANNING LEVELS

Details must be submitted with any subsequent DA for the detailed design of the building to demonstrate compliance with the recommended flood planning levels specified in Table 1 of the report titled: 330-332 Botany Road and 20 O'Riordan Street, Alexandria Civil Engineering Flood Report revision 6, as prepared by Enstruct Group Pty Ltd and dated 9/12/22.

Reason

To ensure the detailed design of the building addresses flood risk.

(27) LAND CONTAMINATION

- (a) Any subsequent DA for the detailed design of the building must include reports and documentation to address the requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land.
- (b) The relevant reports and documentation may include but are not limited to the following:
 - (i) L04 - Summary of LFG and ASS Works 330-338 Botany Rd Alexandria, Rev. A, reference no. JBS&G 54768-141853, dated 4 November 2021 and as prepared by JBS&G;
 - (ii) Amended RAP reference no. 54768-136404 Rev. 1, dated 23 November 2022 and as prepared by JBS&G;
 - (iii) Interim Audit Advice No. 6, dated 25 November 2022 and as prepared by Senversa.

Reason

To advise as to the documentation to be provided as part of any subsequent DA for the detailed design of the building to demonstrate site suitability.

(28) LAND DEDICATION – NO LONG-TERM ENVIRONMENTAL MANAGEMENT PLAN

Any land that is to be dedicated to the City under the planning agreement entered into in accordance with the VOLUNTARY PLANNING AGREEMENT condition contained in the Deferred Commencement Conditions at Part A of this consent, must not be encumbered by an Environmental Management Plan or Long-Term Environmental Management Plan.

Reason

To ensure future public land is not encumbered by onerous ongoing land contamination management requirements.

(29) PUBLIC DOMAIN CONCEPT PLAN

Any subsequent DA for the detailed design of the building must include a public domain concept plan prepared in accordance with the Public Domain Manual and the City's Sydney Streets Code. It must illustrate all site frontages, including areas extending a minimum of 5m either side of the site boundary and to the road centerline.

Reason

To ensure the detailed design of the building provides for a suitable public domain interface.

(30) SUSTAINABLE TRANSPORT ON SOUTHERN EMPLOYMENT LAND

Any subsequent development application for the detailed design of the building must include information to address:

- (a) clause 7.25 of the Sydney Local Environmental Plan, which requires the development to promote sustainable transport modes and minimise traffic congestion. This may include but is not limited to:
 - (i) how the development will address sustainable transport objectives set out in Sustainable Sydney 2030 to 2050;
 - (ii) trip generation information and how this is to be catered for if on site car-parking is to be constrained; and
 - (iii) details of bicycle parking and end of trip facilities, including, the numbers of bicycle parking spaces, showers, lockers, the layout, design and security of bicycle facilities in accordance with Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities, 'Austroads Bicycle Parking Facilities: Guidelines for Design and Installation', and provision 3.11.3 of the Sydney DCP 2013;
- (b) access and loading areas able to accommodate a Council waste collection vehicle 10.6m long and otherwise designed in accordance with the relevant requirements of provisions 3.11.6 and 3.11.13 of the Sydney DCP 2012.

Reason

To ensure any subsequent detailed building design addresses the transport, loading and servicing requirements for the development.

(31) PARKING DESIGN

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of *Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking*, *AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities* and *AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities*.

Reason

To ensure any subsequent detailed building design addresses the relevant design standards for off street parking facilities.

(32) SECURITY GATES

Any detailed building design submitted as part of any subsequent DA that incorporates a car park accessed by a security gate, then that gate must be located at least 6 metres within the site from the property boundary with the street.

Reason

To ensure any subsequent detailed building design provides adequate space between security gates and the street.

(33) ON SITE LOADING AREAS AND OPERATION

The detailed building design must provide for all loading, unloading and servicing operations to be carried out within the confines of the site and so there is no obstruction of other properties/units or the public way.

Reason

To ensure any subsequent detailed building design is able to contain all loading activities within the site.

(34) VEHICLES ACCESS

The detailed building design must allow for all vehicles to enter and depart the site in a forward direction.

Reason

To optimise traffic and pedestrian safety on and around the site.

(35) LOADING DOCK MANAGEMENT PLAN

A Loading Dock Management Plan must be submitted as part of any subsequent DA for the detailed design of the building.

The Loading Dock Management Plan must include the strategy for the management of all servicing of the site including delivery vehicles, garbage collection, service vehicles, removalist vehicles and should include information

such as arrivals to the site, the anticipated numbers of arrivals per week, time of day of the arrivals, length of stay, vehicle type etc. along with how these will be managed to prevent disruption to public streets. The Loading Dock Management Plan must be able to respond to changes in the surrounding road environment and be updated accordingly.

Reason

To ensure an integrated approach to loading and servicing requirements and to the detailed design of the building itself.

(36) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

The detailed design of the building must provide access and facilities for people with a disability in accordance with the Building Code of Australia.

Reason

To ensure the detailed design of the building provides access for people of all abilities.

(37) ADAPTABLE HOUSING

The subsequent DA for the detailed design of the building is to provide the required number of residential units that are able to be adapted for people with a disability in accordance with provision 3.12.2 of the Sydney DCP 2012, the Building Code of Australia and Australian Standard AS4299.

Reason

To ensure the detailed design of the building provides apartments that can be easily adapted for people with a disability.

(38) SIGNAGE STRATEGY

A detailed signage strategy must be submitted with any subsequent DA for the detailed design of the building. The signage strategy must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

Reason

To require signage to be considered as part of any subsequent detailed building design.

(39) INFORMATION FOR THE PURPOSE OF CALCULATING SECTION 7.11 CONTRIBUTIONS

Any subsequent DA for the detailed design of the building must include the following information:

- (a) Gross floor area (GFA) schedules and diagrams for the proposed development for the purposes of calculating section 7.11 contributions and credits;

Reason

To provide information necessary to the assessment of any subsequent DA for the detailed design of the building.

PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

There are no conditions relevant to Part B.

PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

There are no conditions relevant to Part C.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

There are no conditions relevant to Part D.

PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

There are no conditions relevant to Part E.

PART F – OCCUPATION AND ONGOING USE

There are no conditions relevant to Part F.

PART G – AUSGRID CONDITION

1. Any detailed design for the building to be lodged under a subsequent DA must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets. The “as constructed” minimum clearances to Ausgrid’s infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite. Ausgrid’s Network Standards can be sourced from Ausgrid’s website, www.ausgrid.com.au Should you have any enquiries, please contact Ausgrid at Development@ausgrid.com.au

PART H – TRANSPORT FOR NSW (SYDNEY TRAINS)

1. The submittal of a Stage 2 Development Application is to be accompanied with the documentation provided below for review and endorsement by TfNSW (Sydney Trains). This documentation must comply with all relevant standards and all the requirements provided in the Transport Asset Standards Authority (ASA) standard Development Near Rail Tunnels (<https://www.transport.nsw.gov.au/industry/standards-andaccreditation/standards>):
 - a) Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.
 - b) Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
 - c) Cross sectional drawings (all horizontal, RL and vertical measurements are to be verified by a Registered Surveyor): - Cross sectional drawings (both architectural and structural) showing ground surface, rail tunnel infrastructure, first and second reserves, stratum boundary and/or easement, sub-soil profile, proposed development and structural design of sub-ground support (i.e. footings/piles etc.) adjacent to the rail corridor. The measured distance between the proposed development, property boundary and rail asset(s) at the closest point must be shown.
 - d) Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and rail corridor land and infrastructure.
 - e) If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

PART I – TRANSPORT FOR NSW (ROADS AND MARITIME SERVICES)

1. All buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited height or depth), along the O’Riordan Street and Botany Road boundary.
2. The reconstruction of redundant driveways, kerb and associated works on O’Riordan Street and Botany Road shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email to developerworks.sydney@transport.nsw.gov.au. Detailed design plans of the proposed works are to be submitted to TfNSW for approval prior to the issue of a construction certificate and commencement of any road works. Please send all documentation to development.sydney@transport.nsw.gov.au. A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW. The developer is required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.
3. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@transport.nsw.gov.au. If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
4. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au. A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.
5. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
6. All vehicles shall enter and exit the site in a forward direction.
7. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018.
8. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. 9. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on O’Riordan Street & Botany Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

PART J - PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2021* apply:

- Clause 69 Compliance with *National Construction Code (previously known as Building Code of Australia)* and insurance requirements under the *Home Building Act 1989*
- Clause 70 Erection of signs
- Clause 71 Notification of *Home Building Act 1989* requirements
- Clause 72 Conditions relating to entertainment venues
- Clause 73 Conditions relating to maximum capacity signage
- Clause 74 Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2021*. This can be accessed at: <http://www.legislation.nsw.gov.au>

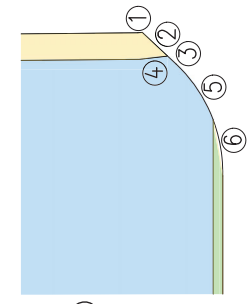
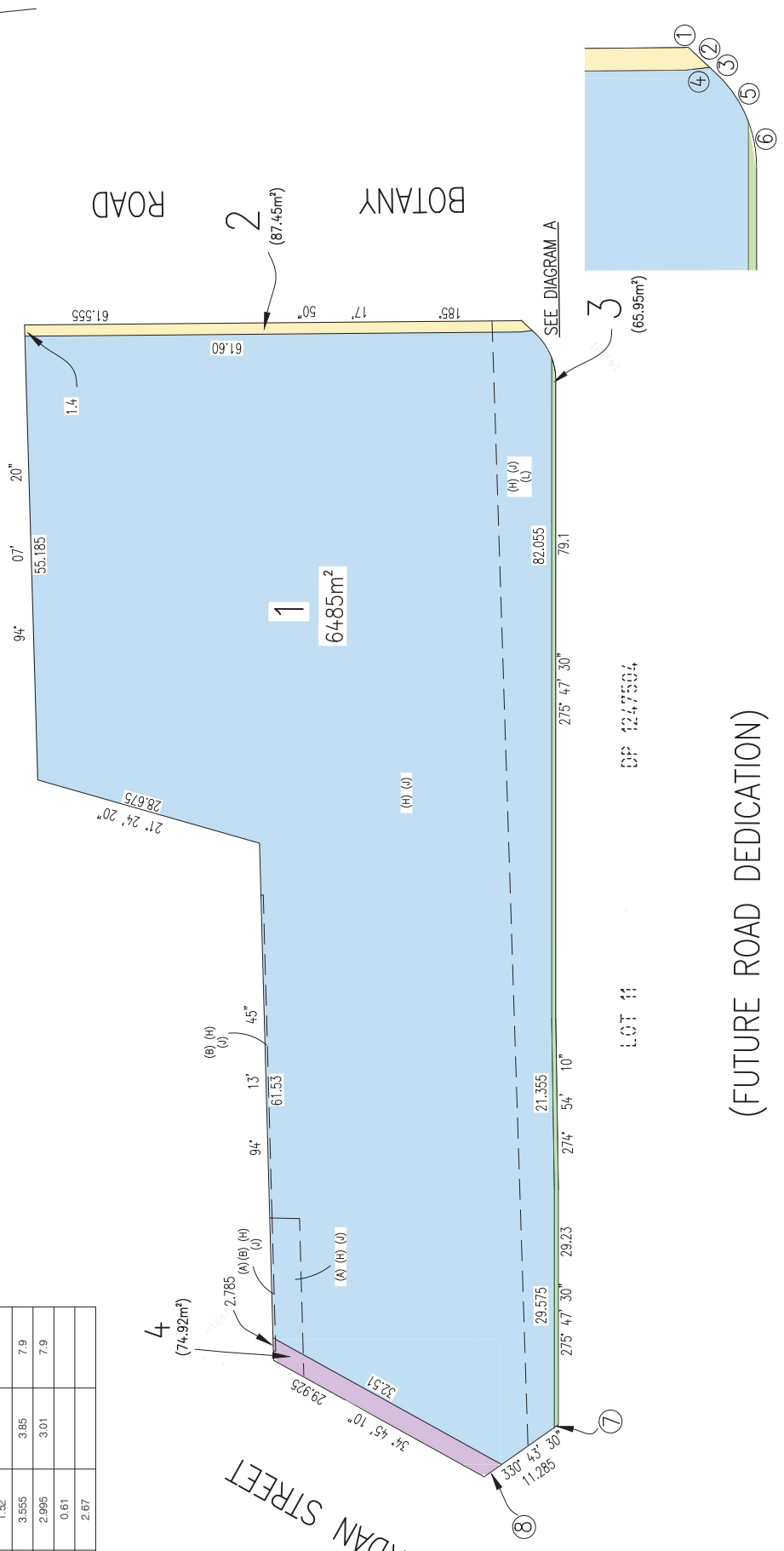
Attachment B

Draft Plan of Subdivision

THIS PLAN IS BASED ON PLANS BY ARCHITECT DMC No.: 202762-DSUB-001A-DWG RECEIVED: 08 OCT 2021

- SCHEDULE OF LOTS**
- LOT 1 - SITE A - RESIDENTIAL APARTMENTS
 - LOT 2 - FUTURE ROAD DEDICATION/WIDENING (1.4 WIDE)
 - LOT 3 - FUTURE ROAD DEDICATION/WIDENING (0.5 WIDE)
 - LOT 4 - FUTURE ROAD WIDENING (2.4 WIDE)

SHORT AND CURVED BOUNDARIES			
No	BEARINGS	DISTANCE	RADIUS
1	179° 19' 10"	0.25	
2	228° 51'	1.84	
3	228° 51'	0.625	
4	179° 19' 10"	1.52	
5	242° 15' 10"	3.555	7.9
6	386° 10' 40"	2.995	3.01
7	330° 43' 30"	0.61	
8	330° 43' 30"	2.67	



(FUTURE ROAD DEDICATION)

DIAGRAM A
N.T.S

AREAS AND DIMENSIONS SUBJECT TO FINAL SURVEY
EASEMENTS MAY BE ADDED OR SUBTRACTED ON FINAL PLAN

REGISTERED
CONTRACT PLAN
Plan compiled from
architectural CAD data.
Plan is subject to final
survey of construction.

DRAFT
STAGE 1
PRINTED 08 OCT 2021
ISSUE 1

LCA: SYDNEY
Locality: ALEXANDRIA
Reduction Ratio: 1:500
Lengths are in metres.

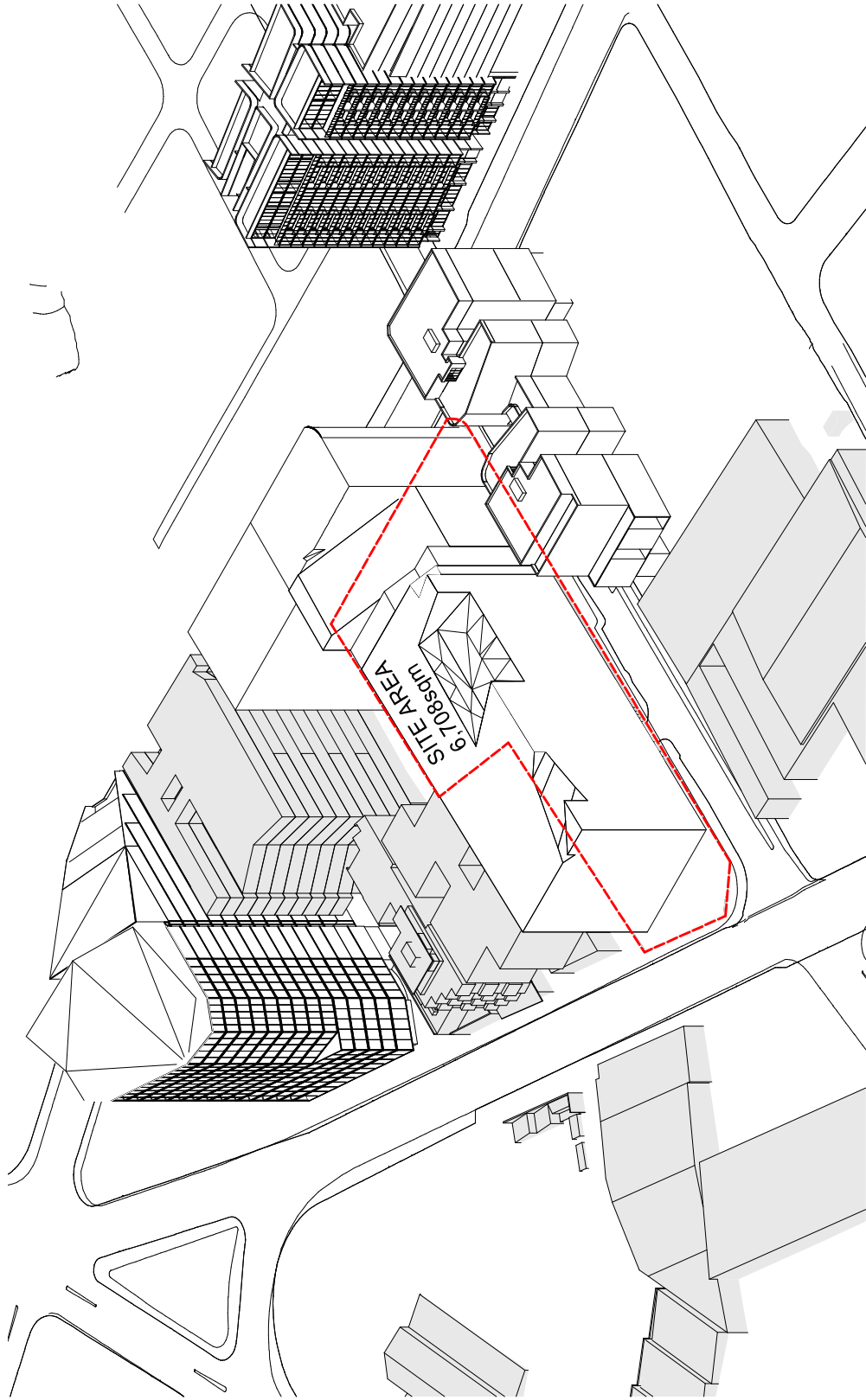
PLAN OF SUBDIVISION OF
LOT 10 IN DP 1247504

SURVEYOR
Name: DAVID JOHN CAREY
Date: 01/10/2021
Reference: 202762 - DSUB

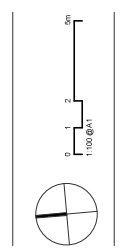
(A) RIGHT OF CARRIAGEWAY 3.66 WIDE (T8653324)
(B) EASEMENT TO DRAIN WATER 0.55 WIDE
(H) EASEMENT FOR ACCESS, STORAGE AND SITE SHEDS FOR ROAD CONSTRUCTION PURPOSES (WHOLE LOT)
(J) RESTRICTIONS ON THE USE OF LAND
(L) EASEMENT TO PERMIT BATTER TO REMAIN VARIABLE WIDTH
HISTORIC COVENANTS

Attachment C

Envelope Drawings

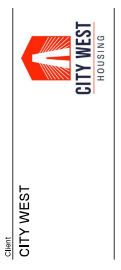


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Rev.	Date	Revision	By	CHK.
1	2023/11/11	FOR COORDINATION	OS	FL
2	2023/11/28	FOR COORDINATION	OS	FL
3	2023/11/28	FOR COORDINATION	OS	FL
4	2023/11/28	FOR COORDINATION	OS	FL
5	2023/11/28	FOR COORDINATION	OS	FL

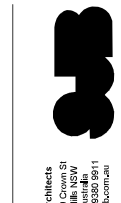
Client	Project
CITY WEST	Green Square 330-332 Botany Road Alexandria

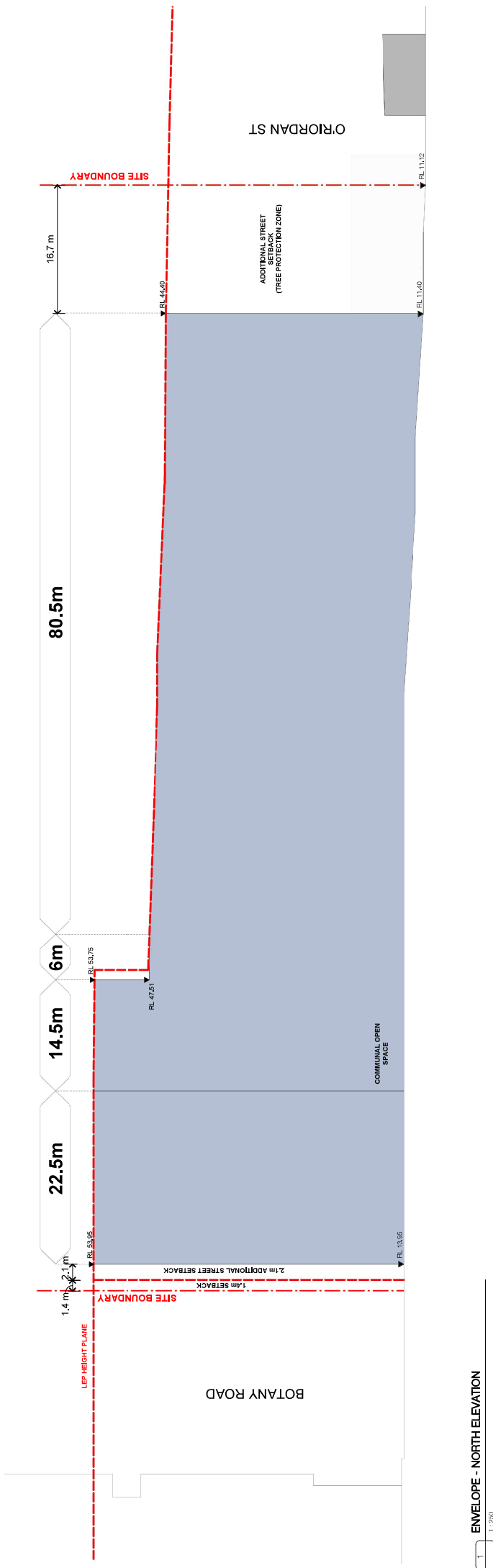


Date	Scale	Sheet Size
2023/04/13	@ A1	

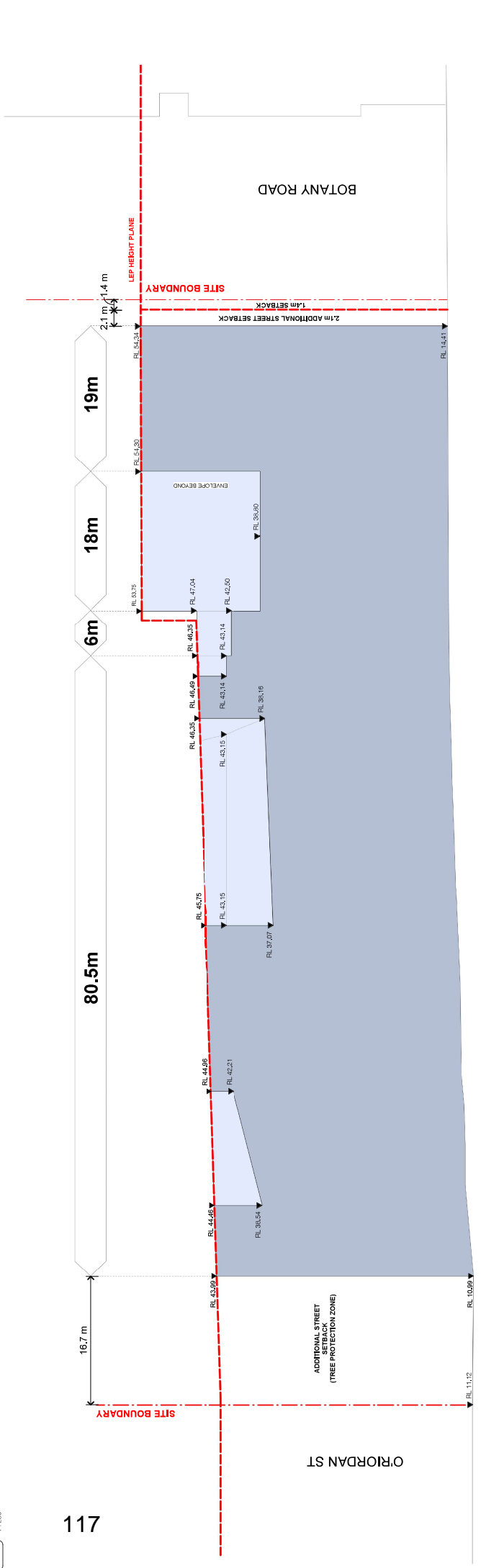
Drawn	CHK.	JOB No.
FL	FL	6439

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1 ENVELOPE - NORTH ELEVATION
1:250



2 ENVELOPE - SOUTH ELEVATION
1:250

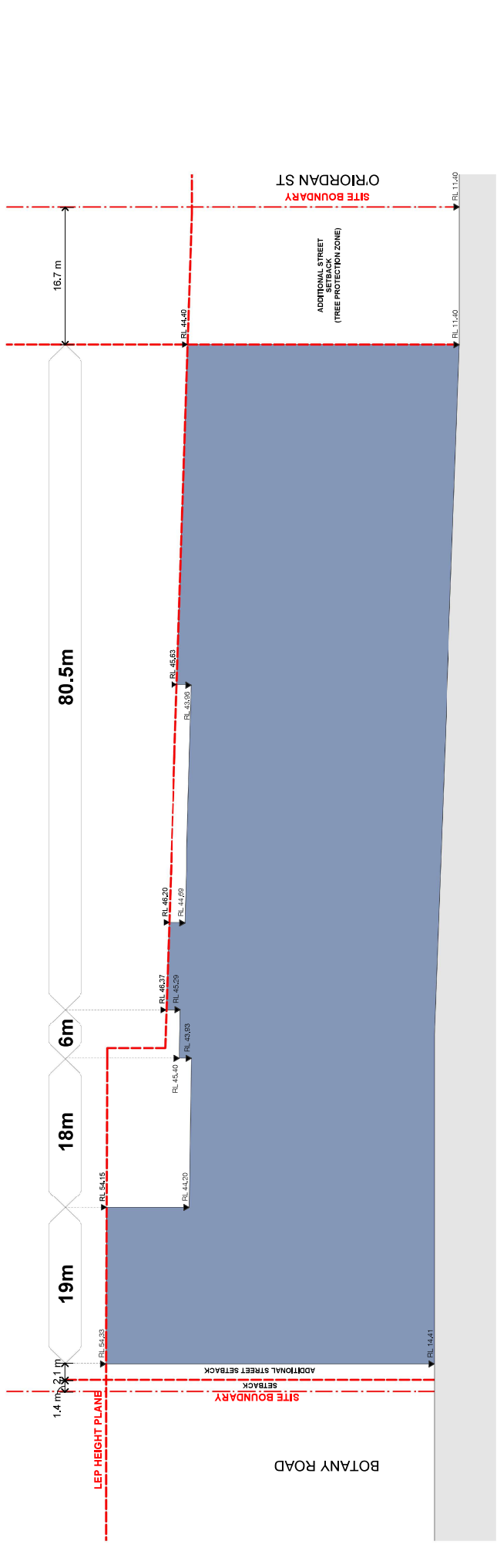
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Rev.	Date	By	CHK.	Revision
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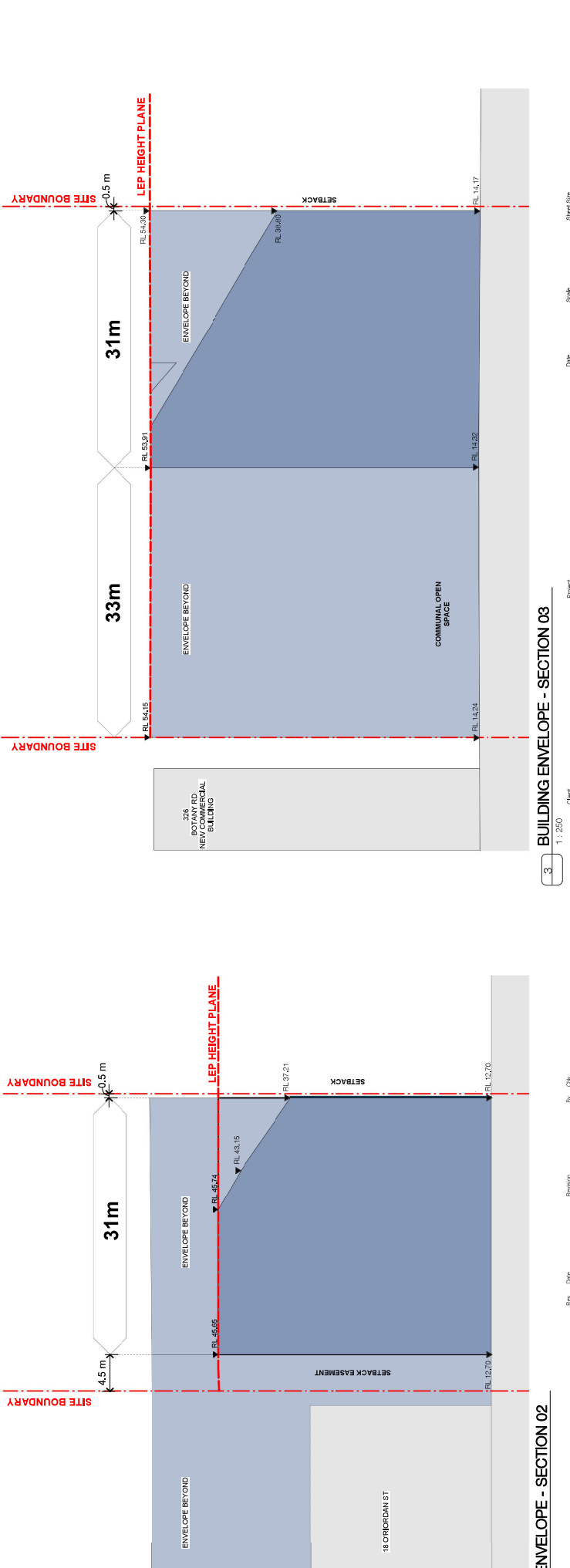
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		Drawing No.		Revision
		SK-0502E		/ 17

Architect
SJB Architects
12/480 Crown St
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1 BUILDING ENVELOPE - SECTION 01
1:250



2 BUILDING ENVELOPE - SECTION 02
1:250

3 BUILDING ENVELOPE - SECTION 03
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Client: CITY WEST
Project: Green Square
330-332 Botany Road
Alexandria
City West Housing
Envelope - Sections

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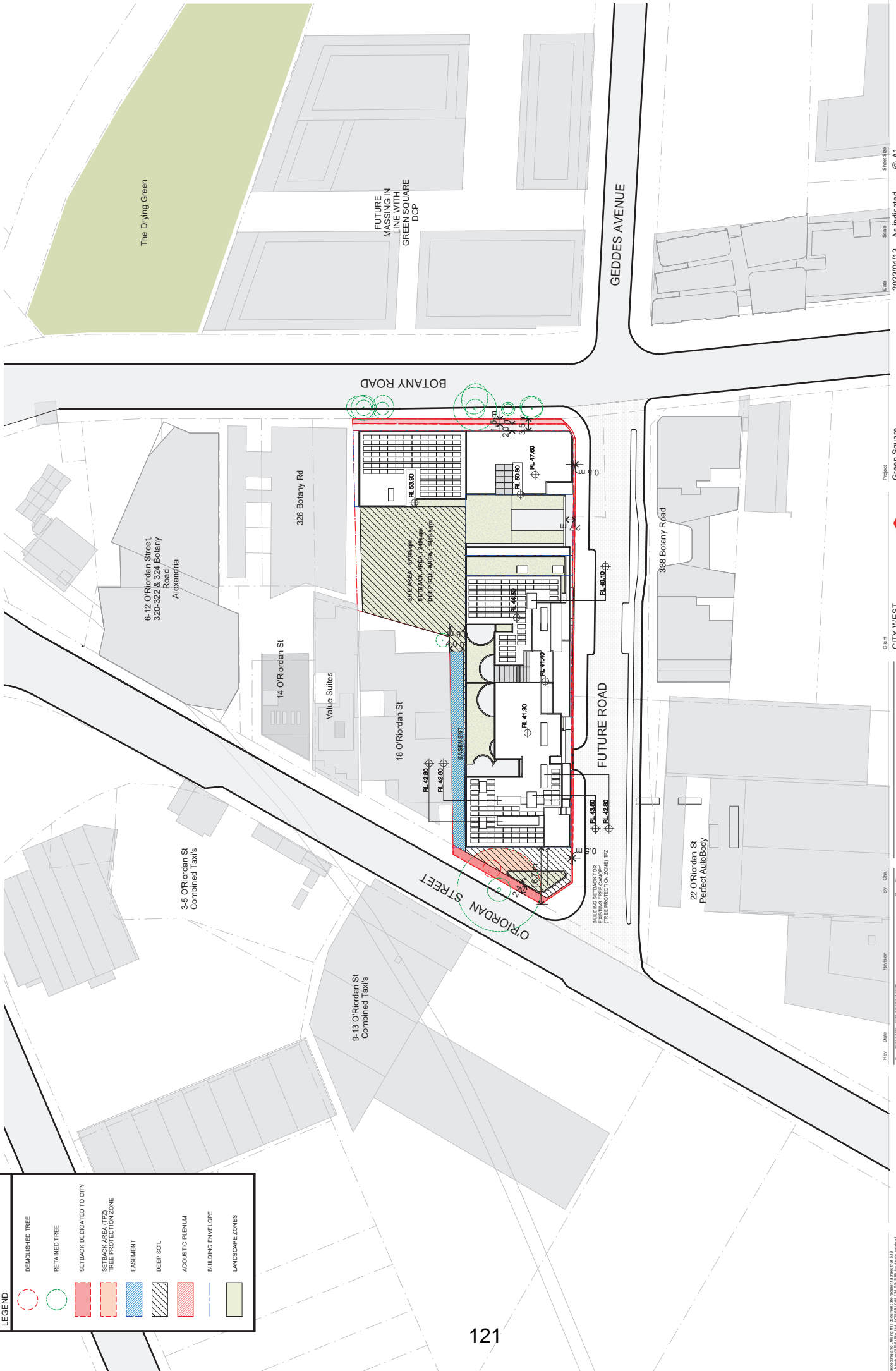
Architect: SJB Architects
12/480 Crown St
Sydney, NSW
2010 Australia
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Attachment D

Reference Scheme Drawings

LEGEND

- DEMOLISHED TREE
- RETAINED TREE
- SETBACK DEDICATED TO CITY
- SETBACK AREA (FPZ) TREE PROTECTION ZONE
- EASEMENT
- DEEP SOIL
- ACOUSTIC PLENUM
- BUILDING ENVELOPE
- LANDSCAPE ZONES



Project
Green Square
330-332 Botany Road
Alexandria

Client
CITY WEST
HOUSING

Drawn
Date: 2023/04/13
As indicated

Job
FL
6439

Revision
SK-0103 / 11

Rev | **Date** | **By** | **CHK** | **Revision**

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North Arrow

Scale Bar
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Architects
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Project
Green Square
330-332 Botany Road
Alexandria

Client
CITY WEST
HOUSING

Project
Green Square
330-332 Botany Road
Alexandria

Reference Scheme - Site Plan

LEGEND

- DEMOLISHED TREE
- RETAINED TREE
- SETBACK DEDICATED TO CITY
- SETBACK AREA (RTZ) TREE PROTECTION ZONE
- EASEMENT
- DEEP SOIL
- ACOUSTIC PLENUM
- BUILDING ENVELOPE
- LANDSCAPE ZONES



9-13 O'RIORDAN ST
COMBINED TAXIS

BOTANY ROAD

FUTURE ROAD

O'RIORDAN STREET

124

33

Sheet Size @ A1
Date 2023/04/13 1:250
Drawn CHL
Job No. 6439
Revision FL
Drawing No. SK-0106 / 9

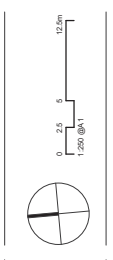
Project Green Square
330-332 Botany Road
Alexandria
City West Housing
Reference Scheme - Floor Plan - LEVEL 01



Client CITY WEST

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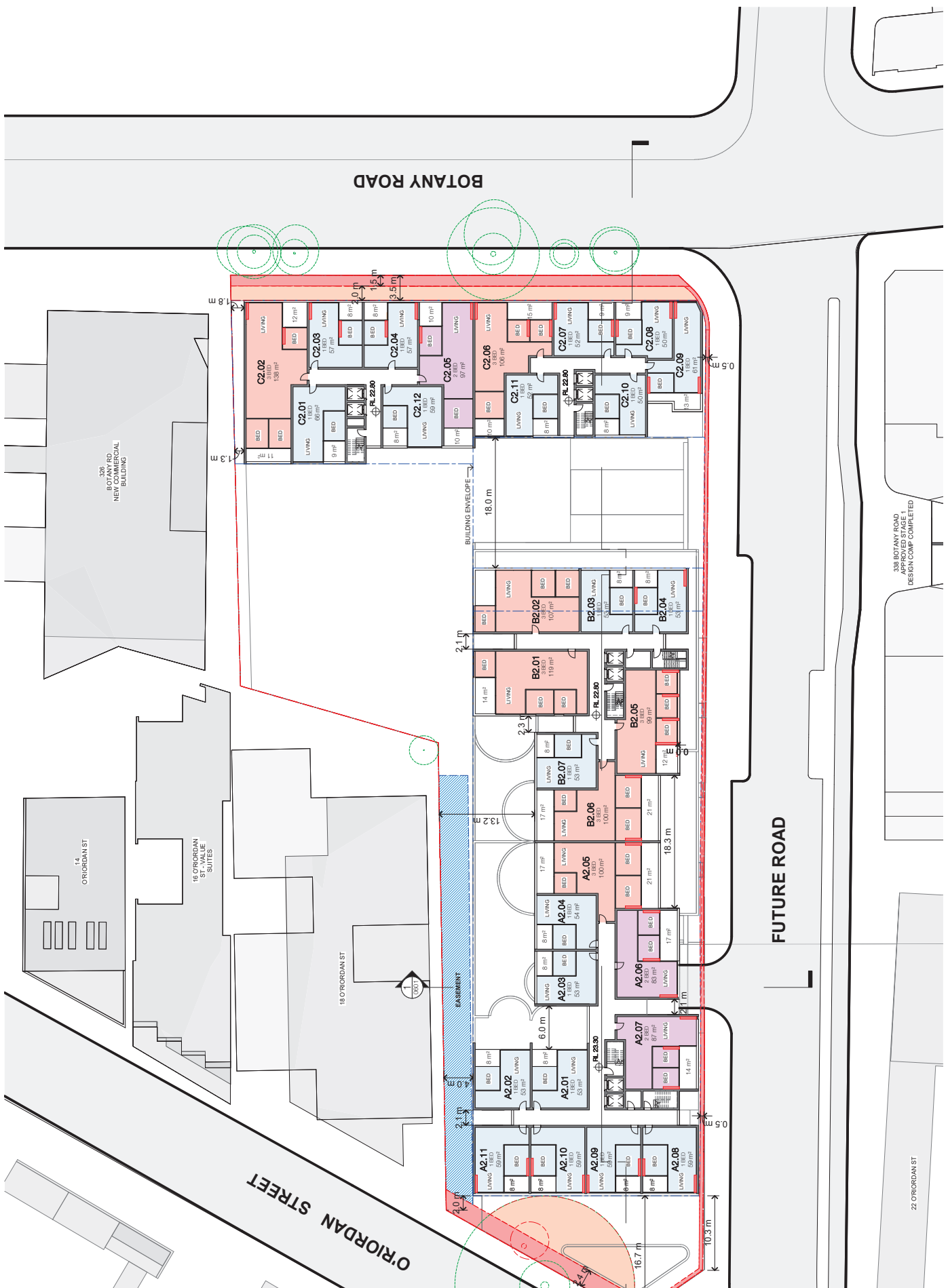
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100% ARCHITECTURE
Adam Haddock 7811 John Pepler 1984

100% ARCHITECTURE
Adam Haddock 7811 John Pepler 1984

LEGEND

- DEMOLISHED TREE
- RETAINED TREE
- SETBACK DEDICATED TO CITY
- SETBACK AREA (RTP)
- TREE PROTECTION ZONE
- EASEMENT
- DEEP SOIL
- ACOUSTIC PLENUM
- BUILDING ENVELOPE
- LANDSCAPE ZONES



9-13 O'RiORDAN ST
COMBINED TAXES

BOTANY ROAD

FUTURE ROAD

O'RiORDAN STREET

125

33

Project: Green Square
330-332 Botany Road
Alexandria
City West Housing

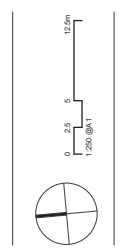
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LEVEL 02

City West Housing

Client: CITY WEST

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330 BOTANY ROAD
APPROXIMATE STAGE 1
DESIGN COMP. COMPLETED

SK-0107 / 10

LEGEND

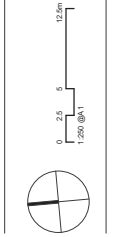
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- SETBACK AREA (RTP) TREE PROTECTION ZONE
- EASEMENT
- DEEP SOIL
- ACOUSTIC FLENUM
- BUILDING ENVELOPE
- LANDSCAPE ZONES

9-13 O'RORDAN ST
COMBINED TAXIS



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Client	Project
CITY WEST	Green Square 330-332 Botany Road Alexandria



332 BOTANY ROAD
APPROVED STAGE 1
DESIGN COMP. COMPLETED

Project	Date	Scale	Sheet Size
Green Square 330-332 Botany Road Alexandria	2023/04/13	1 : 250	@ A1

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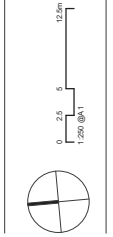
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- SETBACK DEDICATED TO CITY
- SETBACK AREA (RTZ) TREE PROTECTION ZONE
- EASEMENT
- DEEP SOIL
- ACOUSTIC PLENUM
- BUILDING ENVELOPE
- LANDSCAPE ZONES

9-13 O'RORDAN ST
COMBINED TAXIS



330 BOTANY ROAD
APPROVED STAGE 1
DESIGN COMP. COMPLETED

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Client	City West
Project	Green Square 330-332 Botany Road Alexandria
Drawing Name	REFERENCE SCHEME - FLOOR PLAN - LEVEL 07

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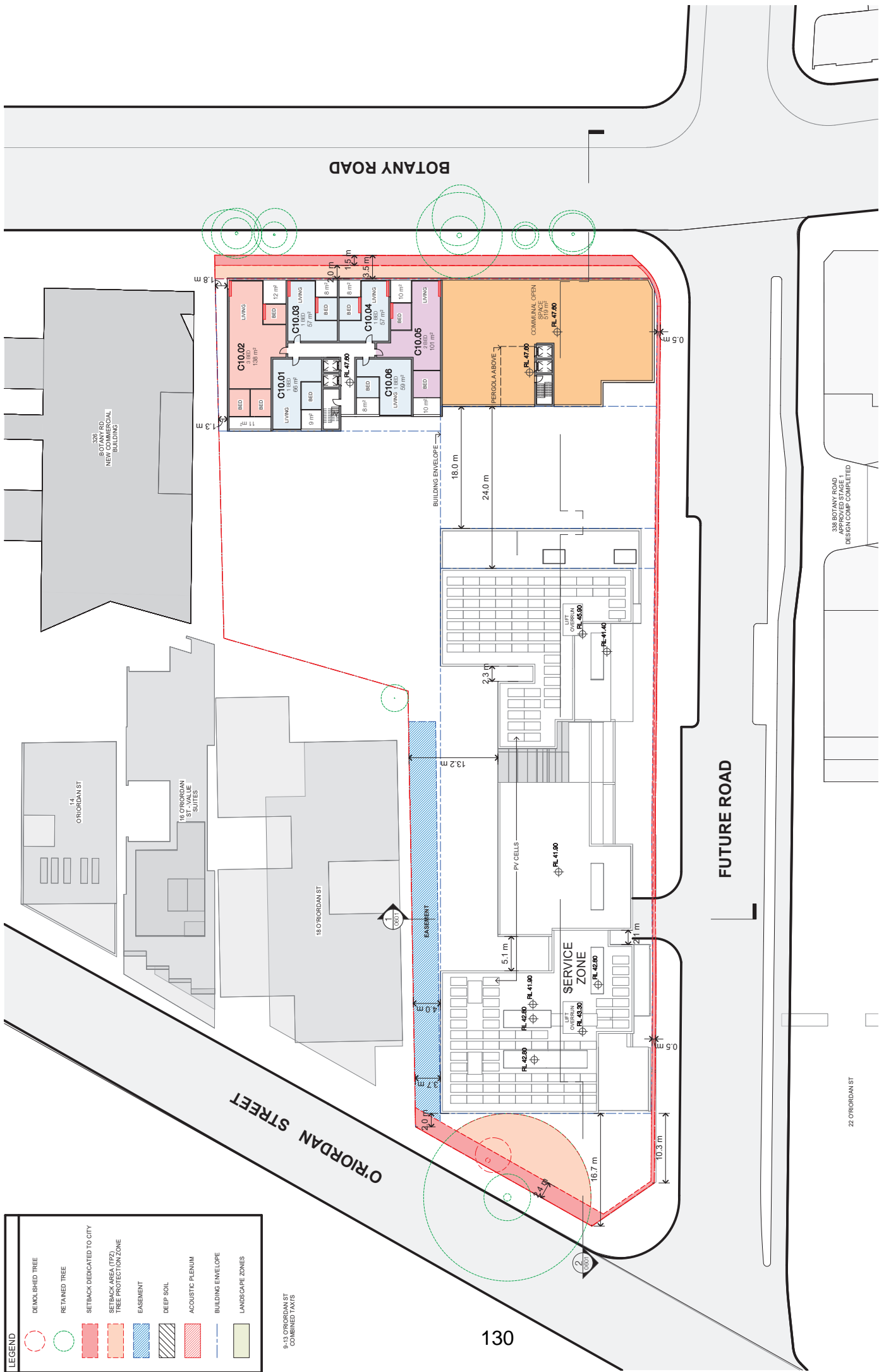
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Sunny Hills NSW
2015 2 958 9611
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LEGEND

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- RETAINED TREE
- SETBACK DEDICATED TO CITY
- SETBACK AREA (RTPI) TREE PROTECTION ZONE
- EASEMENT
- DEEP SOIL
- ACOUSTIC PLENUM
- BUILDING ENVELOPE
- LANDSCAPE ZONES

9-13 O'RORDAN ST
COMBINED TAXES



330 BOTANY ROAD
APPROVED STAGE 1
DESIGN COMP. COMPLETED

Client: CITY WEST HOUSING

Project: Green Square
330-332 Botany Road
Alexandria
Drawing Name: REFERENCE SCHEME - FLOOR PLAN - LEVEL 10

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Author: SJB Architects
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Sunny Hills NSW
2015
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SK-0115 / 10

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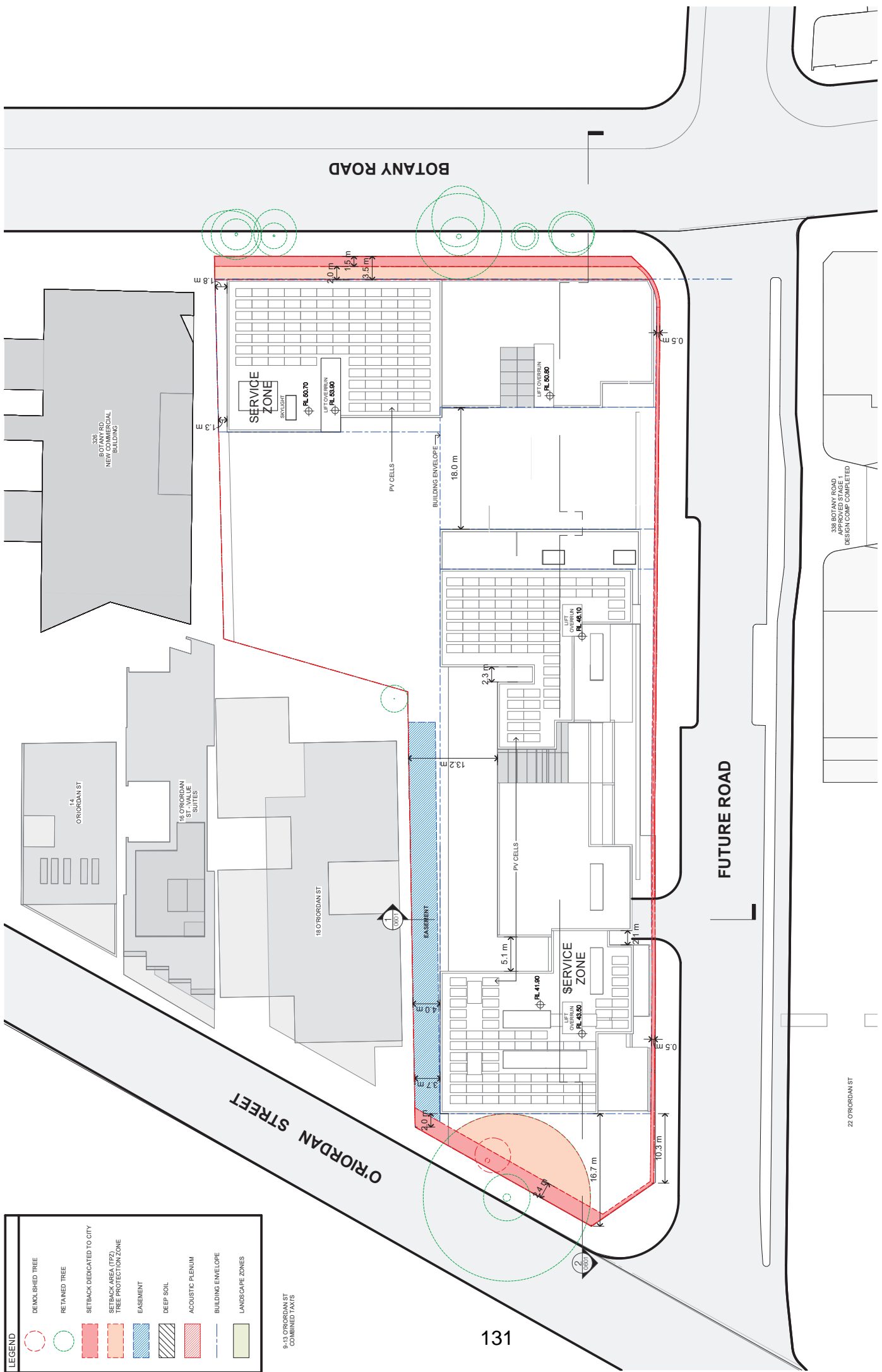
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LEGEND

- DEMOLISHED TREE
- RETAINED TREE
- SETBACK DEDICATED TO CITY
- SETBACK AREA (RTPI) TREE PROTECTION ZONE
- EASEMENT
- DEEP SOIL
- ACOUSTIC PLENUM
- BUILDING ENVELOPE
- LANDSCAPE ZONES

9-13 O'RIORDAN ST
COMBINED TAXES



Rev. Date | **Revision** | **By** | **CHK.**

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Client | **CITY WEST**

Project | **Green Square**
330-332 Botany Road
Alexandria

Reference Scheme - Floor Plan - LEVEL 11

Date | **Scale** | **Sheet Size**

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Drawn | **CHK.** | **Job No.**

JB | FL | 6439

Revision | **Job No.** | **Revision**

SK-0116 | / 9

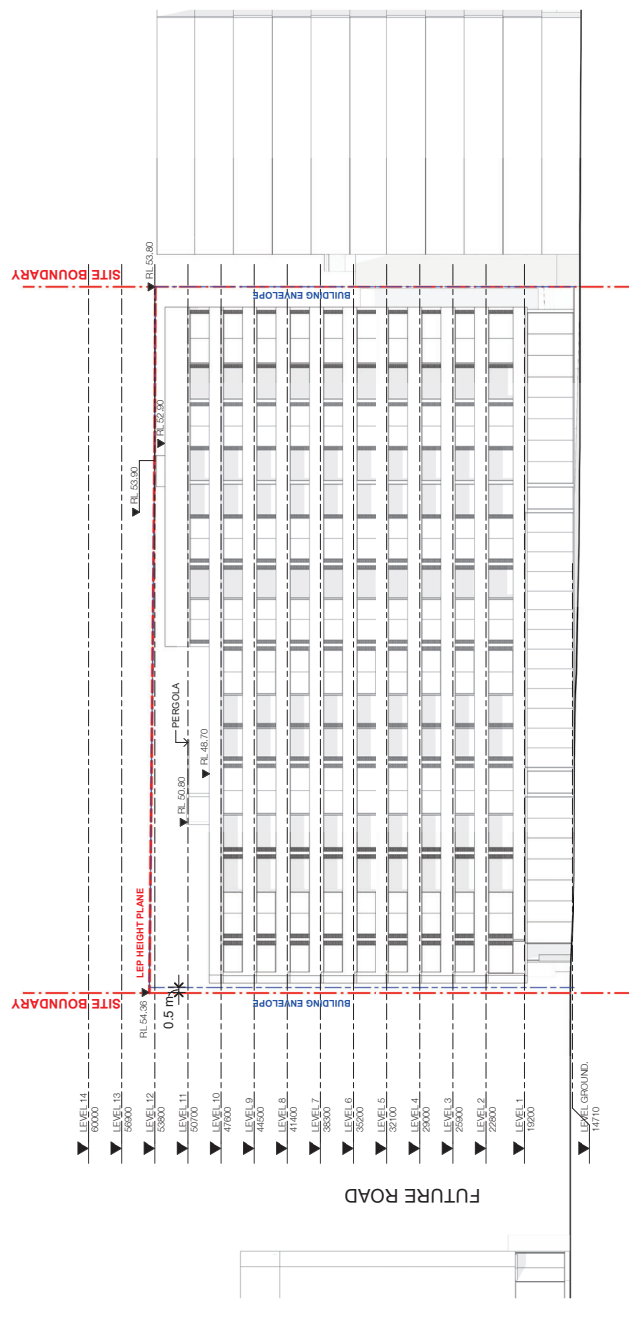
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12-480 Crown St
Sydney Hills NSW
2569
Phone: 02 9658 9611
www.818.com.au

330 BOTANY ROAD
APPROVED STAGE 1
DESIGN COMPLETE

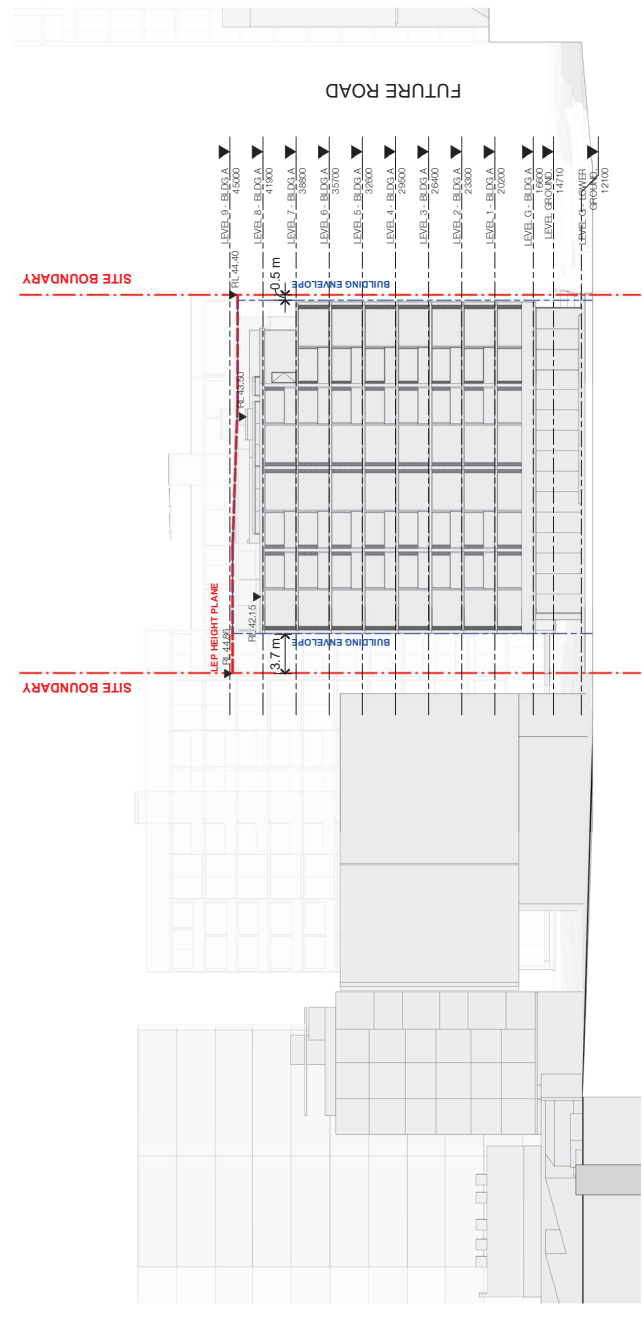
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Northwest Architects | Adam Haddock | 781 | Jason Pridemore | 784



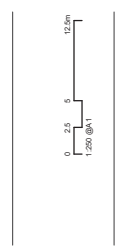
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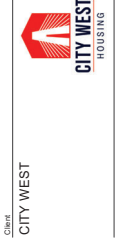
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9	2023/04/13	FOR INFORMATION	SC	FL



Client	Project
CITY WEST	Green Square 330-332 Botany Road Alexandria



Reference Scheme - Elevations - East & West
Green Square 330-332 Botany Road Alexandria

Date	Scale	Sheet Size
2023/04/13	1:250	@ A1
Drawn	CHK.	JOB No.
JB	FL	6439
Drawing No.	Revision	
SK-0501	/9	

SJB Architects
12/480 Crown St
Sydney Hills NSW
2508
Phone: 02 9558 9611
www.sjb.com.au

Attachment E

Public Benefit Offer

APPLICANT'S DRAFT PUBLIC BENEFIT OFFER IN CONNECTION WITH A DEVELOPMENT APPLICATION

This is a DRAFT offer by: City West Housing

For: Affordable housing development with Retail/Commercial uses under

At: 330-332 Botany Road, Alexandria

This offer has been made with the consent of the registered owner(s) of the land.

The general nature and extent of the provision to be made under the offer, the time or times and the manner by which the provision is to be made are as follows:

- Street wall setback of 2.4m off O'Riordan Street
- Street wall setback of 0.5m off Geddes Avenue
- Street wall setback of 1.4m off Botany Road

The Tables below provide further details of the material public benefits:

Site Area	6,708	General Scope of Works	Value (excl. GST)
Base FSR / FSA permitted by LEP/DCP	2:1 / (13,416 m ²)	Land dedication 228.32 sqm @ \$200/sqm as per City of Sydney sale price	\$45,664.00
Amount of additional FSR / FSA sought	Residential 1.4:1 / (9,357.66m ²) Retail 0.1:1 / (704.35m ²)	Embellishment in accordance with Street codes \$845/sqm (tbc once designed and costed)	\$192,930.40
Additional FSA rate (incl. GST) :- (a) Residential Use (b) Retail Use (c) Non-Residential Use	Residential \$475 per 1m ² \$4,444,888.50		
	Retail/Commercial \$275 per 1m ² \$193,693.50	Monetary contribution	\$4,399,987.60
Total Value of additional FSR	\$4,638,582.00	Total Value of Scope of Works	\$4,638,582.00

It is intended that the benefits under the offer do not include development contribution under section 7.11 of the Environmental Planning and Assessment Act 1979.

It is intended that should development consent be granted, this offer will be consolidated and crystallised into a voluntary Planning Agreement with the Council.

The agreement will comply with the requirements of the Environmental Planning and Assessment Act and Regulations, and contain mechanisms for completion of any works and / or land dedication. The Planning Agreement may be registered with NSW Land Registry Services (LRS).

Name of Applicant: **City West Housing Pty Ltd**

Signature of Applicant: 
Michelle Barron – Company Secretary

Date: **06 June 2023**

Name of all Registered Owner(s): **City West Housing Pty Ltd**

Timothy Ambler (Director): 

Michelle Barron (Company Secretary): 

Date: **06 June 2023**

Attachment F

Design Excellence Strategy

Design Excellence Strategy

330-332 Botany Road, Alexandria

Submitted to City of Sydney
On behalf of City West Housing



'Gura Bulga'

Liz Belanjee Cameron

'Gura Bulga' – translates to Warm Green Country. Representing New South Wales.


By using the green and blue colours to represent NSW, this painting unites the contrasting landscapes. The use of green symbolises tranquillity and health. The colour cyan, a greenish-blue, sparks feelings of calmness and reminds us of the importance of nature, while various shades of blue hues denote emotions of new beginnings and growth. The use of emerald green in this image speaks of place as a fluid moving topography of rhythmical connection, echoed by densely layered patterning and symbolic shapes which project the hypnotic vibrations of the earth, waterways and skies.

Ethos Urban acknowledges the Traditional Custodians of Country throughout Australia and recognises their continuing connection to land, waters and culture.

We acknowledge the Gadigal people, of the Eora Nation, the Traditional Custodians of the land where this document was prepared, and all peoples and nations from lands affected.

We pay our respects to their Elders past, present and emerging.

Contact	Michael Rowe Director	MRowe@ethosurban.com (02) 9956 6962
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This document has been prepared by:	This document has been reviewed by:
	

Lara Reynolds & Jacob Dwyer	17 May 2023	Michael Rowe	17 May 2023
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1.0 Introduction

1.1 Overview

This Design Excellence Strategy has been prepared by Ethos Urban on behalf of City West Housing (the proponent) as the applicant for the Concept DA for 330-332 Botany Road, Alexandria (the site).

The purpose of this Strategy is to establish the framework for the competitive design process to deliver the highest standard of architectural, urban and landscape design.

This strategy has been prepared in accordance with, section 3.3.2 of the Sydney Development Control Plan 2012 (SDCP 2012), and the City of Sydney Competitive Design Policy (the Policy). In accordance with section 1.2 of the Policy and section 3.3.2 of the SDCP 2012, this Strategy defines:

- The location and extent of each competitive design process;
- The type of competitive design process(es) to be undertaken:
 - An architectural design competition, open or invited.
 - The preparation of design alternatives on a competitive basis.
- The number of designers involved in the process;
- Whether the competitive design process is pursuing additional floor space or building height;
- How fine grain and contextually varied architectural design is to be achieved across large sites;
- Options for distributing any additional floor space or building height which may be granted by the consent authority for demonstrating design excellence through a competitive process; and
- Target benchmarks for ecologically sustainable development.

Note: Nothing in this Design Excellence Strategy represents an approval from the consent authority for a departure from the relevant SEPPs, Sydney Local Environmental Plan 2012 (SLEP 2012), SDCP 2012 controls or Concept DA consent. Where there is any inconsistency the SEPPs, LEP, DCP and Concept DA consent shall prevail.

2.0 Design Excellence Strategy

2.1 Location and Extent of the Competitive Process

The competitive process will apply to the whole of the site, as shown in **Figure 1** below.

The site is located at 330-332 Botany Road, Alexandria within the Sydney Local Government Area (LGA). The site is legally described as Lot 10 DP 1247504 and has a total site area of 6,708m².



Figure 1 Site Aerial

Source: Ethos Urban & Nearthmap

2.2 Type of Competitive Process

The proponent has elected to conduct an Invited Competitive Design Alternatives Process (competitive process) for the project. The process is to be undertaken prior to the lodgement of any subsequent Development Application, in accordance with provision 1.1(2) of the City of Sydney Competitive Design Policy. The competitive process will be conducted in accordance with the Policy and Competitive Design Model Brief.

2.3 Selection of Competitors

The proponent will appoint a minimum of three (3) competitors. The selection of the invited competitors will be determined by the proponent, undertaken in consultation with the City of Sydney, as follows:

- The competitive process will include a range of emerging, emerged and established local architectural practices or firms.
- Require that each Competitor will either be a person, corporation or firm registered as an architect in accordance with the *NSW Architects Act 2003*, or, in the case of interstate competitors, eligible for registration with their equivalent association.

- A Competitor shall have demonstrated capabilities in design excellence by being the recipient of an Australian Institute of Architects award or commendation or, in the case of interstate competitors, the same with their equivalent professional association.
- Include all competitors constituted of local architectural firms only.

2.4 Selection Panel

The Selection Panel is to comprise a total of four (4) members, with:

- Two (2) of the members nominated by the proponent.
- Two (2) of the members nominated by the City.

Selection Panel members are to:

- Represent the public interest.
- Be appropriate to the type of development proposed.
- Include only persons who have expertise and experience in the design and construction professions and industry.
- Include a majority of registered architects with urban design experience.

The Chairperson of the Selection Panel will have expertise in architecture and urban design and be a recognised advocate of design excellence.

The Selection Panel's decision will be via a majority vote and will not fetter the discretion of the consent authority in its determination of any subsequent DA associated with the site that is the subject of a competitive process.

The City will nominate an observer(s) to verify that the competitive process has been followed appropriately and fairly.

2.5 Competition brief

In establishing a competitive process brief (brief), the proponent will ensure that:

- All details regarding the conduct of the competitive process are contained within the brief and no other document.
- The brief and appended documents are reviewed and endorsed in writing by the City prior to commencement of any associated competitive process and its distribution to competitors.
- The brief is to be generally in accordance with the City's Model Competitive Design Brief and the Policy.

2.6 Allocation of up to 10% additional floor space

The Proponent will pursue up to 10% additional floor space under clause 6.21D(3)(b) of the SLEP 2012, the distribution of which will be explored through the competitive process and is to be consistent with the Concept DA Submission and relevant provisions of the LEP and DCP.

Any additional floor space pursued under clause 6.21D(3)(b) must not exceed the maximum building height under SLEP 2012.

Nothing in this document is to be taken as an approval or endorsement of the potential additional floor space available under clause 6.21D(3)(b) of the SLEP 2012.

2.7 Sustainable Design Targets

The competition brief will require ecologically sustainable development (ESD) targets to be considered for the development as set out in this Strategy. The key ESD targets for the proposal include:

- BASIX Energy score of 35 (or appropriate alternative BASIX energy score as relevant to the Sustainable Buildings SEPP).
- BASIX Water score of 40.
- Minimum of 7 star NatHERS average rating across the development.
- Electrification of all building components, including within all dwellings, centralised services and commercial/retail premises.
- Inclusion of green roof elements in accordance with Council's Green Roofs and Walls Policy.

- Inclusion of on-site renewable energy generation via photovoltaic panels.
- Connection to the Green Square Town Centre recycled water system on Geddes Avenue/GS2AC Road.

ESD targets and sustainability initiatives will be carried through the competitive process phase, design development, construction, and through to completion of the project to deliver the ESD targets.

2.8 Design Integrity

The architect of the winning scheme, as selected by the Selection Panel will be appointed by the proponent as the Design Architect. Where the winning architect is a consortium, partnership, or other joint authorship, each must retain representation and a leadership role in all processes following.

To ensure design continuity and excellence of the winning scheme is maintained throughout the development process, as a minimum the Design Architect is to:

- Prepare a DA for the preferred design.
- Prepare the design drawings for a construction certificate for the preferred design.
- Prepare the design drawings for the contract documentation.
- Maintain continuity during the construction phases through to the completion of the project.
- Provide any documentation required by the Consent Authority verifying the design intent has been achieved at completion.
- Attend all meetings that pertain to design issues with the community, authorities and other stakeholders, as required.

The Design Architect may work in association with other architectural practices but is to retain a leadership role over design decisions.

Attachment G

Sydney Airport Controlled Activity Approval



Reg No.: 22/0283
Your Reference: D/2021/1484
To: CITY OF SYDNEY COUNCIL & NSW PLANNING
PORTAL

Tuesday, 12 April 2022

Request for Pre-assessment of Proposed Development

Dear Sir / Madam,

Proposed Activity: PROPERTY DEVELOPMENT
Location: 330-332 BOTANY ROAD ALEXANDRIA
Proponent: CITY OF SYDNEY COUNCIL & NSW
PLANNING PORTAL
Date: 11/04/2022

Sydney Airport received the above pre-assessment request application from you.

This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

The application sought comments for the PROPERTY DEVELOPMENT to a height of 54.76 metres Australian Height Datum (AHD).

As the finished building would penetrate Sydney Airport's protected airspace, the proposed development would be subject to assessment & approval under the Federal AIRPORTS (PROTECTION OF AIRSPACE) REGULATIONS 1996.

The proposed height would be inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.

Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

Sydney Airport

Sydney Airport Corporation Limited ACN 082 578 809 — The Nigel Love Building, 10 Arrivals Court, Locked Bag 5000
Sydney International Airport NSW 2020 Australia — Telephone +61 2 9667 9111 — sydneyairport.com.au

SYD Classification: Confidential

Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

Information required by Sydney Airport prior to any approval is set out in Attachment A.

"Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)).

The height of the prescribed airspace at this location is 51 metres above AHD.

Planning for Aircraft Noise and Public Safety Zones:

Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF).

Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

Sincerely,



Peter Bleasdale
Manager, Airfield Infrastructure Technical Planning

Note:

1. a person who conducts a controlled activity otherwise than with an approval commits an offence against the Act.
 - s. 183 and s. 185 Airports Act 1996.
 - Penalty: 250 penalty units.
2. if a structure is not authorised, the Federal Court may order a person to carry out remedial works, mark or light, or reduce the height of or demolish, dismantle or remove a structure.

Attachment A

Application for Approval of Crane Operation

[Sections s.182, 183, Airports Act 1996]

[Airports (Protection of Airspace) Regulations 1996 – Reg 7]

TO: Sydney Airport Corporation Ltd

c/- Airport Design Services

Locked Bag 5000

Sydney International Airport

NSW 2020

Email: airspaceprotection@syd.com.au

Application pursuant to airport (protection of airspace) regulations reg 7:

- a) Pursuant to s. 183 of the *Airports Act 1996* and Reg 7 of the *Airports (Protection of Airspace) Regulations 1996*, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("*controlled activity*") set out in the Schedule.
- b) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
- c) The operation must not commence without approval and must only proceed in compliance with any conditions imposed on such approval.
- d) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
- e) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
- f) The Secretary and the Airport, as applicable, may request further information before determining an application.
- g) The "**Important Notes**" must be read and accepted.
- h) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

CERTIFICATE BY PROPONENT:

Sydney Airport

I certify that the Application for approval is complete to the best of my knowledge.

Dated:

Signature of Proponent:

Title of signatory:

Schedule to Application for Approval of Crane Operation

Information required by the Airports (Protection of Airspace) Reg's – Reg 7:

APPLICANT:.....[Proponent]

Of:

Contact:

Phone:

Email:

1. Description of proposed crane operation:

.....

2. Period of Operation:

fromto.....

3. Days and hours of operation:

days:.....

hours:.....

4. Location:

Address:.....

Mapping Grid of Australia (MGA94) co-ordinates:

.....E

.....N

5. Details of crane height

(i) maximum height: metres above ground

(ii) maximum height: metres AHD

(iii) resting crane height: metres AHD

6. Purpose of the crane operation:

.....

7. Reference to relevant Development Application:

Council and DA reference:.....

SAFETY CASE FOR ACTIVITY: The Proponent proposes the following safety case:

.....

.....

.....

IMPORTANT NOTES TO APPLICATION FOR APPROVAL OF CRANE OPERATION WHICH IS A CONTROLLED ACTIVITY

[Airports Act 1996]

[Airports (Protection of Airspace) Regulations 1996]

1. Section 182: defines "controlled activities" – includes intrusions by cranes into prescribed airspace.
2. Section 187: if a controlled activity is carried out without approval, or is carried out otherwise than in accordance with an approval, the Federal Court may order a person to carry out remedial work on a building, structure or thing; to mark it or light it or both; to reduce its height.
3. Section 183: a person who carries out a controlled activity without the approval of the Secretary or Airport commits an offence against section 183 of the Act.
 - a) Penalty: 250 penalty units for each such offence.
4. Regulation 8: a building authority that receives a proposal for a building activity that, if undertaken, would constitute a controlled activity in relation to an airport must give notice of the proposal to the airport
 - a) Penalty: 50 penalty units for each such offence.
5. If the activity is a short term activity (less than 3 months), the Airport will determine the application pursuant to delegated authority from the Secretary.
6. If the activity is a long term activity (greater than 3 months), the Secretary will determine the application.
7. If the activity is a long term intrusion into PANS-OPS, the application will not be approved. [Reg 9].
8. The Airport will give notice of the application to, and invite submissions from, the Civil Aviation Safety Authority of Australia (CASA) and Airservices Australia. [Reg 10].
9. Upon receipt of submissions from CASA and Airservices, the Airport will refer the application and any submissions from CASA and Airservices, as well as the Airport, to the Secretary, or will determine the application itself if it is a short term activity. The Secretary or the Airport will notify you in writing of their decision.
10. Neither the Secretary or the Airport will approve any activity if CASA advises that carrying out the activity would have an unacceptable effect on the safety of existing or future air transport operations into or out of the Airport. [Reg14(6)].

Attachment H

Sydney Water Response Letter

11 May 2022

Our Ref: 199214

Benjamin Chamie

Council of the City of Sydney

bchamie@cityofsydney.nsw.gov.au

RE: Development Application D/2021/1484 at 330-332 Botany Road, Alexandria

Thank you for notifying Sydney Water of Concept Development Application D/2021/1484 at 330-332 Botany Road, Alexandria, which proposes the construction of a mixed-use affordable housing development with approximately 275 apartments over two buildings with ground floor commercial spaces. Sydney Water has reviewed the application based on the information supplied and provides the following comments to assist in planning the servicing needs of the proposed development.

Water Servicing

- Potable water servicing should be available via a DN100 CICL watermain (laid in 1924) on Botany Road.
- Amplifications, adjustments, and/or minor extensions may be required.

Wastewater Servicing

- Wastewater servicing should be available via a DN225 VC wastewater main (laid in 1901) within the property boundary.
- Amplifications, adjustments, and/or minor extensions may be required.

This advice is not formal approval of our servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided once the development is referred to Sydney Water for a feasibility and Section 73 application. More information about the Section 73 application process is available on our web page in the [Land Development Manual](#).

Further advice and requirements for this proposal are in Attachments 1 & 2. If you require any further information, please contact the Growth Planning Team at urbangrowth@sydneywater.com.au.

Yours sincerely,

**Kristine Leitch**

Commercial Growth Manager

City Growth and Development, Business Development Group

Sydney Water, 1 Smith Street, Parramatta NSW 2150

Attachment 1

Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

Building Plan Approval

The approved plans must be submitted to the Sydney Water [Tap in™](#) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The [Tap in™](#) service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's [Tap in™](#) online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required.

Out of Scope Building Plan Approval

Sydney Water will need to undertake a detailed review of building plans:

1. That affect or are likely to affect any of the following:
 - Wastewater pipes larger than 300mm in size
 - Pressure wastewater pipes
 - Drinking water or recycled water pipes
 - Our property boundary
 - An easement in our favour
 - Stormwater infrastructure within 10m of the property boundary.

2. Where the building plan includes:
 - Construction of a retaining wall over, or within the zone of influence of our assets
 - Excavation of a basement or building over, or adjacent to, one of our assets
 - Dewatering – removing water from solid material or soil.

The detailed review is to ensure that:

- our assets will not be damaged during, or because of the construction of the development
- we can access our assets for operation and maintenance
- your building will be protected if we need to work on our assets in the future.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

Tree Planting

Certain tree species placed in close proximity to Sydney Water’s underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Sydney Water requires that all proposed or removed trees and vegetation included within the proposal adhere to the specifications and requirements within Section 46 of the Sydney Water Act (1994) and *Diagram 5 – Planting Trees* within our [Technical guidelines – Building over and adjacent to pipe assets](#). Please note these guidelines include more examples of potential activities impacting our assets which may also apply to your development.

If any tree planting proposed breaches our policy, Sydney Water may need to issue an order to remove every tree breaching the act, or directly remove every tree breaching the Act and bill the developer or Council for their removal.

Attachment 2

Requirements for **Business Customers for Commercial and Industrial Property Developments.**

Trade Wastewater Requirements

If this development is going to generate trade wastewater, the property owner must submit an application requesting permission to discharge trade wastewater to Sydney Water's sewerage system. You must obtain Sydney Water approval for this permit before any business activities can commence. It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

The permit application should be emailed to Sydney Water's [Business Customer Services](mailto:businesscustomers@sydneywater.com.au) at businesscustomers@sydneywater.com.au

A Boundary Trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment.

If the property development is for Industrial operations, the wastewater may discharge into a sewerage area that is subject to wastewater reuse. Find out from Business Customer Services if this is applicable to your development.

Backflow Prevention Requirements

Backflow is when there is unintentional flow of water in the wrong direction from a potentially polluted source into the drinking water supply.

All properties connected to Sydney Water's supply must install a testable Backflow Prevention Containment Device appropriate to the property's hazard rating. Property with a high or medium hazard rating must have the backflow prevention containment device tested annually. Properties identified as having a low hazard rating must install a non-testable device, as a minimum.

Separate hydrant and sprinkler fire services on non-residential properties, require the installation of a testable double check detector assembly. The device is to be located at the boundary of the property.

Before you install a backflow prevention device:

1. Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.
2. Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300 889 099.

For installation you will need to engage a licensed plumber with backflow accreditation who can be found on the Sydney Water website:

<https://www.sydneywater.com.au/plumbing-building-developing/plumbing/backflow-prevention.html>

Water Efficiency Recommendations

Water is our most precious resource and every customer can play a role in its conservation. By working together with Sydney Water, business customers are able to reduce their water consumption. This will help your business save money, improve productivity and protect the environment.

Some water efficiency measures that can be easily implemented in your business are:

- Install water efficiency fixtures to help increase your water efficiency, refer to WELS (Water Efficiency Labelling and Standards (WELS) Scheme, <http://www.waterrating.gov.au/>
- Consider installing rainwater tanks to capture rainwater runoff, and reusing it, where cost effective. Refer to <https://www.sydneywater.com.au/your-business/managing-your-water-use/water-efficiency-tips.html>
- Install water-monitoring devices on your meter to identify water usage patterns and leaks.
- Develop a water efficiency plan for your business.

It is cheaper to install water efficiency appliances while you are developing than retrofitting them later.

Contingency Plan Recommendations

Under Sydney Water's [customer contract](#) Sydney Water aims to provide Business Customers with a continuous supply of clean water at a minimum pressure of 15meters head at the main tap. This is equivalent to 146.8kpa or 21.29psi to meet reasonable business usage needs.

Sometimes Sydney Water may need to interrupt, postpone or limit the supply of water services to your property for maintenance or other reasons. These interruptions can be planned or unplanned.

Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority.

Have you thought about a contingency plan for your business? Your Business Customer Representative will help you to develop a plan that is tailored to your business and minimises productivity losses in the event of a water service disruption.

For further information please visit the Sydney Water website at:

<https://www.sydneywater.com.au/your-business/managing-trade-wastewater/commercial-trade-wastewater.html> or contact Business Customer Services on 1300 985 227 or businesscustomers@sydneywater.com.au.

Item 6.

Post Exhibition - Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

File No: X087876

Summary

The Green Square urban renewal area is Australia's largest urban renewal area and features the Green Square Town Centre (Town Centre) at its heart. The urban renewal area is forecast to grow to around 32,000 dwellings, housing around 63,000 people by 2036. This growth equates to \$22 billion in private investment and \$1.8 billion in local infrastructure.

In 2010 the City developed planning controls for the Epsom Park neighbourhood in the eastern edge of the urban renewal area. The planning controls facilitated the redevelopment of much of the area, unlocking substantial local infrastructure, including new roads, parks, community facilities such as Gunyama Park and Aquatic Centre and regional trunk drainage through to Alexandra Canal.

This report follows the public exhibition of Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland (the planning proposal) to amend the *Sydney Local Environmental Plan 2012* (Sydney LEP). The planning proposal was exhibited with Draft Sydney Development Control Plan 2012 - 118-130 Epsom Road and 905 South Dowling Street, Zetland (draft DCP) and a draft planning agreement.

The planning proposal and draft DCP (the planning controls) increase height limits on some parts of the site and reduces it on others to provide more diverse housing, including family-sized townhouses, and more and better public spaces and streets. The proposed changes to height are visually appropriate and consistent with similar Green Square precincts (such as the Lachlan Precinct) and respond to the bulk and scale of neighbouring existing and future developments. The creation of new streets will improve access to Green Square station via Zetland Avenue and the recently completed indoor and outdoor pools, playing fields, parks (some under construction), public school (under construction) and library for the proposed development as well as those in Rosebery to the south.

The planning proposal does not change the Floor Space Ratio (FSR) or the mixed-use zoning.

In addition to the proposed planning controls a draft planning agreement was publicly exhibited. It included a commitment from the landowner to higher sustainability targets, the provision of space for everyday retail needs, parking provisions for electric vehicle charging and dual reticulation of water so that future development may connect to an expanded water recycling facility.

The proposed planning controls and draft planning agreement were publicly exhibited from 27 March 2023 to 8 May 2023, a period of six weeks. About 4,350 notification letters were sent to landowners and occupants of surrounding properties, with approximately 1,000 of these letters being delivered to residents of the Randwick City Council Local Government Area. The City also hosted an online information session on 4 April 2023 to allow the community to ask questions of planners and urban designers about the proposed planning controls.

A total of 136 submissions from the general community were received during the public exhibition period. Five submissions were in support of the proposal, 11 submissions provided mixed feedback or were in support of specific elements of the proposal and 120 submissions were in opposition of the proposal. In addition, one submission was received on behalf of the proponent and one submission was received on behalf of an adjacent landowner. Six submissions were received from public authorities, including one from Randwick City Council.

Matters raised in submissions are summarised at Attachment A. Key issues include:

- concerns about the impact the development would have on the local road network;
- concerns about the proposed height of development, particularly the proposed 90 metre tower at the north-east corner of the site on Link Road, and overshadowing, privacy and visual impacts; and
- concerns about the cumulative impact of density and the community infrastructure needed to support it.

A submission was also made by the landowner, raising a number of issues with the publicly exhibited planning controls.

Following consideration of submissions, the following key changes to the exhibited planning controls are recommended:

- additional requirements in the DCP, to guide future consideration of traffic and transport and flooding matters at the concept development application stage;
- amendments to the car parking requirements in the draft DCP to remove conflict with the LEP requirements;
- increasing the maximum permitted gross floor area for the purposes of shops from 1,000 square metres to 1,200 square metres to resolve an identified shortfall of supermarket floor space in the area; and
- reversion to the current DCP's active frontage requirements to align with the LEP's minimum non-residential floor space requirement.

In addition, it is proposed to amend the stretch BASIX provision in the planning proposal so that it only applies where the existing state government BASIX requirements apply. This amendment is proposed following analysis of new *State Environmental Planning Policy (Sustainable Buildings) 2022*, which is proposed to come into force on 1 October 2023. Early indications are that it may not be possible for high rise residential development to achieve BASIX scores much more than those that are required as part of the new SEPP.

This report recommends Council approve the planning proposal and draft DCP, as amended following public exhibition. If approved, the proposal will be forwarded to the Department of Planning and Environment for finalisation. The amendment to the Sydney LEP 2012 will come into effect when it is published on the NSW Legislation website. Amendment to the Sydney Development Control Plan 2012 will come into effect at the same time as the LEP is published.

Recommendation

It is resolved that:

- (A) the Central Sydney Planning Committee note the matters raised in response to the public exhibition of the Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland, Draft Sydney Development Control Plan 2012: 118-130 Epsom Road and 905 South Dowling Street, Zetland and Draft Planning Agreement: 118-130 Epsom Road and 905 South Dowling Street, Zetland as shown at Attachment A to the subject report;
- (B) the Central Sydney Planning Committee approve the Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland shown at Attachment B to the subject report, as amended following public exhibition, to be made as a local environmental plan under Section 3.36 of the Environmental Planning and Assessment Act 1979;
- (C) the Central Sydney Planning Committee note the recommendation of Council's Transport, Heritage, Environment and Planning Committee on 19 June 2023 that Council approve Draft Sydney Development Control Plan 2012: 118-130 Epsom Road and 905 South Dowling Street, Zetland shown at Attachment C to the subject report, as amended following public exhibition, noting the development control plan will come into effect on the date of publication of the subject local environmental plan, in accordance with Clause 20 of the Environmental Planning and Assessment Regulation 2021;
- (D) authority be delegated to the Chief Executive Officer to make minor variations to the Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland and Draft Sydney Development Control Plan 2012: 118-130 Epsom Road and 905 South Dowling Street, Zetland to correct any minor errors prior to finalisation; and
- (E) the Central Sydney Planning Committee note the draft Voluntary Planning Agreement as shown at Attachment D to the subject report will be executed under the delegation of Council in accordance with the Environmental Planning and Assessment Act 1979.

Attachments

- Attachment A.** Summary of Submissions and Responses
- Attachment B.** Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland (as amended following public exhibition)
- Attachment C.** Draft Sydney Development Control Plan 2012 - 118-130 Epsom Road and 905 South Dowling Street, Zetland (as amended following public exhibition)
- Attachment D.** Planning Agreement
- Attachment E.** Gateway Determination
- Attachment F.** Council and Central Sydney Planning Committee Resolutions

Background

1. This report follows the public exhibition of Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland (planning proposal) and Draft Sydney Development Control Plan 2012 (draft DCP), shown at Attachment B and C respectively. An associated draft planning agreement was also publicly exhibited and is shown at Attachment D.

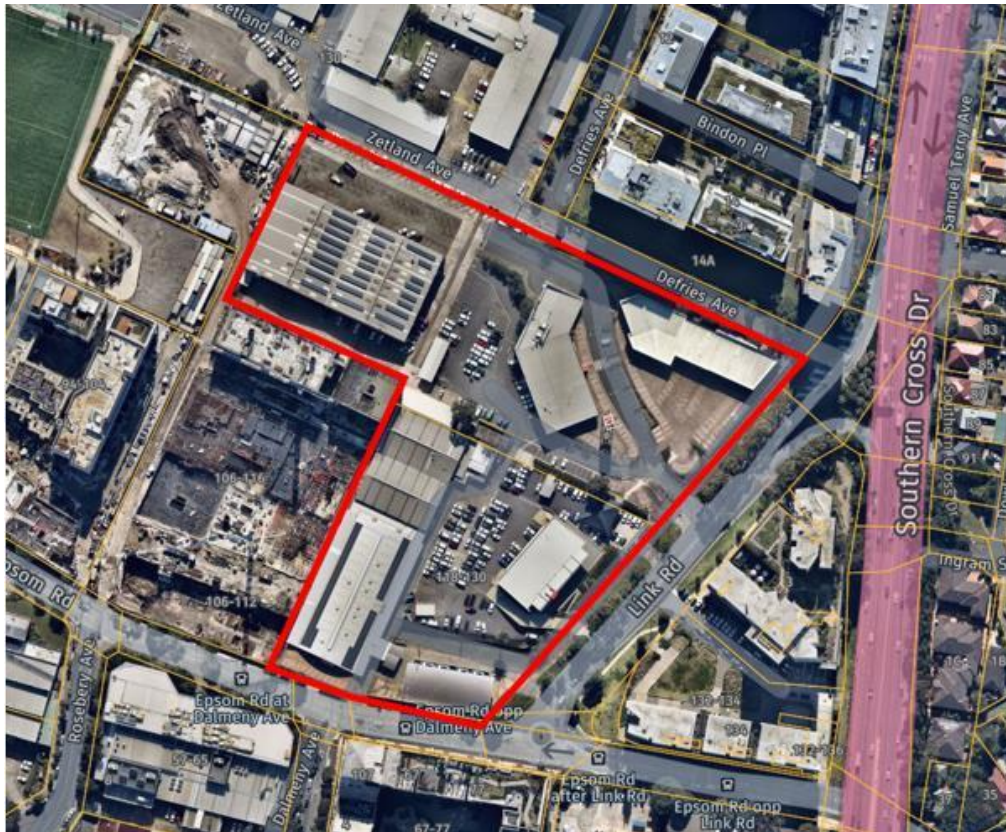


Figure 1: Aerial image of subject site (in red) and immediate vicinity

2. Site details, current planning controls, proposed planning controls and a public benefit offer from the landowner to the City are described in detail in the pre-exhibition report to the Transport, Heritage, Environment and Planning Committee and the Central Sydney Planning Committee (CSPC), available at:
[https://meetings.cityofsydney.nsw.gov.au/ieListDocuments.aspx?CId=137&MId=3962&Ver=4\(item 10\)](https://meetings.cityofsydney.nsw.gov.au/ieListDocuments.aspx?CId=137&MId=3962&Ver=4(item 10))
3. The publicly exhibited planning proposal facilitates alternative building heights ranging from three metres to 90 metres, to be expressed on a new Alternative Heights Map Sheet, subject to a site-specific provision which secures:
 - (a) BASIX affected development exceeding the energy and water targets by no less than 5 points;
 - (b) no less than 4 per cent of the gross floor area on the land being provided for non-residential purposes;
 - (c) a new Active Street Frontages map to guide the location of non-residential uses; and

- (d) there being no additional height being awarded for the achievement of design excellence.
4. The publicly exhibited draft DCP provides the framework for the changes to the public domain on the site and underpins the alternative height controls with provisions to guide the bulk and scale of development and how the buildings interface with the street.
 5. The planning proposal does not supersede the current planning controls, that is, the current planning controls continue to apply to the site if the proponent prefers to develop under those controls. If the alternative heights are utilised however, the entirety of the site is subject to the alternative heights map and the above site specific requirements and planning agreement obligations.
 6. An indicative reference scheme that shows a possible built form outcome that may result from the proposed planning controls, is shown in Figures 2 to 5 below.



Figure 2. Indicative development concept - aerial view from south-east. Source: MAKO Architecture - Reference Design



Figure 3. Indicative development concept - aerial view from west. Source: MAKO Architecture - Reference Design



Figure 4. Indicative development concept - Defries Avenue looking north. Source: MAKO Architecture - Reference Design



Figure 5. Indicative development concept - Mulgu Park. Source: MAKO Architecture - Reference Design

7. In addition to the proposed planning controls a draft planning agreement was publicly exhibited, including commitment from the landowner to:
 - (a) provide no less than 4 per cent of the gross floor area of the development for non-residential purposes;
 - (b) achieve an energy and water BASIX score of at least 5 points above the existing commitments for all BASIX-affected development on the site;
 - (c) design and construct all future buildings on the site so as to be capable of providing a dual reticulation water system for up to estimated 2000 residents; and
 - (d) ensure all private residential parking spaces can be Electric Vehicle Charging spaces.
8. The Central Sydney Planning Committee (CSPC) and Council, at their meetings on 5 December 2022 and 12 December 2022 respectively, approved the planning proposal and the draft DCP to be submitted to the NSW Department of Planning and Environment (Department) for a Gateway Determination, and for public authority consultation and public exhibition in accordance with any Gateway Determination conditions. Council and CSPC resolutions are provided at Attachment F.
9. On 2 March 2023, the Department issued a conditional Gateway Determination for the planning proposal shown at Attachment E to this report, requesting minor changes and clarifications to be made prior to public exhibition. The planning proposal was amended accordingly and following approval from the Department, the proposed planning controls and a draft planning agreement were placed on public exhibition from 27 March to 8 May 2023.

10. This report recommends the Central Sydney Planning Committee approve the planning proposal and note the recommendation to Council's Transport, Heritage, Environment and Planning Committee on 19 June 2023 that Council approve the draft DCP, as amended following public exhibition. If approved, the proposal will be forwarded to the Department for finalisation. The amendment to the *Sydney Local Environmental Plan 2012* (Sydney LEP) will come into effect when it is published on the NSW Legislation website. Amendment to the Sydney Development Control Plan 2012 (Sydney DCP) will come into effect at the same time as the Sydney LEP amendment is published.

Public Exhibition

11. The planning proposal, draft DCP and draft planning agreement were publicly exhibited for six weeks from 27 March 2023 to 8 May 2023. This exceeded the four week public exhibition requirement of the Gateway Determination. Public exhibition was in accordance with the City of Sydney Community Engagement Strategy and Community Participation Plan 2022.
12. The City sent approximately 4,350 notification letters to landowners and occupants of surrounding properties, with approximately 1,000 of these letters being delivered to residents of the Randwick City Council Local Government Area. The exhibition was also advertised on the City's 'Sydney Your Say' page and included in the April Sydney Your Say newsletter which was sent to 6,975 subscribers.
13. The City hosted an online information session on 4 April 2023, which was advertised on the City's 'Sydney Your Say' page and referenced in the notification letters sent to surrounding properties.
14. In accordance with the Gateway Determination, notification of the public exhibition was also made to the following public authorities:
 - (a) Randwick City Council;
 - (b) Energy, Environment and Science Group;
 - (c) Transport for NSW;
 - (d) Federal Department of Infrastructure, Transport, Regional Development and Communications;
 - (e) Sydney Airport Corporation;
 - (f) Air Services of Australia; and
 - (g) Civil Aviation Safety Authority.
15. A total of 136 submissions from the general community were received during the public exhibition period. Five submissions were in support of the proposal, 11 submissions provided mixed feedback or were in support of specific elements of the proposal and 120 submissions were in opposition of the proposal. In addition, one submission was received on behalf of the proponent and one submission was received on behalf of an adjacent landowner. Six submissions were received from public authorities, including one from Randwick City Council.

16. A summary of submissions and the City's detailed response is included at Attachment A of this report, with the key issues discussed below.

Traffic, transport and parking

17. There were 115 submissions from the general community, which raised concerns about traffic generation, particularly in West Kensington, local road infrastructure and/or the quality of the traffic study submitted with the planning proposal. Submissions related to these matters were also received from Transport for NSW and Randwick City Council.
18. The planning proposal does not increase the density (number of dwellings) permitted on the site. Therefore, there is no additional traffic and transport impact generated by the proposed planning controls, compared with the current planning controls that have been in place since 2012. It is noted that the Bitzios consultants review of the traffic impact assessment commissioned by Randwick Council found that there is limited nexus between the development's traffic and new or unforeseen impacts in the Randwick local government area.
19. Assessment of the traffic implications must be considered as part of future development applications, including necessary upgrades to intersections. The City has written to the proponent to advise them of the matters raised by Transport for NSW in their analysis of the traffic study submitted with the planning proposal, which will need to be addressed in development applications. Transport for NSW recommended implementing planning controls to ensure that any future traffic study to be lodged with a development application is consistent with the requirements of Transport for NSW. An additional provision to this effect is recommended to be included in the DCP.
20. The submission from Transport for NSW raised concern about the uncertainty regarding the future intersection arrangements at various points on the periphery of the site. Transport for NSW recommended that suitable satisfactory arrangements are made to ensure land required for future road upgrades are future-proofed (reserved) from development on the site.
21. The current planning controls set out the general expectation for intersections around the site, including land dedication for new road at the corner of Link Road and Zetland Avenue and along George Julius Avenue, as well as land dedication for footpath widening along Epsom Road. These dedications will occur as part of the development application process, with the detailed design of the roads being undertaken closer to the delivery.
22. Where signalisation or augmentation of an intersection for public transport is required, the City will work closely with Transport for NSW to secure the necessary land dedications, setbacks and/or developer contributions as part of the development application.
23. Some submissions raised concerns that the site is not well served by public transport. Some submissions noted that any development on the site should not proceed until the NSW Government has committed to constructing a metro station near the site.

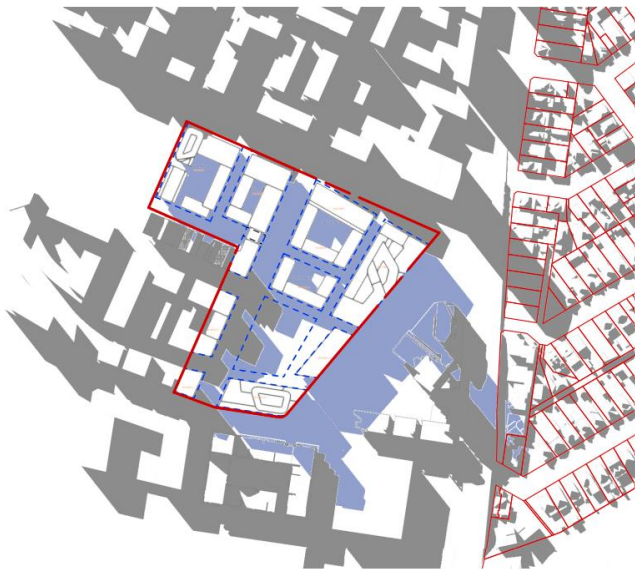
24. The site is located within a 10-minute walking distance of Green Square train station (at its closest point) and within 400 meters of bus stops services, including:
 - (a) service 370 – this service runs every 10-20 minutes (peak services vary) from Epsom Road, connecting the site to Green Square Train Station, Newtown and Glebe to the west, and the University of NSW and Coogee to the east.
 - (b) service 306 – this loop service runs every 10 minutes from Epsom Road and connects the site to Redfern train station in the north-west (via Green Square train station), to Eastlakes shopping centre and to Mascot station.
 - (c) service 304 – this continuous loop service runs from Gunyama Park Aquatic and Recreation Centre and Epsom Road to Redfern, Surry Hills, Martin Place and Circular Quay every 5 minutes on weekday peaks and every 10 minutes at most other times.
25. This site adjoins part of a planned eastern transit corridor, a surface transport corridor linking Green Square town centre and its train station to the City centre.
26. The City continues to advocate to Transport for NSW for a metro station in the local area in the long term, however this is not seen as immediately necessary for the development of the site which is currently adequately serviced by existing transport options. The City does acknowledge however that as development occurs over time, it is important that Transport for NSW continue to improve to public transport options to support the growing community.
27. The City and Transport for NSW also work together to improve connectivity in and around this precinct and to promote sustainable transport use, including:
 - (a) Green Square and Waterloo Transport Action Plan – Transport for NSW and the City jointly engaged a consultant to undertake a review of connectivity in the area of Green Square and Waterloo and develop an action plan up to 2024 and beyond to the opening of the metro;
 - (b) speed reduction – Transport for NSW and the City have been working together on a plan to reduce the majority of roads within the City area to 40km/h;
 - (c) cycleways – City and Transport for NSW will work together to roll out cycle links across the local area, including Epsom Road (currently in planning), Zetland Avenue and George Julius Avenue. There are several existing on-road and off-road bicycle routes surrounding the site that connect the site with adjoining precincts, to Central Sydney and to the wider network of regional bike paths.
 - (d) behaviour change – Transport for NSW and the City have recently implemented a behaviour change campaign in Green Square and the surrounding area. This is aimed at encouraging more sustainable methods of travel;
 - (e) maximum parking rates – In its planning controls the City establishes a maximum parking rate based on the accessibility of a site to public transport and service. The approach is intended to promote public transport use in favour of driving to a destination.

28. Some submissions raised concerns there was an undersupply of parking spaces to be provided as part of the proposal and that this would exacerbate existing pressures on street parking. Conversely, some submissions asserted that there was an oversupply of parking spaces which would contribute to traffic generation in the area.
29. The City's parking rates are set out in the Sydney LEP and establish maximum parking rates based on the accessibility of the site to public transport and service and the amount of dwellings and non-residential floor space. This approach is applied consistently across the local area and is supported by Transport for NSW. The planning proposal does not increase the density on the site and therefore does not increase the maximum number of car space permitted.
30. The reference scheme indicates about 860 parking spaces being provided in the development, as currently permitted under the Sydney LEP. Final approval for parking will occur at the development application stage.
31. Transport for NSW also made extensive recommendations to promote the use of sustainable modes.
32. Council is in agreeance with Transport for NSW that a future development application should promote the use of sustainable transport. These matters are to be addressed in a Green Transport Plan to be lodged with the development application.

Building height, overshadowing and visual impact

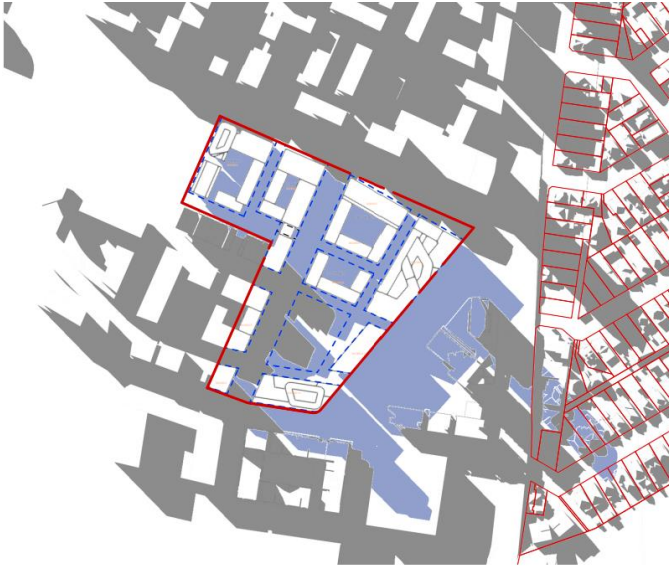
33. There were 93 submissions stating objections to the proposed building heights, with specific opposition to the proposed 90 metre tower at the north-east corner of the site. Concerns related to potential overshadowing and privacy impacts, as well as the visual impact of the tower on the West Kensington heritage conservation area (conservation area).
34. The planning proposal facilitates additional height in some locations and a reduction of height in others. This allows for:
 - (a) a wider range of housing types to be provided on the site, including family-sized townhouses;
 - (b) more sunlight to the public domain, specifically to Mulgu Park;
 - (c) more and better quality public spaces and streets within the precinct; and
 - (d) a mix of land uses, with retail and commercial spaces to enliven the locality.
35. The proposed planning controls limit the floor plates of the towers on the site to ensure each is visually slender, that shadows they cast move quickly, and to ensure views are shared. It is considered the redistribution of height results in an overall improved public outcome for the site.
36. The height of towers responds appropriately to others already constructed in Green Square and the South Dowling Street corridor and their floorplate is controlled to maximise visual amenity. The building footprints and street heights have been arranged to improve amenity in the public domain and relocating building mass from the ground plane allows for the provision of new publicly accessible open spaces throughout the site, linking various streets and key open spaces in the neighbourhood.

37. At its nearest point, the subject site is approximately 70 metres from the nearest property in the Randwick local government area. Moreover, the 25-storey tower will need to be sited further from this point and will likely be more than 90 metres away from the nearest dwelling in the conservation area. The Link Road triangle and an elevated M1/Southern Cross Drive, a seven lane state road, lies between the site and the conservation area with a single underpass.
38. Appropriate solar access is measured with reference to the NSW Government's Apartment Design Guide (ADG) requirements. In addition, the City's planning controls require that new development must not create any additional overshadowing where solar access is less than two hours between 9am and 3pm on 21 June. Solar access is measured at mid-winter (21 June) because this is when the sun is lowest in the sky and therefore represents a 'worst case scenario' for overshadowing.
39. Overshadowing analysis was publicly exhibited as part of the supporting documentation with the planning proposal. The analysis demonstrates this standard can be achieved on neighbouring sites, including the conservation area, with the building envelopes shown in the planning proposal.
40. The exhibited analysis shows that the tower in the north-eastern corner of the site is the only proposed element that will create any additional overshadowing towards the conservation area further than that from existing built form at the Link Zetland site. On the 21 June this additional overshadowing does not commence until 2:30pm and is limited to the building nearest to Southern Cross Drive. By 3pm, the shadow extends over an additional three properties along the northern side of Lenthall Street and into the front yards of two properties on the southern side of Lenthall Street.



21/6 14:30

Figure 6. 21 June at 2:30pm. Source: Solar Impact Analysis - Randwick local government area



21/6 15:00

Figure 7. 21 June at 3pm. Source: Solar Impact Analysis - Randwick local government area

41. On surrounding apartments in closer proximity to the site, the analysis demonstrates that appropriate solar access can be maintained to existing and planned surrounding apartment buildings and can be achieved for the planned buildings within the development itself.
42. The requirement for solar access will be further tested in the detailed design process at the development application stage. Any future development must maintain compliance with the ADG.
43. On the public domain, the City's planning controls require a minimum of 50 per cent of the open space to receive sun for four hours between 9am and 3pm in midwinter. Overshadowing analysis of open space in and around the site shows this can be achieved and support its intended uses.
44. The proposed reduced building height to the immediate north of Mulgu Park (to allow for three storey townhouses), results in increased solar access to the park, allowing 78 per cent of the park to receive four hours of sun between 9am and 3pm in midwinter compared with 53 per cent under the current controls.
45. The ADG also contains standards to ensure new residential apartments achieve acceptable levels of visual privacy for residents and neighbours. To limit the impacts of overlooking, it requires a minimum 24 metre separation between habitable rooms and balconies with other habitable rooms, balconies and other private open spaces for buildings that are nine or more storeys high. As above, with a separation distance of 90 metres from the tallest tower at the north-east of the site to dwellings in the conservation area, the ADG standards are achieved. They are also achieved, and more often exceeded, with more immediate development bordering the site.
46. Randwick City Council's submission requested for a heritage impact assessment to be undertaken to assess the potential visual impacts that could result from the proposed planning controls to the conservation area.

47. The Randwick Heritage Study – Volume 1 Heritage Conservation Area Review 2021, prepared on behalf of Randwick Council, recognises the visual interest of the West Kensington heritage conservation area as being predominantly internally focused, with some of the more interesting views out of the area being to the south-east towards the Sacred Heart Church. The Statement of Significance for the conservation area states:

It features interesting street junctions, many of which are T-junctions, and streets which range in length. This results in a great variety of internal vistas, long and short, most of which are terminated by buildings at an intersection or bend. Some of the more interesting views out include views to the elevated areas to the south-east, where the Sacred Heart Church still stands. The area's visual interest is mostly a consequence of built character, and the geometry of the subdivision, with all allotments orientated at 45 degrees to the main compass points.

48. The subject site is to the west and southwest of the conservation area, with tall buildings along Southern Cross Drive already visible. It is not considered that an additional building(s) [one 25 storey building] within view of parts of the conservation area would negatively impact on the stated heritage significance of the area, particularly as there is no impact on visual or acoustic privacy.

Density and supporting community infrastructure

49. There were 65 submissions stating objections to the excessive density and overdevelopment of the area and raising concerns regarding the cumulative impact of development in the area. Many of the concerns in relation to density and cumulative impact related to traffic impacts, which are discussed above in this report. 45 submissions were concerned there was insufficient community infrastructure, such as schools, community facilities and open space, to support it.
50. The planning proposal does not increase the density permitted on the site and will not facilitate the delivery of any additional dwellings, above what would already be permissible under current planning controls.
51. The planning proposal facilitates a number of public domain improvements including an additional 5,500 square metres of public open space, including Mulgu Park and three additional areas of newly proposed open space. The site is close to a variety of exemplary community facilities and open spaces including the Green Square Plaza and Library, Joynton Avenue Creative centre and Matron Ruby Park and playground. It is also close to childcare centres and a community shed. The site is adjacent to Gunyama Park Aquatic and Recreation Centre including a playing field and adventure park and is within walking distance of the Drying Green in the Town Centre.
52. A new public school is being built nearby on Zetland Avenue. It will provide the latest learning spaces and equipped core facilities to meet future enrolment demand in the area. The Green Square Public School and Community Spaces is being delivered by the Department of Education in collaboration with the City. Shared spaces include sporting and recreational courts. An Out of School Hours Care (OSHC) will be provided on site also.

Landowner submission

53. A submission was received by the landowner, seeking changes to the publicly exhibited planning controls to:
- (a) limit the extent of active frontages required as part of the proposed planning controls;
 - (b) remove the 1,000 square metre cap on the size of a supermarket that might be located on the site;
 - (c) remove car parking requirements in the draft DCP that exceed those in the Sydney LEP;
 - (d) remove the requirement for the physical break and visual separation to be achieved above ground floor between Tower C and the 8/9 storey building to its immediate south;
 - (e) remove the prohibition of parking and basement connections (cut-throughs) under future public roads;
 - (f) remove the duplication of requirements in the planning controls and the planning agreement;
 - (g) increase the maximum building height to the north of Mulgu Park;
 - (h) reduce the maximum floor plate requirements for the towers on the site;
 - (i) remove the prohibition of above ground car parking;
 - (j) remove the requirement for reduced building heights where the three metre setback to Zetland Avenue can be reduced; and
 - (k) introduce an 'articulation zone' to facilitate flexibility
54. Following consideration of the landowner submission, the following changes to the publicly exhibited planning controls are recommended:
- (a) the current active frontage requirements that apply to the site are to be maintained, that is, the expanded active frontage requirements in the publicly exhibited planning proposal and the draft DCP are to be removed. The recommended change acknowledges the proposed active street frontages requirements would result in more non-residential floor area than is otherwise required by the planning proposal and planning agreement. It also recognises the reduced flexibility that comes with including active street frontages in the LEP, rather than in the DCP only;

- (b) amending the planning proposal to allow for a 1,200 square metre supermarket to be provided on the site. This exceeds the current 1,000 square metre maximum in the Sydney LEP. The draft DCP is also to be amended to remove a size requirement for any supermarket on the site. The recommended change allows for the provision of the 178 square metre forecast shortage of supermarket floor space identified in the North Rosebery cluster (being where the site is located) in the City's retail study and recognises that the proposed controls require 4 per cent of the floor space (about 3,500 square metres) to be for non-residential uses;
- (c) rewording of the provision in the draft DCP that implies a required reduction in car parking below the maximum parking rate in the LEP. While the DCP will include provision to encourage exploration of opportunities to reduce parking and encourage sustainable transport choices, it is acknowledged the Sydney LEP is the prevailing planning control and a DCP requirement cannot override it;
- (d) provision in the draft DCP to allow basement connections (cut-through) and visitor parking (that is held in common property) below roads that are to be dedicated to council. The proposed change is consistent with development approvals on surrounding sites where this outcome has been facilitated; and
- (e) removal of the requirement in the draft DCP that 'reduction in height elsewhere on the site' is required where the three metre setback to Zetland Avenue is not achieved. The amendment removes any implied inconsistency between the Alternative Built Form map and the Alternative Building Setbacks map.

Randwick City Council

- 55. In addition to those matters related to traffic, parking, overshadowing, visual impacts to the conservation area and cumulative impacts, the submission from Randwick City Council also made recommendations with regard to site specific FSR controls for each development block to increase certainty, the increase of affordable housing on the site and the sustainability benefits secured through the planning agreement.
- 56. These matters are addressed in the submissions table appended to this report. No changes to the publicly exhibited planning controls are recommended as a result of consideration of this submission.

NSW Environment and Heritage Group

- 57. The NSW Environment and Heritage Group made a submission regarding trees, biodiversity and flooding.
- 58. The City's planning framework includes detailed requirements for the management of trees that must be considered in relation to any future development application, including submission of an arborist report. The report must be prepared in line with City of Sydney guidelines, and relevant Australian Standards including for classification, protection and pruning. All street tree plantings must be in accordance with the City's Street Tree Master Plan 2011 and landscape design must consider the City of Sydney Landscape Code.
- 59. The submission also raised concern that Ministerial Direction 4.1 Flooding has not been properly addressed and that a flood impact and risk assessment is required to support the planning proposal.

60. This matter was considered by the Department of Planning and Environment prior to issuing Gateway Determination for the planning proposal, and it considered the Ministerial Direction 4.1 Flooding had been appropriately addressed for the planning proposal, noting further flooding analysis is required at the detailed design (development application) stage. The current planning controls permit development and require the management of flood risk. The proposed height controls allow for development to accommodate the required flood planning levels.
61. Notwithstanding the above, it is recommended the draft DCP be amended to provide further clarification for the need for a flood impact and risk assessment in accordance with the Department's Flood Risk Management Guide LU01: Flood Impact and Risk Assessment.

Civil Aviation Safety Authority, Sydney Airport Corporation and Department of Infrastructure and Regional Development

62. Submissions were also received from the Civil Aviation Safety Authority, Sydney Airport Corporation and the Department of Infrastructure and Regional Development outlining the future approvals required at the development application stage of the development.
63. In response to matters raised, no changes to the publicly exhibited planning controls are needed.

Key Implications

BASIX stretch targets

64. Additional changes are proposed to the BASIX provision in the planning proposal.
65. *State Environmental Planning Policy (Sustainable Buildings) 2022* (Sustainable Building SEPP) will introduce higher BASIX targets. The planning agreement recognised the increase and only imposed stretch targets for development applications submitted under the current BASIX SEPP. The planning proposal is therefore proposed to be updated to be consistent with the planning agreement and recognise the increased target introduced by the Sustainable Building SEPP.

Planning agreement

66. No changes are recommended to the publicly exhibited draft planning agreement.

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

67. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. The proposed planning controls are aligned with the strategic directions and objectives.
68. The proposed planning controls give effect to the infrastructure, liveability, productivity and sustainability priorities in the Greater Sydney Commission's Greater Sydney Region Plan and Eastern City District Plan and the City's Local Strategic Planning Statement.

Relevant Legislation

69. Environmental Planning and Assessment Act 1979.
70. Environmental Planning and Assessment Regulation 2021.

Critical Dates / Time Frames

71. The Gateway Determination requires that the amendment to the Sydney LEP 2012 is completed by 2 March 2024.
72. The Department determined Council would not be the local plan-making authority for this planning proposal. Therefore, should the proposed planning controls be approved by Council and the CSPC, the proposal will be forwarded to the Department to be finalised.
73. The amendment to the Sydney LEP 2012 will come into effect when the plan is notified on the NSW Legislation website, with the amendment to the Sydney DCP 2012 coming into effect on the same day.
74. The planning agreement will be executed and registered on the title of the land prior to the finalisation of the LEP and DCP.

GRAHAM JAHN AM

Director City Planning, Development and Transport

Angela Smidmore, Specialist Planner

Attachment A

Summary of Submissions and Responses

Community submissions

136 individual submissions were received from the general community.

Summary of submission	Response
General support (5 submissions)	
<ul style="list-style-type: none"> • Support for the proposal and the public benefits associated with it. • Support for the provision of more housing near the Sydney CBD. • Support for the provision of more housing to help reduce the cost of apartments. • Zetland is a suitable location for areas of medium and high density residential. • Support for the proposal to reduce the height near the park to improve solar access and to increase the height of the tower to compensate. 	<p>Support for the proposal is noted. Further detailed responses to specific matters are noted below.</p>
Mixed feedback and/or support for specific elements (11 submissions)	
<ul style="list-style-type: none"> • The requirements for mixed used, retail, commercial and public open space are supported. • Support for active street frontages and the new retail shopping centre. • Support for the planned open space / park, and the improved solar access proposed for the park. • Support for the townhouses as they would be suitable for small families and the lower profile buildings would better integrate with the surrounding areas. • Support for the provision of EV charging facilities. • Support for the transition from an industrial site to a residential site. 	<p>Support for these specific elements of the proposal is noted. Further detailed responses to specific matters are noted below.</p>

Summary of submission	Response
General opposition to the proposal and/or specific elements (120 submissions)	
<ul style="list-style-type: none"> • Opposition to the proposal 	<p>Opposition to the proposal is noted. Further detailed responses to specific matters are noted below.</p>
Overdevelopment / excessive density (65 submissions)	
<ul style="list-style-type: none"> • Objection to the overdevelopment of the area, and concerns surrounding the cumulative impacts of development in the area. • Request for a comprehensive analysis of existing and future developments and their impacts. • No additional development is required as the City of Sydney has fulfilled it's housing targets. • When land is upzoned, the land value increases and effectively means that the stamp duty originally paid is markedly less than the stamp duty that would have resulted from the increased development value. That loss of stamp duty to the government is not reasonable. • Ad-hoc rezonings lead to poorly considered outcomes and overdevelopment. • Objection to rezoning the site from industrial to residential. 	<p>The planning proposal does not increase the density permitted on the site and will not facilitate the delivery of any additional dwellings than is already permitted. The current floor space ratio of 2:1 for the site and the surrounding area have been in place since 2012 following master planning in 2008 to 2009. There is no change.</p> <p>There has been a comprehensive assessment of the impacts and benefits of changing the height controls. The City will also consider impacts in the development application process against adopted planning controls.</p> <p>The development of this site will contribute to the City's housing target of an additional 56,000 private dwellings from 2016 to 2036. The City has not already met its 2036 housing target, but is considered on track to meet it by including this urban renewal site already zoned to provide approximately 850 dwellings (depending on final mix).</p> <p>Stamp duty and other taxation issues associated with the value of land are not a consideration in changing the planning controls on the site.</p> <p>The site is already zoned for residential development. It is not being rezoned from industrial to residential.</p> <p>No change recommended.</p>
Insufficient density / more housing required (3 submissions)	

Summary of submission	Response
<ul style="list-style-type: none"> • Support for additional density on the site. • The proposal should be expanded to provide more units/housing to help reduce the cost of buying and renting in Sydney. • Support for more areas of medium and high density in Zetland as this is a suitable location given there are many similar buildings nearby. 	<p>The planning proposal does not consider additional density to what is typical for Green Square area and set in 2012, only adjusting heights.</p> <p>Additional density is not supported on the site.</p> <p>The developer is required to make a contribution to the provision of affordable housing in conjunction with the development.</p> <p>No change recommended.</p>
Excessive building heights (93 submissions)	
<ul style="list-style-type: none"> • Objection to 25 storey buildings, the height of the proposed building at 90m is excessive. • The building height should remain at 45 metres. • The building height should remain at 35 metres. • The building height should remain at 10 storeys. • The maximum building height on the site should be 12,13 or 14 storeys. • Concerns regarding setting a precedent for 25 storey towers. • The building on the corner of George Julius Avenue should be limited to 5 or 7 or 8 storeys with a large setback including a small park facing George Julius Avenue by wrapping the proposed new park around to extend along George Julius Avenue. • Preference for increasing the building heights along Link Road (10, 12 or 14 storeys) and reduce the tower height on the corner – as Link Road already faces a motorway. • The skyline has already been lost due to development in Zetland. 	<p>The planning proposal allows for a redistribution of floor space on the site, with additional height proposed in some locations and a reduction of height in others. The current FSR is maintained. It is considered the redistribution of height results in an overall improved public outcome.</p> <p>This proposal enables development ranging in height from 3m to 90m (or 1 storey to 25 storeys). A reduced height of 11 metres is proposed for the street blocks north of the future Mulgu Park to reflect a lower townhouse building typology; secure solar amenity improvements in the park and new publicly accessible open spaces throughout the site linking various streets and key open spaces in the neighbourhood. An increased height of 90m is incorporated for the tallest tower. The floorplate of the tower is limited in area to ensure it is relatively slender, and that therefore any shadows cast are controlled and that it shares views.</p> <p>The changes to the building heights have been informed by careful urban design analysis and the City's Design Advisory Panel advice, with the higher buildings being located on the corners of the site, medium density around the periphery and lower density centrally, in order to establish a hierarchy of built form that responds to the public domain and to the order of streets within and around the site.</p> <p>The height of towers responds appropriately to others in the Green Square urban renewal</p>

Summary of submission	Response
<ul style="list-style-type: none"> The proposed building heights will block sunset views for West Kensington residents. Reduce the building height of Block NW-1 as it is adjacent to Gunyama park. Any positive impact from the provision of townhouses is outweighed by the compensation provided to the applicant through excessive height increases for the towers. Concerns regarding the planning proposal referring to the site as '905 South Dowling Street' in order to compare the height to other towers on South Dowling Street, when the site actually sits on Link Road. The 90m tower at the most prominent point of the site will not 'create greater visual amenity in the public domain' given its proximity to the HCA. Opposition to buildings higher than 7 storeys as this has negative social impacts such as isolation and loneliness. Objection to the increase in building heights being referred to in the planning proposal as a 'small increase' 	<p>area and South Dowling Street and sets no precedent.</p> <p>The legal description (lot and DP) of the property is 905 South Dowling Street, Zetland, as referenced within the planning proposal. It is consistent and reasonable to compare the height of the tallest tower on the north-east corner of the site, that is immediately visible from South Dowling Street, with those heights further north along South Dowling Street.</p> <p>There is no evidence that buildings over seven storeys results in negative social impacts, such as isolation. Zetland contains some of the higher residential buildings in the local area. It has an active and engaged community and is supported by high quality community infrastructure and open space.</p> <p>The description of the building height as a 'small increase' on page 48 of the draft Planning Proposal refers specifically to the difference from what was proposed by the proponent in their PP request and supporting documentation and what was finally included in the planning proposal for public exhibition. These changes have been informed by a detailed assessment of the documentation submitted.</p> <p>No change recommended.</p>
Insufficient building heights (3 submissions)	
<ul style="list-style-type: none"> The proposed heights should be increased to allow more homes to be provided on the site The 3m height limit across some parts of the site is too small and should be higher 	<p>The proposed variation in heights across the site does not reduce the number of dwellings already permissible on the site.</p> <p>The 3m height applies only to public domain and is intended to allow for any minor built elements needed in that space.</p> <p>No change recommended.</p>
Visual and acoustic impacts (80 submissions)	
<ul style="list-style-type: none"> Concerns about construction noise 	<p>Noise impacts during construction will be considered as part of the assessment of any future development application (DA) and also</p>

Summary of submission	Response
<ul style="list-style-type: none"> Concerns around the negative visual and acoustic impact from this scale of development – particularly the negative impacts upon the West Kensington HCA The bulk and scale of the development is excessive and will have a negative visual impact on the surrounding area. Concerns about light pollution from the residential buildings at night. 	<p>controlled through conditions of any consent granted to minimise impacts during construction.</p> <p>The proposed planning controls limit the floor plates of the tallest buildings on the site to ensure each is relatively slender and that views are shared.</p> <p>Consideration of view corridors and other environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity, will also be assessed at the DA stage against the planning controls.</p> <p>The change to the height controls is not related to light spill effects. Light pollution will be further considered in the development application process. Controls require the minimisation of light spill.</p> <p>No change recommended.</p>
Overshadowing (80 submissions)	
<p><i>Overshadowing to West Kensington HCA</i></p> <ul style="list-style-type: none"> The proposed building heights will cause unacceptable overshadowing to the nearby HCA The building height should remain at 45 metres to limit this overshadowing This proposal will cause the afternoon sun to disappear for hours Solar access is heavily relied upon as a power source to reduce living costs <p><i>Overshadowing to apartment buildings</i></p> <ul style="list-style-type: none"> The variation of building heights may secure better solar access to Mulgu Park, but there are concerns about the solar access for the apartment buildings on the site and the apartment building bound by Link Road, Epsom Road and South Dowling Street. <p><i>Overshadowing to public open space</i></p>	<p><i>Overshadowing to West Kensington HCA</i></p> <p>Overshadowing analysis was publicly exhibited as part of the planning proposal.</p> <p>The City's planning controls require that new development must not create any additional overshadowing where solar access is less than 2 hours between 9am and 3pm on 21 June. The modelling demonstrates this standard can be achieved with the proposed maximum building envelopes.</p> <p>Solar access is measured at mid-winter (21 June) because this is when the sun is lowest in the sky and therefore represents a 'worst case scenario' for overshadowing.</p> <p>As West Kensington lies to the east of the subject site, there will be no shadow cast by the proposed building envelopes on the area until the afternoon.</p> <p>The modelling shows the north-eastern tower of the site is the only building that will create any additional overshadowing on the edge of West Kensington. On the 21 June this additional overshadowing does not commence until 2:30pm and is limited to buildings parallel</p>

Summary of submission	Response
<ul style="list-style-type: none"> Concerns that Mulgu Park will be overshadowed during the times when people will want to use it – prior to 9am and after 3pm during weekdays Concerns that the building heights will cause overshadowing to Gunyama Park 	<p>to M1/Southern Cross Drive. By 3pm, the shadow extends over additional three properties along the northern side of Lenthall Street and into the front yards of two properties on the southern side of Lenthall Street. The properties receive well in excess of the minimum solar access requirements.</p> <p><i>Overshadowing to apartment buildings</i></p> <p>The solar analysis of the proposed development demonstrates that appropriate solar access can be maintained to existing and planned surrounding apartment buildings, and can be achieved for the planned buildings within the development itself. This is measured with reference to the NSW Government’s Apartment Design Guide (ADG) requirements for solar access to new apartment buildings and overshadowing of existing apartment buildings.</p> <p>Solar access will also be assessed at the development application stage must comply with the ADG.</p> <p><i>Overshadowing to public open space</i></p> <p>The City’s planning controls require 50% of the open space to receive sun for 4 hours between 9am and 3pm in midwinter. Overshadowing analysis of open space in and around the site shows this can be achieved and support their intended uses.</p> <p>The proposed reduced building height to the immediate north of Mulgu Park (to allow for three storey townhouses), results in increased solar access to the park, allowing 78% of the park to receive 4 hours of sun between 9am and 3pm in midwinter compared with 53% under the current controls.</p> <p>No change recommended.</p>
Privacy (40 submissions)	
<ul style="list-style-type: none"> Concerns that the privacy of nearby residents will be compromised by the new development Buildings at the proposed heights will affect the privacy of local residents in 	<p>The NSW Government’s Apartment Design Guide (ADG) contains standards to ensure new residential apartments achieve acceptable levels of visual privacy for residents and neighbours. The ADG requires a minimum 24m separation between habitable rooms and balconies with other habitable</p>

Summary of submission	Response
<p>their own backyards, particularly in the West Kensington HCA</p> <ul style="list-style-type: none"> Safety concerns resulting from this impact upon privacy 	<p>rooms, balconies and other private open spaces for buildings that are nine or more storeys high. These requirements limit impacts on overlooking and are the highest standard that applies across NSW and cannot be varied by a development control plan.</p> <p>At its nearest point, the subject site is approximately 50m from the City's administrative boundary and over 70m from the nearest property in the Randwick local government area. Moreover, the 25-storey tower will need to be sited further from this point and will be more than 90m away from the nearest dwelling in West Kensington. These distances exceed the building separation requirements in the ADG.</p> <p>No change recommended.</p>
Traffic and local road infrastructure (115 submissions)	
<ul style="list-style-type: none"> The local road infrastructure surrounding the site is already inadequate, with existing issues of congestion and safety The increased traffic generation resulting from this proposal will have an unacceptable impact on the local road network, particularly on the area of West Kensington. Concerns regarding the proposed signalised intersections. Suggestion for protected roundabouts at these intersections. Objection to the proposed slip lane at the Link Road and Epsom Road intersection The Traffic Impact Assessment is incomplete / inadequate. It does not include any modelling of pedestrian or bicycle level of service/delays. Concerns that increased traffic generation will impact upon Todman Avenue, Virginia Street, McDougall Street, Baker Street and Milroy Avenue 	<p>This planning proposal does not increase the density permitted on the site or change the land-use zoning. Therefore the planning proposal will not result in any additional traffic generation from what has already been planned for in the existing planning controls.</p> <p>A detailed study of additional traffic impacts arising from the planning proposal is therefore not necessary.</p> <p>A detailed traffic study is required with the future development application to ensure impacts of the permitted development on key intersections and more broadly on the road network are managed through mitigation measures.</p> <p>Traffic issues are considered in response to submissions from Randwick Council and Transport for NSW (TfNSW) later in this submissions table.</p> <p>Some change is recommended to the proposed planning controls in response to submissions about traffic and transport. See response to TfNSW submission.</p>

Summary of submission	Response
<ul style="list-style-type: none"> • Access to Botany Road via Epsom Road is already difficult and requires attention • Concerns regarding noise and pollution resulting from increased traffic generation • Concerns regarding safety include pedestrian safety, particularly children who walk and cycle to school in the area, and the roundabout at Epsom Road being dangerous in its current structure 	
Parking (46 submissions)	
<p><i>Oversupply of parking (4 submissions)</i></p> <ul style="list-style-type: none"> • Objection to the 924 additional car parking spaces as it facilitates motor vehicle ownership and causes traffic generation • The proposed parking quotas are not consistent with Council's Community Strategic Plan and Net Zero target • Objection to the underground parking spaces as the cost is passed on to buyers, tenants and retail customers – reducing housing affordability and increasing living costs. Any car parking spaces provided should be 'unbundled parking' (leased/sold separately from the units themselves) – to enable owners and renters more choice and to increase unit affordability <p><i>Undersupply of parking (42 submissions)</i></p> <ul style="list-style-type: none"> • The proposed parking quotas are insufficient • There are existing issues with inadequate street parking in the surrounding areas, this proposal will exacerbate this existing issue • The site is not located in an accessible enough location to justify exploring opportunities to reduce the 	<p>The City's planning controls establish maximum parking rates based on the accessibility of the site to public transport and services. This approach is applied consistently across the local area and is supported by Transport for NSW.</p> <p>The reference scheme, that illustrates one development concept that might be achievable under the proposed planning controls, indicates about 860 parking spaces being provided in conjunction with the development, being the maximum levels currently permitted under the LEP.</p> <p>Final approval for parking will occur at the development application stage..</p> <p>The City's planning controls do not require that a parking space be provided with each apartment. Rather it is at the discretion of the developer as to how the total number of parking spaces permitted in conjunction with the development are allocated. For example, it allows for larger apartments to be sold with 2 spaces, and for some studios to be sold with no parking (with the cost of these apartments generally expected to be lower).</p> <p>Parking issues are considered in response to submissions from Randwick Council and Transport for NSW (TfNSW) later in this submissions table.</p> <p>Some change is recommended to the proposed planning controls in response to</p>

Summary of submission	Response
<p>amount of parking for private vehicles on the site from the maximum levels</p> <ul style="list-style-type: none"> 1.5 parking spaces should be provided per dwelling An additional 50 car spaces should be provided for the residents of the proposed building, the commercial businesses and its customers. 	<p>submissions about traffic and transport. See response to Transport for NSW submission.</p>
Site access (8 submissions)	
<ul style="list-style-type: none"> Concerns regarding where the site access will be, as Epsom Road, South Dowling Street and Green Square are already near maximum capacity Suggestions that site access should only be from Link Road and Epsom Road. 	<p>The planning controls identify preferred access to the site from Link Road.</p> <p>Notwithstanding this, appropriate locations for site access will be explored in further as part of a detailed traffic and transport study to be lodged with the future development application.</p> <p>Given the scale of this development, the future development application will be referred to Transport for NSW for comment. It is noted that in their submission Transport for NSW indicates a preference for a left-in/left-out access to/from Link Road into the subject site in the future, and no access on Link Road within 100 metres of the Epsom Road intersection.</p> <p>No change recommended.</p>
Public transport facilities and services (64 submissions)	
<ul style="list-style-type: none"> The site is more than 800m network distance from the nearest rail station and are not served by all-day, frequent public transport services to/from the CBD. The site is not suitable for high-density development as it is not well served by public transport. High-density development should not proceed on this site until the NSW Government has committed to providing all-day, frequent public transport services on the Green Square Eastern Transit Corridor & agreed to construct the Metro Station 	<p>This planning proposal does not increase the density permitted on the site or change the land-use zoning. Therefore the planning proposal will not result in any additional traffic generation from what has already been planned for in the existing planning controls. That is, any development application resulting from the proposed planning controls would have no more impact than a development application under the existing planning controls.</p> <p>The site is serviced by the following public transport:</p> <ul style="list-style-type: none"> Green Square train station that is within 10min walk of the site at its nearest point (850m), and 18min walk at its furthest point. It is anticipated that this accessibility

Summary of submission	Response
<ul style="list-style-type: none"> • Support for Council to advocate for the Metro Station • The proposal is inconsistent with Council’s Community Strategic Plan due to the site’s poor public transport access. • Request for a Public Transport Assessment • With a normal walking pace, it would take approximately 18 minutes to walk the 1km from the site to Green Square train station • Suggestion for car share options and cycleways to overcome the lack of public transport options available 	<p>will be improved with the delivery of the planned internal street network within the site in accordance with the DCP;</p> <ul style="list-style-type: none"> • Several bus stops are situated within 400m of the site, which provide services for example: <ul style="list-style-type: none"> ○ Service 370 - this service runs every 10-20 minutes (peak services vary) from Epsom Road, connecting the site to Green Square Train Station, Newtown and Glebe to the west, and the University of NSW and Coogee to the east. ○ Service 306 - this loop service runs every 10 minutes from Epsom Road and connects the site to Redfern train station in the north-west (via Green Square train station), to Eastlakes shopping centre and to Mascot station. ○ Service 304 - this continuous loop service runs from Gunyama Park Aquatic and Recreation Centre and Epsom Road to Redfern, Surry Hills, Martin Place and Circular Quay every 5 minutes on weekday peaks and every 10 mins at most other times. <p>The development of the site will create additional opportunities to extend public transport routes through the site itself (along the extension of Defries Avenue) and improve local access and connections for pedestrians and cyclists by footpath widening and creating through-site links on the site.</p> <p>In addition, the City continues to advocate to the State Government for the provision of a metro station to service the Green Square area, as identified in the South Eastern Transport Strategy.</p> <p>The City also works with Transport for NSW deliver improvements in the Green Square area with the</p> <ul style="list-style-type: none"> • Green Square and Waterloo Transport Action Plan – Transport for NSW and the City jointly engaged a consultant to undertake a review of connectivity in the area of Green Square and Waterloo and

Summary of submission	Response
	<p>develop an action plan up to 2024 and to the opening of the metro;</p> <ul style="list-style-type: none"> • Speed reduction – Transport for NSW and the City have been working together on a plan to reduce the majority of roads within the City area to 40km/h; • Cycleways – The City and Transport for NSW will work together to deliver cycle links across the local government area, including Epsom Road (currently in planning), Zetland Avenue and George Julius Avenue. There are several existing on-road and off-road bicycle routes surrounding the site that connect the site with adjoining precincts, to Central Sydney and to the wider network of regional bike paths. • Behaviour change – Transport for NSW and the City have recently implemented a behaviour change campaign in Green Square and the surrounding area. This is aimed at getting people to travel by more sustainable methods. This is an example of the programs the City commonly runs in urban renewal precincts; • Maximum parking rates – In its planning controls the City establishes a maximum parking rate based on the accessibility of a site to public transport and service. The approach does promote public transport usage in favour of driving and parking to a destination. <p>The reference scheme indicates 10 car share spaces, which aligns with the current planning controls on the site. Clearly marked plans identifying the location of all car share parking spaces will be submitted with any future development application.</p> <p>No change recommended.</p>
Community facilities / social infrastructure (45 submissions)	
<ul style="list-style-type: none"> • This proposal will exacerbate the existing pressure on community facilities in the area, including schools, public open space and child care. 	<p>The planning proposal facilitates a number of public domain improvements including an additional 5,500 square metres of public open space, including a new park to be called Mulgu Park, and three additional areas of newly proposed open space. The site is close</p>

Summary of submission	Response
<ul style="list-style-type: none"> • The proposal should provide more community facilities such as parks, BBQs, creative spaces, play equipment, nature reserves • Desire for a wetland with water and facilities for kids • New developments should factor in burial sites • The proposed Mulgu Park is not big enough, suggestion to use the opportunity in the middle of the site to create multiple open spaces that are an extension to Gunyama Park • Concerns that Mulgu Park will be an island surrounded by public roads that will be unsafe for optimal use – suggestion for the park to be directly connected to nearby cafes/restaurants (at Block S-1, S-2 or NE3) 	<p>to a variety of exemplary local community infrastructure and facilities within the Green Square Town Centre (Town Centre) including the Green Square Plaza and Library and the Joynton Avenue Creative centre. It is also close to childcare centres and a dedicated community space and a recycled water plant. The subject site is adjacent to Gunyama Park Aquatic and Recreation Centre and is within walking distance of The Drying Green park and Matron Ruby Park and playground.</p> <p>Furthermore, a new public school is being built about 300m from the site. It will provide the latest learning spaces and core facilities to meet enrolment demand in the area. Green Square Public School and Community Spaces are being delivered by the Department of Education in collaboration with the City as a joint enterprise and will provide recreation spaces outside of school time for the community. An Out of School Hours Care (OSHC) will be provided on site also.</p> <p>The planning proposal does not increase the planned density on the site, that is, it does not alter the number of dwellings that could be approved under current planning controls.</p> <p>High level designs for Mulgu Park have been prepared in consultation with the community. The park itself is expected to be delivered as part of the development and will undergo detailed design at that time. The detailed park design will be exhibited for public comment.</p> <p>It is not proposed that burial sites be incorporated in the future local park.</p> <p>The size of Mulgu Park is considered appropriate given the site itself is located next to significant open spaces and a playing field at Gunyama Park. It is one of 40 parks and places to service the Green Square area.</p> <p>The street and lanes surrounding Mulgu Park is for local (largely internal) traffic and will be subject to design measures to ensure appropriate safety measures are met.</p> <p>No change recommended.</p>
Sustainability (14 submissions)	

Summary of submission	Response
<ul style="list-style-type: none"> The Ecologically Sustainable Development report is incomplete / inadequate. It does not consider the sustainability impacts of additional motor vehicle traffic that will be generated by the development or the greenhouse gas emissions associated with building construction/materials. Concerns regarding a lack of consideration for sustainable, with the provision of units with air conditioning and air dryers Why is a VPA required for the environmental performance indicators when this should be, given climate change initiatives, standard City of Sydney guidelines for apartment buildings? 	<p>The NSW Government sets the sustainability requirements for residential unit DAs. This can be improved through a voluntary planning agreement. The VPA outlines a number of environmental performance initiatives that have been committed to, including stretch BASIX targets; design, construction of all future buildings on the site so as to be capable of providing a dual reticulation water system for around 2000 residents; and ensuring all private residential parking spaces are capable of being fitted with Electric Vehicle Chargers.</p> <p>No change recommended.</p>
Public benefit (26 submissions)	
<ul style="list-style-type: none"> Request for a clear identification of the public benefits that may accrue to support the planning proposal Suggestion for the developer to have some responsibility to upgrade the local road network 	<p>In conjunction with the planning proposal, a draft planning agreement has been publicly exhibited requiring:</p> <ul style="list-style-type: none"> a commitment to provide at least four per cent of the GFA to be achieved on the site as non-residential development to service the development's every day needs; achieving stretch energy and water BASIX scores where the current BASIX SEPP applies; a commitment to design and construct all future buildings on the site so as to be capable of providing a dual reticulation water system; and a commitment that all private residential parking spaces are capable of being fitted (by a future owner/occupant) with an Electric Vehicle Charger <p>The planning agreement is to be executed and secured on the title of the land prior to changes to the planning controls being made.</p> <p>Delivery of the new streets, open space and public space as shown in the draft DCP will form a requirement of any future development</p>

Summary of submission	Response
	<p>application approval on the site, if granted. A further planning agreement will be prepared for public comment with any future development application. That agreement will contain greater detail about the developer's responsibilities in delivering these spaces.</p> <p>In addition to those public benefits secured by the planning agreement (and future planning agreement), the planning proposal also results in a number of improved outcomes that are of benefit to the public, including:</p> <ul style="list-style-type: none"> • a range of housing choices including family sized townhouses, where the current controls only allow for apartment living • more sunlight to the public domain, specifically to Mulgu Park throughout the year • provide more public spaces and streets • a mix of land uses, with retail and commercial spaces to enliven and service the locality without the need to drive <p>No change recommended.</p>
Alternative suggestions for the site (6 submissions)	
<ul style="list-style-type: none"> • Council and/or the State Government and Council should jointly purchase the land and convert it to public green open space • The site should be acquired to deliver a public high school, sports facilities and/or public and social housing 	<p>The site is privately owned and zoned for mixed use development. It is the landowners intention to develop it for housing, as permitted by the planning controls.</p> <p>As addressed elsewhere in this submissions table, the City has committed significant resources to the provision of community infrastructure and open space in the Green Square area.</p> <p>For further information, refer to the response provided to matters raised about community facilities / social infrastructure.</p> <p>No change recommended.</p>
Consultation (36 submissions)	

Summary of submission	Response
<ul style="list-style-type: none"> Concerns regarding the consultation process that has been undertaken for this proposal Particular concerns that residents of the City of Randwick, and the Council itself has not been consulted with. 	<p>The City publicly exhibited the planning proposal for six weeks, exceeding the public exhibition requirements of the Gateway determination, that required the planning proposal be publicly exhibited for a period of four weeks only. In addition, the City significantly extended its usual exhibition area, notifying 3,350 properties inside the City of Sydney LGA, and approximately 1,000 properties in the Randwick LGA via letterbox drops. The April Sydney Your Say newsletter was sent to 6,975 self-subscribers.</p> <p>The City hosted an online information session on 4 April 2023 where planners and urban designers were available to answer questions from the community.</p> <p>In accordance with the Gateway determination, the City of Randwick Council was notified of the public exhibition. Additionally, a briefing with City of Randwick planning officers was provided in April 2023.</p> <p>No change recommended.</p>
Supporting documentation (46 submissions)	
<ul style="list-style-type: none"> Research should be undertaken to consider the impact of density upon mental health, physical health, early childhood learning and cognitive impairment Request for a Hydraulic (Water) analyses of the cumulative impact of the proposal, as Lenthall Street, Epsom Road and Link Road are notorious locations for flooding Concerns regarding the adequacy of the OLS Certification Plan 	<p>The planning proposal increases building heights only. It does not increase the density beyond what can already be approved under current legal planning controls.</p> <p>A flood assessment and stormwater management report was publicly exhibited as part of the supporting documentation with the planning proposal. Further flooding analysis is to be submitted as part of the development application when more detailed design has been undertaken.</p> <p>The Airport OLS Geoheight Survey has been referred to the Civil Aviation Safety Authority and Sydney Airport in accordance with the Gateway determination. The public authorities have made no objection to the planning proposal progressing and have advised the next steps required for the relevant permissions.</p> <p>No change recommended.</p>
Design Quality (6 submissions)	

Summary of submission	Response
<ul style="list-style-type: none"> Concerns regarding the poor architectural and urban design of Meriton developments 	<p>The development is subject to the City's design excellence provisions of the Sydney LEP 2012 (clause 6.21C(2)(a)).</p> <p>All development applications are assessed under the Apartment Design Guide (ADG) where applicable, which provides the planning and design standards for apartments across NSW.</p> <p>No change recommended.</p>
Affordable Housing (38 submissions)	
<ul style="list-style-type: none"> Request for the number of dwellings to be allocated for affordable and social housing to be provided, as the proposal lacks tangible plans Support for the townhouses on the site for be marketed at an affordable price to make them accessible to families Concerns that affordable and social housing requirements won't be enforced 	<p>The site is subject to an affordable housing contribution requirement of three per cent of residential and one per cent and non-residential floor space respectively. Based on the amount of floor space proposed for the development, this equates to about 2,623 square metres of affordable housing floor space (or about 32 dwellings if you assume an average dwelling size of 80 square metres).</p> <p>The proponent has the option to build and deliver on site either in part or in full.</p> <p>The proponent will also have the option to make an equivalent monetary contribution so a community housing provider can use the funds to provide affordable housing elsewhere in the local area. The equivalent monetary contribution is about \$30 million dollars.</p> <p>Social housing is provided by the NSW Government and is not required or proposed to be delivered on this site.</p> <p>No change recommended.</p>
Heritage and local character (40 submissions)	
<ul style="list-style-type: none"> West Kensington is a designated Heritage Conservation Area & will experience a negative visual impact from the proposed heights. The conservation area is characterised by freestanding federation homes located in individual garden lots with valued and utilised outdoor areas attached to each home. The proposed building heights 	<p>At its nearest point, the subject site is about 70m from the nearest property in the Randwick LGA and the conservation area. The 25-storey tower will need to be sited further from this point and will be more than 90m away from the nearest dwelling in West Kensington. The Link Road triangle and South Dowling Street, a 6-7 lane road that turns into the Eastern Distributor, lays between the site and the conservation area.</p>

Summary of submission	Response
<p>will directly impact the amenity of these protected dwellings.</p> <ul style="list-style-type: none"> The development of the area is impacting the community, family feel of Rosebery and West Kensington Unkempt landscaping negatively impacts the character of the local neighbourhood 	<p>As addressed elsewhere in this summary of submission (see response to visual impact concerns raised by the community and matters raised by Randwick council), the proposed dwellings will be seen from the conservation area. It is not considered they will have a significant environmental impact on the conservation area.</p> <p>No change recommended.</p>
Safety (1 submission)	
<ul style="list-style-type: none"> The increasing density of the area is leading to a dramatic increase in crime. 	<p>While densities permissible under the current planning controls are not increased by the planning proposal, it is noted there is no evidence that increasing density would lead to increased crime.</p> <p>No change recommended.</p>
Flooding (29 submissions)	
<ul style="list-style-type: none"> It is not clear whether the impact on the potential flow of water as a result of this development has been considered. Epsom Road and Lenthall Street are already prone to flooding, suggesting that road infrastructure and water flow are already compromised The proposed building may impact the flow of rainwater and capacity of sewers which could lead to an increased risk of potential flooding There is no mention of alluvial aquifers associated with existing drainage networks that are important to the existing ecosystem of this region 	<p>The subject site is identified as flood prone land and the potential for local flooding has been considered as part of the planning proposal. The proposed floor levels in the indicative reference scheme, which have informed the building heights in the planning proposal, have been designed to respond to the site's flood affectation and have been informed by the flood assessment which is consistent with the City's floodplain management policy. The site constraints will be further addressed at the detailed development application stage.</p> <p>For further information please refer to the City's response to the submission from the NSW Environment and Heritage Group.</p> <p>No change recommended.</p>
Non-residential floor space (4 submissions)	
<ul style="list-style-type: none"> Many buildings on Epsom Road already have unoccupied commercial tenancies at the street level – which has a negative impact on the vitality of the locality. Within the justification for non-residential floor space, the proposal indicates that there are no 	<p>It will take time for commercial vacancies along Epsom Road to be occupied and for a retail/commercial presence to become established in this area as it is an area in transition. Some redevelopments have only recently been completed and there are large redevelopments still underway.</p>

Summary of submission	Response
<p>supermarkets within the walking catchment of the site, when in fact there are three – Woolworths Metro in Rosebery, Coles at East Village Shopping Centre and Woolworths in Green Square.</p>	<p>A smaller scale supermarket is appropriate at this location to meet the needs of locals in the immediate area. While the supermarkets identified are within a walking distance, they are largely outside of the 5–10-minute walking catchment that are considered necessary by the city to meet its aims for liveable and walkable neighbourhoods.</p> <p>No change recommended.</p>
Planning Proposal Process / Governance (1 submission)	
<ul style="list-style-type: none"> • Is it common practice for Council to prepare a planning proposal at the request of a proponent? • Who are the members of the City’s Design Advisory Panel and do they have any conflicts of interest ? 	<p>A planning proposal is the process to amend the City’s planning instruments. Anyone can make a request for a planning proposal.</p> <p>The City is required by legislation to consider planning proposal requests. Where the planning proposal is considered to have both site and strategic merit, the City can prepare a planning proposal for the consideration of Council and the CSPC. Where the City does not support a request, it is subject to appeal to the Independent Planning Commission (IPC) who will consider the strategic and site merits of the proposal. If recommended by the IPC for public exhibition, Council is unlikely to remain the authority who will consider the proposal going forward.</p> <p>The City’s Design Advisory Panel (DAP) supports the City’s commitment to design excellence. Information about the panel is available on the City’s website at: https://www.cityofsydney.nsw.gov.au/advisory-panels/sydney-design-advisory-panel</p> <p>No change recommended.</p>

Submissions on behalf of landowners

From:

- 1 precinct landowners
- 1 adjacent landowner

Summary of key matter raised in submission	Officer's response
Consultant representing 118-130 Epsom Road & 905 South Dowling Street, Zetland (precinct landowner)	
<p><i>Active street frontages</i></p> <ul style="list-style-type: none"> • The Active Street Frontage requirements in the draft Planning Proposal are excessive and unnecessary – and will result in an oversupply of commercial floor space (more than the non-residential floor space requirement under the VPA). Request for the Active Street Frontage Requirements to be reverted back to what was initially contained in the Planning Proposal request and removed from LEP. • The viability of any future commercial premises along the north-western and northern boundary is contingent upon the construction of both George Julius Avenue and Zetland Avenue – which are to be built by Council and Deicorp respectively – this is considered unreasonable in the short term 	<p>The current planning controls include a requirement for mapped active street frontages in the Sydney DCP 2012. There are no requirements in the Sydney LEP 2012 for active frontages on the site.</p> <p>The planning proposal request by the landowner sought to remove the current active frontage requirement from the George Julius Ave to Defries Avenue portion of the Zetland Avenue frontage. It did not seek an active street frontage in the Sydney LEP 2012.</p> <p>The publicly exhibited planning proposal included a requirement for active street frontages in both the Sydney LEP 2012 and the Sydney DCP 2012 that extended beyond the current planning controls. The purpose of the proposed active frontage controls was to encourage non-residential development along key roads within and around the site.</p> <p>The City acknowledges the proposed active street frontages requirements would result in more non-residential floor area than is otherwise required by the planning proposal and planning agreement. It also recognises the reduced flexibility that comes with including active street frontages in the Sydney LEP 2012, rather than simply in the Sydney DCP 2012.</p> <p>The City does not support the removal of the active frontage requirement that is currently in the Sydney DCP (George Julius Ave to Defries Avenue portion of the Zetland Avenue frontage), however, following consideration of this submission, it is recommended the publicly exhibited planning proposal be amended to remove</p>

Summary of key matter raised in submission	Officer's response
	<p>the proposed requirement for active frontages in the Sydney LEP 2012.</p> <p>It is also recommended the publicly exhibited draft DCP be amended to remove 'Figure XX Alternative Land Uses' and to amend the following provision as shown (<i>additions in bold and deletions struck through</i>):</p> <p>5.3.6.5 (1) Ground floor uses are to be in accordance with Figure XX Alternative Land Uses – 118-130 Epsom Road and 905 South Dowling Street, Zetland.</p> <p>5.3.6.5 (2) Provide a 4,000sqm local supermarket within the site, preferably in the block bound by Link Road, Zetland Avenue Road, Chimes Street and Peters Street, along the Link Road frontage.</p> <p>5.3.6.5 (3) Active frontages are to be provided in accordance with Figure XX Alternative Land Uses – 118-130 Epsom Road and 905 South Dowling Street, Zetland Figure 5.74 Epsom Park Active Frontages</p>
<p><i>Supermarket provision</i></p> <ul style="list-style-type: none"> Request for the draft Planning Proposal and draft DCP to be modified to enable a gross floor area for any future supermarket of 2,000m² to ensure the economic viability of any future development 	<p>The HillPDA study supporting this submission advocated for a larger supermarket of between 1500sqm and 2000sqm gross floor area, with supporting specialty shops. The submission suggests that increasing the maximum permitted gross floor area from 1,000m² would enable the provision of a metro style supermarket that will be able to meet the needs of the immediate locality, provide benefit to the wider Green Square Precinct and support existing and future retail tenancies.</p> <p>The Green Square and Southern Areas Retail Review was completed in 2022. The City prepared a planning proposal and draft DCP, responding to the recommendations of the review to remove the retail floor space cap to the west of Green Square Town Centre.</p> <p>Whilst the Retail Study did not recommend removal of the retail cap on the subject site,</p>

Summary of key matter raised in submission	Officer's response
	<p>as it was not identified as a retail centre and there was only a small forecast of under provision of supermarket floor area in the "Rosebery North" cluster, which is where the subject site is located.</p> <p>Forming a centre with a larger supermarket of 2,000m² or more at this location contradicts the recommendations of the Retail Study and is not supported.</p> <p>However, in order to enable the delivery of a smaller metro style supermarket, lifting the maximum permitted gross floor area from 1,000m² to 1,200m² (including back of house) is considered acceptable and not inconsistent with the recommendations of the Retail Study.</p> <p>It is recommended the publicly exhibited planning proposal be amended to include an additional provision in the site-specific local clause as follows:</p> <p><i>"(g) notwithstanding Clause 7.23 – Large retail development outside of Green Square Town Centre and other planned centres, allow development consent to be granted to development for the purposes of shops with a gross floor area not greater than 1,200 square metres."</i></p> <p>It is recommended the publicly exhibited draft DCP be amended as follows:</p> <p><i>5.3.6.5 (2) Provide a 1,000sqm local supermarket within the site, preferably in the block bound by Link Road, Zetland Avenue Road, Chimes Street and Peters Street, along the Link Road frontage.</i></p>
<p>Parking</p> <ul style="list-style-type: none"> • A reduced parking rate beyond that currently contained within the SLEP will not have any measurable benefit to traffic conditions in the precinct and will negatively impact the amenity and liveability of future occupants. • Request for the control (5.3.6.1(2)(b)) in the draft DCP that stipulates a rate lower than the LEP maximum to be 	<p>The City encourages reduced provision of car parking where possible in the LGA. There is a direct correlation between the amount of parking associated with development, the traffic that is generated by the development, and the resulting impacts on the surrounding road network. Moreover the City does not agree that reducing parking would impact negatively on residential amenity.</p>

Summary of key matter raised in submission	Officer's response
<p>removed, and the current LEP parking rates be maintained.</p> <ul style="list-style-type: none"> Request for the control (5.3.6.3 (2)) in the draft DCP that stipulates for no above ground parking to be permitted to be removed to improve accessibility to the site, reduce excavation and allow for flexibility in design and building use. <p><i>Parking under the public domain</i></p> <ul style="list-style-type: none"> Request for the control (5.3.6.1(2)(b)) that stipulates that basements will not extend below the public domain to be removed, in order to permit basement linkages below the public domain, connecting the buildings within each stage of the development. Request for these basement linkages to permit visitor parking, by applying Section 3.11.5 of the SDCP. Add an amendment to ensure only Strata title land will be located below the public domain. 	<p>However, the City does acknowledge it is the LEP that establishes the maximum parking spaces that can be provided in conjunction with the development, not the DCP. Notwithstanding this, exploring opportunities to reduce car parking is encouraged.</p> <p>The City does not support removal of provision 5.3.6.3 (2) in the draft DCP that requires no above ground parking to be permitted. Above ground parking would have significant impacts on the quality of and activation of the public domain and increase the height and bulk of development.</p> <p>Following consideration of this submission, it is recommended the publicly exhibited draft DCP be amended as follows (additions in bold and deletions struck through):</p> <p><i>5.3.6.1(2)(b) – a site planning strategy which:</i></p> <ul style="list-style-type: none"> <i>accommodates car parking in basements that do not extend beneath the public domain except to allow for linkages between basements and to permit visitor parking in basement linkages. Parking in basement linkages must remain within common property; and</i> <i>explores opportunities to reduce parking and increase the use of sustainable transport and utilises a car parking rate lower than the maximum rates set out in Sydney LEP 2012;</i>
<p><i>Building height</i></p> <ul style="list-style-type: none"> It is requested for the areas restricted to 11m be reverted back to 25m to facilitate future flexibility It is also requested that Control (4) under Section 5.3.6.4 of SDCP be removed to allow for flexibility in both concept and detailed design. The requirement to provide a physical break 	<p>The City does not support an increase of height in this location. The 11m height limit secures two key public benefits arising from the planning proposal, including:</p> <ul style="list-style-type: none"> the delivery of diverse housing outcomes on the site, with three storey, family sized townhouses; and

Summary of key matter raised in submission	Officer's response
<p>above ground floor between Tower C and the 8/9 storey building to its immediate south is considered to inhibit flexibility in design. Should this control be implemented, it is noted that it should apply to the 9/10 storey, as the tower commences on the 10th storey within the Reference Scheme.</p>	<ul style="list-style-type: none"> improved sunlight to the new public park. <p>On the second issue, the full height break alleviates concerns raised by the City's Design Advisory Panel regarding the visual impact and bulk of the west elevation of the block when viewed from Gunyama Park. The request to remove this control is not supported.</p> <p>No changes recommended.</p>
<p>Setbacks</p> <ul style="list-style-type: none"> Control (8) of Section 5.3.6.4 within the Draft SDCP states that a 3m setback to Zetland Avenue may not be required if the land to the north redevelops prior to the subject site, if design excellence is achieved and height is reduced elsewhere on the site. It is requested that this control be modified to remove the component where it requires a 'reduction in height elsewhere on the site'. In addition, the proponent requests the implementation of an 'articulation zone' control which will allow for flexibility in detailed design. Specifically, it is requested that an articulation zone of 600mm be permitted throughout the built form, particularly on the upper levels, to allow for building elements to extend within the setback zone. The imposition of this control will permit a flexibility in design and ensure that design excellence can be more readily achieved. The articulation zone control can read as follows: <i>"Building elements may encroach by 600mm into the setbacks, forming an articulation zone. Built form encroachments into the articulation zone can include architectural design elements and open elements. Any encroachment into the articulation zone must contribute to the development achieving design excellence"</i> 	<p>It is noted that if this reduced setback to Zetland Avenue is sought, it will need to be demonstrated that the built form and amenity of the locality will not be altered. The City supports the removal of the requirement that 'reduction in height elsewhere on the site' is required, in order to remove any implied inconsistency between the Alternative Built Form map and the Alternative Building Setbacks map.</p> <p>Following consideration of this submission, it is recommended the publicly exhibited draft DCP be amended as follows (deletions struck through):</p> <p><i>5.3.6.4(8) The 3m primary setback to Zetland Avenue marked 'C' in Figure XX Alternative Building Setbacks - 118-130 Epsom Road and 905 South Dowling Street, Zetland may not be required if the adjoining site to the north redevelops ahead of this land. This portion of the site may then be used to assist with the achievement of design excellence and / or with reduction in height elsewhere on the site."</i></p> <p>The request for an 'articulation zone' control is not supported. Compliance with aspects of the ADG will already be difficult at the building depths provided, a 600mm addition of building depth on either side would make compliance even more difficult.</p> <p>No changes recommended.</p>

Summary of key matter raised in submission	Officer's response
<p><i>Floorplate restrictions</i></p> <ul style="list-style-type: none"> • The maximum floor plate requirements for Towers A, B and C are overly restrictive and prohibitive to flexible and efficient design. • Request for the floorplate to be calculated based on GBA as opposed to GFA • Suggestion maximum floor plate sizes: <ul style="list-style-type: none"> ○ Tower A: 950m² Gross Buildable Area, from the 9th storey and above; ○ Tower B: 850m² Gross Buildable Area, from the 8th storey and above; and ○ Tower C: 650m² Gross Buildable Area, from the 10th storey and above 	<p>The re-massing of built form and the associated maximum floor plate requirements ensures that the development will deliver greater solar access to Mulgu Park. The proposed planning controls limit the floor plates of the towers on the site to ensure each is visually as slender, that shadows they cast move quickly, and to ensure views are shared.</p> <p>These benefits are secured by the maximum floor plate controls in the draft DCP.</p> <p>No changes recommended.</p>
<p><i>Replication of commitments/controls</i></p> <ul style="list-style-type: none"> • The draft Planning Proposal includes numerous standards and controls which overlap with the draft VPA, it is requested that any overlap be avoided to simplify the assessment of future applications. 	<p>The proposed planning controls for stretch BASIX targets, minimum non-residential development requirements, dual reticulation (where a water recycling facility is committed to) and EV parking is consistent with the City's approach to secure the public benefits of the proposal in the planning framework.</p> <p>The draft planning agreement is a legal agreement between the parties for the delivery of these public benefits. It articulates more detailed arrangements for their delivery and describes how the requirements interact with the contributions framework.</p> <p>The requirements of the draft planning agreement and proposed controls are consistent.</p> <p>No changes recommended.</p>
Consultant representing 106-116 Epsom Road, Zetland (adjacent landowner)	
<ul style="list-style-type: none"> • The submission has been prepared by Mecone NSW Pty Ltd (Mecone) who act 	<p>The reference scheme demonstrates an improved solar access to the neighbouring developments, compared with current DCP envelopes - as shown in Figure 30 of the</p>

Summary of key matter raised in submission	Officer's response
<p>on behalf of Lincon Epsom Projects, owner of 106-116 Epsom Road, Zetland</p> <ul style="list-style-type: none"> • General support for the intent of the Planning Proposal, with concerns regarding the increased height proposed for sites which directly border the Lincon site. • Additional building heights which border/flank the Lincon site are not supported given the poor amenity outcome to future residents. • It is recommended that this additional building height/density be redistributed towards the north-western and western extent of the Meriton site where adequate building separation distances to neighbouring sites already exist and impacts would be less adverse. • The new parks are supported, however, they could be extended north to follow the alignment of the existing cross precinct link. This will provide signification CPTED and wayfinding benefits. 	<p>planning proposal. The building heights to the north of the Lincon site are being reduced from 27m to 3m. In addition, a new green link is proposed along the north of the Lincon site boundary, to enable better building separation.</p> <p>The building heights have been increased toward the north-western and western extent from 25m and 30m to 33m and 55m respectively.</p> <p>Additional height in the north-western / western extent of the site, above what is already proposed in the publicly exhibited planning proposal, is not supported.</p> <p>Furthermore, the draft DCP highlights the need for the proposed towers to address solar impact on neighbouring dwellings with respect to relevant existing Sydney DCP 2012 controls and the NSW Government's Apartment Design Guide standards.</p> <p>No changes recommended.</p>

Public Authority Submissions

The Gateway determination provided by the Department of Planning and Environment required consultation with the following public authorities:

- Randwick Council
- Energy, Environment and Science Group (Environment and Heritage Group)
- Transport for NSW
- Civil Aviation Safety Authority
- Sydney Airport Corporation
- Department of Infrastructure and Regional Development

Summary of key matter raised in submission	Officer's response
Randwick Council	
<p><i>Transport and Traffic</i></p> <p>Concerns are raised about the cumulative and local traffic impacts. The submission recommends:</p> <ul style="list-style-type: none"> • a full assessment of traffic impacts from the future redevelopment of the site as well as the cumulative impacts, noting the planning proposal should not proceed until this has been completed. • a local area traffic study considering intersection capacity, minimising rat running in local streets and better managing the interfaces between traffic, pedestrians and cyclists may assist in improving the traffic situation in the Randwick LGA. This study should be undertaken as part of the draft Planning Proposal and any infrastructure upgrades within the Randwick LGA recommended by the study should be fully funded by the proponent by way of an agreement with CoS and Randwick Council. • that the City obtain a commitment from TfNSW to the extension of the Metro & Rapid Bus Route prior to supporting the planning proposal. • that the City work with TfNSW and Randwick City Council to identify potential bus coverage, frequency and priority infrastructure improvements and cycling facilities to 	<p>The proposal does not increase the density on the site zoning. The traffic impacts resulting from the proposal are not increased from those that may result from development that could proceed under the existing planning controls.</p> <p>It is therefore considered unnecessary to undertake more detailed traffic and transport analysis ahead of the planning proposal progressing. The City will continue to work with TfNSW towards improved public transport in the area. A commitment from Transport for NSW (TfNSW) for the extension of the Metro & Rapid Bus Route is not required to progress the planning proposal.</p> <p>Notwithstanding the above, detailed traffic and transport analysis is required to be provided as part of any future development application/s.</p> <p>It is noted the Bitzios consultant report, commissioned by Randwick Council to review the traffic analysis, it concludes that there is limited nexus between the development's traffic and new/unforeseen impacts in the Randwick LGA.</p> <p>For further information, also see the City's response to matters raised by TfNSW and by the general community.</p>

<p>better service further development of Green Square.</p>	
<p><i>Visual Impact</i></p> <ul style="list-style-type: none"> Concerns are raised over the potential visual impacts that could result from the draft planning proposal, particularly in relation to the West Kensington HCA and heritage items within. These impacts have not been assessed. The draft proposal would result in an additional tower that would be clearly visible from many vantage points within the HCA. The current planning controls would have less of an impact on the HCA Recommendation for a Heritage Impact Assessment to be undertaken to determine the impact on the West Kensington HCA and heritage items within which are in the immediate vicinity of the proposal. The draft proposal and supporting documents should then be amended to minimise identified heritage impacts. The planning proposal should not proceed until this has been completed. 	<p>The Randwick Heritage Study – Volume 1 Heritage Conservation Area Review 2021, prepared on behalf of Randwick Council recognises the visual interest of the West Kensington HCA as being predominantly internally focused, with the more interesting views out of the area being to the south-east towards the Sacred Heart Church.</p> <p>The subject site is to the west of the West Kensington HCA. The proposed development is more than 70m from the nearest house with the tallest element being approximately 95m from the nearest house in the conservation area. The Link Road triangle and the M1/Southern Cross Drive lies between the site and the West Kensington HCA.</p> <p>There are already a number of taller buildings along Southern Cross Drive that are visible from West Kensington HCA. It is not considered an additional building(s) within view of the West Kensington HCA give rise to an unacceptable environmental impact, or impact on the ongoing heritage significance of the area.</p> <p>Therefore, the request that further heritage impact assessment be undertaken is not supported.</p> <p>No change recommended.</p>
<p><i>Alignment of maximum height and FSR controls – clause 4.6 recommendations</i></p> <ul style="list-style-type: none"> Concern about the potential for future development applications to redistribute the massing of the built form via departures to the DCP controls. Greater certainty of development outcomes on the site would be gained by determining alternative FSR controls specific to each development block within the site and that correspond to the alternative building heights, indicative height in storeys and setbacks. 	<p>The maximum building height controls proposed in the LEP provide a high level of certainty about the location of the taller elements of the proposal. The draft DCP provides further detail about proposed setbacks and maximum floorplates to further guide the building footprint.</p> <p>It is not considered appropriate to prescribe an FSR for development blocks that are as yet only defined at the strategic level.</p> <p>As the development is designed and documented at a more detailed level (for development application purposes), the Stage 1 development application will determine GFA</p>

	<p>on each development block as part of the consent.</p> <p>No change recommended.</p>
<p><i>Overshadowing</i></p> <ul style="list-style-type: none"> The planning proposal states that the revised building heights demonstrates an acceptable impact on solar access to neighbouring developments, compared with current DCP envelopes, however there are no supporting documents of shadow studies to demonstrate this. The draft DCP highlights the need for the proposed towers to address solar impact on neighbouring dwellings with respect to relevant existing Sydney DCP 2012 controls and the NSW Government's ADG standards. Concerns are raised that the Stage 1 and 2 development application assessment process will neglect to consider potential overshadowing impacts of the proposal on properties within the Randwick LGA. Recommendation for DCP provisions to be amended to ensure overshadowing is assessed for sites within the Randwick LGA. Recommendation for additional shadow diagrams should be prepared for all seasons of the year to understand the overall solar access net benefit to the park and potential impacts of the proposed tower. 	<p>Overshadowing analysis was publicly exhibited with the planning proposal. It showed the amount of solar access to properties in West Kensington would exceed planning control requirements.</p> <p>The solar impact of the proposal on any affected properties will be assessed in future development applications. These applications will also be publicly notified so neighbours can make submissions which also need to be addressed.</p> <p>Solar access is measured at mid-winter because this is when the sun is lowest in the sky and therefore represents a 'worst case scenario' for overshadowing. The solar studies exhibited with the planning proposal included shadow diagrams for both June and December.</p> <p>For further information, also read response to matters raised about overshadowing by the general community.</p> <p>No change recommended.</p>
<p><i>Sustainability & VPA Benefits</i></p> <ul style="list-style-type: none"> The requirement for electric vehicle chargers in future developments is considered best practice for new largescale residential development. While the initiative is supported, it is not considered a significant public benefit, rather a standard requirement. The requirement for dual reticulation may be positive, however the absence of a recycled stormwater 	<p>It is currently not a standard requirement. Although it is in an action in the exhibited draft Electrification of Transport in the City Strategy and Action Plan, the Sydney DCP 2012 does not currently require new development to be 'electric vehicle ready', therefore securing this benefit via a planning agreement is deemed appropriate.</p> <p>Green Square has a purpose-built water recycling plant. Including a requirement for dual reticulation of all buildings beyond the Town Centre, that comes at a cost to</p>

<p>facility to service the site, the true benefit of this offer is diminished as the delivery is uncertain.</p> <ul style="list-style-type: none"> The increased BASIX requirements for all applicable development on the site is a significant public benefit and is supported. The drafting instructions outline a site-specific local provision for the site that links the alternative building heights to the reach BASIX standard, which gives more weight to the requirements than the DCP provisions. Clarification should be provided as to how the reach BASIX targets will be achieved in light of the Sustainable Buildings SEPP prevailing over the LEP and the potential to vary the reach BASIX targets via clause 4.6. 	<p>development, and is otherwise not required by the planning controls, is essential to ensure that those buildings may connect to an expansion of the existing Green Square recycled water facility. Should buildings be built that cannot connect to the facility, there is reduced demand for the delivery of a facility. The City therefore considers the commitment a clear public benefit.</p> <p><i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> (Sustainable Building SEPP) will introduce higher BASIX targets. The planning agreement recognised the increase and only imposed stretch targets for development applications submitted under the current BASIX SEPP. The planning proposal is therefore proposed to be updated to be consistent with the planning agreement and recognise the increased target introduced by the Sustainable Building SEPP regardless of when the next DA is lodged.</p>
<p><i>Strategic justification</i></p> <ul style="list-style-type: none"> The proposal results in a number of concerns relating to the redistribution of height across the site that has not given adequate consideration to the adjoining low density residential area of Kensington. At this stage it is unclear that the proposed changes offer an overall better planning outcome compared to the existing planning controls. These issues should be resolved prior to the draft planning proposal be progressed. 	<p>Significant urban design analysis has informed the proposed planning controls, together with advice from the City's Design Advisory Panel.</p> <p>The proposal results in a number of public benefits, including improved housing diversity, more and better public space and sustainability improvements.</p> <p>As above, the proposal does not result in any significant environmental impacts on the conservation area and does not detract from the identified significance of the conservation area.</p> <p>No change recommended.</p>
<p><i>Affordable housing</i></p> <ul style="list-style-type: none"> Encourages the City to seek additional affordable housing contributions, beyond the 1-3% levy to strengthen the overall public benefit of the proposal. 	<p>The City's Affordable Housing Program seeks an additional affordable housing contribution requirement where new floor space is being created as a result of a planning proposal. This is consistent with the approach of the current Regional Plan.</p> <p>However, no additional floor space is being created as a result of the planning proposal.</p>

	No change recommended.
Environment and Heritage Group (Energy, Environment and Science Group)	
<p><i>Trees and Biodiversity</i></p> <ul style="list-style-type: none"> • The Arboricultural Impact Assessment prepared by Jacksons Nature Works provides recommendations for the removal and retention of trees across the site. • The report appears to be an incomplete draft and does not provide sufficient information and assessment to inform the removal or retention of trees for the future development of the site. • Environment and Heritage Group (EHG) considers that where practical, the future development of the site should seek to retain existing trees. • Where trees cannot be retained, EHG recommends that they be replaced with tree species derived from the vegetation community that once occurred on site • An AIA that conforms to the requirements of Australian Standard 4970:209 Protection of Trees on Development Sites should accompany any future development application over the site. 	<p>The City's planning framework includes detailed requirements for the management of trees (SDCP 2012 Section 3.5) that must be considered in relation to any future development application, including submission of an arborist report</p> <p>The report must be prepared in line with City of Sydney guidelines, and relevant Australian Standards including for classification, protection and pruning.</p> <p>All street tree plantings must be in accordance with the City's Street Tree Master Plan 2011 and landscape design must consider the City of Sydney Landscape Code.</p> <p>No change recommended.</p>
<p><i>Flooding</i></p> <ul style="list-style-type: none"> • To support the planning proposal, a flood impact and risk assessment is required. Guidance on what is required can be found in the Department's Flood Risk Management Guide LU01: Flood Impact and Risk Assessment. • As the site appears to be encircled by floodwater in the Probable Maximum Flood, it is strongly recommended that the NSW SES is consulted regarding flood emergency management. 	<p>Development is currently permitted on the site and the planning proposal does not increase the density. The controls that currently apply are consistent with the Alexandra Canal Floodplain Risk Management Study and Plan, adopted by the City in accordance with the principles and guidelines of the Floodplain Development Manual 2005. Flood modification measures identified in the Plan have already been acted upon by the City as part of infrastructure improvements through the Green Square Town Centre redevelopment.</p> <p>The planning proposal facilitates new opportunities for non-structural floodplain risk management measures. There is a track record of these outcomes being achieved</p>

<ul style="list-style-type: none"> • Consistency with ministerial direction 4.1 Flooding has not been properly addressed. Items 3 (b), (d) and (g) need detailed assessment and justification of inconsistencies to be presented in a flood impact and risk assessment, but all items should be reviewed. • It is strongly recommended that a consultant specialised in floodplain management prepare the assessment in collaboration with planners who are aware of all the proposed changes in the planning proposal. 	<p>through the redevelopment of surrounding sites, which each managed flood impacts and prepared adequate mitigation measures. The includes development applications at 106-116 Epsom Road, 67 Epsom Road and 132-140 Joynton Avenue. The redevelopment of this site will generate the infrastructure to meet outcomes sought in items (d) and (g) of ministerial direction 4.1.</p> <p>The planning proposal is consistent with ministerial direction 4.1, including items (b) (d) and (g). The Department of Planning and Environment has reviewed this ministerial direction and the planning proposal, and through the issuing of a Gateway Determination, has determined that Council has adequately addressed this direction.</p> <p>The flood assessment accompanying this planning proposal is considered acceptable in meeting the 4.1 directions and a more detailed assessment would be expected to accompany a development application. The draft DCP includes a provision to reinforce the need for the proponent to address matters relating to flooding in greater detail at a development application stage and will be amended to clarify the documentation required.</p> <p>It is recommended the publicly exhibited draft DCP be amended as follows (additions in bold and deletions struck through):</p> <p>5.3.6.1(2)(c) - a flood impact and risk assessment in accordance with the Department's Flood Risk Management Guide LU01: Flood Impact and Risk Assessment and relevant City of Sydney requirements and documents. The assessment is to resolve any flooding or contamination issues on the site, identifying any necessary flood and stormwater management works and remediation works and / or required contamination works to ensure flood and contamination risks are appropriately managed for new development, adjacent sites and adjoining localities;</p> <p>5.3.6.1(2)(d) – any contamination issues on the site, identifying any necessary remediation works and/or required contamination works to ensure contamination risks are appropriately</p>
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	<i>managed for new development, adjacent sites and adjoining localities;</i>
Transport for NSW	
<ul style="list-style-type: none"> • Transport for NSW has requested for their comments to be considered by Council prior to any amendments to the Sydney Local Environmental Plan 2012 proceeding. • There appears to be considerable uncertainty regarding the future intersection arrangements on Epsom Road and Zetland Avenue. It is recommended that this uncertainty be resolved by Council in the short term, in consultation with TfNSW, to ensure that optimal network outcomes are achieved for this precinct. • Concerns are raised regarding the proximity of the site (inclusive of building envelopes) to future multi-modal transport network upgrades (such as but not limited to, intersection enhancements) that are planned or will be required in the future along Epsom Road, Link Road, George Julius Avenue, and Zetland Avenue. To address, this, the following recommendations apply: <ul style="list-style-type: none"> ○ To ensure that future road upgrades on the roads bordering the site, due to the cumulative impacts on the transport network of this proposal and other future developments in the local area, can be delivered as part of any future DA approval, TfNSW requests that suitable satisfactory arrangements are made to ensure the land required for this purpose is future-proofed (reserved) from development on the site ○ To ensure compliance with the above recommendation it is suggested that Council implement planning controls (in the most appropriate form available to Council) to ensure 	<p>It is noted Transport for NSW have raised no objection to the planning proposal progressing, so long as the matters raised in their submission are adequately considered.</p> <p>There are a number of key intersections at the boundaries of the site in various stages of design and delivery:</p> <ul style="list-style-type: none"> • Link Road/Epsom Rd – advanced in delivery stage with intersection to be signalised in 2024. Sydney DCP requires dedication of land for footpath widening along Epsom Road when the subject site redevelops. Pursuant to the City’s community infrastructure floor space requirements, dedication to be required as part of future planning agreement in conjunction with any development application; • Link Road/Zetland Ave – Sydney DCP requires left in only from Link Road (no out), with the road operating as a one way road until it reaches the intersection with Defries Avenue. Sydney DCP requires dedication of some of the land required for the intersection, with the remainder to be dedicated from the site to the north of the road. Pursuant to the City’s community infrastructure floor space requirements, dedication will be required as part of a future planning agreement in conjunction with any development application. Detailed design to be undertaken closer to expected delivery of the intersection; • George Julius Avenue/Zetland Avenue – Sydney DCP requires part of George Julius Avenue is to be dedicated to Council. Pursuant to the City’s community infrastructure floor space requirements, dedication will be required as part of a future planning agreement in conjunction with any development application. Detailed design to be undertaken closer to expected delivery of the affected part of the road;

<p>that the future concept stage DA is accompanied by a Transport Impact Assessment that is prepared to the satisfaction of TfNSW.</p> <ul style="list-style-type: none"> Concerns are raised regarding any future access/egress from Link Road into the subject site. TfNSW would only support left-in/left-out access to/from Link Road into the subject site in the future, and no access on Link Road within 100 metres of the Epsom Road intersection would be supported. TfNSW also reserves the right to further consider restricting access dependant on investigations at the time that future development applications are submitted. TfNSW does not require traffic modelling to be updated at this time given the nature of this planning proposal, however traffic models failed to address a number of matters which would normally be required to be addressed for a development of this size, and these will need to be addressed at the development application stage. TfNSW notes that the concept scheme includes various provisions for active transport users, including shared environments and dedicated pathways and recommend that future development applications promote the use of sustainable modes of transport. 	<ul style="list-style-type: none"> Epsom Road/Defries Avenue and Zetland Avenue/Defries Avenue – Sydney DCP requires the section of Defries Avenue that forms part of the site is to be dedicated to Council. Pursuant to the City’s community infrastructure floor space requirements, dedication will be required as part of a future planning agreement in conjunction with any development application. Detailed design of the road and the intersections at Epsom Road and Zetland Avenue will be undertaken closer to expected delivery. <p>TfNSW also raised concerns with regard to the traffic modelling undertaken by the proponent.</p> <p>The City shares these concerns in part and agrees the traffic and transport study to be lodged with the concept development application must address those issues. TfNSW has recommended the City implement planning controls to ensure that any future traffic study to be lodged with a development application is consistent with the requirements of TfNSW. The City has written to the proponent to advise them of the matters raised and the City’s expectation this be rectified going forward.</p> <p>Following consideration of this submission, it is recommended the publicly exhibited draft DCP be amended as follows (additions in bold):</p> <p>5.3.6.1(2)(h) - a traffic and transport study, the methodology for which is to the satisfaction of Transport for NSW;</p> <p>TfNSW also made extensive recommendations to promote the use of sustainable modes. Council is in agreeance with TfNSW that that a future development application should promote the use of sustainable transport. These matters are to be addressed in a Green Transport Plan to be lodged with the development application.</p>
Civil Aviation Safety Authority	
<ul style="list-style-type: none"> Agreeance with the Gateway Assessment Report regarding infringement upon the prescribed airspace for Sydney Airport & the resulting required approval needed from the Federal Department of 	<p>Noted. The proponent is to seek necessary approvals prior to construction.</p> <p>No change recommended.</p>

<p>Infrastructure, Transport, Regional Development and Communications</p> <ul style="list-style-type: none"> • In accordance with the Airspace Regulations, the proponent should seek a controlled activity approval through Sydney Airports Corporation Ltd. As part of this process, it is likely that CASA will recommend obstacle lighting. • The construction crane will require assessment and approval under the Airspace Regulations 	
Sydney Airport Corporation	
<ul style="list-style-type: none"> • Any proposed development designed to be taller than 51m AHD, would be considered a controlled activity and be subject to the Federal Airports (Protection of Airspace) Regulations 1996. • Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. 	<p>Noted. The proponent is to seek necessary approvals prior to construction.</p> <p>No change recommended.</p>
Department of Infrastructure and Regional Development	
<ul style="list-style-type: none"> • The Airports Act 1996 (the Act) and the Airports (Protection of Airspace) Regulations 1996 (APARs) establish a framework for the protection of airspace at and around the Federal Leased Airports. The site is located in the vicinity of Sydney Airport (the Airport) and may therefore be subject to a number of constraints. Council and the Proponent are encouraged to engage early with Sydney Airport, to ensure any potential intrusions into prescribed airspace are identified and assessed. 	<p>Noted. The proponent is to seek necessary approvals prior to construction.</p> <p>No change recommended.</p>

Attachment B

**Planning Proposal – 118-130 Epsom Road
and 905 South Dowling Street, Zetland
(as amended following public exhibition,
with additions shown in **red** and deletions
shown in ~~strikethrough~~)**

118-130 Epsom Road and 905 South Dowling Street, Zetland



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Executive Summary

The Green Square urban renewal area is Australia's largest urban renewal area and features the Green Square Town Centre (Town Centre) at its heart. The urban renewal area is forecast to grow to around 32,000 dwellings, housing around 60,000 to 70,000 people by 2036. This growth is being supported with substantial investment in local infrastructure.

In 2010 the City developed planning controls for the Epsom Park neighbourhood in the eastern periphery of the urban renewal area. The planning controls facilitated the redevelopment of much of the area, unlocking substantial local infrastructure, including new roads, parks, community facilities such as Gunyama Park and Aquatic Centre and trunk drainage.

118-130 Epsom Road and 905 South Dowling Street, Zetland is approximately one kilometre south-east of the Green Square Town Centre and is one of the last and largest undeveloped sites within the Epsom Park neighbourhood.

The City has prepared this planning proposal following a request by Meriton Group Pty Ltd (the proponent) to change the planning controls that apply to the site.

The planning proposal allows for a redistribution of height on the site, with additional height in some locations balanced with areas of height reduction to:

- deliver greater solar access to a planned local park (Mulgu Park);
- introduce different building typologies, including family terraces, promoting greater housing diversity;
- deliver planned and additional public domain, including new streets, plaza, local park and through-site link;
- facilitate heights which are visually appropriate in the South Dowling Street corridor;
- respond to the bulk and scale of neighbouring properties / approvals and introduce improved building separation to adjoining sites;
- allow appropriate flexibility in the siting of tower building envelopes as part of the to allow meaningful competitive design excellence processes; and
- secure strategic benefits in the form of stretch sustainability targets and a minimum non-residential floor space requirement.

The current maximum height controls on the site range from three to 45 metres in the Sydney Local Environmental Plan 2012 (Sydney LEP 2012). The maximum FSR is 2.2:1, which includes a base FSR of 1.5:1, an additional 0.5:1 for the provision of community infrastructure and 0.2:1 for demonstrating design excellence.

The planning proposal seeks to amend Sydney LEP 2012 to enable the redevelopment of the site under 'alternative controls' for a mixed-use development comprising residential, commercial and retail uses.

It allows for alternative building heights up to 90 metres, to be expressed on a new Alternative Heights Map Sheet, subject to a site-specific provision which secures:

- ~~a BASIX score of at least five points higher than current minimum BASIX requirements for energy and water;~~
- for BASIX affected development, where the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies, exceeds the BASIX targets for water and energy by not less than 5 points.
- no less than four per cent of the gross floor area on the land being provided for non-residential purposes;
- ~~a new Active Street Frontages map to guide the location of non-residential uses; and~~

- there being no additional ~~FSR being~~ height awarded for the achievement of design excellence.

The site-specific provision also allows for a 1,200 square metre supermarket to be provided on the site. This exceeds the current 1,000 square metre maximum in the Sydney LEP.

The planning proposal does not facilitate any additional FSR.

The current controls also continue to apply to the site should the proponent prefer to develop under those controls. If the alternative heights are utilised however, the entirety of the site must be developed under those controls.

The planning proposal is supported by more detailed planning controls in a draft amendment to Sydney Development Control Plan 2012 (draft DCP). The draft DCP provides the framework for the changes to the public domain on the site and underpins the alternative height controls with provisions to guide the bulk and scale of development and how the buildings interface with the street.

The proponent has also made an offer to enter into a planning agreement. The letter of offer includes a commitment to:

- provide no less than four per cent of the gross floor area of the development for non-residential purposes;
- achieve an energy and water BASIX score of at least five points above the required targets for all BASIX-affected development on the site;
- design and construct all future buildings on the site so as to be capable of providing a dual reticulation water system for water consumption; and
- ensure all private residential parking spaces are capable of being fitted with an Electric Vehicle Charger.

The draft DCP and planning agreement will be exhibited alongside the planning proposal.

1. Background

1.1 Introduction

In July 2022, Meriton Group Pty Ltd (the proponent) submitted a request to amend the planning controls for 118-130 Epsom Road and 905 South Dowling Street, Zetland (the site). The site is currently owned by Investment and Loans Pty Ltd who have provided Meriton with consent to negotiate and deal with the planning authority in relation to the proposed development of the site.

In September 2022, the proponent provided further documentation in response to a request for additional information by the City.

Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland (this planning proposal) is to amend the Sydney Local Environmental Plan (LEP) 2012 to facilitate a mixed-use development on the site. The proposed changes to the planning controls are to:

- increase the current maximum building height control **in some parts of the site, and reduce it in other parts of the site**, to facilitate a greater diversity of residential development types and to improve solar access to public spaces;
- require a minimum proportion of floor space be provided as non-residential floor space; and
- **where development is subject to the State Environmental Planning Policy (Building Sustainability Index: (BASIX) 2004**, apply higher sustainability standards for all affected development.

No additional floor space ratio (FSR) is proposed in this planning proposal.

In addition, the proponent has made an offer to enter into a planning agreement for:

- all future buildings on the site to be designed and constructed so as to be capable of providing a dual reticulation water system for water consumption;
- all private residential parking spaces to be capable of being fitted with an Electric Vehicle Charger;
- a commitment to a five point increase on current minimum BASIX requirements for energy and water for all BASIX affected development on the site; and
- a minimum of four per cent of all floor space in the development to be provided as non-residential floor space.

A draft planning agreement **is to be was** publicly exhibited **with generally at the same time as** this planning proposal.

1.2 The Site

1.2.1 Site identification

The site at 118-130 Epsom Road and 905 South Dowling Street, Zetland is owned by Investment and Loans Pty Ltd. The legal description of the site is DP 24134 and Lot 2 in DP 830870 respectively, as shown in below in Figure 1.

The site formerly operated as the Suttons car dealership. The site currently contains a mix of non-residential buildings with differing architectural characters reflecting the various periods of construction. Several buildings throughout the site are reaching the end of their economic life.

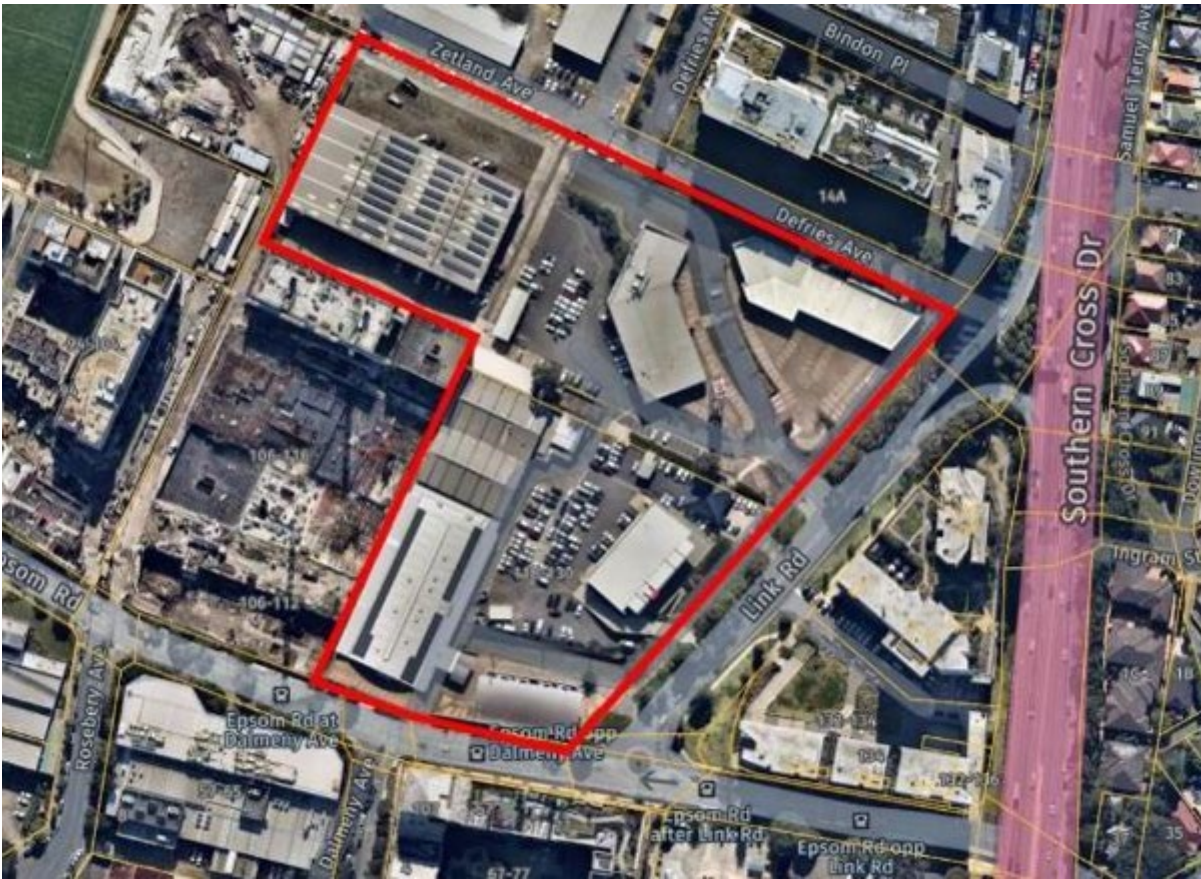


Figure 1 Site identification: 118-130 Epsom Road and 905 South Dowling Street, Zetland (Source: Near Maps)

1.2.2 Metropolitan context

The subject site is located in the suburb of Zetland approximately 5km south of the Sydney CBD. Zetland is part of the Green Square urban renewal precinct, with the subject site situated along its eastern periphery. As part of the Metropolis of Three Cities – The Greater Sydney Region Plan (Region Plan), Green Square forms part of the economic corridor which runs through Sydney CBD, Chatswood and terminates at Macquarie Park.

The Green Square urban renewal precinct and its associated suburbs is one of the largest urban renewal projects within Australia. The renewal of these areas seeks to deliver a shift from former industrial uses to a mixed use precinct with residential and commercial uses, improving public and active (walking and cycling) transport, sustainability and liveability. The projected population of the urban renewal area is between 60,000 to 70,000 people living in the area at build out.

The growing community in Green Square is being supported by extensive community infrastructure, recreational facilities and new open space. Green Square Library, Joynton Avenue Creative Centre, Perry Park Recreation Centre and Gunyama Park Aquatic and Recreation Centre are among the recently delivered community facilities.

At the heart of the urban renewal area is the Green Square Town Centre, which together with Mascot, is identified as a strategic centre in the Region Plan. The Green Square Town Centre has a train station connecting to Central Sydney and Sydney Airport, as well as a growing employment, retail and services offering. Green Square Town Centre has approximately 1,489 established dwellings, and a further 1,552 approved, under construction or recently completed. When complete, the Town Centre will be home to 7,800 people and accommodate 6,700 workers.

1.2.3 Site context

The subject site is situated within Zetland and is located approximately 1km south-east of the Green Square Town Centre. Zetland benefits from a strategic location which boasts ease of

access to a number of transport links, land uses and localities thus solidifying its place as an area of urban renewal.

The locality provides the general public, workers and residents with a high level of amenity due to its centralised location, ease of access and the provision of numerous facilities, including shopping centres and retail premises, public open spaces, recreational facilities and various services. As part of the Green Square renewal, this is anticipated to be improved over time aligning with the City Plan 2036: Local Strategic Planning Statement (LSPS).

Figure 2 below shows the location of the subject site relative to the Green Square Town Centre, Railway Station and surrounding localities. The subject site is located to the west of Randwick Local Government Area (LGA) and Southern Cross Drive and is within 1km walking distance to Green Square Railway Station.



Figure 2 Site context (Source: Planning Ingenuity)

1.2.4 Site characteristics

The site has a combined frontage to Link Road of 227.275m and a combined frontage length of 103.72m to Epsom Road. It also has a curved frontage of 9.37m to the intersection of Link Road and Epsom Road. The site has dimensions of 265.3m to the northern (side) boundary, 90.59m and 152.635m to the western (rear) boundaries, and 93.855 metres to the southern (side) boundary which adjoins 106-116 Epsom Road. 118-130 Epsom Road has an area of 1.618 hectares and 905 South Dowling Street an area of 2.4686 hectares, resulting in an overall site area of 4.09 hectares.

Easements affecting 118-130 Epsom Road are:

- an easement for drainage along the western boundary;
- an easement for drainage running across the site in an east-west direction; and
- an easement for drainage running in a north-south direction between the southern boundary and the east-west drainage easement.

This lot is also affected by a covenant.

Easements and covenants affecting 905 South Dowling Street are:

- an easement for drainage in the western portion of the site;
- an easements for drainage benefitting the site;
- a right of carriageway along a portion of the western-most boundary; and
- four covenants.

The site contains no significant natural features given the current use of the site for car sales and service centres, including associated activities. Each lot contains a number of buildings to facilitate the current use. 118-130 Epsom Road has driveway access off both Epsom Road and Link Road, while 905 South Dowling Street has driveway access off Link Road. Existing vegetation on the site includes a mix of trees and shrubs along boundaries and adjacent hardstand areas.

The site generally slopes gently down in a northern direction, with a high point of approximately 21 metres AHD in the southern portion of the site. The lowest points of the site are typically along the northern boundary at approximately 19 metres AHD.

The subject site is also identified as flood prone land and potential for local flooding has been considered as part of this application and is discussed in Part 5 of this planning proposal.

The site is subject to an Obstacle Limitation Surface of 51m AHD as identified within Sydney LEP 2012, that this planning proposal seeks to exceed. This is discussed in Part 5 of this planning proposal.

Photographs of the subject site are provided at Figures 3 to 6.



Figure 3 Subject site as viewed from Link Road (Source: Planning Ingenuity)



Figure 4 Subject site as viewed from corner of Epsom and Link Road (Source: Planning Ingenuity)



Figure 5 Subject site as viewed from Epsom Road (Source: Planning Ingenuity)



Figure 6 Subject site as viewed from Defries Avenue (Source: Planning Ingenuity)

1.2.5 Surrounding development

A number of sites within the immediate locality contain approved or recently constructed residential flat buildings and mixed-use developments.

Immediately adjoining the site to the west is 106-116 Epsom Road ('Deicorp'), which is subject to an approval under DA/2015/913 for a mixed-use development comprising five buildings ranging between five and 14 storeys, accommodating 555 residential apartments and 840sqm of retail uses (Figure 7).

118-130 Epsom Road and 905 South Dowling Street, Zetland

This development will contain high density built form across the site, basement parking and internal roadways which directly adjoin the boundary shared with the subject site. This property includes the provision of Peters Street and Rose Valley Way which will be continued through the subject site.



Figure 7 106-116 Epsom Road (Diecorp) (Source: Planning Ingenuity)

Further to the west is 94-104 Epsom Road (owned by Meriton Group Pty) which was approved under D/2019/976 and is currently under construction for three mixed use buildings up to 14 storeys in height (Figure 8).



Figure 8 94-104 Epsom Road viewed from Epsom Road (Source: Planning Ingenuity)

Adjoining the subject site to the north-west is Gunyama Park and Gunyama Park Aquatic and Recreation Centre (D/2016/824). Both the park and aquatic centre have recently been constructed and are shown in Figures 9 and 10 below.

It is noted that part of Gunyama Park where it adjoins the subject site has not yet been constructed. Pursuant to Sydney DCP 2012, George Julius Avenue will be provided parallel to the western (side) boundary of the subject site (and also 106-116 Epsom Road).



Figure 9 Gunyama Park Aquatic and Recreation Centre as viewed from Joynton Avenue (Source: Planning Ingenuity)



Figure 10 Gunyama Park as viewed from Zetland Avenue (Source: Planning Ingenuity)

To the north of the subject site and on the opposite side of the Zetland Avenue are a mixture of undeveloped and recently developed mixed use buildings. Specifically, this includes the following:

- residential flat building developments to the north and north-east (constructed by Meriton Pty Ltd) fronting Eastern Distributor, Zetland Avenue, Bindon Place, Defries Avenue and Naulty Place (Figures 11 and 12);
- the former Ausgrid Zetland Depot at 130 Joynton Avenue, which has recently been sold. It is noted that this occupies Zetland Avenue (future roadway) and adjoins the (entire) northern boundary of the subject site (Figure 13); and
- a number of residential flat building developments further to the north-west, addressing Kirby Walk, Victoria Park Parade, Grandstand Parade and Joynton Avenue (Figure 14).



Figure 11 Developments to the north and north-east as viewed from Link Road (Note, subject site in foreground)
(Source: Planning Ingenuity)



Figure 12 Developments to the north and north-east as viewed from Defries Avenue (Source: Planning Ingenuity)



Figure 13 No. 130 Joynton Avenue as viewed from Defries Avenue (Source: Planning Ingenuity)



Figure 14 Developments to the north-west as viewed from Zetland Avenue (Note, Ausgrid site in foreground) (Source: Planning Ingenuity)

To the south-east and on the opposite side of Link Road is 1 Link Road and 132-136 Epsom Road which contains recently constructed mixed use developments of varying building heights as shown in Figures 15 and 16 below. This property has buildings ranging between five and 15 storeys.



Figure 15 132-136 Epsom Road as viewed from Epsom Road (Source: Planning Ingenuity)



Figure 16 132-136 Epsom Road as viewed from Link Road (Source: Planning Ingenuity)

Directly to the south of the subject site is 67 Epsom Road which was approved for the construction of a part nine, part 14 storey mixed use development. This has been constructed as shown in Figures 17 and 18 below, noting that Banilung Park further to the south is also recently constructed.



Figure 17 67 Epsom Road as viewed from Link Road (Source: Planning Ingenuity)



Figure 18 67 Epsom Road as viewed from Epsom Road (Source: Planning Ingenuity)

To the south-east is 87-103 Epsom Road which contains an existing storage facility per Figure 19. This contains an approval for a Stage 1 DA approved in 2007, which has commenced and is still operational. To the south-west is an existing commercial premises at 57-65 Epsom Road per Figure 20. This site does not contain any previous or current approvals for redevelopment as exhibited throughout the surrounding locality.



Figure 19 87-103 Epsom Road as viewed from Epsom Road (Source: Planning Ingenuity)



Figure 20 57-65 Epsom Road as viewed from Epsom Road (Source: Planning Ingenuity)

Context is also provided in the current Epsom Park Urban Strategy in Sydney DCP 2012, shown in Figure 21.

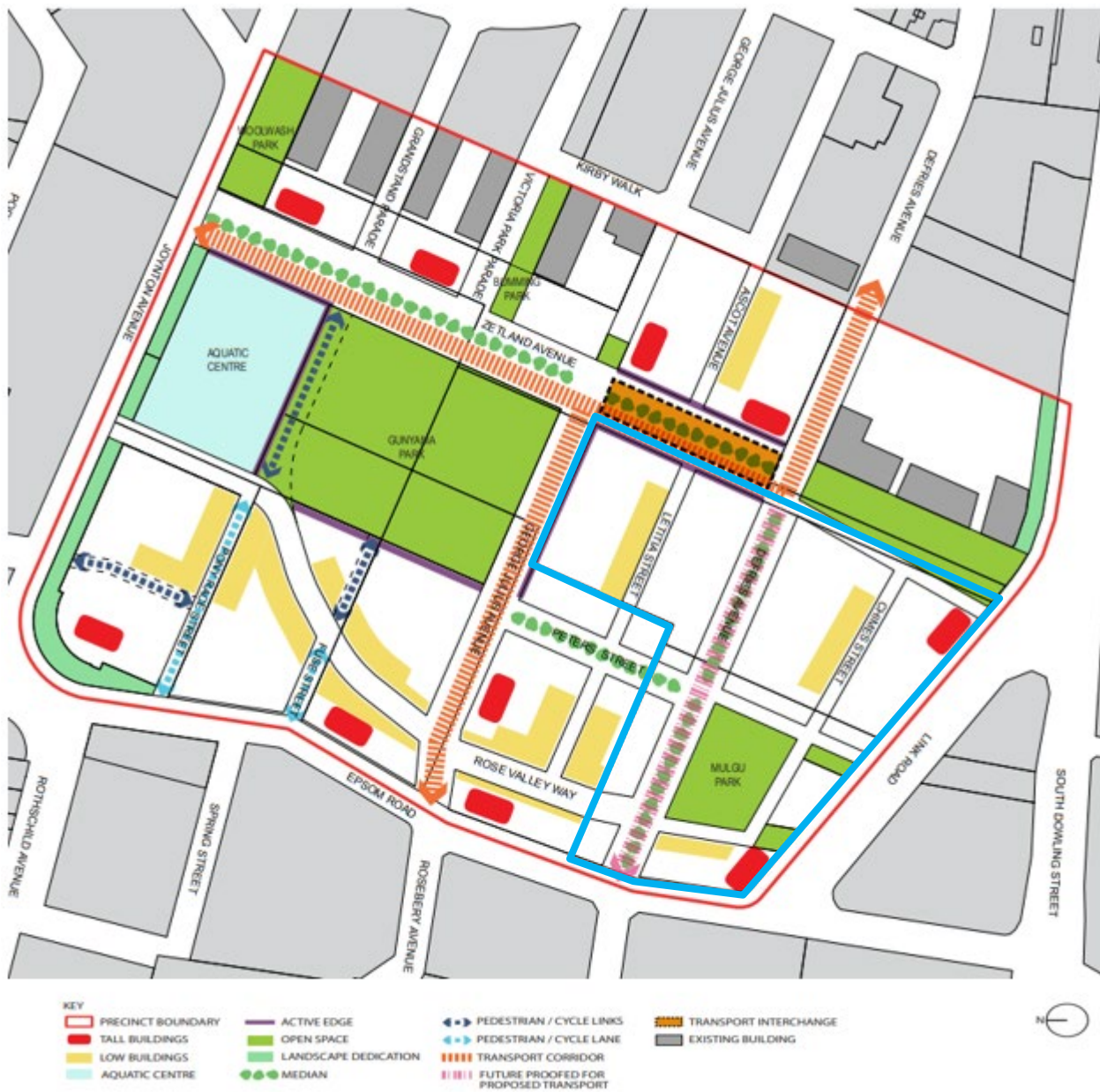


Figure 21 Current Epsom Park Urban Strategy, Sydney DCP 2012 outlined in blue

1.2.7 Accessibility

Overall, the site has a high level of accessibility.

A traffic impact assessment, prepared by TRAFFIX, appended to this planning proposal, provides an analysis of existing transport conditions, summarised below.

Public transport accessibility

Green Square railway station is located approximately 1km from the western edge of site (about a 10-12 minutes' walk). The station is serviced by the T8 (Airport and South) line which provides direct access to the Sydney CBD, Sydney Airport, Revesby and Glenfield, Campbelltown and Macarthur. Between 6am and 10pm on weekdays train services operate every 5 to 7 minutes in each direction, with frequencies increasing to every 15 minutes outside of this time period.

The site is also located within 400m walking distance of several bus stops, with the closest situated on Epsom Road, opposite Dalmeny Avenue. These bus stops provide services along the following routes and peak weekday frequencies:

- 306 – Redfern to Mascot Station, approximately every 10 minutes; and
- 370 – Coogee to Glebe Point, approximately every 10-20 minutes.

In addition to the above, these bus services provide regular services to Green Square Railway Station. Green Square Train Station and bus routes are shown at Figure 22.

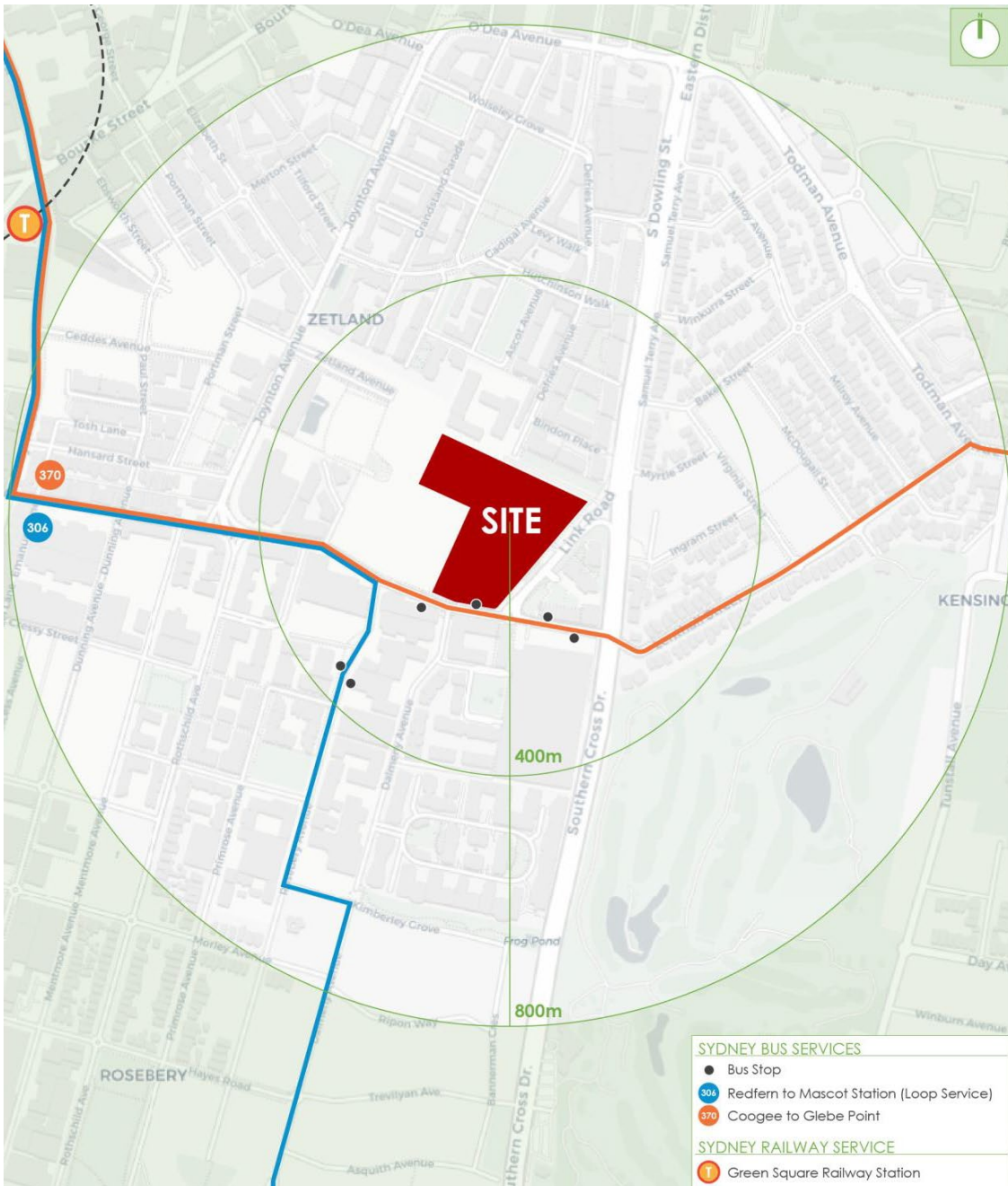


Figure 22 Public transport network (Source: TRAFFIX Transport Impact Assessment, 2022)

The site will also deliver part of a planned eastern transit corridor, a surface transport corridor linking Green Square town centre and its rail station to a future metro station in Zetland and to the City centre. This corridor could support light rail or emerging trackless tram technologies, with zero emissions bus services as an interim measure. Upon completion, the corridor will pass the northern boundary of the subject site heading towards the town centre and down through the site to suburbs further south. Metro connections to Zetland are planned for 2041, although the City is advocating for this extension to be brought forward to 2031. The transit corridor, together with a metro station at Zetland and improved bus links, cycleways and walking connections, would ensure that the area and site are appropriately serviced by public transport.

Pedestrian and cycling network

There is various existing pedestrian infrastructure surrounding the site, with pedestrian footpaths along both sides of Link Road and Epsom Road, as well as a signalised pedestrian crossing at the Epsom Road and Dalmeny Avenue intersection.

In addition, there are several existing on-road and off-road bicycle routes surrounding the site that connect the site with adjoining precincts, to Central Sydney, and to the wider network of regional bike paths. Figure 23 shows existing bike paths.

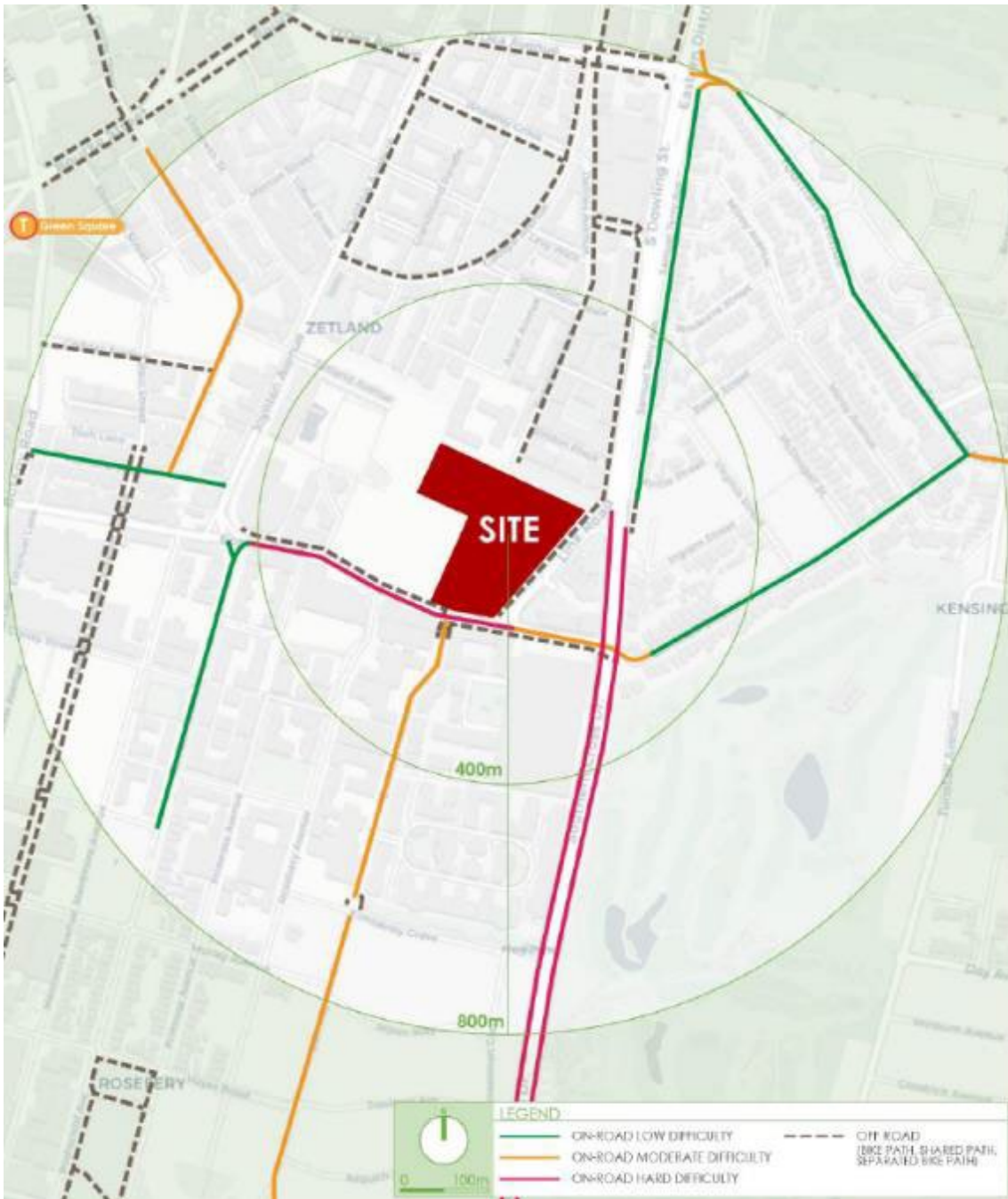


Figure 23 Cycling network (Source: TRAFFIX Transport Impact Assessment, 2022)

Road network connectivity

The road hierarchy in the vicinity of the site is shown in Figure 24 with the following roads of particular interest:

- South Dowling Street: a Transport for NSW (TfNSW) Main Road (MR 593) that traverses north-south between Oxford Street in the north and Southern Cross Drive in the south. Within the vicinity of the site, it is subject to 80km/h speed zoning and accommodates 3-4 lanes of traffic in each direction. South Dowling Street does not permit on-street parking on either side of the road.
- Epsom Road: a local road that traverses east-west between Lenthall Street in the east and Botany Road in the west. It is subject to 50km/h speed zoning and accommodates 1-2 lanes of traffic in each direction. Epsom Road permits sections of on-street parking, subject to various restrictions.
- Joynton Avenue: a local road that that traverses north-south between O’Dea Avenue in the north and Epsom Road in the south. Within the vicinity of the site, it is subject to 40km/h speed

zoning and accommodates a single lane of traffic in each direction. Joynton Avenue permits sections of on-street parking, subject various restrictions.

- Rothschild Avenue: a local road that traverses north-south between Epsom Road in the north and Harcourt Parade. It is subject to 40km/h speed zoning and accommodates a single lane of traffic in each direction. Rothschild Avenue permits on-street parking, subject to various restrictions.
- Dalmeny Avenue: a local road that traverses north-south between Epsom Road in the north and Gardeners Road in the south. Within the vicinity of the site, it is subject to 40km/h speed zoning and accommodates a single lane of traffic in each direction. Dalmeny Avenue permits on-street parking, subject to various restrictions.

The site is located close to the main arterial road serving the region, being South Dowling Street. As such, traffic is able to be distributed onto the wider road network, minimising traffic impacts.



Figure 24 Road hierarchy (Source: TRAFFIX Transport Impact Assessment, 2022)

2. Existing planning controls

The Sydney Local Environmental Plan 2012 (Sydney LEP 2012) and Sydney Development Control Plan 2012 (Sydney DCP 2012) contain zoning, development standards and other planning controls for the site.

2.1. Sydney Local Environmental Plan 2012

The Sydney LEP 2012 is the principal environmental planning instrument applying to the site. The existing planning controls that apply to the site are summarised at Table 1.

Control	Existing requirement
Clause 2.1 Land use zones	<p>The site is zoned B4 Mixed Use (see Figure 4).</p> <p>All development permitted with consent under the B4 Mixed Use zone, excepting <i>Extractive industries; Heavy industrial storage establishments; Heavy industries; Pond-based aquaculture</i>, that are prohibited.</p> <p>See Figure 25</p>
Clause 4.3 - Height of Buildings	<p>The maximum height of buildings that applies to the site ranges from 3m to 45m</p> <p>See Figure 26</p>
Clause 4.4 - Floor Space Ratio	1.5:1
Clause 6.12 and 6.14 – Bonus Floor Space Ratio	<p>Development may be eligible for community infrastructure floor space (in addition to floor space available under Clause 4.4) where community infrastructure is provided as part of the development. The site is identified in Area 6 on Floor Space Ratio Map (0.5:1 FSR).</p>
Clause 6.21D Competitive Design Process	<p>Development may be eligible for 10% additional building height <u>or</u> FSR where design excellence is demonstrated.</p> <p>All together the site may achieve an FSR of up to 2.2:1</p> <p>See Figure 27</p>
Clause 5.10 Heritage conservation	<p>None.</p> <p>The site is not mapped as a heritage item or within a heritage conservation area.</p>
Clause 5.21 Food Planning	The site is affected by flooding

Control	Existing requirement
Clause 7.5 - Car parking for residential accommodation	Category C – Maximum parking rates specified under Clause 7.5
Clause 7.6 – Car parking for office and business premises	Category F - Maximum parking rates specified under Clause 7.6
Clause 7.7 – Car parking for retail premises	Category F - Maximum parking rates specified under Clause 7.7
Clause 7.9 – Car parking for other land uses	Category F - Maximum parking rates specified under Clause 7.7
Clause 7.14 – Acid Sulfate Soil	Class 5 Acid Sulfate
Clause 7.16 – Airspace Operations	OLS 51m AHD PAN-OPS 126.4m AHD
Clause 7.23 – Restricted Retail Development	No shops or supermarkets with a GFA of greater than 1,000m ² permitted.

Table 1 Summary of existing planning controls applying to the site under Sydney LEP 2012



Figure 25 Extract from SLEP 2012 Land Zoning Map 018 (site edged in red)



Figure 26 Extract from SLEP 2012 Height of Buildings Map 018 (site edged in red)

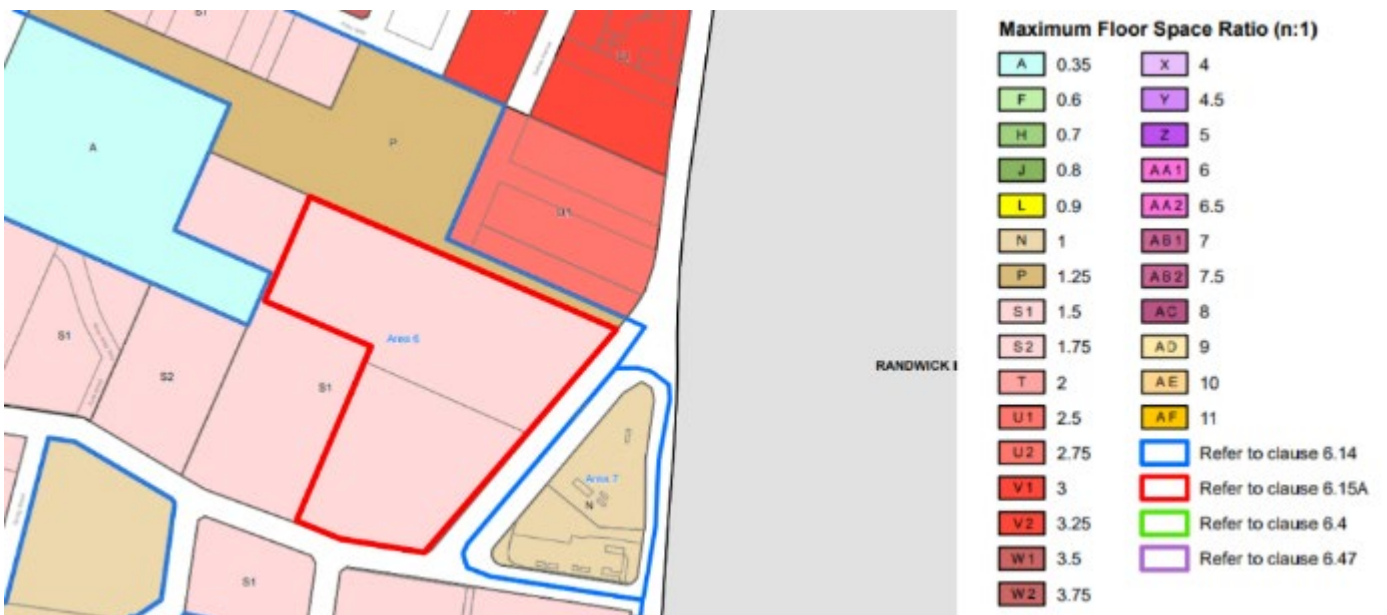


Figure 27 Extract from SLEP 2012 Floor Space Ration Map 018 (site edged in red)

2.2. Sydney Development Control Plan 2012

The site is subject to Sydney DCP 2012, Section 5, Part 5.2 Green Square and Part 5.3 Green Square – Epsom Park. Key controls that apply to the site include:

- the delivery of public roads and open space, including a 23m-wide public transport corridor and a 2,500sqm public open space known as Mulgu Park;
- a 1.4m setback along the Epsom Road frontage for footpath widening;
- an easement for the provision of trunk stormwater drainage infrastructure to manage flooding in the locality;
- the siting of two towers (11 and 12 storeys) at the north and south corners of the site on the Link Road frontage;

118-130 Epsom Road and 905 South Dowling Street, Zetland

- a general 6 - 8 storey built form throughout the remainder of the site; and
- a mix of land uses, with non-residential (predominantly retail and commercial) activating and responding to noise along the main street frontages and residential apartments elsewhere.

3. Objectives

This planning proposal will provide surety in the capacity of building envelopes permissible on the site, thereby facilitating the redevelopment of a key site in Epsom Park neighbourhood and supporting Green Square's urban renewal.

It will achieve this through a redistribution of building heights on site, balancing additional height in some locations with height reductions in others, under 'alternative controls' which enable a mixed use development comprising residential, commercial and retail uses.

The objectives of this planning proposal are to:

- ensure built form controls on the site respond to the bulk, scale and siting of neighbouring developments, introducing improved building separation to adjoining sites;
- allow for flexibility in the delivery of individual sites across the neighbourhood;
- facilitate heights which are appropriate in the South Dowling Street corridor;
- improve the amenity of Mulgu Park, a planned public open space, by delivering greater solar access;
- promote greater housing diversity through the introduction of different building typologies;
- create greater visual amenity in the public domain with a variety of building scales and forms;
- allow appropriate flexibility in the building envelopes to allow meaningful competitive design excellence processes; and
- facilitate the delivery of appropriately located commercial and retail floor space to provide non-residential uses which meet the needs of future residents and create a balance between day and night activity to enliven the neighbourhood; and
- incentivise high environmental performance standards for buildings to mitigate the effects of climate change.

4. Explanation of provisions

4.1. Proposed amendments to Sydney LEP 2012

The drafting instructions to amend Sydney LEP 2012 are provided below. A detailed justification for the proposed planning controls and further explanation of the intended outcome is provided at Part 5 – Justification of this planning proposal.

Drafting instructions

To achieve the intended outcomes, this planning proposal seeks to amend Sydney LEP 2012 as follows:

1. Introduce a new map sheet 018 to the 'Alternative Height of Buildings Map' to show a maximum height of building control, as indicated at Part 6 of this planning proposal, that:
 - incorporates a 3 metres height limit for areas of expected public domain;
 - ranges between 11 metres and 90 metres within street blocks, reflecting a variety of built form and securing good solar amenity within Mulgu Park;
 - introduces building heights which respond to adjoining development and the hierarchy of streets within and around the site.
- ~~2. Amend the Active Street Frontages Map Sheet 018, as indicated at Part 6 of this planning proposal, to apply active street frontage controls to the identified frontages at:~~
 - ~~• Epsom Road;~~
 - ~~• Link Road;~~
 - ~~• Zetland Avenue;~~
 - ~~• George Julius Avenue; and~~
 - ~~• key street frontages within the site.~~
2. Insert a site-specific local clause for land identified as 118-130 Epsom Road and 905 South Dowling Street, Zetland, being DP 24134 and Lot 2 in DP 830870 respectively. The proposed site-specific clause is to:
 - a. identify the objectives of the clause to:
 - i. incentivise diverse housing;
 - ii. incentivise local shops and services; and
 - iii. incentivise high environmental performance.
 - b. ensure the consent authority does not grant development consent to development on land to which this clause applies unless a development control plan / staged development application has been prepared for the site;
 - c. ensure that where a development control plan / staged development application is approved on the site using either the Height of Building map or the Alternative Height of Building map, that all development on the site is subject to that map and that map only i.e. the planning controls on the unused map are switched off by the development control plan / staged development application and are no longer available for development on any part of the site;
 - d. allow development to achieve the maximum building height shown on the 'Alternative Height of Buildings Map', when:

- i. no less than four per cent of gross floor area on the land is provided as non-residential development; and
 - ii. BASIX affected development, **where the State Environmental Planning Policy (Building Sustainability Index: (BASIX) 2004 applies**, exceeds the BASIX targets for water and energy by not less than 5 points for energy and water.
- e. ensure any development on the site demonstrating design excellence in accordance with clause 6.21 of the Sydney LEP 2012 is only eligible for additional FSR, and not additional height.
 - f. for the purposes of this clause, non-residential purpose means development, that is permitted in the zone, for a purpose other than residential accommodation or serviced apartments.
 - g. **notwithstanding Clause 7.23 – Large retail development outside of Green Square Town Centre and other planned centres, allow development consent to be granted to development for the purposes of shops with a gross floor area not greater than 1,200 square metres.**

Note: The proposed drafting (3) is for 'alternative controls' that allow for the site to develop either under the current controls, or under the planning controls proposed in this planning proposal. Drafting instruction 3(b-c) ensures that once the developer has prepared a development control plan for the site, or activated a staged development, that the 'unused' controls are switched off. This would then govern any future detailed Stage 2 development application should the site be subdivided.

The purpose of providing alternative controls, that allow for significant increase to 90m in height at the north-east corner of the site, is that it incentivises specific outcomes to be achieved on the site, where they may not be achieved under the current controls, including:

- achieving a reduction in height to 11m for the two street blocks north of Mulgu Park, delivering a commensurate improvement in solar access to that public space and greater housing diversity associated with a wider variety of building heights;
- delivering a genuine non-residential use offering **which is appropriately located in accordance with an Active Frontages Map** to support community activity and natural surveillance along nominated streets and public places, and respond to noise and curtailed amenity along some major road frontages; and
- achieving high environmental performance across the site.

The 'alternative controls' approach is a mechanism to implement this planning proposal's intended outcomes. The final form of the LEP provisions will be subject to drafting by NSW Parliamentary Counsel and are subject to change.

4.2. Site-specific DCP

The City has prepared a draft amendment to Sydney DCP 2012. The draft site-specific DCP provisions are to ensure the objectives and intended outcomes of this planning proposal are achieved.

The draft DCP is to be publicly exhibited with this planning proposal.

Should a different drafting approach be taken to what is proposed above in this planning proposal, complementary changes may be required to the draft DCP amendment to fully implement the intended outcomes of this planning proposal.

5. Justification

This planning proposal to amend Sydney LEP 2012 and the accompanying draft DCP for the site are informed by the City's assessment of a planning proposal request and supporting documentation submitted by the proponent. This is provided at Appendix A.

Some planning controls proposed as part of this planning proposal differ from what was proposed by the proponent in their request and in their supporting documentation. These changes have been informed by detailed assessment of the documentation submitted.

5.1 Indicative reference scheme

The proponent has prepared an indicative reference scheme for the site with the purpose of demonstrating, at the concept level, a development that can achieve the proposed maximum permissible FSR whilst also addressing other DCP matters and achieving the requirements of the Apartment Design Guide (ADG). The reference scheme is only one iteration of the built form that may be facilitated by the proposed planning controls.

The reference scheme tests a maximum FSR of 2.2:1 (which includes all potential floor space bonuses available to the site under Sydney LEP 2012). Figures 28 and 27A and 27B illustrate the indicative reference scheme.



Figure 28 Indicative ground floor submitted by proponent (source: Reference Design, Mako Architecture)

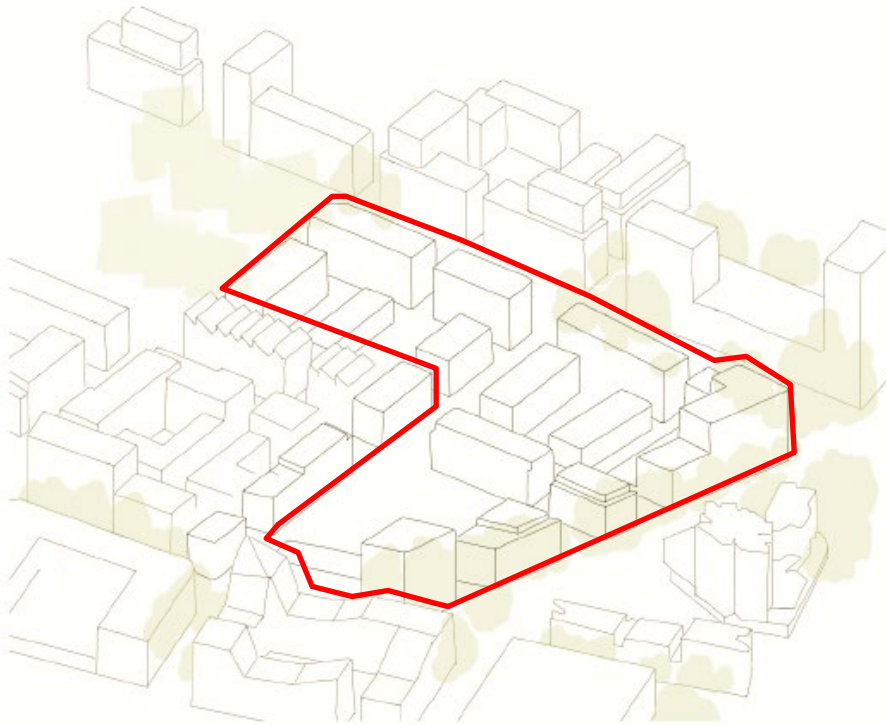


Figure 29A Indicative built form under current planning controls (source: Urban Design Report, Mako Architecture)



Figure 29B Indicative built form under proposed planning controls (source: Urban Design Report, Mako Architecture) (* denotes key areas of change)

The reference scheme was considered by the City's Design Advisory Panel, who were generally supportive of the redistribution of building heights and augmentation of the public domain that was proposed. The Panel requested further consideration of the siting and footprint of the proposed towers. This additional work has determined the maximum building height controls contained in this planning proposal.

This planning proposal does not imply approval of the indicative reference scheme, which provides only concept level information that requires further testing and analysis. The development of the

site is to be subject to a Stage 1 development application, a competitive design process and detailed Stage 2 development applications.

The accompanying draft DCP details matters that need further consideration as part of a Stage 1 (concept) development application.

5.2 Development outcomes

This planning proposal and accompanying draft DCP seek to facilitate a high-quality mixed use development outcome on the site, alongside the delivery of key items of community infrastructure.

It supports a re-distribution of building heights on the site to enable this outcome, with increases or reductions to the maximum permissible height of building in key locations.

This planning proposal is to facilitate 'alternative' height controls in Sydney LEP 2012 that secure key strategic benefits alongside the amended building heights, in the form of improved housing diversity, stretch sustainability targets and a minimum non-residential floor space requirement.

The current planning controls will continue to apply to the site if the proponent prefers to develop under these controls.

It is proposed the planning controls include a provision to ensure the whole of the site must develop under either the existing height map, or under the proposed 'alternative' height map. The current controls, and the alternative controls, have distinctly different strategic approaches to height and FSR distribution across the site. The proposed provision is to ensure that once an approach is settled on for the site, that is, where there is a development application approval for one or more buildings on the site, that future approvals must remain consistent with that approach.

5.2.1. Built form

This planning proposal allows for a redistribution of height on the site, with additional height proposed in some locations, and reduction of height in others. It enables development ranging in height from 3 metres to 90 metres or 1 storey to 25 storeys. It is noted that these proposed heights and the proposed Height of Buildings Map vary from those in the planning proposal request. A reduced height of 11 metres is proposed for the street blocks north of Mulgu Park to reflect a town house style building typology and secure the solar amenity improvements in the park. An increased height of 90 metres is incorporated for the tallest tower to enable its floor plate to be reduced compared with the indicative reference scheme.

The proposed alternative height controls (compared with the current Sydney LEP Height of Buildings Map at Figure 31), will facilitate a wider range of housing typologies, including low rise town houses for families and large households, and for medium to high-density mixed-use apartment buildings.



Figure 30 Sydney LEP 2012 Height of Buildings Map alongside proposed Alternative Height of Buildings Map

Higher density towers are located on the corners of the site, with medium density around the periphery and lower density centrally, establishing a hierarchy of built form that responds to the order of roads within and around the site. The height of towers responds appropriately to others already constructed in the South Dowling Street corridor and their floorplate is controlled to maximise visual amenity.

Building footprints and street heights are arranged to improve amenity in the public domain and relocating building mass from the ground plane allows for the provision of new publicly accessible open spaces throughout the site, linking various streets and key open spaces in the neighbourhood.

The reference scheme demonstrates an acceptable impact on solar access to neighbouring developments, compared with current DCP envelopes. The draft DCP highlights the need for the proposed towers to address solar impact on neighbouring dwellings with respect to relevant existing Sydney DCP 2012 controls and the NSW Government's Apartment Design Guide standards.

The re-massing of built form, particularly the introduction of the three storey townhouses, delivers greater solar access to Mulgu Park, allowing 78% of the park to receive 4 hours of sun between 9am and 3pm in midwinter compared with 53% under the current controls. Greater solar access allows for greater tree planting possibilities and higher levels of comfort through seasonally appropriate sun on the ground plane.

The reference scheme demonstrates the maximum building heights required to accommodate a maximum FSR of 2.2:1. As such, the building heights proposed make allowance for any potential floor space bonus awarded for demonstrating design excellence. The planning proposal therefore also proposes that, upon demonstrating design excellence through a competitive design process, any building only be eligible for additional FSR under Clause 6.21 of Sydney LEP and not additional height.

In order to secure strategic benefits, the planning proposal links the amended building heights to appropriate stretch BASIX targets and minimum non-residential floor space requirements (detailed below at 5.2.2).

5.2.2. Land Uses

The planning proposal supports a genuine mixed use development, with housing diversity and a non-residential use offering that will serve and enliven the locality.

The reference scheme indicates an ability to achieve an approximate total Gross Floor Area (GFA) of 89,924 sqm on the site, including:

- 86,228 sqm of residential, with a housing mix of:
 - 30 townhouses
 - 784 apartments
 - 130 x 1 bedroom
 - 399 x 2 bedroom
 - 184 x 3 bedroom
 - 71 x 4 bedroom
- 3,696 sqm of non-residential, broken down into:
 - 1,117 sqm childcare facility (130 children)
 - 2,579 sqm retail
 - 1,054 sqm supermarket
 - 1,526 sqm general retail

The proportion of non-residential uses in the reference scheme represents just over four per cent of the total GFA on the site. This planning proposal includes a requirement that any redevelopment must achieve at least four per cent non-residential uses. This target reflects the findings of the City's recent Green Square and Southern Areas Retail Review (SGS Economics and Planning, 2022), that highlights the importance of providing smaller-format retail, including supermarkets, to meet the day-to-day needs of residents within a walking catchment.

Providing a variety of retail on the site, including a small supermarket, plays a role in meeting the demand of future residents and workers in a more distributed way that encourages walking trips. **To address a minor projected shortfall identified in the Green Square and Southern Areas Retail Review of supermarket floor space needed to service the area, this planning proposal will increase the current 1,000 square metre cap of 'shop' floor space to 1,200 square metres.** More general commercial floor space will also assist in generating activity during the day, to prevent these areas of Green Square becoming dormitory suburbs.

~~Active frontages, to be detailed in an amended Active Frontages Map Sheet, together with DCP provisions that detail land use requirements at the ground floor, Existing active frontage requirements in the DCP are proposed to~~ guide the location of non-residential uses throughout the site and will assist with activating key spaces in the Epsom Park neighbourhood, creating interest at street level.

5.2.3. Public Domain

This planning proposal will facilitate public domain improvements that are functional, respond to the expected population growth in the area, contribute to the improved permeability of the urban renewal area and provide a high level of amenity.

Redevelopment of the site will deliver:

- approximately 13,500 square metres of public roadway, including a critical public-transit corridor and a newly proposed east-west street which provides additional street frontage for the inclusion of townhouses;
- approximately 5,500 square metres of public open space, including Mulgu Park (an area for passive recreation serving the Epsom Park neighbourhood) and three additional areas of newly proposed open space;
- a newly proposed through-site link, to be provided as an easement from Defries Avenue to Letitia Street, to connect with the public open space; and
- a 1.4m road widening along the Epsom Road frontage.

The proposed changes to the public domain layout are shown at Figure 31. Whilst dealt with in the accompanying draft DCP, it is worth noting that the proposed public domain layout removes from the current controls one small 212 sqm pocket park just to the east of Mulgu Park, extending a building envelope into this space and effectively narrowing a visual connection from there to Link

Road. This acts to reduce the acoustic impact on Mulgu Park from road noise and is considered appropriate.



Figure 31 Key changes proposed (source: Mako Architecture)

5.2.4. Voluntary Planning Agreement

In support of the planning proposal request, the proponent made a public benefit offer on the 3 November 2022 to enter into a Voluntary Planning Agreement (VPA) for the delivery of the following environmental benefits being delivered alongside the redevelopment of the site:

- a commitment to provide at least four per cent of the GFA to be achieved on the site as non-residential development;
- achieving an energy and water BASIX score of at least five points above the required commitments for all BASIX-affected development on the site;
- a commitment to design and construct all future buildings on the site so as to be capable of providing a dual reticulation water system for water consumption; and
- a commitment that all private residential parking spaces are capable of being fitted (by a future owner/occupant) with an Electric Vehicle Charger (EVC).

The key aspects of the planning agreement are reinforced with provisions in the planning proposal and draft DCP.

5.2.5. Parking

The reference scheme indicates about 860 parking spaces being provided in conjunction with the development, being the maximum levels currently permitted under Sydney LEP 2012.

Given the highly accessible location of the site, it would be expected that a Stage 1 and Stage 2 development application would explore opportunities to reduce the amount of parking for private vehicles on the site from those maximum levels.

5.2.6. Draft DCP

The LEP controls in this planning proposal are supported by draft DCP provisions. The draft DCP does not form part of this planning proposal but will be placed on exhibition alongside it.

The draft DCP provides the framework for the changes to the public domain on the site, including a new local street, pocket park, plaza and through-site link. It also underpins the Alternative Height of Buildings LEP map with indicative building envelopes, height in storeys (ranging from 1 to 25 storeys), and primary and upper level setback provisions to guide the bulk and scale of development and how the buildings interface with the street.

Draft DCP controls support the provision of a range of non-residential uses and guide their siting to best respond to site opportunities and constraints and activate key spaces in the neighbourhood.

The draft DCP also includes provisions for sustainable development and the delivery of green infrastructure.

The draft DCP identifies how development on the site is to manage likely impacts associated with contamination and noise and details a list of requirements for any future Stage 1 (concept) development application.

5.3 Need for the planning proposal

Q1. Is the planning proposal the result of an endorsed LSPS, strategic study or report?

No, the planning proposal is applicant-initiated and site-specific. It results from difficulties that the proponent has found when trying to accommodate the current maximum permissible FSR within the current maximum permissible building height. Approved developments on adjoining sites have put pressure on building envelopes within the site due to required building separations and access requirements. Once these elements are accounted for, the proponent has demonstrated that the height and footprint arrangement leads to potentially unacceptable levels of overshadowing of future public open space, Mulgu Park, which is also to be delivered on the site. Solar access is reduced still further when factoring in potential bonus floor space for design excellence.

When exploring alternative building arrangements, an opportunity has arisen to secure a re-massing that delivers greater than required solar access to Mulgu Park and deliver additional public domain, including a plaza, a pocket park and a through-site link. In improving building separations to adjoining sites and creating appropriate street address for buildings within the site, the proposal also delivers additional street frontage. The development outcome that this enables allows for a greater variety of building typologies and homes, creating greater housing diversity ranging from low density townhouses to medium and high density apartment buildings with a mix of bedrooms. The variety of forms and scales in turn will provide greater visual amenity in the public domain.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. This planning proposal is the best means of achieving the objectives and intended outcomes discussed in this report.

The site is within the Epsom Park neighbourhood of Green Square, a former industrial area earmarked for urban renewal. When planning for this neighbourhood's redevelopment, the delivery mechanisms for key physical and community infrastructure necessary to support the new residential population were also taken into account. In part, the development capacity of sites in Epsom Park reflects the feasibility of development to deliver that key infrastructure.

As a corollary, providing more surety around achieving the development capacity of this site, via an amendment to building heights in Sydney LEP 2012, will in turn help to secure key community infrastructure.

If developed, the site will deliver a significant number of new dwellings and non-residential floor space alongside new public open spaces for the enjoyment of the neighbourhood, sections of a public transport corridor which will ultimately connect the Green Square with the City, and a section of stormwater infrastructure which assists in regional flood management.

A planning proposal is the best way of dealing with the need to redistribute heights and building envelopes within the site, as it provides the most certainty for development outcomes at Stage 1 and Stage 2 development application stage. The additional benefits described in Q1 above can also be delivered should a planning proposal to vary the height limits on the site be progressed.

A planning proposal also allows for the opportunity to secure strategic benefits alongside the increased height that will be permitted on the site – including stretch ESD and non-residential land use targets.

5.4 Relationship to the strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including any exhibited draft plans or strategies)?

Yes. This planning proposal is consistent with the relevant objectives and actions of the applicable regional or sub-regional strategy as summarised below.

Greater Sydney Region Plan

A Metropolis of Three Cities, Plan for Growing Sydney is the strategic plan for Greater Sydney region. It is a 20-year plan with a 40-year vision, seeking to transform Greater Sydney into a metropolis of three distinct but connected cities: the Eastern Harbour City, the Central River City and the Western Parkland City. The directions and objectives of the strategic regional plan relate to:

- Liveability;
- Productivity;
- Sustainability; and
- Infrastructure and collaboration.

This planning proposal is consistent with the directions and objectives of the regional plan to encourage land use planning and infrastructure integration to deliver a 30-minute city, including creating diverse jobs, and developing infrastructure and services that align with forecast population growth.

Direction 1: A city supported by infrastructure

Objective 2: Infrastructure aligns with forecast growth

Objective 3: Infrastructure adapts to meet future needs

Objective 4: Infrastructure use is optimised

This planning proposal aligns with existing and planned infrastructure. The site is within the Green Square urban renewal area where infrastructure investment is planned to support the significant growth.

The site is located close to local bus routes along Epsom Road and is within a 10-minute walking distance of Green Square train station. The site also has good access to the existing cycling and pedestrian network that connects to the locality and the broader region.

This planning proposal amends the maximum building height control for the site and does not change the density currently permitted on the site. The proposal therefore does not require any additional infrastructure to support the changes to the planning controls.

Providing more surety around achieving the development capacity of this site, via an amendment to building heights in Sydney LEP 2012, will help to secure planned community infrastructure.

Additional local public domain will also be delivered in conjunction with the amended controls in the form of a plaza, a pocket park and a through-site link.

Direction 3: A city for people

Objective 6: Services and infrastructure meet communities' changing needs

The site is located within a large urban renewal area with an emerging residential and worker population. The future development will meet the communities' changing needs providing greater access within a walking catchment to supermarket facilities and other retail and commercial services, a diverse and sustainable housing mix, new public open spaces and pedestrian / cycle connections and active street frontages which will enliven the locality.

Objective 7: Communities are healthy, resilient and socially connected

The site is located within 1km walking distance from Green Square railway station and close to bus routes along Epsom Road which provide access to the surrounding locality and the broader region. The site also has access to the community facilities within the locality, including the Green Square Town Centre Library.

This planning proposal will support the delivery of additional accessible open spaces and through-site links that will create spaces for social gathering and interaction and provide better opportunities for walking and cycling, enhancing connectivity for the area.

Being supported by public transport and connected to a walking and cycling network, and accessible to local facilities, the proposed development will support a healthy and socially connected community.

Direction 4: Housing the city

Objective 10: Greater housing supply

Objective 11: Housing is more diverse and affordable

This planning proposal facilitates the delivery of local housing in line with the strategic planning objectives for the urban renewal area, including the supply of diverse housing. The supporting reference scheme envisages 814 new dwellings within a strategic location within the urban renewal area, close to public transport, local services and community facilities.

The scheme proposes a housing mix which that includes 30 townhouses and 784 apartments, within a variety of low to high density-built forms which are afforded by reallocating the floor area and the increased building heights, with the development density on the site remaining unchanged.

The scheme supports a broad range of housing choices for a variety of needs and incomes which will improve housing affordability and choice in a highly accessible and strategic location. The mix of town homes and apartment dwellings will support the diverse housing needs of the community and allows for aging in place.

Direction 5: A city of great places

Objective 12: Great places that bring people together

The reference scheme demonstrates that the proposed amendments to the building height will enhance the public domain, providing open spaces and through site connections. The scheme supports a mix of employment and residential uses that align with planning framework for the urban renewal area.

The proposal will attract people to the site and promote connectivity and a sense of place. The mix of uses on site, in addition to public domain improvements, will encourage interaction and provide for employment and services in proximity to residential accommodation.

The proposal will improve the pedestrian environment and urban fabric of the locality through a responsive built form.

Objective 13 - Environmental heritage is identified, conserved and enhanced

The site is not a heritage item or within a heritage conservation area.

The site is located in proximity to LEP Local Heritage Item 1379 at Nos. 1-3 Rosebery Avenue (known as the 'Former "Moffat Virtue" warehouse and office building including interiors').

The proposed increases in building height are some distance from the heritage item and will have no direct relationship with or impact on it.

Direction 6: A well-connected city

Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities

The proposed mixed use development will include residential and employment uses that are supported by public and active transport. The proposed public domain improvements, including delivery Mulgu Park, other public open spaces and through-site links will improve the area's amenity and create opportunities for walking and cycling for residents, workers and visitors.

Provision of smaller format retail on the site, including a local supermarket, will meet the day-to-day needs of residents within a walking catchment. This dense residential neighbourhood currently falls outside the walking catchment of any supermarket and it is essential to provide one before all sites are redeveloped for residential. The planning proposal supports appropriate non-residential development on the site and guides its location.

Providing a variety of retail on the site, including a small supermarket, plays a role in meeting the demand of future residents and workers in a more distributed way that encourages walking trips.

Direction 8 – A city in its landscape

Objective 30: Urban tree canopy cover is increased

The proposed development will provide improvements to the urban canopy and public realm with a significant number of trees to be planted in and around the site within the new public domain. The choice of landscaping and its placement around and within each development block and within the public domain will enhance ground level amenity and provide a leafy outlook for workers and residents on the site.

Objective 31: Public open space is accessible, protected and enhanced

Objective 32: The Green Grid links parks, open spaces, bushland and walking and cycling paths

The proposal facilitates the delivery of Mulgu Park, a 2,500 square metre local park, in addition to a number of smaller pocket parks and through-site links. This will enhance the provision of open spaces and walking and cycling network in the Green Square urban renewal area.

Direction 9: An efficient city

Objective 33: A low-carbon city contributes to net-zero emissions by 2050 and mitigates climate change

Objective 34: Energy and water flows are captured, used and re-used

Objective 35: More waste is re-used and recycled to support the development of a circular economy

This planning proposal will secure stretch ESD targets alongside the amended building heights, supporting a development that exceeds current BASIX requirements by 5 points for both energy and water **where the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies**. The accompanying draft DCP will secure capabilities for dual water reticulation and Electric Vehicle charging.

Direction 10 – A resilient city

Objective 37: Exposure to natural and urban hazards is reduced

The site is flood prone land. The proposed floor levels in the indicative reference scheme, which have informed the building heights in this planning proposal, have been designed to respond to the site's flood affectation and have been informed by flood assessment which is consistent with the City's floodplain management policy. The site constraints will be further addressed at the detailed DA stage, to demonstrate the development will be resilient to the natural hazard.

Eastern City District Plan

The Eastern City District Plan (District Plan) is a statutory consideration under the provisions of Environmental Planning and Assessment Act 1979, which requires this planning proposal to give effect to the directions and priorities set out in the district plan.

The District Plan sets out directions and priorities for the district, of which the City of Sydney is a part. This planning proposal is consistent with the following planning priorities of the District Plan.

Direction 1: A city supported by infrastructure

Priority E1: Planning for a city supported by infrastructure

This planning proposal is supported by existing and planned infrastructure. The site is located in Australia's largest urban renewal area, Green Square, where growth is being supported by substantial investment in local infrastructure.

Redevelopment of the site will deliver key infrastructure including a section of 23m-wide public transport corridor, 2,500sqm Mulgu Park, a 1.4m setback for footpath widening, and an easement for trunk stormwater drainage infrastructure.

The future development will be supported by pedestrian and cycling infrastructure that will connect the site to the locality and the broader urban renewal area.

The site is in close proximity to local bus routes and is within walking distance to Green Square train station.

Direction 3 – A city for people

Priority E4: Fostering healthy, creative culturally rich and socially connected communities

The proposed built form will deliver a safe and inclusive environment that supports activity in the public domain and within the site. The proposal will create high quality publicly accessible open space areas for new residents, visitors, neighbouring sites and the general public. The mix of uses on the site will cater for a wide variety of people and day to day activities.

The site will be connected to open spaces, various services and community facilities in and around the Green Square urban renewal area, including neighbouring Gunyama Park and Aquatic Centre which has recently been completed. In addition, the site is within 1km walking distance of Green Square railway station and in close proximity to bus services.

Direction 4 – Housing the city

Priority E5: Providing housing supply, choice and affordability with access to jobs, services and public transport

The reference scheme shows low, medium, and high density built forms that include town homes, residential apartments, and non-residential floor area. The variety of proposed housing types and employment uses are supported by the site's strategic location which is in proximity to numerous services, public transport, open spaces and community facilities. Introducing a reduced building height in some areas of the site will secure townhouse style family homes and broaden the range of housing choices in the area.

Direction 5 – A city of great places

Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage

The proposal will facilitate the redevelopment of a key site in the Epsom Park neighbourhood of Green Square, Australia's largest urban renewal area. This planning proposal will facilitate a development that is responsive to the streetscape and surrounding area, and that also creates a public domain to improve connectivity and amenity.

The planning proposal will facilitate visually appropriate heights that also help deliver greater solar access to a planned local park and introduce different building typologies that promote greater housing diversity.

Planned land uses will activate the area and address local service needs in key locations which add interest at street level.

An augmented public domain provides additional public spaces and connections.

Direction 6 – A well connected city

Priority E10: Delivering integrated land use and transport planning and a 30-minute city

The proposed mixed use development will include residential and employment uses that are supported by public and active transport. The proposed public domain improvements, including delivery of Mulgu Park, other public open spaces and through-site links will improve the area's amenity and create opportunities for walking and cycling for residents, workers and visitors.

Direction 8 – A city in its landscape

Priority E17: Increasing urban tree canopy cover and delivering Green Grid connections

The proposal will enhance the public domain and add to the greening of the local area. The proposed development provides significant planting and landscaping opportunities throughout the public domain and around development blocks to expand the urban tree canopy and connect to the existing street tree network. It will also facilitate the delivery of Mulgu Park, and other publicly accessible spaces, which will further improve the green amenity for the area.

Direction 9 – An efficient city

Priority E19: Reducing carbon emissions and managing energy, water and waste efficiently

This planning proposal secures sustainability improvements alongside the increased building heights, including a BASIX stretch target and the requirement for dual water reticulation and EV charging capabilities.

Direction 10 – A resilient city

Priority E20: Adapting to the impacts of urban and natural hazards and climate change

As noted, the site is flood prone land. The concept development proposal, including the proposed floor levels have been designed to respond to the site's flood affection and have been informed by flood assessment which is consistent with the City's floodplain management policy. The site constraints will be further addressed at the detailed DA stage, to demonstrate the development will be resilient to the natural hazard.

Q4. Is the planning proposal consistent with council's local strategy or other local strategic plans?

Yes. This planning proposal is consistent with relevant local strategies and plans as summarised below.

Sustainable Sydney 2030-2050

Sustainable Sydney 2030-50 is the vision for sustainable development of the City of Sydney to 2030 and beyond. The strategic plan builds on three key themes of Green, Global and Connected and includes 6 guiding principles for a sustainable city, 10 specific targets to measure progress, and 10 strategic directions to guide its future development.

This planning proposal supports the following Sustainable Sydney strategic directions:

D2. A leading environmental performer

This planning proposal includes provisions for the future development to reduce greenhouse gas emissions through improved energy efficiency and low carbon energy in line with the City's 2026 targets for net zero emissions.

It will secure a high environmental performance standard for water and energy use through the inclusion of BASIX stretch targets, provisions for electric vehicle charging, and dual water reticulation.

D3. Public places for all

The proposed built form will create a high quality public domain for all users and improve the amenity of the surrounding area, including for walking and cycling, by providing publicly accessible open spaces, through site links, footpath widening, and active frontages.

D4. Design excellence and sustainable development

The built form will demonstrate design excellence by creating a high quality, comfortable, safe and inclusive built environment. The design will integrate public domain elements and landscape features adding to the attractiveness and amenity of the built form, and high environmental performance standards for water, energy and waste.

Proposed building envelopes embed a certain degree of flexibility **in the siting of tower building envelopes as part of the ~~to allow for meaningful~~** competitive design processes.

D5. A city for walking, cycling and public transport

The proposal will encourage walking and cycling by improving the public domain, including creating additional through site links, footpath widening, and active frontages. The development will be supported by accessible public transport, including Green Square train station and frequent bus services.

D10. Housing for all

This planning proposal supports delivery of housing in the urban renewal area and contributes to the City's housing targets.

A mix of dwelling sizes within low, medium and high density-built form will provide housing choice for a range of needs and incomes in an accessible and strategic location. The mix of housing types will support the diverse housing needs of the community and allows for aging in place.

City Plan 2036: Local Strategic Planning Statement

The City of Sydney Local Strategic Planning Statement (LSPS) sets out the City's 20-year vision for strategic land use and the planning priorities to guide development towards a green, global and connected city. The Sydney LSPS provides directions for infrastructure, liveability, productivity and sustainability to manage the change and growth.

This planning proposal gives effect to the Sydney LSPS as follows:

Infrastructure

I1 – Movement for walkable neighbourhoods and a connected city

I2 – Align development and growth with supporting infrastructure

I3 – Supporting community wellbeing and infrastructure

This planning proposal will improve the public domain amenity and walkability of the local area by connecting the site to its surroundings. Increasing the maximum building height allows for a redistribution of the developable floor area in a built form that creates additional through-site links as well as publicly accessible open spaces.

The resulting built form and the public domain will enhance the amenity of residents, workers and visitors, improve connectivity for the surrounding area and prioritise pedestrian movements to and through the site which will encourage a healthier and more active lifestyle.

The proposal also facilitates a variety of low, medium, and high density residential living options. The mix of town homes and apartment dwellings will support the diverse housing needs of the community and allows for aging in place.

Providing appropriate retail, including a local supermarket which will serve the neighbourhood will meet the day-to-day needs of residents in a walking catchment.

Liveability

L1 – A creative and socially connected city

L2 – Creating great places

This planning proposal amends building height to redistribute floor area on the site. The resulting built form will create a quality public domain outcome by improving solar access and creating visual interest and streetscape character that supports walkability and social connectedness.

The proposal will improve the liveability and amenity of the site and the surrounding area by providing active street frontages, publicly accessible open spaces and through-site links, and with the provision of deep soil and soft landscaping.

L3 – New homes for a diverse community

The proposal also supports delivery of housing in the urban renewal area and contributes to the City’s housing targets.

The reference scheme includes a mix of dwelling sizes within low, medium and high density-built form, made up of 30 townhouses and 784 apartments. The indicative scheme supports a broad range of housing choices for a variety of needs and incomes which will improve housing affordability and choice in a highly accessible and strategic location. To secure this varied built form, reductions in building heights, which support a townhouse typology, are proposed in some parts of the site.

Productivity

S2 – Protecting industrial and urban services in the Southern Enterprise Area and evolving businesses in the Green Square-Mascot Strategic Centre

The proposal will address the need for local retail provision, including a small scale supermarket, within a walking catchment of the local neighbourhood, which is otherwise under-provisioned. The non-residential floor space will also provide for additional employment in close proximity to transport infrastructure, supporting but not competing with the Green Square Town Centre's role as the strategic centre in the City's South.

Sustainability

S2 – Creating better buildings and places to reduce emissions and waste and use water efficiency

The future development includes stretch ESD targets to reduce carbon emissions in line with the City’s 2026 targets, generating efficiencies for energy and water and incorporating provisions for electric vehicle charging.

S3 – Increasing resilience of people and infrastructure against natural and urban hazards

The site is flood prone land. The concept development proposal, including the proposed floor levels have been designed to respond to the site’s flood affection and have been informed by flood assessment which is consistent with the City’s floodplain management policy. The site constraints will be further addressed at the detailed DA stage, to demonstrate the development will be resilient to the natural hazard.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

This planning proposal is consistent with all applicable State Environmental Planning Policies (SEPPs), as summarised in Table 2.

State Environmental Planning Policy	Comment
SEPP (Biodiversity and Conservation) 2021	Consistent. This planning proposal will not contradict or hinder application of this SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	Consistent. This planning proposal will not contradict or hinder application of this SEPP.
SEPP (Exempt and Complying Development Codes) 2008	Consistent. This planning proposal will not contradict or hinder application of this SEPP.

State Environmental Planning Policy	Comment
SEPP (Housing) 2021	Consistent. This planning proposal will not contradict or hinder application of this SEPP.
SEPP (Industry and Employment) 2021	Consistent. This planning proposal will not contradict or hinder application of this SEPP.
SEPP No 65—Design Quality of Residential Apartment Development	Consistent. This planning proposal will not contradict or hinder application of this SEPP.
SEPP (Planning Systems) 2021	Consistent. This planning proposal will not contradict or hinder application of this SEPP.
SEPP (Precincts—Central River City) 2021	Not applicable
SEPP (Precincts—Eastern Harbour City) 2021	Not applicable
SEPP (Precincts—Western Parkland City) 2021	Not applicable
SEPP (Primary Production) 2021	Not applicable
SEPP (Resilience and Hazards) 2021	Consistent. This planning proposal will not contradict or hinder application of this SEPP.
SEPP (Resources and Energy) 2021	Not applicable.
SEPP (Sustainable Buildings) 2022	Consistent. This planning proposal will not contradict or hinder application of this SEPP.
SEPP (Transport and Infrastructure) 2021	Consistent. This planning proposal will not contradict or hinder application of this SEPP.

Table 2 Consistency with SEPPs

Q6. Is the planning proposal consistent with applicable Section 9.1 Ministerial Directions?

This planning proposal is consistent with all Ministerial Directions issued under section 9.1 of the Environmental Planning and Assessment Act 1979, as summarised in Table 3.

Ministerial Direction	Comment
Focus area 1. Planning Systems	
1.1 Implementation of Regional Plans	Consistent. This planning proposal supports the Region Plan, as discussed in detail under Question 3 (above).
1.2 Development of Aboriginal Land Council land	Not applicable
1.3 Approval and Referral Requirements	Consistent. This planning proposal does not include concurrence, consultation or referral provisions or identify any developments as designated development.
1.4 Site Specific Provisions	Inconsistent.

Ministerial Direction	Comment
	<p>This planning proposal includes site specific planning controls which allow for an alternative built form arrangement on the subject site, subject to appropriate stretch targets.</p> <p>In this instance, the inconsistency is of minor significance. It is also not considered to be unnecessarily restrictive in that the landowner may choose to develop under existing controls.</p>
Focus area 1: Planning Systems – Place-based	
1.5 Parramatta Road Corridor Urban Transformation Strategy	Not applicable
1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable
1.10 Implementation of the Western Sydney Aerotropolis Plan	Not applicable
1.11 Implementation of Bayside West Precincts 2036 Plan	Not applicable
1.12 Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable
1.14 Implementation of Greater Macarthur 2040	Not applicable
1.15 Implementation of the Pymont Peninsula Place Strategy	Not applicable
1.16 North West Rail Link Corridor Strategy	Not applicable
1.17 Implementation of the Bays West Place Strategy	Not applicable
Focus area 2: Design and Place	

Ministerial Direction	Comment
This Focus Area was blank when the Directions were made.	Not applicable
Focus area 3: Biodiversity and Conservation	
3.1 Conservation Zones	Not applicable
3.2 Heritage Conservation	Not applicable
3.3 Sydney Drinking Water Catchments	Not applicable
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable
3.5 Recreation Vehicle Areas	Not applicable
3.6 Strategic Conservation Planning	Not applicable
Focus area 4: Resilience and Hazards	
4.1 Flooding	<p>Consistent.</p> <p>The planning proposal request is supported by a flood assessment which determined the minimum floor levels in the indicative reference scheme based upon the City's floodplain management policy.</p> <p>This planning proposal makes no amendments to the flood planning clause in the LEP. Future development applications will continue to be required to address flooding risks.</p>
4.2 Coastal Management	Not applicable
4.3 Planning for Bushfire Protection	Not applicable
4.4 Remediation of Contaminated Land	<p>Consistent.</p> <p>This planning proposal amends the maximum building height control for the site. The analysis for the proposed changes to the building height control are at a concept level only and does not include detailed development plans.</p> <p>The site is already zoned B4 Mixed Use which allows for a range of residential and non residential land uses. No changes are proposed to the land use permissibility for the site.</p> <p>The assessment of potential contamination on the site, including the remediation and management of any contamination, will be addressed at a Stage 1 concept and Stage 2 detailed DA stage.</p>
4.5 Acid Sulfate Soils	Consistent.

Ministerial Direction	Comment
	<p>This planning proposal amends the maximum building height control for the site and does not propose an intensification of land uses as no increase in gross floor area is proposed.</p> <p>The analysis for the proposed changes to the building height control are at a concept level and does not include detailed development plans.</p> <p>The assessment of potential acid sulfates on the site, including the management of any acid sulfates, will be addressed at the detailed DA stage.</p>
4.6 Mine Subsidence and Unstable Land	Not applicable
Focus area 5: Transport and Infrastructure	
5.1 Integrating Land Use and Transport	<p>Consistent.</p> <p>The proposal enables a mixed use development in a location that is served by public transport, cycling and pedestrian infrastructure.</p> <p>The proposal does not increase the density currently permitted on the site and does not require additional infrastructure to support the proposed development.</p> <p>The planning proposal request is supported by a transport assessment. It demonstrates that the indicative reference scheme will not have an adverse impact on the road network.</p> <p>It should be noted that the indicative reference scheme provides parking at maximum levels currently permitted under Sydney LEP 2012. Given the highly accessible location of the site, it would be expected that a Stage 1 and Stage 2 DA would look for opportunities to significantly reduce the amount of parking provided on the site from those maximum provisions.</p>
5.2 Reserving Land for Public Purposes	<p>Consistent.</p> <p>This planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.</p>
5.3 Development Near Regulated Airports and Defence Airfields	<p>An obstacle height limitation surface of 51m AHD applies to the site, in addition to a Pans-OPS of 126.4m AHD. The proposal will result in built form which penetrates the OLS and must therefore be referred to the relevant authority for any development application.</p> <p>Supporting documentation submitted with the planning proposal request includes an OLS Certification Plan prepared by JBW Surveyors which deems the proposed concept envelopes and increased building height as acceptable.</p> <p>It is noted that there are small increases in building height proposed in this planning proposal in addition to the</p>

Ministerial Direction	Comment
	planning proposal request. It is proposed to consult with the relevant authority as part of the consultation on this proposal.
5.4 Shooting Ranges	Not applicable
Focus area 6: Housing	
6.1 Residential Zones	Not applicable
6.2 Caravan Parks and Manufactured Home Estates	Not applicable
Focus area 7: Industry and Employment	
7.1 Business and Industrial Zones	<p>Consistent.</p> <p>The site is zoned B4 Mixed Use (MU1 Mixed Use zone). This planning proposal does not restrict employment uses on the site.</p> <p>The increase to building height control enables a more feasible mixed use development that will include employment floor space, a minimum proportion of which is proposed to be secure alongside the alternative building heights.</p>
7.2 Reduction in non-hosted short-term rental accommodation period	Not applicable
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable
Focus area 8: Resources and Energy	
8.1 Mining, Petroleum Production and Extractive Industries	Not applicable
Focus area 9: Primary Production	
9.1 Rural Zones	Not applicable
9.2 Rural Lands	Not applicable
9.3 Oyster Aquaculture	Not applicable
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable

Table 3 Consistency with Section 9.1 Ministerial Directions

5.5 Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The site is part of an urban environment and does not contain habitat for threatened species, populations or ecological communities. The brownfield site has been cleared of vegetation and currently supports a car dealership operation.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

A detailed discussion of the environmental effects of this planning proposal is provided in Section 5 of this planning proposal.

Relevant management and mitigation measures are identified where appropriate in the draft DCP, and the proposed redevelopment of the site will be subject to further assessment at the detailed DA stage.

Q9. Has the planning proposal adequately addressed any social and economic effects?

A detailed discussion of the social and economic effects of this planning proposal is provided in Section 5 of this planning proposal.

The density and zoning of the site will not change as part of this planning proposal. The proposed increased building height to redistribute the floor area on the site makes redevelopment of site more feasible, which will facilitate the delivery of new housing and employment floor space in the urban renewal area alongside key community infrastructure. The built form outcome will have positive social and economic benefits for the site and the surrounding area.

5.6 State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

The site is within the Green Square urban renewal area - which is well serviced by infrastructure, utilities, public transport and a variety of social support services and recreational facilities.

This planning proposal does not increase the development density of the site and therefore does not increase the demand for additional State or Commonwealth infrastructure. Demand for local infrastructure as result of the redevelopment of the site will be satisfied through development contributions under the City of Sydney Development Contributions Plan 2015.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

To be determined in further consultation with public authorities following Gateway determination.

It is noted this planning proposal increases the maximum building height control which exceeds the mapped Obstacle Limitation Surface and consultation will be undertaken with the relevant public authority accordingly.

6. Mapping

This planning proposal is to introduce a new map sheet 018 to the 'Alternative Height of Building Map' – extract as shown below in Figure 32 and full map sheet following.



Figure 32 Proposed Alternative Height of Building Map (extract)

Alternative Height of Buildings Map - Sheet AHOB_018

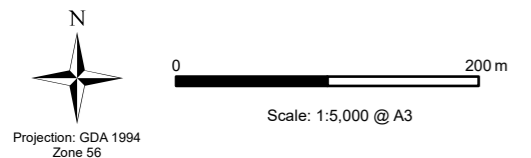
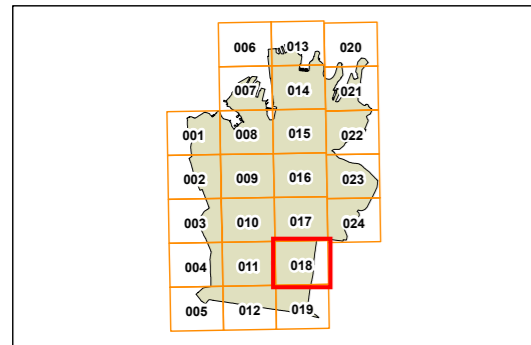
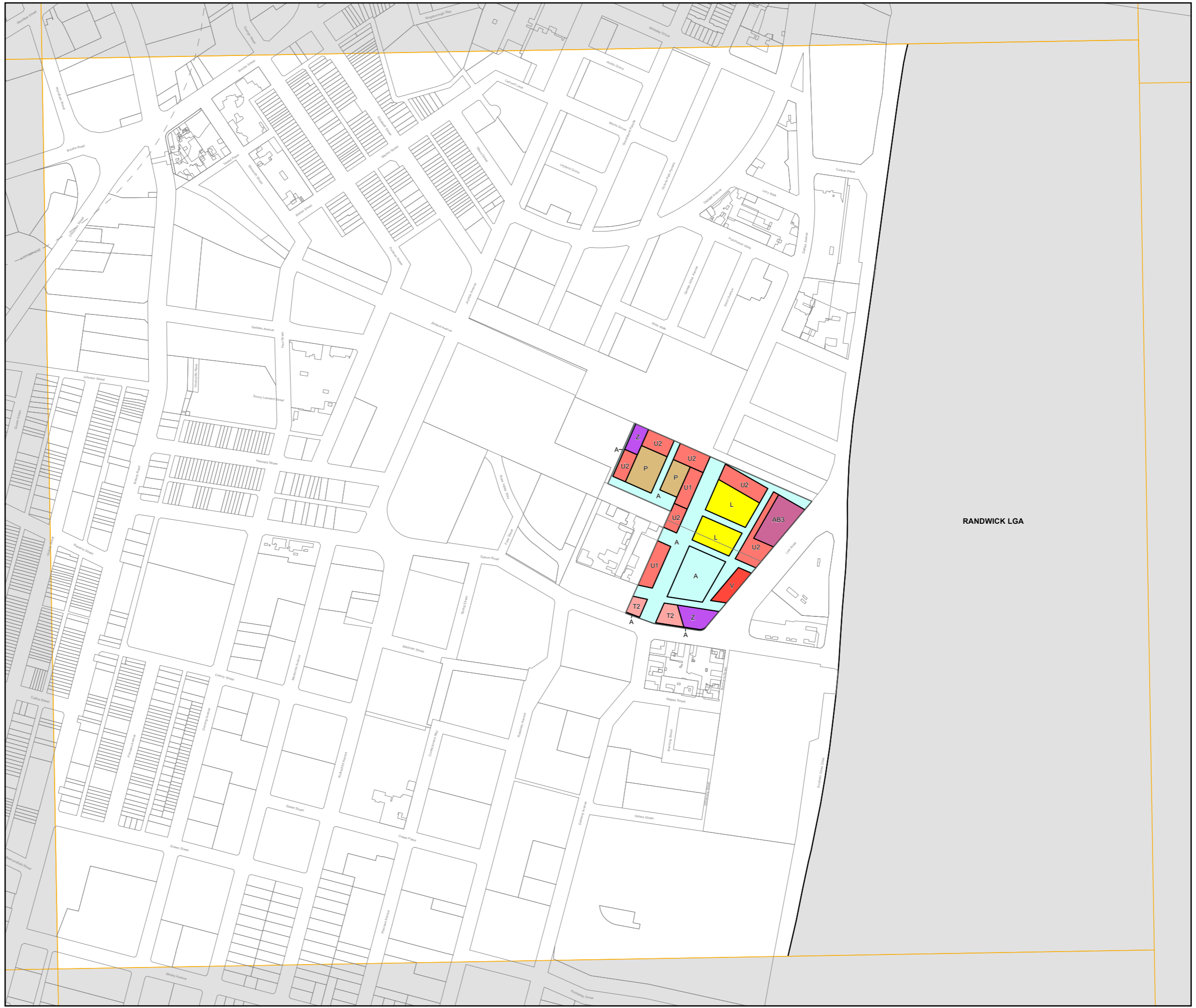
Maximum Building Height (m)

- A 3
- L 11
- P 18
- T2 27
- U1 30
- U2 33
- V 35
- Z 55
- AB3 90

Note: Refer to site specific clause XX

Cadastre

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This planning proposal is to amend the Active Street Frontages Map Sheet 018—extract as shown in Figure 33 and full map sheet following.



Figure 33 Proposed Active Street Frontages Map (Extract)

7. Community consultation

Public consultation will be undertaken in accordance with the requirements of the Gateway determination.

It is proposed that, at a minimum, this will involve the notification of the public exhibition of this planning proposal on the City of Sydney website and in writing to the owners and occupiers of adjoining and nearby properties and relevant community groups.

It is expected this planning proposal will be publicly exhibited for at least 28 days.

It is proposed that exhibition material will be made available on the City of Sydney website.

Consultation with relevant NSW agencies and authorities and other relevant organisations will be undertaken in accordance with the Gateway determination.

8. Project timeline

The anticipated timeline for completion of this planning proposal is shown at Table 4,

Stage	Timeframe
Referral to DPE for Gateway determination	December 2022
Gateway determination	February 2023
Public exhibition and government agency consultation	March 2023
Consideration of submissions	April – May 2023
Post exhibition consideration of proposal by Council / CSPC	July June 2023
Drafting of LEP provisions	July - August 2023
Finalisation of LEP and DCP	September 2023

Table 4 Project timeline



Attachment C

**Draft Sydney Development Control Plan
2012 – 118-130 Epsom Road and 905 South
Dowling Street, Zetland
(as amended following public exhibition,
with additions shown in **red** and deletions
shown in ~~strikethrough~~)**

Draft Sydney Development Control Plan 2012 – 118-130 Epsom Road and 905 South Dowling Street, Zetland



The purpose of the Development Control Plan

The purpose of this Development Control Plan (DCP) is to amend the Sydney Development Control Plan 2012, which was adopted by Council on 14 May 2012 and came into effect on 14 December 2012.

The provisions guide future development of all land to which this development control plan applies.

Citation

This amendment may be referred to as Draft Sydney Development Control Plan 2012 – 118-130 Epsom Road and 905 South Dowling Street, Zetland.

Land covered by this plan

This plan applies to 118-130 Epsom Road and 905 South Dowling Street, Zetland.

Relationship of this plan to Sydney Development Control Plan 2012

This plan amends Sydney Development Control Plan 2012 in the manner set out below.

Amendment to Sydney Development Control Plan 2012

- (1) Amend Section 5.3 Green Square - Epsom Park in accordance with Appendix 1.

APPENDIX 1

Insert the following into 'Section 5.3.3 Local infrastructure and public domain' at the end of the list of existing objectives:

- (f) Secure good levels of solar amenity in the public domain.
- (g) Minimise wide driveways across the Link Road landscaped deep soil zone.

Insert the following into 'Section 5.4.3 Building form and design' at the end of the list of existing objectives:

- (g) Ensure the height and siting of built form, in particular the tower forms, results in good solar access to apartments and the public domain.
- (h) Ensure towers are well articulated and limited in floor plate to provide a human scale and amenity at the ground plane.
- (i) Provide active frontages along nominated streets and public places to encourage a vibrant urban environment that supports a mix of land uses, community activity and natural surveillance.
- (j) Minimise noise intrusion from Link Road through the siting and design of buildings along this road frontage.
- (k) Ensure new development appropriately addresses noise and ventilation.
- (l) Ensure the suitability of land for redevelopment through the identification of contamination risk and appropriate remediation measures.
- (m) Ensure the efficient use of resources in building design, construction and operation and maximise resilience of development against the effects of climate change.

Insert the following at the end of Section 5.3 Green Square - Epsom Park:

5.3.6 118-130 Epsom Road and 905 South Dowling Street, Zetland

This section applies to land at 118-130 Epsom Road and 905 South Dowling Street, Zetland.

It applies only where development on the land seeks to utilise alternative building heights under Clause X.X of Sydney LEP 2012.

It should be read in conjunction with:

- the requirements of Section 5.3 Epsom Park of this DCP; and
- the requirements of Section 5.2 Green Square of this DCP.

Where there is an inconsistency between requirements, Section 5.3.6 applies to the extent of the inconsistency. If no detailed provisions are included in this Section, requirements in Section 5.3 apply.

~~[Public exhibition n~~Note: relevant Sydney LEP 2012 Clause will be inserted once the LEP amendment process is finalised.]

5.3.6.1 Relationship with the LEP

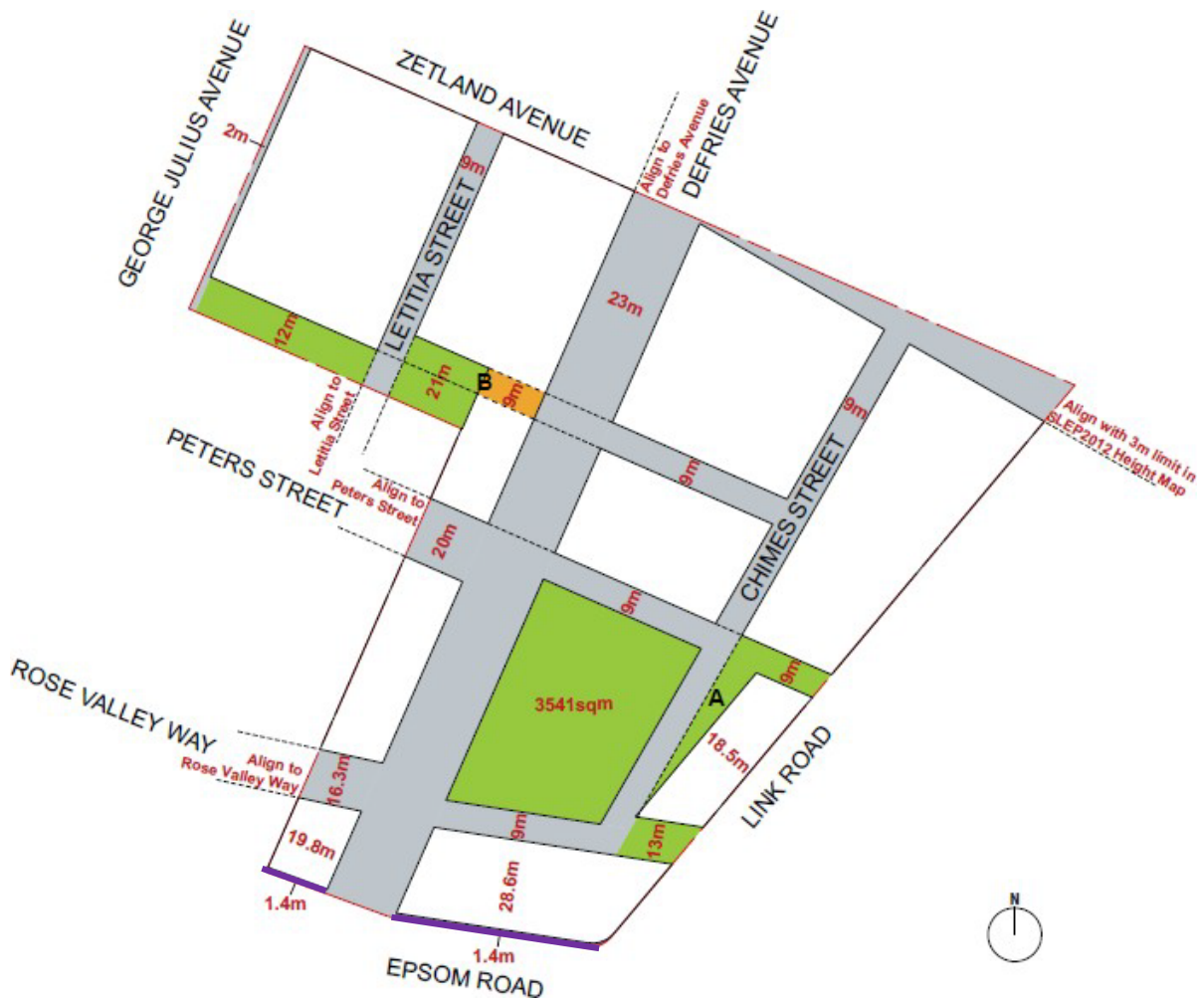
- (1) A concept development application is required where development utilises alternative building heights available under Clause X.X of Sydney LEP 2012.
- (2) In addition to the requirements for concept development applications detailed in Sydney LEP 2012, ~~the proponent is to resolve:~~ and 3.3.8 of the Sydney DCP 2012, the concept development application is to address:
 - (a) the distribution of non-residential uses across the site, in accordance with Clause X.X of Sydney LEP 2012, having regard to the Green Square and Southern Areas Retail Review and the need for activation in the Epsom Park neighbourhood;
 - (b) a site planning strategy which:
 - i. accommodates car parking in basements that do not extend beneath the public domain ~~except to allow for linkages between basements and to permit visitor parking in basement linkages. Parking in basement linkages must remain within common property;~~
 - ii. ~~and explores opportunities to reduce parking and increase the use of sustainable transport and utilises a car parking rate lower than the maximum rates set out in Sydney LEP 2012;~~
 - (c) ~~flood impact and risk, with an assessment prepared in accordance with the Department's Flood Risk Management Guide LU01: Flood Impact and Risk Assessment and relevant City of Sydney requirements and documents. The assessment is to resolve any flooding or contamination issues on the site, identifying any necessary flood and stormwater management works and remediation works and / or required contamination works to ensure flood and contamination risks are appropriately managed for new development, adjacent sites and adjoining localities;~~
 - (d) ~~any contamination issues on the site, identifying any necessary remediation works and / or required contamination works to ensure contamination risks are appropriately managed for new development, adjacent sites and adjoining localities;~~
 - (e) the level of noise pollution affecting any residential development within the site, via an appropriate noise study, and strategies to minimise the impacts of external noise and pollution in accordance with Section 5.3.6.5 of this DCP;
 - (f) a staging plan and delivery sequence for development and the provision of public space, local infrastructure, flood and stormwater management works and remediation works;
 - (g) a Design Excellence Strategy in accordance with the City's Competitive Design Policy; ~~and~~
 - (h) a public art strategy in accordance with the City's Public Art Policy, City Art Strategy and Interim Guidelines for Public Art in Private Developments as they apply from time to time; ~~and~~
 - (i) ~~a traffic and transport study, the methodology for which is to the satisfaction of Transport for New South Wales.~~

5.3.6.2 Local infrastructure and public domain

- (1) Where required by Council, public open space and streets are to be provided and dedicated to Council:
 - (a) in the locations identified Figure XX Alternative Public Domain - 118-130 Epsom Road and 905 South Dowling Street, Zetland; and
 - (b) generally in accordance with the standards set out in Sections 5.3.3.1 Public open space and 5.3.3.2 Street network of this DCP.

- (2) All 9 metre wide streets shown in Figure XX Alternative Public Domain - 118-130 Epsom Road and 905 South Dowling Street, Zetland are to be provided as shared zones.
- (3) Ensure a holistic approach to the design and experience of Mulgu Park, the adjoining shared zone and the open space marked A in Figure XX Alternative Public Domain - 118-130 Epsom Road and 905 South Dowling Street, Zetland, inviting public use of the spaces.
- (4) The pedestrian / cycle through site link marked B in Figure XX Alternative Public Domain - 118-130 Epsom Road and 905 South Dowling Street, Zetland is to be provided as an easement on title for public access, with a clear and unobstructed path of travel, 2 storeys high by 9 metres wide.

[Public Exhibition Note: the alignments of Peters Street and Rose Valley Way have been varied slightly by approved developments on adjoining sites – these will be amended in the relevant Figures post-exhibition to ensure proper alignment with adjoining public domain as approved/constructed.]



Key

- Purple – footpath widening dedication
- Grey – street dedications
- Orange – 2 storey through site link easement
- Green – open space dedications
- Red text – minimum perpendicular dimensions and areas
- Dashed black lines – alignments
- White – developable street blocks

Figure XX Alternative Public Domain - 118-130 Epsom Road and 905 South Dowling Street, Zetland

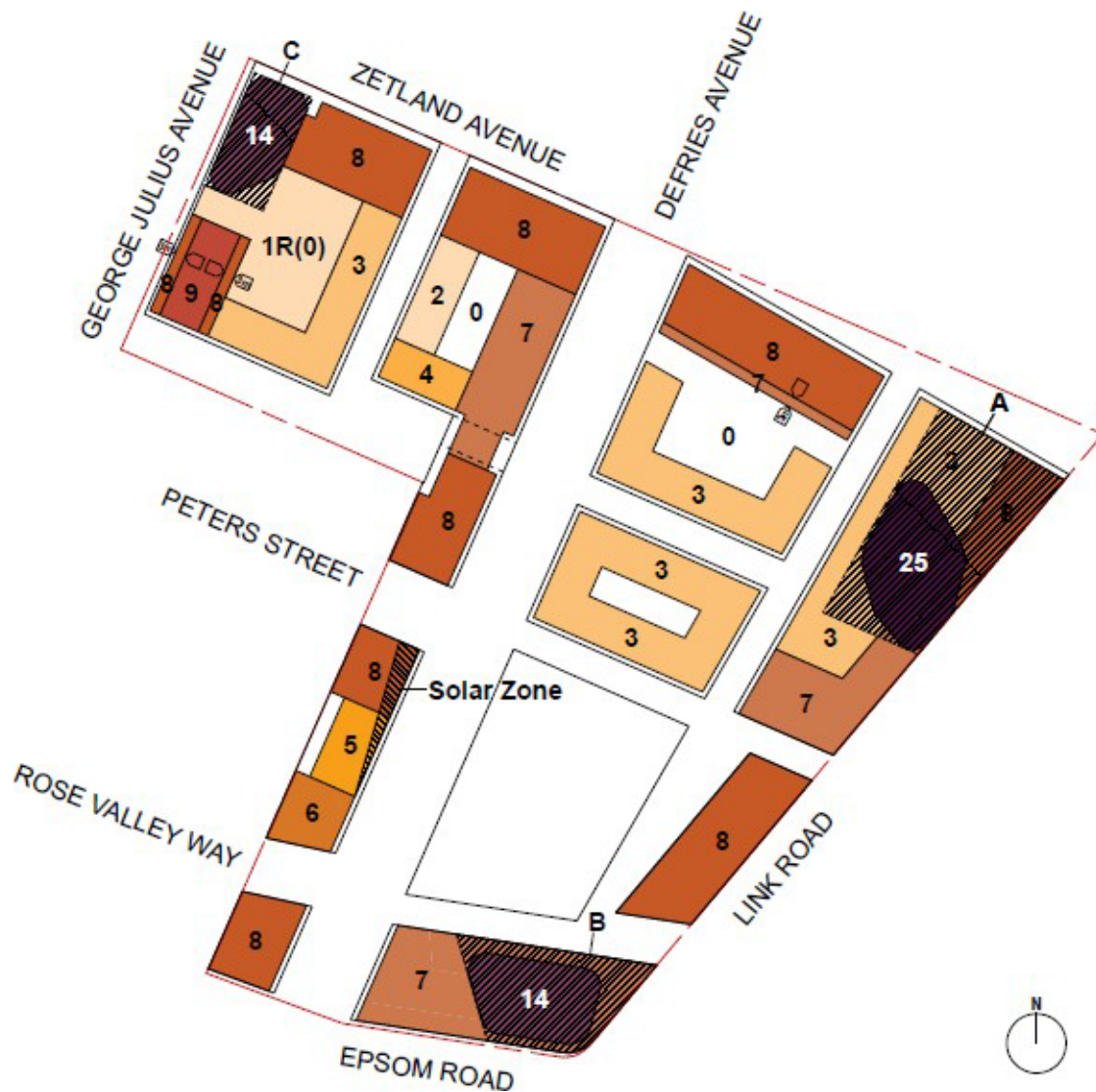
5.3.6.3 Movement and connectivity

- (1) Driveway and vehicle access points are to be consistent with Figure 5.80 Epsom Park Circulation and Access, except that the block bound by Link Road, Zetland Avenue, Chimes Street and Peters Street is to be entered and exited from a single vehicular access

- (2) Above ground car parking is not permitted.

5.3.6.4 Building layout, form and design

- (1) Development is not to exceed the maximum number of storeys or street frontage height as shown in Figure XX Alternative Built Form - 118-130 Epsom Road and 905 South Dowling Street, Zetland.
- (2) For the avoidance of doubt, where development does not utilise building heights available under Clause X.X of Sydney LEP 2012, maximum height in storeys is to be in accordance with Figure 5.83 Epsom Park Building Height in Storeys and street frontages are to be in accordance with Figure 5.84 Epsom Park Street Frontage Height.
- (3) Towers A, B and C may be located anywhere within their respective hatched zones in Figure XX Alternative Built Form - 118-130 Epsom Road and 905 South Dowling Street, Zetland providing that the resulting tower form:
- (a) has a maximum floor plate at any level as follows:
 - i. Tower A – 850sqm;
 - ii. Tower B – 750sqm;
 - iii. Tower C – 550sqm;
 - (b) allows for a consolidated area equal to at least 75% of the area of Mulgu Park to achieve 4 hours of solar access between 9am and 3pm on 21 June, as demonstrated by a solar insolation analysis; and
 - (c) allows neighbouring dwellings to achieve required levels of solar access, as defined in Section 4.2.3.1 of this DCP and the NSW Government's Apartment Design Guide.
- (4) A complete physical break and visual separation is to be achieved above ground floor between Tower C and the 8/9 storey building to its immediate south.
- (5) The street block incorporating Tower C is to be delivered as a perimeter-block development around a courtyard. This may be varied to accommodate retail uses, when one floor of retail may be permitted at ground level across the street block but no above ground car parking.
- (6) The area marked 'Solar Zone' in the street block bound by Peters Street, Defries Avenue and Rose Valley Way in Figure XX Alternative Built Form - 118-130 Epsom Road and 905 South Dowling Street, Zetland may only be occupied by **built form residential development** subject to achieving the required levels of solar access outlined in the NSW Government's Apartment Design Guide Design Criteria.



Key

Number – maximum number of above ground storeys (including attics and mezzanines)

1R(0) – maximum number of storeys that may be used for the purposes of retail uses otherwise no storeys permitted (0)

Hatched tower zones A, B and C – tower may be located anywhere within this zone up to the maximum floor plate in 5.3.6.4(3)

Solar Zone – area that may be occupied only subject to achieving ADG solar access requirements

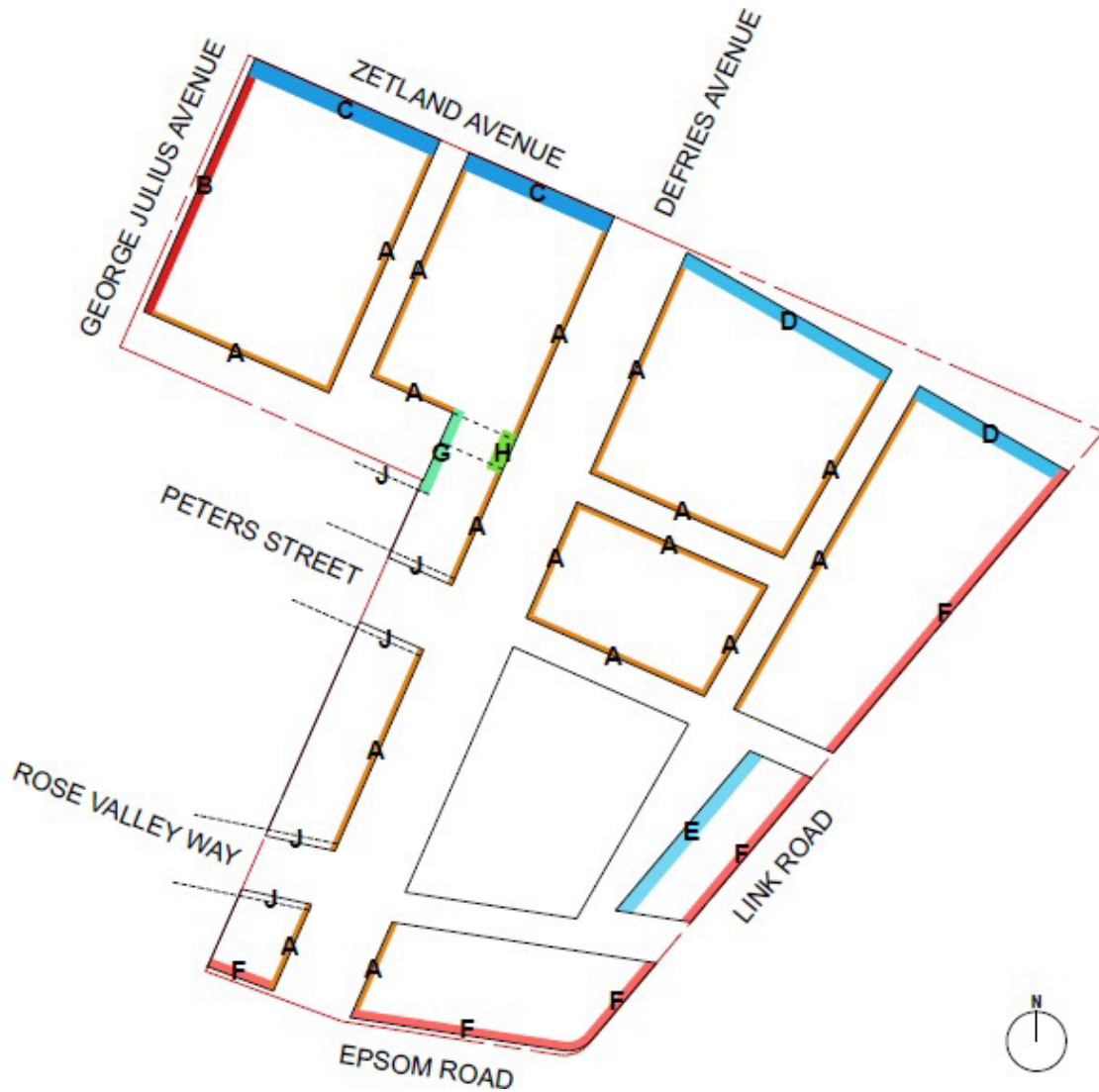
Setback number in an arrow – minimum setback of higher levels

Figure XX Alternative Built Form - 118-130 Epsom Road and 905 South Dowling Street, Zetland

- (7) Primary and upper level setbacks are to be provided in accordance with Figure XX Alternative Building Setbacks - 118-130 Epsom Road and 905 South Dowling Street, Zetland.
- (8) The 3m primary setback to Zetland Avenue marked 'C' in Figure XX Alternative Building Setbacks - 118-130 Epsom Road and 905 South Dowling Street, Zetland may not be required if the adjoining site to the north redevelops ahead of this land. This portion of the

site may then be used to assist with the achievement of design excellence. ~~and/or with reduction in height elsewhere on the site.~~

- (9) General building setback provisions in Section 5.3.4.1 of this DCP still apply.
- (10) The land nominated as having a 3 storey height control in Figure XX Alternative Built Form between Defries Avenue and Chimes Street is to be developed as townhouses each with an entrance directly from the adjacent street.



Key

Setback at ground level / Setback at all levels above ground level

(both measured from boundary of developable street block)

A – 1.5m / 1.5m

B – 2.5m / 1.0m

C – 4.5m / 3.0m

D – 4.0m / 2.0m

E – 4.0m / no requirement

F – 2.5m / no requirement

G – 3.0m / 3.0m

H – 1.5m / 4.5m

J – align with neighbouring building at all levels

Figure XX Alternative Building Setbacks - 118-130 Epsom Road and 905 South Dowling Street, Zetland

5.3.6.5 Land use

- ~~(1) — Ground floor uses are to be in accordance with Figure XX Alternative Land Uses — 118-130 Epsom Road and 905 South Dowling Street, Zetland.~~
- (1) Provide a 1,000sqm local supermarket within the site, preferably in the block bound by Link Road, Zetland Avenue Road, Chimes Street and Peters Street, along the Link Road frontage.
 - (2) Active frontages are to be provided in accordance with Figure 5.74 Epsom Park Active Frontages Figure XX Alternative Land Uses — 118-130 Epsom Road and 905 South Dowling Street, Zetland.



Key

Blue — non-residential uses (foyers permitted)

Blue hatch — non-residential uses (except car parking or vehicular servicing) or communal open space

Orange — any use

Figure XX Alternative Land Uses — 118-130 Epsom Road and 905 South Dowling Street, Zetland

5.3.6.5 Noise and ventilation

- (1) Residential apartment buildings are to respond to both noise criteria in this DCP and natural ventilation criteria in the NSW Apartment Design Guide. Maximum noise levels, in a naturally ventilated state, must not exceed the following levels:
 - (a) LAeq 1 hour 35dB for bedrooms between 10pm and 7am;
 - (b) LAeq 40dB at any time for all other habitable space and;
 - (c) LAeq 1 hour 45dB at any time for all other habitable space in development in all other locations.

- (2) In the first instance, the impacts of external noise and pollution are to be minimised, while achieving natural ventilation, through careful siting and layout of buildings. Where siting and layout of apartments is the chosen method to address these issues, alternative approaches to the following design criteria of the NSW Apartment Design Guide are permitted for noise-affected apartments:
 - (a) solar and daylight access;
 - (b) private open space and balconies;
 - (c) natural cross ventilation.
- (3) Acoustic attenuated natural ventilation devices may be used where siting and layout cannot mitigate noise.

5.3.6.6 Contamination

- (1) A contamination study and remediation strategy demonstrating that contaminants can be reduced to a level appropriate for the proposed land use(s) is to be submitted with any Stage 1 development application.
- (2) The use of long term Environmental Management Plans to secure an appropriate remediation outcome is generally unacceptable to Council. Remediation of the site to a suitable condition for the proposed use is to be achieved without reliance on a long term Environmental Management Plan.

5.3.6.6 Ecologically sustainable development and green infrastructure

- (1) Development is to be designed and constructed to reduce the need for active heating and cooling by incorporating passive design measures including design, location and thermal properties of glazing, natural ventilation, appropriate use of thermal mass and external shading, including vegetation.
- (2) Design, performance and features are to be referenced in City of Sydney Design for Environmental Performance Template submitted with the detailed development application.
- (3) Parking spaces are to be equipped with electric vehicle charging infrastructure as follows:
 - (a) power supply and distribution boards for electric vehicle charging in accordance with Section J9D4 'Facilities for electric vehicle charging equipment' in NCC 2022 Volume One – Building Code of Australia.
 - (b) all car spaces are to be located within 10 metres of a cable tray sized to accommodate cabling for 100% of spaces it serves and terminates at the closest electric vehicle distribution board;
 - (c) 10% of worker car spaces are to be fitted with a Level 2 charger or higher; and
 - (d) 25% of retail customer car spaces are to be fitted a three phase Level 2 electric vehicle charger at 22 kilowatts or higher.
- (4) Electric vehicle chargers required in accordance with (6) (c)-(d) are to be retained in common property ownership, be individually metered, equipped with an Open Charge Point Protocol compatible payment system and supplied by renewable energy through a GreenPower power plan, renewable power purchase agreement or similar for a period of at least 5 years.
- (5) All buildings are to be constructed to provide a dual reticulation water system for water services and be capable of fully connecting to a non-potable recycled water network and configured to supply all toilets, washing machine taps, car wash bays, cooling towers and irrigation usage.

Attachment D

<h2>Planning Agreement</h2>

Planning Agreement

The Council of the City of Sydney and

Karimbla Properties (No. 60) Pty Ltd and

Investments & Loans Pty Ltd

118-130 Epsom Road and 905 South Dowling Street,
Zetland NSW 2000

Reference: S153606

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BETWEEN:

- (1) **The Council of the City of Sydney** ABN 22 636 550 790 of Town Hall House, 456 Kent Street, SYDNEY NSW 2000 (the **City**); and
- (2) **Karimbla Properties (No. 60) Pty Ltd** ABN 44 622 383 724 of Level 11, 528 Kent Street, SYDNEY NSW 2000 (**Developer**).
- (3) **Investments & Loans Pty Ltd** ABN 42 000 079 738 of 134-138 William Street, Woolloomooloo NSW 2011 (**Landowner**).

BACKGROUND

- (A) The Landowner is the owner of the Land.
- (B) On 1 November 2021 the Landowner and the Developer entered into a Deed of Option to purchase and sell the Land pursuant to which the Landowner agreed to sell and the Developer agreed to purchase the Land in the event that the options are exercised (**Option Deed**).
- (C) The Developer, with the Landowner's consent has requested the Planning Proposal which would permit the Development to be undertaken on the Land.
- (D) The Developer has offered to enter into this document with the City to provide the Public Benefits on the terms of this document if the future Development relies on the Alternative Height of Buildings Map proposed under the Planning proposal.
- (E) The Landowner has agreed to be a party to this document solely in its capacity as the owner of the Land pending exercise of the option and subsequent sale and purchase .
- (F) If:
 - (1) the Options under the Deed are not exercised such that the Developer does not become the owner of the Land: and
 - (2) the Landowner transfers the Land to a third party,
 - (3) the third party will be responsible for the obligations on both of the Developer and the Landowner under this document if the third party relies on the Alternative Height of Buildings Map unless assigned under the terms of this document.

THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this document.

Act means the *Environmental Planning and Assessment Act 1979 (NSW)*.

Alternative Height of Buildings Map means the alternative height controls that may be relied upon by the Developer under a future Development Application as proposed under the Planning Proposal.

Attributed Value means the value the City and the Developer agree is to be attributed to each element of the Public Benefits as at the date of this document, as set out in clause 1 of Schedule 3 of this document.

Authorisation means:

- (a) an approval, authorisation, consent, declaration, exemption, permit, licence, notarisation or waiver, however it is described, and including any condition attached to it; and
- (b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken,

including any renewal or amendment.

Business Day means a day (other than a Saturday, Sunday or gazetted public holiday) on which banks are open for general banking business in Sydney, Australia.

City's Policies means all formally adopted policies and procedures relevant to the provision of the Public Benefits, as notified by the City in writing to the Developer.

City's Representative means the person named in Item 3 of Schedule 1 or his/her delegate.

Concept Development Application means the same as a Concept Development Application of the Act.

Confidential Information means:

- (a) information of a party (**disclosing party**) that is:
 - (i) made available by or on behalf of the disclosing party to the other party (**receiving party**), or is otherwise obtained by or on behalf of the receiving party; and
 - (ii) by its nature confidential or the receiving party knows, or ought reasonably to know, is confidential.

Confidential Information may be made available or obtained directly or indirectly, and before, on or after the date of this document.

Confidential Information does not include information that:

- (a) is in or enters the public domain through no fault of the receiving party or any of its officers, employees or agents;
- (b) is or was made available to the receiving party by a person (other than the disclosing party) who is not or was not then under an obligation of confidence to the disclosing party in relation to that information; or
- (c) is or was developed by the receiving party independently of the disclosing party and any of its officers, employees or agents.

Construction Certificate has the same meaning as in the Act.

Corporations Act means the *Corporations Act 2001* (Cth).

Dealing means selling, transferring, assigning, novating, charging, or encumbering and, where appearing, **Deal** has the same meaning.

Developer means Karimbla Properties (No. 60) Pty Ltd, or, to the extent that this document is novated to another entity pursuant to clause 13, that entity.

Developer's Representative means the person named in Item 4 of Schedule 1 or his/her delegate.

Development means the development of the Land described at Item 2 of Schedule 1.

Development Application means the development application identified in Item 5 of Schedule 1 and includes all plans, reports models, photomontages, material boards (as amended supplemented) submitted to the consent authority before the determination of that Development Application.

Development Consent means any consent granted to the Development Application for the Development and includes all modifications made under section 4.55 of the Act.

Dispute means any dispute or difference between the parties arising out of, relating to or in connection with this document, including any dispute or difference as to the formation, validity, existence or termination of this document.

Environmental Laws means all laws and legislation relating to environmental protection, building, planning, health, safety or work health and safety matters and includes the following:

- (a) the *Work Health and Safety Act 2011 (NSW)*;
- (b) the *Protection of the Environment Operations Act 1997 (NSW)*; and
- (c) the *Contaminated Land Management Act 1997 (NSW)*.

Environmental Performance Initiatives means those parts of the Public Benefit described as "Environmental Performance Initiatives" in clause 1 of Schedule 3, to be delivered by the Developer in accordance with this document.

Government Agency means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

Gross Floor Area has the meaning given to that term in the *Sydney Local Environment Plan* in effect at the date of this document.

GST means the same as in the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Index Number means the Consumer Price Index (Sydney all groups) published by the Australian Bureau of Statistics from time to time.

Insolvency Event means:

- (a) having a controller, receiver, manager, administrator, provisional liquidator, liquidator or analogous person appointed;
- (b) an application being made to a court for an order to appoint a controller, provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property;
- (c) the person being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (d) an application being made to a court for an order for its winding up;
- (e) an order being made, or the person passing a resolution, for its winding up;
- (f) the person:
 - (i) suspending payment of its debts, ceasing (or threatening to cease) to carry on all or a material part of its business, stating that it is unable to pay its debts or being or becoming otherwise insolvent; or
 - (ii) being unable to pay its debts or otherwise insolvent;
- (g) the person taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;
- (h) a court or other authority enforcing any judgment or order against the person for the payment of money or the recovery of any property; or
- (i) any analogous event under the laws of any applicable jurisdiction,

unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved by the other party.

Instrument Change means an amendment to the Sydney LEP in accordance with the Planning Proposal.

Land means the land described in Item 1 of Schedule 1 of this document.

Laws means all applicable laws, regulations, industry codes and standards, including all Environmental Laws.

Occupation Certificate has the same meaning as in the Act.

Personal Information means:

- (a) personal information within the meaning of the *Privacy and Personal Information Protection Act 1998* (NSW);
- (b) health information within the meaning of the *Health Records and Information Privacy Act 2002* (NSW); and
- (c) any information which does not fall within the scope of paragraphs (a) and (b) above, but is personal information within the meaning of the *Privacy Act 1988* (Cth).

Personnel means the Developer's officers, employees, agents, contractors or subcontractors.

Planning Proposal means the planning proposal for the Land which received Gateway Determination from the Department of Planning and Environment on 2 March 2023 (PP-2022-2530).

Practical Completion means when the building construction is completed except for any omissions or defects that do not prevent the building from being reasonably capable of being used for its intended purpose.

Privacy Laws means the *Privacy Act 1988* (Cth), the *Privacy and Personal Information Protection Act 1998* (NSW), the *Health Records and Information Privacy Act 2002* (NSW); the *Spam Act 2003* (Cth), the *Do Not Call Register Act 2006* (Cth) and any other applicable legislation, regulations, guidelines, codes and the City's Policies relating to the handling of Personal Information.

Public Benefits means the provision of benefits to the community by the Developer in the form and at the times specified in Schedule 3.

Regulation means the *Environmental Planning and Assessment Regulation 2000* (NSW).

Subdivision of Land has the same meaning as in the Act.

Sydney LEP means *Sydney Local Environmental Plan 2012* (NSW).

Tax means a tax, levy, duty, rate, charge, deduction or withholding, however it is described, that is imposed by law or by a Government Agency, together with any related interest, penalty, fine or other charge.

1.2 Rules for interpreting this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.

- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) A reference to **including** means "including, without limitation".
- (g) A reference to **dollars** or **\$** is to an amount in Australian currency.
- (h) A reference to **this document** includes the agreement recorded by this document.
- (i) Words defined in the GST Act have the same meaning in clauses about GST.
- (j) This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of this document to protect itself.

2. **APPLICATION OF THE ACT AND THE REGULATION**

2.1 Application of this document

This document is a planning agreement within the meaning of section 7.4 of the Act and applies to:

- (a) the Land; and
- (b) the Instrument Change.

2.2 Public Benefits to be made by Developer

Clause 5 and Schedule 3 set out the details of the:

- (a) Public Benefits to be delivered by the Developer;
- (b) time or times by which the Developer must deliver the Public Benefits; and
- (c) manner in which the Developer must deliver the Public Benefits.

2.3 Application of sections 7.11, 7.12 and 7.24 of the Act

The application of sections 7.11, 7.12 and 7.24 of the Act are excluded to the extent set out in Items 5 and 6 of Schedule 2 to this document.

2.4 City rights

This document does not impose an obligation on the City to:

- (a) grant Development Consent for the Development; or
- (b) exercise any function under the Act in relation to a change to an environmental planning instrument, including the making or revocation of an environmental planning instrument.

2.5 Explanatory note

The explanatory note prepared in accordance with clause 205 of the Regulation must not be used to assist in construing this document.

3. OPERATION OF THIS PLANNING AGREEMENT

3.1 Commencement

This document will commence on the later of:

- (a) the date of execution of this document by all parties to this document; or
- (b) the date the Instrument Change enters into force.

3.2 Assignment

To avoid doubt, upon the sale of the Land by the Landowner to the Developer (or any other third party) and subject to compliance with clause 12.2, the Landowner is released from all future obligations under this document.

4. WARRANTIES

4.1 Mutual warranties

Each party represents and warrants that:

- (a) **(power)** it has full legal capacity and power to enter into this document and to carry out the transactions that it contemplates;
- (b) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into this document and to carry out the transactions contemplated;
- (c) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this document and to carry out the transactions that it contemplates;
 - (ii) ensure that this document is legal, valid, binding and admissible in evidence; or
 - (iii) enable it to properly carry on its business as it is now being conducted,
and it is complying with any conditions to which any of these Authorisations is subject;
- (d) **(documents effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration;
- (e) **(solvency)** there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable; and
- (f) **(no controller)** no controller is currently appointed in relation to any of its property, or any property of any of its subsidiaries.

4.2 Developer warranties

- (a) The Developer warrants to the City that, at the date of this document:
 - (i) it is legally entitled to request and pursue all consents and approvals that are required by this document and, subject to obtaining such consents and approvals, do all things necessary to give effect to this document;
 - (ii) all work performed by the Developer and the Personnel under this document will be performed with due care and skill and to a standard which is equal to or better than that which a well experienced person in the industry would expect to be provided by an organisation of the Developer's size and experience; and
 - (iii) it is not aware of any matter which may materially affect the Developer's ability to perform its obligations under this document.
- (b) The Developer warrants to the City that, prior to commencing delivery of the Public Benefits it will have obtained all Authorisations and insurances required under any Law to carry out its obligations under this document.

4.3 Landowner warranties

The Landowner warrants to the City that, at the date of this document:

- (a) it is the registered proprietor of the Land;
- (b) it is legally entitled to obtain all consents and approvals that are required by this document and do all things necessary to give effect to this document; and
- (c) it is not aware of any matter which may materially affect the Landowner's ability to perform its obligations under this document.

5. **PUBLIC BENEFITS**

5.1 Developer to provide Public Benefits

The Developer must, at its cost and risk, provide the Public Benefits to the City in accordance with this document if it undertakes the Development that relies on the Alternative Height of Buildings Map.

5.2 Non-completion of Public Benefits

- (a) If the Developer makes a request by notice in writing not to complete the Public Benefits (or any part of the Public Benefits) the City may permit the Developer not to complete the Public Benefits (or any part of the Public Benefits) by issuing a notice in writing to the Developer stating that completion of the items identified in that notice is not required to fulfil the Developer's obligations under this document.
- (b) If the Developer fails to complete the whole of the Public Benefits in the form and to the standards required under the Development Consent or this document then the City may either:
 - (i) complete the Public Benefits itself; or
 - (ii) modify the Public Benefits to reasonably achieve the objectives identified in the Development Consent and this document.

6. **INDEMNITY**

6.1 From Developer

The Developer indemnifies the City and the Landowner against all damage, expense, loss or liability of any nature suffered or incurred by the City or the Landowner arising from any act or omission by the Developer (or any Personnel) in connection with the performance of the Developer's obligations under this document, except where the damage, expense, loss or liability suffered or incurred is caused by, or contributed to by, any wilful or negligent act or omission of the City or the Landowner (or any person engaged by the City or Landowner).

7. **DEFECTS LIABILITY**

Not used

8. **REGISTRATION**

8.1 Registration of this document

(a) The Developer and Landowner:

(i) consent to the registration of this document at the NSW Land Registry Services on the certificate of title to the Land;

(ii) warrant that they have obtained all consents to the registration of this document on the certificate of title to the Land; and

(iii) must within 10 Business Days of a written request from the City do all things necessary to allow the City to register this document on the certificate of title to the Land, including but not limited to:

(A) producing any documents or letters of consent required by the Registrar-General of the NSW Land Registry Services; and

(B) the Developer providing the City with a cheque or electronic funds transfer for registration fees payable in relation to registration of this document at NSW Land Registry Services.

(b) The Developer, the Landowner and the City must act promptly in complying with and assisting to respond to any requisitions raised by the NSW Land Registry Services that relate to registration of this document.

(c) The City will notify the Developer and Landowner of any registration of this document by the City and provide the Developer and Landowner with a copy of all documents confirming any such registration.

8.2 Release of this document

If:

(a) the City is satisfied, acting reasonably, that the Developer has provided all Public Benefits (unless waived by the City in accordance with this document or otherwise the subject of a notice issued under clause 6.3(a)) and otherwise complied with this document; or

(b) this document is terminated in accordance with clause 13,

then the City must promptly do all things reasonably required to remove this document from the certificate of title to the Land.

9. **ENFORCEMENT**

This document may be enforced in accordance with its terms.

10. **DISPUTE RESOLUTION**

10.1 Application

Any Dispute must be determined in accordance with the procedure in this clause 10.

10.2 Negotiation

- (a) If any Dispute arises, a party to the Dispute (**Referring Party**) may by giving notice to the other party or parties to the Dispute (**Dispute Notice**) refer the Dispute to the Developer's Representative and the City's Representative and the Landowner's Representative for resolution. The Dispute Notice must:
 - (i) be in writing;
 - (ii) state that it is given pursuant to this clause 10; and
 - (iii) include or be accompanied by reasonable particulars of the Dispute including:
 - (A) a brief description of the circumstances in which the Dispute arose;
 - (B) references to any:
 - (aa) provisions of this document; and
 - (bb) acts or omissions of any person, relevant to the Dispute; and
 - (C) where applicable, the amount in dispute (whether monetary or any other commodity) and if not precisely known, the best estimate available.
- (b) Within 10 Business Days of the Referring Party issuing the Dispute Notice (**Resolution Period**), the Developer's Representative and the City's Representative and the Landowner's Representative must meet at least once to attempt to resolve the Dispute.
- (c) The Developer's Representative and the City's and the Landowner's Representative may meet more than once to resolve a Dispute. The Developer's Representative and the City's Representative and the Landowner's Representative may meet in person, via telephone, videoconference, internet-based instant messaging or any other agreed means of instantaneous communication to effect the meeting.
- (d) Notwithstanding any other provisions of this agreement, the Landowner can be a party to the dispute and exercise the rights set out in Clause 10.2, but only until such time that the Developer becomes the registered proprietor of the Land.

10.3 Not use information

The purpose of any exchange of information or documents or the making of any offer of settlement under this clause 10 is to attempt to settle the Dispute. Neither party may use any information or documents obtained through any dispute resolution process undertaken under this clause 10 for any purpose other than in an attempt to settle the Dispute.

10.4 Condition precedent to litigation

Subject to clause 10.5, a party must not commence legal proceedings in respect of a Dispute unless:

- (a) a Dispute Notice has been given; and
- (b) the Resolution Period has expired.

10.5 Summary or urgent relief

Nothing in this clause 10 will prevent a party from instituting proceedings to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.

11. TAXES AND GST

11.1 Responsibility for Taxes

- (a) The Developer is responsible for any and all Taxes and other like liabilities which may arise under any Commonwealth, State or Territory legislation (as amended from time to time) as a result of or in connection with this document or the Public Benefits.
- (b) The Developer must indemnify the City in relation to any claims, liabilities and costs (including penalties and interest) arising as a result of any Tax or other like liability for which the Developer is responsible under clause 11.1(a).

11.2 GST free supply

To the extent that Divisions 81 and 82 of the GST Law apply to a supply made under this document:

- (a) no additional amount will be payable by a party on account of GST; and
- (b) no tax invoices will be exchanged between the parties.

11.3 Supply subject to GST

To the extent that clause 11.2 does not apply to a supply made under this document, this clause 11.3 will apply.

- (a) If one party (**Supplying Party**) makes a taxable supply and the consideration for that supply does not expressly include GST, the party that is liable to provide the consideration (**Receiving Party**) must also pay an amount (**GST Amount**) equal to the GST payable in respect of that supply.
- (b) Subject to first receiving a tax invoice or adjustment note as appropriate, the receiving party must pay the GST amount when it is liable to provide the consideration.

- (c) If one party must indemnify or reimburse another party (**Payee**) for any loss or expense incurred by the Payee, the required payment does not include any amount which the Payee (or an entity that is in the same GST group as the Payee) is entitled to claim as an input tax credit, but will be increased under clause 11.3(a) if the payment is consideration for a taxable supply.
- (d) If an adjustment event arises in respect of a taxable supply made by a Supplying Party, the GST Amount payable by the Receiving Party under clause 11.3(a) will be recalculated to reflect the adjustment event and a payment will be made by the Receiving Party to the Supplying Party, or by the Supplying Party to the Receiving Party, as the case requires.
- (e) The Developer will assume the City is not entitled to any input tax credit when calculating any amounts payable under this clause 11.3.
- (f) In this document:
 - (i) consideration includes non-monetary consideration, in respect of which the parties must agree on a market value, acting reasonably; and
 - (ii) in addition to the meaning given in the GST Act, the term "GST" includes a notional liability for GST.

12. **DEALINGS**

12.1 Dealing by the City

- (a) The City may Deal with its interest in this document without the consent of the Developer if the Dealing is with a Government Agency. The City must give the Developer notice of the Dealing within five Business Days of the date of the Dealing.
- (b) The City may not otherwise Deal with its interest in this document without the consent of the Developer, such consent not to be unreasonably withheld or delayed.

12.2 Dealing by the Developer and Landowner

- (a) The Developer and the Landowner may Deal with this document without the consent of the City only as a result of the sale of the whole of the Land by the Landowner to the Developer and provided the City is given prior notice.
- (b) Prior to registration of this document in accordance with clause 8;
 - (i) the Developer must not Deal with this document without:
 - (A) the prior written consent of the City (such consent not to be unreasonably withheld); and
 - (B) the City, the Developer, the Landowner and the third party the subject of the Dealing entering into a deed of consent to the Dealing on terms substantially similar to this document.
 - (ii) other than as permitted under clause 12.2 (a), the Landowner must not Deal with this document without:
 - (A) the prior written consent of the City (such consent not to be unreasonably withheld); and

- (B) the City, the Landowner and the third party the subject of the Dealing entering into a Novation Deed.
- (c) Other than as permitted under clause 12.2 (a), on and from registration of this document in accordance with clause 8:
 - (i) the Developer may Deal with this document without the consent of the City only as a result of the sale of the whole of the Land (without subdivision) to a purchaser of the Land;
 - (ii) the Developer may register a plan of strata subdivision, and the City consents to this document remaining registered only on the certificate of title to the common property of the strata plan upon registration of the strata plan; and
 - (iii) the Developer must not otherwise Deal with this document to a third party that is not a purchaser of the whole or any part of the Land without:
 - (A) the prior written consent of the City (such consent not to be unreasonably withheld); and
 - (B) the City, the Developer and the third party the subject of the Dealing entering into a deed of consent to the Dealing on terms acceptable to the City.
 - (iv) the Landowner must not otherwise Deal with this document to a third party that is a purchaser of the whole or any part of the Land without
 - (A) the prior written consent of the City (such consent not to be unreasonably withheld); and
 - (B) the City, the Landowner and the third party the subject of the Dealing entering into a Novation Deed in respect of the Dealing.
- d) The Developer must pay the City's costs and expenses relating to any consent or documentation required due to the operation of this clause 12.2.
- e) If a third party is acquiring an interest in the Land as a purchaser of one or more strata lots in a strata scheme (whether or not the relevant strata scheme has been registered at NSW Land Registry Services), then:
 - (i) The Developer is not required to comply with clauses 12.1(b)(i) or 12.2(c)(iii); and
 - (ii) The Landowner is not required to comply with clauses 12.2(b)(ii) or 12.2(c)(iv).

13. **TERMINATION**

- (a) Either party may terminate this document by notice in writing to the other parties if:
 - (i) the Instrument Change does not enter into force within 24 months after the date of this document; or

- (ii) the Sydney LEP is subsequently amended by an environmental planning instrument made after the Instrument Change, in a way that prevents the Development from proceeding; or
 - (iii) the Instrument Change is declared to be invalid by a Court of competent jurisdiction.
- (b) If this document is terminated in accordance with clause 13(a), then:
- (i) the rights of each party that arose before the termination or which may arise at any future time for any breach or non-observance of obligations occurring prior to the termination are not affected;
 - (ii) the Developer must take all steps reasonably necessary to minimise any loss each party may suffer as a result of the termination of this document; and
 - (iii) the City will, at the Developer's cost, do all things reasonably required to remove this document from the certificate of title to the Land in accordance with clause 8.

14. **CONFIDENTIALITY, DISCLOSURES AND PRIVACY**

14.1 Use and disclosure of Confidential Information

A party (**receiving party**) which acquires Confidential Information of another party (**disclosing party**) must not:

- (a) use any of the Confidential Information except to the extent necessary to exercise its rights and perform its obligations under this document; or
- (b) disclose any of the Confidential Information except in accordance with clauses 14.2 or 14.3.

14.2 Disclosures to personnel and advisers

- (a) The receiving party may disclose Confidential Information to an officer, employee, agent, contractor, or legal, financial or other professional adviser if:
 - (i) the disclosure is necessary to enable the receiving party to perform its obligations or to exercise its rights under this document; and
 - (ii) prior to disclosure, the receiving party informs the person of the receiving party's obligations in relation to the Confidential Information under this document and obtains an undertaking from the person to comply with those obligations.
- (b) The receiving party:
 - (i) must ensure that any person to whom Confidential Information is disclosed under clause 14.2(a) keeps the Confidential Information confidential and does not use it for any purpose other than as permitted under clause 14.2(a); and
 - (ii) is liable for the actions of any officer, employee, agent, contractor or legal, financial or other professional adviser that causes a breach of the obligations set out in clause 14.2(b)(i).

14.3 Disclosures required by law

- (a) Subject to clause 14.3(b), the receiving party may disclose Confidential Information that the receiving party is required to disclose:
 - (i) by law or by order of any court or tribunal of competent jurisdiction; or
 - (ii) by any Government Agency, stock exchange or other regulatory body.
- (b) If the receiving party is required to make a disclosure under clause 14.3(a), the receiving party must:
 - (i) to the extent possible, notify the disclosing party immediately it anticipates that it may be required to disclose any of the Confidential Information;
 - (ii) consult with and follow any reasonable directions from the disclosing party to minimise disclosure; and
 - (iii) if disclosure cannot be avoided:
 - (A) only disclose Confidential Information to the extent necessary to comply; and
 - (B) use reasonable efforts to ensure that any Confidential Information disclosed is kept confidential.

14.4 Receiving party's return or destruction of documents

On termination of this document the receiving party must immediately:

- (a) deliver to the disclosing party all documents and other materials containing, recording or referring to Confidential Information; and
- (b) erase or destroy in another way all electronic and other intangible records containing, recording or referring to Confidential Information,

which are in the possession, power or control of the receiving party or of any person to whom the receiving party has given access.

14.5 Security and control

The receiving party must:

- (a) keep effective control of the Confidential Information; and
- (b) ensure that the Confidential Information is kept secure from theft, loss, damage or unauthorised access or alteration.

14.6 Media releases

Either party must not issue any information, publication, document or article for publication in any media concerning this document or the Public Benefits without the prior written consent of the other party.

14.7 Privacy

- (a) Without limiting its obligations at law with respect to privacy and the protection of Personal Information, the Developer:

- (i) must not, directly or indirectly collect, use or disclose any Personal Information under or in connection with this document except to the extent necessary to perform its obligations under this document; and
- (ii) must in the delivery of the Public Benefits and the performance of all its other obligations under this document comply with the Privacy Laws and must not do any act or engage in any practice that would breach the Privacy Laws or which if done or engaged in by the City would be a breach of any Privacy Laws.

15. **NOTICES**

- (a) A notice, consent or other communication under this document is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail or email. If it is sent by mail, it is taken to have been received 5 Business Days after it is posted. If it is sent by email, it is taken to have been received the same day the email was sent, provided that the sender has not received a delivery failure notice (or similar), unless the time of receipt is after 5:00pm in which case it is taken to be received on the next Business Day.
- (b) A person's address and email address are those set out in Schedule 1 for the City's Representative, the Developer's Representative and Landowner's Representative, or as the person notifies the sender in writing from time to time.

16. **GENERAL**

16.1 Governing law

- (a) This document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum.

16.2 Access to information

In accordance with section 121 of the *Government Information (Public Access) Act 2009 (NSW)*, the Developer agrees to allow the City immediate access to the following information contained in records held by the Developer:

- (a) information that relates directly to the delivery of the Public Benefits by the Developer;
- (b) information collected by the Developer from members of the public to whom the Developer provides, or offers to provide, services on behalf of the City; and
- (c) information received by the Developer from the City to enable the Developer to deliver the Public Benefits.

16.3 Liability for expenses

- (a) The Developer must pay its own and the City's expenses incurred in negotiating, executing, registering, releasing, administering and enforcing this document.
- (b) The Developer must pay for all reasonable costs and expenses associated with the preparation and giving of public notice of this document and the explanatory note prepared in accordance with the Regulations and for any consent the City is required to provide under this document.

16.4 Relationship of parties

- (a) Nothing in this document creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) No party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

16.5 Giving effect to this document

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other party may reasonably require to give full effect to this document.

16.6 Time for doing acts

- (a) If:
 - (i) the time for doing any act or thing required to be done; or
 - (ii) a notice period specified in this document,

expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5pm on the specified day, it is taken to have been done on the following Business Day.

16.7 Severance

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this document without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

16.8 Preservation of existing rights

The expiration or termination of this document does not affect any right that has accrued to a party before the expiration or termination date.

16.9 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this document for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

16.10 Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and

- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

16.11 Operation of this document

- (a) This document contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and has no further effect.
- (b) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.
- (c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

16.12 Operation of indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

16.13 Inconsistency with other documents

Unless the contrary intention is expressed, if there is an inconsistency between any of one or more of:

- (a) this document;
- (b) any Schedule to this document; and
- (c) the provisions of any other document of the Developer,

the order of precedence between them will be the order listed above, this document having the highest level of precedence.

16.14 No fetter

Nothing in this document in any way restricts or otherwise affects the City's unfettered discretion to exercise its statutory powers as a public authority.

16.15 Counterparts

This document may be executed in counterparts.

SCHEDULE 1

Agreement Details

ITEM	TERM	DESCRIPTION
1.	Land	Lot 7 in DP 24134, known as 118-130 Epsom Road and Lot 2 in DP 830870, known as 905 South Dowling Street, Zetland 2017.
2.	Development	The development which relies on the Alternative Height of Buildings Map that is permitted by the controls proposed in the Planning Proposal and subject to the resultant Instrument Change.
3.	City's Representative	Name: Director, Planning, Development and Transport Address: Level 1, 456 Kent Street, Sydney NSW 2000 Email: planningsystemsadmin@cityofsydney.nsw.gov.au
4.	Developer's Representative	Name: General Counsel Address: Level 11, 528 Kent Street, Sydney NSW 2000 Email: generalcounsel@meriton.com.au
5.	Landowner's Representative	Name: Michael Winnem Address: Level 1, 134 William Street, Woolloomooloo NSW 2011 Email: Michael.winnem@suttons.com.au
6.	Development Application	Means any development application submitted to the City in connection with the Development.

SCHEDULE 2

Requirements under the Act and Regulation (clause 2)

The below table summarises how this document complies with the Act and Regulation.

ITEM	SECTION OF ACT OR REGULATION	PROVISION/CLAUSE OF THIS DOCUMENT
1.	<p>Planning instrument and/or development application (section 7.4(1) of the Act)</p> <p>The Developer has:</p> <p>(a) sought a change to an environmental planning instrument;</p> <p>(b) made, or proposes to make, a Development Application; or</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</p>	<p>(a) Yes</p> <p>(b) No</p> <p>(c) No</p>
2.	<p>Description of land to which this document applies (section 7.4(3)(a) of the Act)</p>	Item 1 of Schedule 1.
3.	<p>Description of change to the environmental planning instrument to which this document applies and/or the development to which this document applies (section 7.4(3)(b) of the Act)</p>	The environmental planning instrument as described in clause 2.1.
4.	<p>The nature and extent of the provision to be made by the developer under this document, the time or times by which the provision is to be made and the manner in which the provision is to be made (section 7.4(3)(c) of the Act)</p>	Schedule 3
5.	<p>Whether this document excludes (wholly or in part) of does not exclude the application of section 7.11, 7.12 or 7.24 to the development (section 7.4(3)(d) of the Act)</p>	<p>Section 7.11 not excluded</p> <p>Section 7.12 not excluded</p> <p>Section 7.24 not excluded</p>
6.	<p>Applicability of section 7.11 of the Act (section 7.4(3)(e) of the Act)</p>	The application of section 7.11 of the Act is not excluded in respect of the Development and contributions (if any) under section 7.11 will be required to be paid.

ITEM	SECTION OF ACT OR REGULATION	PROVISION/CLAUSE OF THIS DOCUMENT
7.	Consideration of benefits under this document if section 7.11 applies (section 7.4(3)(e) of the Act)	Benefits are not to be taken into consideration in determining a development contribution under section 7.11 of the Act.
8.	Mechanism for Dispute Resolution (section 7.4(3)(f) of the Act)	Clause 10
9.	Enforcement of this document (section 7.4(3)(g) of the Act)	Clause 9
10.	No obligation to grant consent or exercise functions (section 7.4(9) of the Act)	Clause 2.4
11.	Registration of this document (section 7.6 of the Act)	Clause 8
12.	Whether certain requirements of this document must be complied with before a construction certificate is issued (clause 25E(2)(g) of the Regulation)	Nil
13.	Whether certain requirements of this document must be complied with before a subdivision certificate is issued (clause 25E(2)(g) of the Regulation)	Not applicable
14.	Whether certain requirements of this document must be complied with before an occupation certificate is issued (clause 25E(2)(g) of the Regulation)	Provision of the Public Benefits
15.	Whether the explanatory note that accompanied exhibition of this document may be used to assist in construing this document (clause 25E(7) of the Regulation)	Clause 2.5

SCHEDULE 3

Public Benefits (clause 5)

1. PUBLIC BENEFITS - OVERVIEW

The Developer must provide the Public Benefits in accordance with Schedule 3 and this document if the future Development Applications for the Development rely on the Alternative Height of Buildings Map. The Attributed Value, timing of delivery and additional specifications relating to the Public Benefits is set out in the table below

Item	Public Benefit	Attributed Value	Due date	Additional specifications
1.	Environmental Performance Initiatives	Nil	<p>On or before the date of issue of the first Occupation Certificate for each building in the Development.</p> <p>On or before the date of issue of the first Construction Certificate for each residential component, building or stage in the Development.</p> <p>On or before the date of issue of the first Occupation Certificate for each building in the Development.</p>	<p>Design and construct all future buildings in the Development to be capable of providing a dual reticulation system for non-potable recycled water (Refer to Clause 2.1 below).</p> <p>Submission to the City of BASIX Certificates demonstrating an energy and water BASIX score of at least 5 points above the target Refer to Clause 2.2 below).</p> <p>Installation of infrastructure to enable all residential parking spaces in the Development to be capable of being fitted with an Electric Vehicle Charger Refer to Clause 2.3 below)</p>
2.	Non-residential floor space	Nil	On or before the date of issue of the first Development Consent for the Concept Development Application for the Development.	The Concept Development Application submitted by the Developer is to enable the provision of a minimum of 3,696 square metres of non-residential Gross Floor Area (GFA) within the Development to ensure that there is a genuine provision of retail, childcare and

				other non-residential services provided within the Development to serve the day-to-day needs of the local area within a walkable/accessible location and reduce car dependency.
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2. ENVIRONMENTAL PERFORMANCE INITIATIVES

2.1 Non-potable Recycled Water Dual Reticulation

- (a) The Developer must design and construct all buildings on the Land so as to be capable of providing a dual reticulation water system for water consumption. The system must be capable of fully connecting to the non-potable recycled water network provided by the City and must be configured to supply all toilets, washing machine taps, car wash bays, cooling towers and irrigation usage on the Land. It is to be noted that car wash bays are to be dedicated to car washing and not shared with any other purpose such as visitor parking.
- (b) As part of these requirements, the Developer must connect to the Non-potable Recycled Water Network installed by the City, in the event that Council’s Non-potable Recycled Water Network system is not operational at that time, connect the non-potable water pipes in the building to the utility mains potable water supply pipes downstream of the Sydney Water mains supply water meter (Non Potable Water Connection Point) and allow the City to disconnect the potable water supply from the non-potable water system and connect the recycled water network as soon as it becomes operational.
- (c) Provide space of 1m x 1m x 2.4m (or as otherwise agreed by the City) and access for metering equipment, isolation valves and incoming pipes for recycled water at the non-potable water connection point at a location to be agreed between the parties.
- (d) Provide space and access from the property boundary to the non-potable water connection point for installation of recycled water pipes of 1 metre in width.
- (e) Non-potable recycled water supply static pressure will be a minimum of 15m head at the property boundary; and the Developer must design a reticulation system, including buffer storage of at least 35,000 litres or more storage as necessary, to adequately supply all the non-potable water end uses, specified in (a) above at all times.
- (f) Non-potable recycled water supply quality will comply with the relevant National and State guidelines for water recycling (including but not limited to Australian Guidelines for Water Recycling) regarding supply to toilets, washing machine taps, car wash bays, cooling towers and irrigation usage and have a Total Dissolved Solids consistent within the Australian Drinking Water Guidelines.

2.2 Residential Component Energy and Water BASIX

- (a) For all residential components of the Development, the Developer commits to the achievement of:

- (i) an energy BASIX score at least 5 points above the target required for a BASIX Certificate;
 - (ii) a water BASIX score at least 5 points above the target required for a BASIX Certificate.
- (b) The Developer must provide the City with a copy of all BASIX Certificates issued for the Development prior to the issue of a Construction Certificate for each residential component, building or stage of the Development.
- (c) In the event that the new State Environmental Planning Policy (Sustainable Buildings) 2022 comes into force, then the provisions of that Policy will apply to the Development and will supersede the requirements of this Clause 2.2.

2.3 Electronic Vehicle Charging

To enable all residential parking spaces within the Development to be capable of being fitted with an Electric Vehicle Charger, electric vehicle charging infrastructure shall be provided as follows:

- (a) Power supply and distribution boards for electric vehicle charging in accordance with Section J9D4 'Facilities for electric vehicle charging equipment' in NCC 2022 Volume One – Building Code of Australia, and
- (b) All residential parking spaces are to be located within 10 metres of a cable tray sized to accommodate cabling for 100% of spaces it serves and terminates at the closest electric vehicle distribution board.

EXECUTED as a deed.

Signed, sealed and delivered for
**THE COUNCIL OF THE CITY OF
SYDNEY** (ABN 22 636 550 790) by
its duly authorised officer, in the
presence of:

Signature of witness

Name

456 Kent Street, Sydney NSW 2000

Address of witness

Signature of officer

Name of officer
Authorised delegate pursuant to
section 377 of the Local Government
Act 1993

Position of officer

**EXECUTED BY KARIMBLA
PROPERTIES (NO. 60) PTY LTD**
(ABN 44 622 383 724) in accordance
with section 127 (1) of the
Corporations Act 2001 (Cth):

Signature of Director:

Name (printed):

Signature of Director/Secretary:

Name (printed):

**EXECUTED by Investments &
Loans Pty Ltd** ABN 42 000 079 738]
in accordance with s127(1) of the
Corporations Act 2001 (Cth):

Signature of director

Signature of director/secretary

Name

Name

Attachment E

Gateway Determination

Gateway Determination

Planning proposal (Department Ref: PP-2022-2530): to allow alternative maximum building heights with additional energy and water sustainability and non-residential floor area requirements and active street frontages.

I, the Director, Eastern District and City of Sydney, at the Department of Planning and Environment, as delegate of the Minister for Planning and Homes, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Sydney Local Environmental Plan 2012 to allow alternative maximum building heights with additional energy and water sustainability and non-residential floor area requirements and active street frontages should proceed subject to the following conditions:

1. The planning proposal is to be updated prior to community consultation to:
 - include a plain English explanation of the alternative maximum building height provision that clarifies this is a mechanism to implement the planning proposal's intended outcomes. This update should also clarify that the final drafting of LEP provisions will be subject to drafting of NSW Parliamentary Counsel and are subject to change;
 - identify the land uses that constitute non-residential development for the purposes of the minimum non-residential gross floor area requirement; and
 - update the proposed additional BASIX provision in the explanation of provisions to remove reference to the term 'commitments'.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - the planning proposal is categorised as standard as described in the Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 working days; and
 - the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021).
3. Consultation is required with the following public authorities:
 - Randwick Council;
 - Energy, Environment and Science Group;
 - Transport for NSW;
 - Federal Department of Infrastructure, Transport, Regional Development and Communications;
 - Sydney Airport Corporation;
 - Air Services of Australia; and
 - Civil Aviation Safety Authority.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 working days to comment on the proposal.

4. Prior to finalisation, the planning proposal to be updated to include additional justification explaining the inclusion of the active street frontage provisions in the LEP.
5. The planning proposal must be placed on exhibition no later than **3 months** from the date of the Gateway determination.
6. The planning proposal must be reported to Council for a final recommendation no later than **9 months** from the date of the Gateway determination.
7. The timeframe for completing the LEP is to be **12 months** from the date of the Gateway determination.

Dated 2nd day of March 2023.



Katie Joyner
Director Eastern District and City of Sydney
Planning and Land Use Strategy
Department of Planning and Environment

Delegate of the Minister for Planning and Homes

Attachment F

<p>Council and Central Sydney Planning Committee Resolutions</p>

Resolution of Central Sydney Planning Committee

8 December 2022

Item 6

Public Exhibition - Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

Moved by the Chair (the Lord Mayor), seconded by Councillor Chan -

It is resolved that:

- (A) the Central Sydney Planning Committee approve Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland, as shown at Attachment A to the subject report, for submission to the Department of Planning and Environment with a request for Gateway Determination;
- (B) the Central Sydney Planning Committee approve Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland, as shown at Attachment A to the subject report, for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage, Environment and Planning Committee on 5 December 2022 that Council seek authority from the Department of Planning and Environment to exercise the delegation of all the functions under Section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and to put into effect Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage, Environment and Planning Committee on 5 December 2022 that Council approve Draft Sydney Development Control Plan 2012 - 118-130 Epsom Road and 905 South Dowling Street, Zetland, shown at Attachment B to the subject report, for public authority consultation and public exhibition concurrent with the Planning Proposal;

- (E) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland and Draft Sydney Development Control Plan 2012 - 118-130 Epsom Road and 905 South Dowling Street, Zetland to correct any drafting errors or to ensure consistency with the Gateway Determination; and
- (F) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage, Environment and Planning Committee on 5 December 2022 that authority be delegated to the Chief Executive Officer to prepare and exhibit a draft planning agreement in accordance with the letter of offer dated 3 November 2021 at Attachment C to the subject report and the requirements of the Environmental Planning and Assessment Act 1979.

Carried unanimously.

X087876

Resolution of Council

12 December 2022

Item 8.10

Public Exhibition - Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

It is resolved that:

- (A) Council approve Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland, as shown at Attachment A to the subject report, for submission to the Department of Planning and Environment with a request for Gateway Determination;
- (B) Council approve Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland, as shown at Attachment A to the subject report, for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) Council seek authority from the Department of Planning and Environment to exercise the delegation of all the functions under Section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and to put into effect Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland;
- (D) Council approve Draft Sydney Development Control Plan 2012 - 118-130 Epsom Road and 905 South Dowling Street, Zetland, shown at Attachment B to the subject report, for public authority consultation and public exhibition concurrent with the Planning Proposal;
- (E) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland and Draft Sydney Development Control Plan 2012 - 118-130 Epsom Road and 905 South Dowling Street, Zetland to correct any drafting errors or to ensure consistency with the Gateway Determination; and
- (F) authority be delegated to the Chief Executive Officer to prepare and exhibit a draft planning agreement in accordance with the letter of offer dated 3 November 2021 at Attachment C to the subject report and the requirements of the Environmental Planning and Assessment Act 1979.

The substantive motion was carried on the following show of hands –

Ayes (7) The Chair (the Lord Mayor), Councillors Chan, Davis, Gannon, Jarrett, Kok
and Scully

Noes (3) Councillor Ellsmore, Scott and Weldon.

Substantive motion carried.

X087876

Item 7.

Post Exhibition - Planning Proposal - Affordable Housing Program Update - Sydney Local Environmental Plan 2012, Sydney Local Environmental Plan (Green Square Town Centre) 2013, Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013, Draft City of Sydney Affordable Housing Program 2022 and Draft Affordable Housing Contributions Interim Distribution Plan

File No: X084801

Summary

Sydney remains Australia's least affordable city. The high cost of housing is an important economic and social risk, particularly within the City of Sydney local government area (LGA) where housing prices are amongst the highest in Australia.

Sustainable Sydney 2030-2050 Continuing the Vision maintains the target in the City's Local Housing Strategy: Housing for All for 7.5 per cent of all private dwellings to be Affordable Housing. Based on a private dwelling target of about 156,000 to 2036, an estimated 12,000 affordable dwellings are required to achieve the City's target to 2036.

To date, the City has collected, and passed on to a community housing provider (CHP), over \$378 million in Affordable Housing contributions and provided \$24 million in discounted land and \$10 million in grants towards Affordable Housing. As at 1 July 2022, the City has 1,427 built Affordable Housing units in the local area, 641 dwellings in the development pipeline and a further 701 that are anticipated to be built in the future (but not yet in the development pipeline). Going forward, the City's Affordable Housing contribution schemes, which now cover all of the local government area, are expected to deliver about 1,950 additional affordable dwellings.

Altogether, about 4,200 Affordable Housing dwellings are forecast under existing programs, being about one third of the City's 12,000 target to 2036. These forecasts will be impacted by how successfully CHPs leverage Affordable Housing contributions funds. More substantial support for the provision of Affordable Housing is required from the Federal and NSW Government if the Affordable Housing targets for the City of Sydney Local Government Area (LGA) are to be achieved.

This report follows the public exhibition of Planning Proposal: City of Sydney Affordable Housing Program Update (planning proposal) and draft City of Sydney Affordable Housing Program Amendment 2022 (draft Program) and draft City of Sydney Affordable Housing Contributions Interim Distribution Plan (draft Interim Distribution Plan), collectively referred to as the 'Affordable Housing provisions'. The publicly exhibited Affordable Housing provisions were to:

- increase the Affordable Housing contribution obligation in Ultimo-Pyrmont, consistent with the NSW Government's Pyrmont Peninsula Place Strategy, so that it aligns with other areas in the City;

- establish an interim plan for the distribution of Affordable Housing contribution funds, that expands the list of CHPs who may receive Affordable Housing contribution funds collected by the City from one CHP to three CHPs;
- reallocate contribution funds arising from development in the Southern Employment Lands from the NSW Department Communities and Justice (DCJ), to instead be allocated in accordance with any adopted distribution plan; and
- streamline the Program, remove unnecessary information, and make minor housekeeping amendments to clarify content.

24 submissions were received in response to the public exhibition, including 19 submissions from the general community, two from public authorities, and three from those CHPs that were identified as recipients of Affordable Housing contribution funds in the exhibited draft interim distribution plan. A summary of submissions, and the City's response, is at Attachment A.

Some community submissions expressed strong support for the proposals, while others raised concerns about more Affordable Housing in their local area. Submissions from the Land and Housing Corporation and DCJ expressed general support for the City's efforts in increasing Affordable Housing.

Submissions from Bridge Housing and St George Community Housing, being those CHPs proposed to receive contribution funds who previously have not, supported the wider distribution of Affordable Housing contribution funds. Despite all Tier 1 and Tier 2 CHPs operating in the Sydney metropolitan area being notified of the proposals, no other submissions from CHPs were received seeking participation in the City's Program.

A submission from City West Housing, which currently receives all of the Affordable Housing contribution funds (other than those generated in the Southern Employment Lands), generally supported the wider distribution of contribution funds over time. However, it raised concerns about the impact the change would have on its ability to deliver its significant development pipeline of over 500 dwellings in the City of Sydney local area, where funds that had previously been expected and relied on would no longer be forthcoming. It also raised concerns that Affordable Housing contribution funds being shared between three providers would spread funding too thin, and that it would take much longer for CHPs to amass sufficient funds to move forward with projects. This latter concern was also raised by DCJ in their submission. These issues are still being considered.

The Gateway Determination for the planning proposal requires that it be finalised by 19 August 2023. Finalising the planning proposal is essential to increase the Affordable Housing contribution obligation in Ultimo-Pyrmont, where more development is imminent following the implementation of the NSW Government's Pyrmont Peninsula Place Strategy. For this reason, finalisation of the proposed Affordable Housing provisions cannot and should not be delayed.

Following consideration of submissions, this report recommends the approval of the planning proposal and draft Program (both with post exhibition changes), together with the draft Interim Distribution Plan, as it was publicly exhibited, but with a delayed commencement date of 1 July 2024.

While efforts have been made to prepare a final distribution plan that could be considered for adoption together with the planning proposal, it has not been possible within the Gateway Determination timeframes. Further work is needed to resolve issues raised by CHPs and DCJ in their submissions before the detail of a distribution plan can be finalised and put to Council for their consideration.

It is also considered prudent to delay finalising the distribution plan given the fast-evolving housing policy landscape. Opportunities for the distribution plan may emerge from the introduction of the Housing Australia Future Fund (HAFF) by the Federal Government, or complementary incentive / funding schemes that may be announced by the new state government as it resolves its approach to addressing the housing crisis in the coming months.

Adopting the draft Interim Distribution Plan now allows the planning proposal to progress and provides time to implement the significant administrative structures needed to support the change in approach, including the preparation of funding agreements with receiving CHPs.

Other proposed post exhibition changes to the publicly exhibited Affordable Housing provisions, include:

- a change to the planning proposal to address an omission relating to development that may be exempt from making a contribution or have a reduced contribution requirement applied. The draft Program, as exhibited, introduced a reduced contribution requirement if development would result in an Affordable Housing contribution of more than 15 per cent of the agreed cost of construction. In order to facilitate this intent, the planning proposal now adjusts the current wording of the Affordable Housing provisions in Sydney Local Environmental Plan 2012 accordingly.
- a change to the draft Program to ensure it can apply should any future Environmental Planning Instrument (EPI) which concerns Affordable Housing contributions in the City of Sydney be amended. The amendment is intended to facilitate the long-term flexibility of the Program by minimising the need for additional amendments where there may be changes to state environmental planning policies and the like.
- a change to the draft Program to improve how the equivalent monetary contribution amount is indexed, to reflect a fuller and more accurate picture of the current housing market rather than relying wholly on one single quarter of data;
- a change to the draft Program to provide information about the circumstances under which contribution funds may be refunded; and
- further minor (non-substantive) changes to streamline the draft Program by removing unnecessary information and making minor housekeeping amendments to clarify content.

The proposed Affordable Housing provisions aim to improve the provision of Affordable Housing from the City's contribution schemes by encouraging innovative use of contribution funds and increasing the contribution requirement in Ultimo-Pyrmont to align with other parts of the local government area.

Recommendation

It is resolved that:

- (A) the Central Sydney Planning Committee note the matters raised in response to the public exhibition of Planning Proposal: City of Sydney Affordable Housing Program Update and draft City of Sydney Affordable Housing Program Amendment 2022 and draft City of Sydney Affordable Housing Contributions Interim Distribution Plan, as described at Attachment A to the subject report;
- (B) the Central Sydney Planning Committee approve Planning Proposal: City of Sydney Affordable Housing Program Update, shown at Attachment B to the subject report, as amended, to be made as a local environmental plan under Section 3.36 of the Environmental Planning and Assessment Act 1979;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Housing For All Committee on 19 June 2023 that Council approve the draft City of Sydney Affordable Housing Program Amendment 2022, shown at Attachment C to the subject report, as amended, noting that it will come into effect on the date of publication of the subject local environmental plan, in accordance with Clause 20 of the Environmental Planning and Assessment Regulation 2021;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Housing For All Committee on 19 June 2023 that Council approve the draft City of Sydney Affordable Housing Contributions Interim Distribution Plan, shown at Attachment D to the subject report, as amended, noting it will not commence until 1 July 2024;
- (E) the Central Sydney Planning Committee note that following further research and stakeholder consultation it is intended that a final distribution plan will be reported to Council prior to 1 July 2024; and
- (F) authority be delegated to the Chief Executive Officer to make any minor amendments to Planning Proposal: City of Sydney Affordable Housing Program Update, the draft City of Sydney Affordable Housing Program Amendment 2022 and the draft City of Sydney Affordable Housing Contributions Interim Distribution Plan, to correct any drafting errors or inconsistencies, prior to finalisation.

Attachments

- Attachment A.** Summary of Submissions and Responses
- Attachment B.** Planning Proposal: City of Sydney Affordable Housing Program Update (as amended following public exhibition)
- Attachment C.** Draft City of Sydney Affordable Housing Program Amendment 2022 (as amended following public exhibition)
- Attachment D.** Draft City of Sydney Affordable Housing Contributions Interim Distribution Plan (as amended following public exhibition)
- Attachment E.** Gateway Determination
- Attachment F.** Council and Central Sydney Planning Committee Resolutions

Background

1. This report follows the consideration of submissions made to the public exhibition of Planning Proposal - City of Sydney Affordable Housing Program Update (planning proposal) and draft City of Sydney Affordable Housing Program Amendment 2022 (draft Program) and draft City of Sydney Affordable Housing Contributions Interim Distribution Plan (draft Interim Distribution Plan), collectively referred to as the 'Affordable Housing provisions'.
2. The current and proposed Affordable Housing provisions (as publicly exhibited) are described in detail in the pre-exhibition report to the Housing for All Committee (Committee) and the Central Sydney Planning Committee (CSPC), dated 20 June 2022 and 23 June 2022 respectively. The Housing for All Committee report is available at <https://city.sydney/ru5> (item 2). Additional information and alternate resolutions were provided in a series of Relevant To memos, including:
 - (a) to Committee, dated 20 June 2022, available at <https://city.sydney/jsr>
 - (b) to CSPC, dated 21 June 2022, available at <https://city.sydney/1a3>
 - (c) to CSPC, dated 23 June 2022, available at <https://city.sydney/69v>
 - (d) to Council, dated 24 June 2022, available at <https://city.sydney/06q>
3. Council and the CSPC, at their meetings on 27 June 2022 and 23 June 2022 respectively, approved for Gateway Determination (gateway) and public exhibition a planning proposal, and for public exhibition, a draft Program and a draft Interim Distribution Plan. The Council and CSPC resolutions are shown at Attachment F to this report.
4. In August 2022, the NSW Department of Planning and Environment (Department) issued a conditional gateway for the planning proposal, requesting minor changes and clarifications be made prior to public exhibition. The planning proposal was amended in accordance with the gateway, and was publicly exhibited with the draft Program, draft Interim Distribution Plan and supporting research.
5. This report recommends the Central Sydney Planning Committee approve the planning proposal, as amended following public exhibition, to amend Sydney Local Environmental Plan 2012 (Sydney LEP), Sydney Local Environmental Plan (Green Square Town Centre) 2013, and Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013. It also recommends the Central Sydney Planning Committee approve the draft Program and the draft Interim Distribution Plan, as amended following public exhibition. The planning proposal, draft Program and draft Interim Distribution Plan, as amended, are provided at Attachments B, C and D respectively.
6. The proposed Affordable Housing provisions, as amended following public exhibition, will:
 - (a) increase the Affordable Housing contribution obligation in Ultimo-Pyrmont, consistent with the NSW Government's Pyrmont Peninsula Place Strategy, so that it aligns with other areas in the City. The proposed changes may deliver up to an estimated 250 Affordable Housing dwellings;

- (b) establish an interim plan for the distribution of Affordable Housing contribution funds. The plan expands the list of community housing providers (CHPs) who may receive funds. It will commence on 1 July 2024 if an amended final plan for the distribution of funds has not been adopted by Council at that time;
- (c) reallocate contribution funds from development in the Southern Employment Lands from the Department Communities and Justice, to any CHPs identified in any adopted distribution plan; and
- (d) streamline the Program, remove unnecessary information, and make minor housekeeping amendments to clarify content.

Public Exhibition

7. In accordance with the Gateway Determination, the City of Sydney Community Engagement Strategy, and Community Participation Plan 2022, the proposed Affordable Housing provisions were exhibited from 18 October to 29 November 2022.
8. The City notified in writing about 9,100 landowners in Ultimo-Pyrmont of the exhibition. It also notified the 24 Tier 1 and Tier 2 community housing providers (CHPs) operating in the Sydney metropolitan area and peak housing bodies, including Shelter NSW and the Community Housing Industry Association (CHIA). The exhibition was also advertised on the City's Sydney Your Say webpage.
9. In accordance with the gateway, the following public authorities were also notified of the public exhibition:
 - (a) NSW Land and Housing Corporation (LAHC); and
 - (b) NSW Department of Communities and Justice (DCJ).
10. 24 submissions were received, including 19 submissions from the general community, two from public authorities, and three from those CHPs that were identified as recipients of Affordable Housing contribution funds in the exhibited draft interim distribution plan. No other CHPs made submissions. A summary of submissions, and the City's response, is at Attachment A of this report with key issues discussed below.

City West Housing

11. A submission was received from City West Housing (City West), who is currently the only CHP receiving funds under the current Program. Attachment A provides a detailed breakdown of the points raised.
12. The submission reiterates City West's capabilities and experience in the community housing sector and working with the City to deliver Affordable Housing supply in the Local Government Area.
13. City West requests acknowledgement that until 2020 it was prevented from borrowing against its asset base or entering partnerships and joint ventures due to governmental constraints, creating an unfair assumption that its assets have not been effectively leveraged. The constraints are now removed, and City West has now secured finance to deliver its next development project of 74 homes in Waterloo.

14. City West notes that the draft Interim Distribution Plan in its current form risks the delivery of its existing pipeline of over 500 dwellings in the City of Sydney local area. City West recommends that the proposed changes to the distribution of funding be phased in to ensure its capacity to service:
 - (a) its established properties;
 - (b) properties that have been committed to in the development pipeline;
 - (c) other properties in the development pipeline in the development application or pre-development application stage; and
 - (d) the level of support and devices it has promised to deliver its residents and partner agencies.
15. While this report recommends adoption of the draft Interim Distribution Plan as it was publicly exhibited, it is noted that a final distribution plan is being prepared for the consideration of Council and the Central Sydney Planning Committee to address unresolved issues and recommends the deferred commencement of the Interim Distribution Plan until 1 July 2024.
16. The impact on City West's development pipeline will be further considered in the preparation of the final Distribution Plan.
17. City West recommends the contribution funds should not be distributed to more than two CHPs at any one time to encourage efficiencies from the scale of operations. These include:
 - (a) efficiencies in servicing properties;
 - (b) efficiencies from larger portfolios in a defined geography to enable the leveraging of rental surpluses from other properties they own or manage in the area and to gain access to finance to further increase Affordable Housing in the local area; and
 - (c) effective relationship building and efficiencies for support service providers servicing tenants of the CHPs.
18. The efficiencies from larger scale operations will be further considered in the preparation of the final Distribution Plan.
19. City West highlights that the Program's prescribed tenure mix for dwellings being dedicated may be difficult to maintain over time, as the life-stage and circumstance of tenants change. City West recognises that a tenant's income can change and maintains tenure mix across its City portfolio rather than ejecting tenants from individual developments to retain an appropriate mix. City West recommends that if the City requires a specific tenure mix for a project at the time of dedication, the Program should acknowledge the need for some flexibility in tenure mix over time.
20. City West also questions the intent behind the Program's required tenure mix in the Employment Lands. In this area, the Program currently requires at least 15 per cent of dwellings to be allocated to very low income households and 15 per cent to low income households. This is to ensure that not all people housed in the Employment Lands are moderate-income workers, but also that a higher proportion of workers are able to be housed in this location.

21. City West recommends that it may be clearer to frame the requirement as up to 70 per cent of dwellings being allocated for income-eligible employed households. This would provide flexibility for low and/or moderate income working households to make up the 70 per cent, whilst still retaining 30 per cent of the housing for lower income households who may not be currently employed.
22. As a result of City West's submission, it is proposed to amend Section 2.1.6 and 3.1 of the exhibited draft Program in accordance with City West's recommendation to clarify the desired tenure mix for dwellings to be dedicated and in the Employment Lands.

Additional CHPs identified in the draft Interim Distribution Plan

23. The exhibited draft Interim Distribution Plan identified St George Community Housing (St George) and Bridge Housing (Bridge) as additional Recommended CHPs alongside City West Housing to receive funding from collected Affordable Housing levies. Both CHPs made submissions to the public exhibition of the proposals.
24. St George's submission highlights the capability and capital it would provide to support the City in delivering Affordable Housing. St George is a Tier 1 community housing provider with a development pipeline of 818 units over the next three years, including 190 dwellings in the City of Sydney.
25. St George's submission identifies capabilities in development, construction, asset management, tenancy management services, support coordination and place-based community development. It also demonstrates financial stability and a track record of raising capital at scale.
26. St George commits to partner with the City to provide affordable homes that are well designed, accessible, environmentally sustainable and meet community need, prioritising allocation to targeted vulnerable groups including Aboriginal and Torres Strait Islands people and families.
27. Bridge Housing has made further representation reiterating its interest in working with the City to deliver increased Affordable Housing supply in the City, following its original request to be considered as a Recommended CHP which established its current status, capabilities and experience in the community housing sector. Bridge Housing's original request to the City is discussed in the pre-exhibition report to Council and CSPC.
28. Bridge welcomes the efforts of the City to streamline the management of Affordable Housing funding and the move towards enabling additional CHPs to access contribution funds.
29. Bridge's submission also identifies Bridge as the CHP with the largest social and Affordable Housing footprint in the City of Sydney LGA, with a head office in the LGA, generating a deep connection to the local community.
30. It is Bridge's view that chosen additional providers should be those with their operations based primarily in the LGA, so that they understand and are focussed on delivering outcomes for the local community.
31. Both St George and Bridge strongly support being able to receive Affordable Housing funds in the draft Interim Distribution Plan. The City recognises the experience, capabilities and established partnerships both CHPs have in the community housing sector and in providing Affordable Housing within the City of Sydney LGA.

32. While this report recommends adoption of the draft Interim Distribution Plan as it was publicly exhibited, it is noted that a final distribution plan is being prepared for the consideration of Council and the Central Sydney Planning Committee. The City considers it would be prudent to seek further information and confirm the current position of both St George and Bridge, including their current projects, commitments, completion of developments, financial stability and so on. In addition, the matters raised in these submissions will also be further considered in the development of the final Distribution Plan.
33. No change is recommended to the exhibited planning proposal or draft Program as a result of these submissions.

Public authority consultation

34. A submission was received from NSW Land and Housing Corporation (LAHC) that supported the proposed Affordable Housing amendments and congratulated the City of Sydney on its efforts to increase affordable housing in the local area.
35. No change to the publicly exhibited Affordable Housing provisions are recommended because of this submission.
36. A submission was also received from NSW Department of Communities and Justice (DCJ). DCJ generally abstained from expressing views for or against the proposal, given that the NSW Government is a shareholder of City West.
37. DCJ supports the administrative change to the distribution of Employment Lands funds, which are currently transferred from the City to DCJ to allocate to CHPs, recognising that this would enable Council to deal with and distribute funds to CHPs directly.
38. DCJ's submission also expresses concerns around distributing funds across three CHPs. DCJ considers that this will dilute the impact of the funds, ultimately delaying the delivery of Affordable Housing as more time is required for fund accumulation before a CHP can initiate an Affordable Housing project. This impact would be more pronounced in the City, given the extremely high land values which would require larger amounts of money for financially viable projects.
39. DCJ also highlights the administrative burden to both Council and the chosen CHPs, raising the efficiency and value for money proposition of managing an overly complicated remittance of funds and the reporting requirements for how the money is quarantined, invested and spent.
40. DCJ considers that disbursing all accumulated funds to a single CHP via a competitive Expressions of Interest process would provide the best results for Affordable Housing delivery in the City.

41. The City's preferred approach for the use of Affordable Housing contribution funds is to allocate them directly to a CHP. This approach has been in effect since the introduction of Affordable Housing contribution requirements Ultimo / Pyrmont in 1996 and since that time has resulted in over 1,300 affordable dwellings (built, pipeline and expected) affordable dwellings resulting from levies in the local area. The benefits of this approach are to immediately move funds into the hands of the community housing sector who have the expertise to then purchase sites on the open market when they become available, without need to wait for government to allocate them funding, and then develop them. It effectively allows CHPs to operate as a developer would, without the challenges and uncertainties that may come from having to apply for grants on a case-by-case basis, allowing them to move forward with certainty.
42. DCJ also acknowledges the significant achievements of their partnership with the City in the Affordable Housing space and notes the future opportunities for continued partnership, including various tender programs run by DCJ and possible funding being explored through the Commonwealth Government's Housing Australia Future Fund (HAFF).
43. No change is recommended to the draft Interim Distribution Plan as a result of the LAHC or DCJ submissions. However, the question of the optimal number of CHPs will be given further consideration in the preparation of the final distribution plan, being prepared for the consideration of Council.

Public support

44. Five submissions received from the general public (not including those from public authorities or CHPs) expressed general support for the exhibited Affordable Housing provisions, with two submissions calling for a greater increase in contribution rates, given the need for Affordable Housing, and two supporting a wider distribution of funds.

Public opposition

45. Several submissions received from the general public expressed general opposition to the exhibited Affordable Housing provisions. Reasons included concerns about impact on property values, anti-social behaviour and that Affordable Housing should be provided in cheaper, less dense areas.
46. Submissions from the community, and the City's response, are provided in detail in the submissions table at Attachment A, with no change to the publicly exhibited Affordable Housing provisions recommended as a result.

Other consultation

47. In addition to statutory consultation, members of the City's Housing for All Working Group were also notified of the public exhibition of the Affordable Housing provisions and invited to make a submission. The working group received a briefing about the proposal on 8 November 2022, and a later progress briefing on the 7 May 2023.

Post exhibition changes

48. Following consideration of submissions, and further consultation with CHPs, the Department of Planning and Environment and the City's Housing for All Working Group, the following changes are recommended to the publicly exhibited Affordable Housing provisions.

Application of the Program

49. The draft Program has been amended to ensure it can apply should any future Environmental Planning Instrument (EPI) be amended to include a provision requiring an Affordable Housing contribution be made in accordance with the Program. The amendment is intended to facilitate the long-term flexibility of the Program by minimising the need for additional amendments where there may be changes to state environmental planning policies and the like.

Indexation of monetary contributions

50. The equivalent monetary contribution amount in the Program is adjusted on an annual basis to ensure that the contribution rate keeps pace with the cost of providing housing. Contribution amounts captured in conditions of consent are also indexed in accordance with the Program to account for changes between the time of consent and the date of payment at first construction certificate.
51. The Program uses changes in the median strata dwelling price over time to do this, as published in the NSW Government's Rent and Sales Report. Currently, the Program compares the median price that was used to establish the current contribution rate with the most recently published median price in the Report.
52. The draft Program has been amended to update this method. It is proposed to establish new contribution rates using an average of the median strata dwelling prices from the four most recently published Rent and Sales reports. This will provide a fuller picture of the current housing market than relying wholly on one single quarter of data for the coming year ahead.

Exemptions

53. The draft Program has been amended to clarify that any floor space in a building, that is a stand-alone building, and includes predominantly Affordable Housing provided in accordance with the Program, is exempt from making an affordable housing contribution. For example, if an Affordable Housing building included ancillary non-residential floor space at ground level, then a contribution requirement would not apply to the entire building. Market units as part of an Affordable Housing building(s) are not exempt.

Refunds

54. The draft Program has been amended to provide guidance around the circumstances where Affordable Housing contributions that have already been paid may be refunded.

55. Clarification has been included that where a development has not commenced and the original payee decides not to proceed with the consent, a refund of contributions already paid may be considered. This includes cases where the consent has lapsed. The payee would be required to surrender the consent in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Further housekeeping amendments

56. Some additional minor changes have been made to the text of the Program to streamline it and improve its readability. These changes do not affect the application or the outcomes of the Program.

Draft Interim Distribution Plan

57. This report recommends the approval of the planning proposal and draft Program (both with post exhibition changes), together with the draft Interim Distribution Plan, generally as it was publicly exhibited. Finalising the planning proposal secures the higher contribution rates proposed in Ultimo-Pyrmont, where more development is imminent following the implementation of the NSW Government's Pyrmont Peninsula Place Strategy.
58. While efforts have been made to prepare a final distribution plan that could be considered for adoption together with the planning proposal, it has not been possible within the Gateway Determination timeframes that require finalisation by August 2023. Further work is needed to resolve issues raised by CHPs and DCJ in their submissions before the detail of a distribution plan can be finalised and put to Council for their consideration.
59. It is also considered prudent to delay finalising the distribution plan given the fast-evolving housing policy landscape. Opportunities for the distribution plan may emerge from the introduction of the HAFF by the Federal Government, or complementary incentive / funding schemes that may be announced by the new state government as it resolves its approach to addressing the housing crisis.
60. It is recommended however that the draft Interim Distribution Plan be amended to delay its commencement until 1 July 2024. A finalised distribution plan will be reported for the consideration of Council in due course, with the aim of it being endorsed prior to the commencement of interim plan. In the event this does not occur, the delayed commencement of the draft Interim Distribution Plan allows for the arrangement of the significant administrative changes required to support the new approach, as well as the negotiation and preparation of individual legal agreements for with CHPs receiving contribution funds.
61. Until that time, the arrangements for the distribution of contributions will remain unchanged from those in place under the City of Sydney Affordable Housing Program as adopted in 2020.

Planning proposal

62. The planning proposal has been updated to address an omission relating to development that may be exempt from making a contribution or have a reduced contribution requirement applied.
63. The current Program details circumstances where requiring an Affordable Housing contribution would be unreasonable given the nature or cost of a proposed development. The draft Program, as exhibited, introduced a reduced contribution requirement if development would result in an Affordable Housing contribution which amounted to more than 15 per cent of the agreed cost of construction. In these circumstances, the Affordable Housing contribution requirement would be capped at 15 per cent of the agreed construction cost.
64. In order to facilitate this intent, the current wording of the Affordable Housing provisions in Sydney Local Environmental Plan 2012 must also be adjusted so that they require a contribution *not exceeding* (as opposed to *equivalent to*) the applicable Affordable Housing levy contribution stated. This proposed change was inadvertently left out of the original planning proposal and has now been updated to incorporate this amendment to Clause 7.13(2) of Sydney LEP 2012.
65. In addition, a number of minor amendments to planning proposal have been made to align it with the changes proposed to the draft Program described above.

Next steps*Final Distribution Plan*

66. A final distribution plan is being prepared and is expected to be reported to Council for consideration in 2024.

Funding agreements

67. Irrespective of whether Affordable Housing contribution funds are distributed in accordance with an interim or a final distribution plan, prior to the distribution of Affordable Housing contribution funds to CHPs, the City will enter into a funding agreement with all CHPs receiving Affordable Housing contributions. The purpose of the funding agreement is to ensure contribution funds are being used for the purpose for which they were collected, being for the provision of Affordable Housing in the local area. A funding agreement will generally address the following:
 - (a) the obligations of the parties, being the CHP and the City;
 - (b) the way in which funds can be spent, being in accordance with the principles and requirements of the Program;
 - (c) reporting and monitoring requirements, for example, CHPs may be required to report on how funds are leveraged, demonstrate delivery benchmarks, and so on;
 - (d) dispute resolution protocols; and
 - (e) terms of termination of any agreement.

Strategic Alignment

68. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. The proposed Affordable Housing provisions are aligned with the strategic directions and objectives.
69. The proposed Affordable Housing provisions give effect to the infrastructure, liveability, productivity and sustainability priorities in the Greater Sydney Commission's Greater Sydney Region Plan and Eastern City District Plan and the City's Local Strategic Planning Statement.

Relevant Legislation

70. Environmental Planning and Assessment Act 1979.
71. Environmental Planning and Assessment Regulation 2021.
72. State Environmental Planning Policy (Housing) 2021.

Critical Dates / Time Frames

73. The gateway requires that the amendment to the subject LEPs is completed by 19 August 2023.
74. Authority for making the changes to the LEPs was requested, but not granted by the Department. If adopted, the planning proposal will be referred to the Department to finalise legal drafting.
75. The amendment to the subject LEPs will come into effect when published on the NSW Legislation website, with the draft Program coming into effect on the same day. The draft Interim Distribution Plan will come into effect on 1 July 2024 unless an amended distribution plan is adopted before that date.

GRAHAM JAHN AM

Director City Planning, Development and Transport

Tamara Bruckshaw, Manager Green Square and Major Projects

Samantha Bird, Specialist Planner

Attachment A

Summary of Submissions and Responses

Affordable Housing Program Update – Summary of Submissions and Responses

Community submissions

Submissions received from:

- 20 members of the community

Summary of key matter raised	Officer response
<u>General support for affordable housing</u> (raised in 9 submissions)	
<p>General agreement with the need for affordable housing in principle.</p> <p>Three submissions agreed that affordable housing is essential to the social diversity of the City’s communities and one also recognised the role that affordable housing plays in ensuring enough workers can fill lower paid jobs in the City without travelling long distances.</p>	<p>Noted.</p> <p>Action: None required.</p>
<u>Support for changes in Ultimo-Pyrmont</u> (raised in 2 submissions)	
<p>Two submissions expressed support for increasing the supply of affordable housing in the Pyrmont area, and supported the increase in contribution rates to bring Ultimo-Pyrmont in line with those which apply in the rest of the City.</p>	<p>Noted.</p> <p>Action: None required.</p>
<u>Support for additional affordable housing providers</u> (raised in 2 submissions)	
<p>Two submissions expressed support for expanding the distribution of contributions to other affordable housing providers, so long as:</p> <ul style="list-style-type: none"> i) the provider(s) are genuine, not-for-profit affordable housing providers, and ii) it is controlled to ensure the continued viability of City West Housing, who are supported in the Pyrmont area. 	<p>Recommended CHPs that are identified to receive affordable housing funds in the City must be registered Tier 1 or Tier 2 community housing providers, assessed and regulated under a national code.</p> <p>The City acknowledges the concern that distributing the funds more widely may threaten the continued viability of projects City West has in the development pipeline. This matter will be further considered in the development of the final distribution plan, being prepared for Council consideration.</p> <p>Action: Consider impact on City West Housing further in the finalisation of the Distribution Plan.</p>

Summary of key matter raised	Officer response
<u>More should be done</u> (raised in 4 submissions)	
<p>Two submissions felt that the City should be bolder in their affordable housing targets, and that the 1% non-residential and 3% residential floor space contribution rates are too low based on the known housing need and City's own targets.</p> <p>One submission also suggests a review of Council-owned sites which would have development potential for affordable housing.</p> <p>One submission also highlighted that affordable housing should not replace social housing, and that more was needed of both.</p> <p>One submission also suggested affordable housing targets by area, to ensure housing is provided in the locations envisaged in the original, separate affordable housing programs.</p>	<p>The current affordable housing program has only recently been expanded to the whole of the local government area. The contribution rates contained in the program were based on economic feasibility testing, which will be monitored going forwards.</p> <p>In addition to the collection of affordable housing levies, the City materially supports the provision of affordable rental housing through grants to non-government organisations and subsidising the sale / long term lease of council owned land to CHPs.</p> <p>The City will continue to innovate and use all levers available to it to increase the amount of affordable housing in the local area.</p> <p>Action: None required.</p>
<u>Affordable housing should not be located in the inner city</u> (raised in 13 submissions)	
<p>Numerous submissions expressed concerns with affordable housing being provided in the inner city. The submissions believe the housing would be better located elsewhere.</p> <p>Reasons include that:</p> <ul style="list-style-type: none"> • There is insufficient infrastructure and parking to support more development • Housing contributions would go much further if the affordable housing was built further west or in wider Australia • It is unfair to residents who've bought at market price or pay full rents • Premium locations shouldn't be subsidised, people can move somewhere cheaper • Grouping lower socio-economic groups in an area leads to anti-social behaviour • It would create slums on prime real estate, which is detrimental to the tone and value of existing areas <p>Five submissions expressed concern over the provision of more affordable housing being provided in Pyrmont in particular.</p>	<p>Affordable housing is essential to the social diversity of the City's communities and plays an important role in ensuring workers can fill lower paid jobs in the City without travelling long and unsustainable distances.</p> <p>Under the City's affordable housing program, the maximum equivalent amount of floor space being provided as affordable housing is 3% of total residential floor space.</p> <p>The proposed affordable housing provisions do not increase density in Ultimo-Pyrmont, rather they ensure that development already possible under current planning controls makes appropriate contribution to affordable housing in the area. Affordable housing is provided within existing density and height provisions and place no additional burden on existing or planned infrastructure.</p> <p>Property values in inner Sydney, including Ultimo-Pyrmont, are some of the highest in Australia. When Ultimo-Pyrmont was rezoned in the 1990's, an affordable housing program</p>

Summary of key matter raised	Officer response
<p>Reasons included:</p> <ul style="list-style-type: none"> • Pyrmont is already too dense • This would site vulnerable residents too close to the casino, enabling gambling habits • It could increase the crime rate, which is already high in Pyrmont • Existing affordable housing developments have been spoiled by anti-social behaviour • It would negatively impact property values in Pyrmont 	<p>was introduced by way of ensuring socio-economic diversity was maintained in the area. Affordable housing has since built to the same standard of other development in the area, and provided to a mix of very-low, low and medium-income households. There is no evidence to suggest that property values in Ultimo-Pyrmont have been, or would be, affected by affordable housing located in the area.</p> <p>Anti-social behaviour can occur in any housing type. Community Housing Providers, including City West, work hard to manage and maintain their properties and support their tenants to prevent issues arising. New affordable housing developments are carefully designed to be safe, secure spaces with servicing arrangements which ensure ease of proper rubbish disposal and collection.</p> <p>Action: None required.</p>
<p><u>Market housing in disguise</u> (raised in 3 submissions)</p>	
<p>Some submissions revealed a distrust that the funds would end up in the pocket of developers rather than 'genuine' affordable housing providers. One called for a proportion of the housing to be provided in perpetuity.</p>	<p>Recommended CHPs that are identified to receive affordable housing funds in the City must be registered Tier 1 or Tier 2 community housing providers, assessed and regulated under a national code.</p> <p>Under the City's existing and draft affordable housing Programs, all affordable housing delivered under the Program must be secured by a covenant on title to the benefit of Council.</p> <p>Action: None required.</p>
<p><u>Poor quality housing</u> (raised in 1 submission)</p>	
<p>One submission raised concern with the quality of development, citing ventilation, renewable energy, better quality builds, better design and green space to be essential.</p>	<p>The City notes the concerns raised. Planning outcomes are regularly monitored and the City's planning controls are updated to ensure the delivery of high quality development which is supported by infrastructure and public open space. Residential amenity, design excellence and good sustainability outcomes have been a focus in the City of Sydney in recent years.</p> <p>Action: None required.</p>

Summary of key matter raised	Officer response
<u>Invest in infrastructure instead</u> (raised in 1 submission)	
<p>One submission expressed that the funds should be used to upgrade infrastructure, not provide affordable housing.</p>	<p>Whilst investment in infrastructure is important, housing affordability has an impact on the wellbeing of societies and the proper functioning of economies and should also be secured as the City develops.</p> <p>Action: None required.</p>

Community Housing Providers submissions

From:

- 3 Community Housing Providers (CHPs)

Summary of key matter raised	Officer response
City West Housing (CWH)	
<p>Expresses general support for a wider distribution of contribution funds to a limited number of CHPs.</p>	<p>Noted.</p> <p>Action: None required.</p>
<p>Highlights the need for certainty around future funds as the incumbent Recommended CHP to service its existing pipeline of over 500 dwellings in the City of Sydney local area, noting that the draft Interim Distribution Plan in its current form risks their delivery.</p> <p>Recommends that the proposed changes to distribution of funding should be phased in to ensure CWH’s capacity to service:</p> <ul style="list-style-type: none"> • its established properties; • properties that have been committed to in the development pipeline; • other properties in the development pipeline in the development application or pre-development application stage; and • the level of support and devices it has promised to deliver its residents and partner agencies. <p>CWH’s operating conditions, as stipulated in the Program, mean that annual operating surpluses are small. When combined with the high cost of land in the City of Sydney, and escalating cost of construction, City West Housing is heavily reliant on contribution funds in the short to medium term to fund existing affordable housing projects in the development pipeline.</p>	<p>The City recognises the importance of certainty for City West’s current development pipeline and that City West will have undertaken future investment decisions based on an expected continuation of funds under current affordable housing programs.</p> <p>Funds levied under the current affordable housing programs are subject to market forces and already vary, sometimes greatly, year on year. The City’s intention to move to a wider distribution of funds has also been highlighted since June 2022. Nevertheless, the City acknowledges the potential impact that a change in distribution of funds may have on City West’s ability to deliver affordable housing in their development pipeline.</p> <p>While the draft Interim Distribution Plan is recommended for adoption as it was publicly exhibited, it is noted that a final distribution plan will be prepared for the consideration of Council.</p> <p>Action: This impact on City West’s development pipeline will be further considered in the preparation of the final Distribution Plan.</p>
<p>To safeguard its ability to deliver its current development pipeline, City West requests existing funding arrangements under the current affordable housing programs be 'grandfathered' to avoid an inadvertent dilution of funds.</p>	<p>The City notes City West’s request to 'grandfather' existing funding arrangements.</p> <p>Action: This will be considered further in the finalisation of the Distribution Plan.</p>
<p>Recommends that funds should not be distributed to more than two CHPs at any one time.</p>	<p>The City acknowledges that this issue needs further consideration.</p> <p>Action: Efficiencies from larger scale operations and the optimal number of CHPs will be</p>

Summary of key matter raised	Officer response
<p>This considers the efficiencies that scale of operation can bring for not-for-profit CHPs, including:</p> <ul style="list-style-type: none"> • efficiencies in servicing properties; • efficiencies from larger portfolios, enabling the leveraging of rental surpluses from other properties own or managed in the same area and for gaining access to finance to further increase affordable housing in the local area; • effective relationship building and efficiencies for support service providers servicing tenants of the CHPs. 	<p>considered further in the finalisation of the Distribution Plan.</p>
<p>The City should acknowledge the innate complexities and risk of undertaking medium density housing capital developments in high-cost inner-city markets when selecting additional CHPs to receive the contribution funds.</p> <p>Recommends that the City requires evidence of development expertise both in capital project delivery and on market site acquisition, as well as evidence of operations in this area when selecting CHPs to be considered for the distribution plan.</p>	<p>The three CHPs identified in the draft Interim Distribution Plan are all Tier 1 CHPs with demonstrated development capacity and experience.</p> <p>Notwithstanding the above, the City agrees that the selection of the right CHPs to receive contribution funds is critical to the successful delivery of affordable housing.</p> <p>Action: Appropriate criteria to assess the experience and capabilities of CHPs will be given further consideration in the preparation of the final Distribution Plan.</p>
<p>Highlights that until late 2020 there was governmental constraints on CWH borrowing against their asset base, and entering into partnerships and joint ventures.</p> <p>It is unfair to say CWH has had 'lazy' assets that have not been affectively leveraged.</p> <p>These constraints are now removed and CWH has now secured finance to deliver its next development project of 74 homes in Waterloo.</p>	<p>The City acknowledges that until 2020 City West Housing could not borrow against their assets due to governmental constraints.</p> <p>The upcoming development in Waterloo is welcomed.</p> <p>Action: None required.</p>
<p>Requests the City note the requirements in its Program means that annual operating surpluses are small – for example the requirement to house a mix of tenants on very low, low and moderate incomes; to charge rents based on incomes (and not at a reduction to market rents), as well as the high cost of maintaining apartment buildings.</p>	<p>The City notes the high cost of development and the restrictions of the Program result in low annual operation surpluses, which can constrain the development capacity of a CHP unless they are also able to leverage debt effectively.</p> <p>Action: None required.</p>

Summary of key matter raised	Officer response
<p>With the high cost of land in the City of Sydney, and escalating cost of construction, City West is heavily reliant on contribution funds in the short to medium term to fund exiting affordable housing projects in the development pipeline.</p>	
<p>Recommends more detail be provided in any future distribution plan, to give certainty around:</p> <ul style="list-style-type: none"> • where collected affordable housing funds will be held • how funds will be distributed to recommended providers • the frequency of release of funds, and • the calculation and distribution of interest. 	<p>The administrative detail of funds distribution is not required to be detailed in the distribution plan – this simply sets out apportionment of funds to receiving CHPs. This type of administrative information will instead form part of the City’s internal processes and where appropriate may form part of a funding agreement that is to be agree with identified CHPs prior to funds being issued.</p> <p>Action: Further work will be undertaken to establish the administrative processes that will support the distribution plan before it commences.</p>
<p>The Program’s prescribed tenure mix for dwellings being dedicated (being 25% for very low income tenants and 25% for low income tenants for any development over 10 dwellings) may be difficult to maintain over time, as the life-stage and circumstance of tenants change.</p> <p>City West recognises that a tenant’s income can change, and maintains tenure mix across its City portfolio rather than ejecting tenants from individual developments to retain an appropriate mix.</p> <p>Recommends that if the City requires a specific tenure mix for a project at the time of dedication, the Program should acknowledge the need for some flexibility in tenure mix over time.</p>	<p>The City notes City West’s position on this issue.</p> <p>Action: Section 2.1.6 of the Program is amended as requested to provide clarification on this matter.</p>
<p>Questions the intent behind the Program’s required tenure mix in the Employment Lands.</p> <p>In this area, the Program currently requires at least 15 per cent of dwellings to be allocated to very low income households and 15 per cent to low income households. As this control does not apply anywhere else in the LGA, is to ensure that not all people housed in the Employment Lands are moderate-income</p>	<p>The City notes the issue and confirms this is the intention of this requirement in the Employment Lands.</p> <p>Action: Section 3.1 of the Program is amended as requested to better reflect the intention of the tenure mix.</p>

Summary of key matter raised	Officer response
<p>workers, but also that a higher proportion of workers are able to be housed in this location?</p> <p>If so, it may be better to frame the requirement as up to 70% of dwellings need to be allocated for income-eligible employed households. This would provide flexibility for low and/or moderate income working households to make up the 70%, whilst still retaining 30% of the housing for lower income households who may not be currently employed.</p>	
<p>Using the median sales price to generate and index the contribution rates isn't high enough to reflect the cost of developing or purchasing new stock, because it is developed or sold at a higher price than established older dwellings.</p> <p>Requests that the 75th percentile or third quartile sales prices is used instead as a better reflection of the cost of developing or purchasing new stock.</p>	<p>The City recognises that the real costs to developers are often less if they make a monetary contribution rather than dedicating finished dwellings. The City is reviewing how this may be made more equivalent in future.</p> <p>Action: This issue will be further considered by the City in the future.</p>
St George Community Housing (St George)	
<p>Welcomes the opportunity to work together with the City to deliver affordable housing.</p>	<p>Noted.</p> <p>Action: None required.</p>
<p>Demonstrates their track record as a registered charity and Tier 1 community housing provider since 1985, including:</p> <ul style="list-style-type: none"> • Currently owning, managing and delivering services for 11,500 people in over 7,000 homes across 23 local government agencies in Greater Sydney. 458 of these properties are within the City of Sydney, including 203 social housing dwellings and 255 affordable homes. • A development pipeline of 818 units over the next three years, of which 190 are in the City of Sydney. Since 2015, St George have delivered over 1,000 new units across 37 sites. 	<p>The City notes the capabilities and experience of St George in the community housing sector and in delivering community housing in the Sydney region.</p> <p>Action: None required.</p>
<p>Identifies experience with raising capital at scale and developing strategic working relationships with government and developers to unlock land for affordable housing. St George commits to maximising the City's affordable housing contributions to deliver more homes through:</p> <ul style="list-style-type: none"> • Leveraging available government funding and concessions, debt finance and 	<p>The City notes St George's established systems, processes and partnerships that bring together a range of stakeholders to maximise and expedite the delivery of affordable housing assets.</p> <p>Action: None required.</p>

Summary of key matter raised	Officer response
<p>innovative tax structuring to maximise capital and reduce overall project delivery costs to deliver more housing</p> <ul style="list-style-type: none"> • Directing surplus rental funds from over 7,000 tenancies to fund new supply • Delivering efficiencies in operations and maintenance through growing scale and concentration in Sydney, and • Continuing to foster partnerships with major and smaller developers to access land parcels and bring forward good quality affordable housing supply through the co-designing of projects. 	
<p>St George has already worked in partnership with the City of Sydney on several social and affordable housing projects including:</p> <ul style="list-style-type: none"> • 162 social and affordable housing units at 11 Gibbons Street, Redfern • 54 social housing unit at 41 Morehead Street, Redfern • 73 studio units for vulnerable young adults and 20 affordable units at 26-28 City Road, Chippendale • 58 affordable housing units at 11 Smail Street and 68-72 Bay Street, Glebe • 15 social and affordable units at 6-8 Orwell Street, Potts Point <p>They also benefit from an Aboriginal Housing Engagement Coordinator, funded by the City, who works closely with the community to increase the number of Aboriginal housing tenancies within the City.</p>	<p>The City notes the experience and capabilities of St George in this area.</p> <p>Action: None required.</p>
<p>To support the City's Affordable Housing Program, St George commits to partner with the City to provide homes that are:</p> <ul style="list-style-type: none"> • diverse - in both housing type and tenure; with a mix of studio, one-, two- and three-bedroom and dual key units, and a mix of very low, low and moderate income households • connected - inclusive, cohesive and empowered communities connected through place-based community development services and supported with coordinated services • well designed and maintained - with design and build standards which focus on durability and low maintenance 	<p>The City notes St George's commitment to deliver high quality affordable rental stock in the City of Sydney LGA.</p> <p>Action: None required.</p>

Summary of key matter raised	Officer response
<p>requirements, to optimise the life of each asset and protect their value, enabling greater investment to secure additional homes</p> <ul style="list-style-type: none"> • accessible - with homes built to a minimum Silver Livable Design Standard • environmentally sustainable - built to a minimum 7 star NatHERS, and • meeting community need - prioritising housing allocation to Aboriginal and Torres Strait Islands people and families (25% of homes), older women (10%), women with children experiencing domestic and family violence (10%), rough sleepers and people at immediate risk of homelessness (10%) and people living with disability (10%). 	
Bridge Housing	
<p>Welcomes the efforts to streamline management of affordable housing funding and the move towards enabling additional CHPs to access contribution funds.</p>	<p>Noted.</p> <p>Action: None required.</p>
<p>Expresses interest in working with the City to deliver increased affordable housing supply in the City.</p>	<p>Noted.</p> <p>Action: None required.</p>
<p>Identifies Bridge Housing as the CHP with the largest social and affordable housing footprint in the City of Sydney LGA.</p> <p>They have a deep connection to the local community, with a head office in the LGA.</p> <p>Expresses the belief that chosen additional providers should be those with their operations based primarily in the LGA, so that they understand and are focussed on delivering outcomes for the local community.</p>	<p>Noted. The City recognises the experience, capabilities and established partnerships Bridge Housing has in the community housing sector and in providing affordable housing within the City of Sydney LGA.</p> <p>The City acknowledges that there needs to be careful consideration of any CHP that is recommended to received contribution funds.</p> <p>Action: Choice of CHP will be considered further in the finalisation of the Distribution Plan.</p>

Public Authority submissions

From:

- NSW Land and Housing Corporation (LAHC)
- NSW Department of Communities and Justice (DCJ)

Summary of key matter raised	Officer response
NSW Land and Housing Corporation (LAHC)	
<p>LAHC has no specific comments with regards to the proposed amendments.</p> <p>LAHC commends the City on its commitment to affordable housing and offers its ongoing assistance in this endeavour if appropriate.</p> <p>Reiterates the important role social housing has a subset of affordable housing, being housing for “very low income households” as described in the Environmental Planning and Assessment Act 1979 and contributes to affordable housing across NSW.</p>	<p>The submission is noted.</p> <p>Action: None required.</p>
NSW Department of Communities and Justice (DCJ)	
<p>Abstains from supporting/objecting to the proposals as the NSW Government is a shareholder of City West Housing.</p>	<p>Noted.</p> <p>Action: None required.</p>
<p>Recognises that the proposed changes would terminate the current Funding Agreement for affordable housing between the City and the Secretary of DCJ with respect to the Employment Lands funds.</p> <p>Supports this administrative change that would enable Council to deal and distribute funds directly with CHPs for the delivery of affordable housing.</p>	<p>Noted.</p> <p>Action: None required.</p>
<p>Expresses concern around the proposed mechanics and practicalities of equal distribution of funds across three CHPs.</p> <p>Highlights that distributing funds across three CHPs will dilute the impact of the funds and delay delivery of affordable housing, as more time will be required for fund accumulation before a CHP can initiate an affordable housing project.</p>	<p>The City notes DCJ's concerns around the optimal number of CHPs for the distribution of funds, both from the perspective of spreading the funding too thinly, with inevitable delays to affordable housing projects, and from the resourcing strain to both Council and CHP if too many providers are chosen to receive funding.</p> <p>Action: The optimal number of CHPs will be considered further in the finalisation of the Distribution Plan.</p>

<p>The extremely high land values in the City in itself requires larger amounts to be provided to CHPs to support financially viable projects.</p> <p>Thought should be given to the administrative burden linked with the number of CHPs chosen and frequency of remittance of funds, together with the reporting requirements on how the money is quarantined, invested and spent which would be required from both Council and CHP.</p> <p>DCJ advises that the approach be considered for efficient delivery and value for money proposition.</p>	
<p>DCJ suggests Council might consider retaining a funding pool until such time as a sizeable amount has accumulated and then inviting CHPs to submit an EOI. DCJ considers that disbursing all accumulated funds to a single CHP through a competitive process would provide the best results in terms of affordable housing delivery within the City of Sydney boundary.</p>	<p>The City's preferred approach for the use of affordable housing contribution funds is to allocate them directly to a CHP. The benefits of this approach are to immediately move funds into the hands of the community housing sector who have the expertise to then purchase sites when they become available, without the need to wait for government to allocate them funding, and then develop them. It effectively allows CHPs to operate as a developer, without the challenges and uncertainties that may come from having to apply for grants on a case-by-case basis, allowing them to move forward with certainty.</p> <p>The City undertakes to do further work to determine the optimal number of CHPs funded at any one time.</p> <p>Action: The optimal number of CHPs will be considered further in the finalisation of the Distribution Plan.</p>
<p>DCJ acknowledges the significant achievements of their partnership with the City in jointly managing the planning and development of affordable housing in the LGA, particularly since 2015.</p> <p>The submissions notes there may be further opportunities for partnership in the future, including various tender programs run by DCJ and possible funding being explored through the Commonwealth Government's Housing Australia Future Fund (HAFF).</p>	<p>The City considers it prudent to delay the finalisation of the distribution plan given the fast-evolving housing policy landscape. Opportunities may arise from the introduction of the HAFF or complementary incentive/funding schemes that may be announce as the new state government resolves its approach to addressing the housing crises.</p> <p>Action: These opportunities will be further explored in the finalisation of the Distribution Plan.</p>

Attachment B

**Planning Proposal - City of Sydney
Affordable Housing Program Update
(as amended following public exhibition)**

Planning Proposal: Affordable Housing Program Update 2022



Contents

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1. Background

1.1. Introduction

This Planning Proposal: Affordable Housing Program Update 2022 (this planning proposal) is to amend the *Sydney Local Environmental Plan 2012* (Sydney LEP 2012), the *Sydney Local Environmental Plan (Green Square Town Centre) 2013*, and *Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013* (the Green Square Town Centre LEPs).

Generally, the intended outcome of this planning proposal is to increase the amount of affordable housing in the City of Sydney local government area. Specifically, the intended outcomes of this planning proposal are to:

- increase the affordable housing contribution requirement in Ultimo-Pyrmont in the Sydney LEP 2012 in accordance with the NSW Government’s Pyrmont Peninsula Place Strategy; and
- make reference to an updated City of Sydney Affordable Housing Program in Sydney LEP 2012 and the Green Square LEPs so that:
 - the City of Sydney Affordable Housing Program (Program) applies to Ultimo-Pyrmont and increases the affordable housing contribution requirement. This would bring affordable housing contribution requirements in Ultimo-Pyrmont in alignment with other areas in the City;
 - contribution funds are allocated to community housing providers (CHPs) in accordance with any distribution plan adopted by Council;
 - the Program applies to land where the Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006 applies, but only in the circumstance where the that Plan is repealed;
 - the contribution funds arising from development in the Southern Employment Lands are allocated in accordance with any distribution plan adopted by Council; and
 - the Program is streamlined, with unnecessary information removed, and some minor house-keeping amendments made to clarify content.

A draft City of Sydney Affordable Housing Program (draft Program) is appended to this planning proposal. The draft Program is to replace the current Program, adopted by the Council on 24 August 2020.

A draft City of Sydney Interim Affordable Housing Funds Distribution Plan (draft Interim Distribution Plan) is appended to this planning proposal. The draft Interim Distribution Plan generally maintains the status quo with regards to how affordable housing contribution funds are currently allocated until such time as a final Distribution Plan is adopted by Council.

This planning proposal has been prepared in accordance with the *Local Environmental Plan Making Guideline*, published by the Department of Planning and Environment in December 2021.

1.2. Affordable housing in the City of Sydney

In April 2022 Council adopted for exhibition the draft Sustainable Sydney 2030-2050. This continues the vision of Sustainable Sydney 2030. The City's Local Housing Strategy: Housing for All, maintains the target in draft Sustainable Sydney 2030 - 2050 that 7.5 percent of all private dwellings be affordable housing. Based on a private dwelling target of about 160,000 to 2036, an estimated 12,000 affordable dwellings are required to achieve the City's target to 2036.

To date the City has collected about \$378 million in levies and provided about \$19 million in discounted land and about \$10 million in grants to not-for-profit housing providers. As at July 2022, the City has 1,427 built affordable housing units in the local area, 641 dwellings in the development pipeline and a further 701 that are expected to be built in the future (but not yet in the development pipeline). Noting the dwellings quoted below may be counted under more than one category, there are:

- 994 dwellings (built, pipeline and expected) that come from the City's affordable housing contribution schemes;
- 454 dwellings (built, pipeline and expected) that have been assisted by subsidised land sales from the City to CHPs; and
- 439 dwellings (built, pipeline and expected) that have been assisted by the City's Affordable and Diverse Housing Fund;
- a further 359 dwellings (built, pipeline and expected) that have not been assisted by any of the above.

The City's levies are estimated to deliver up to 1,950 additional affordable dwellings to 2036 (some already accounted for in the above figures). However, this estimate will be heavily impacted by other matters outside of the City's control, including, but not limited to:

- the property market, that is, the amount of development that occurs. This is highly influenced by the market conditions of the day;
- the way land develops, for example if more land is developed for commercial premises, rather than housing, there will be less contribution funds;
- the ability of CHPs to successfully leverage contribution funds and existing property portfolios;
- state NSW Government policy directions; and
- Federal and NSW Government investment in affordable housing (which may accelerate outcomes under this scheme when available funds are combined with levy funds).

The built, pipeline, expected and projected affordable housing dwellings equal around 4,200 affordable rental dwellings and affordable diverse dwellings to 2036. This is about a quarter of the 12,000 affordable housing dwellings needed to achieve the City's target for 7.5% of all housing in be affordable housing.

In addition, the City continues to seek innovative ways to use our planning controls to increase the amount of affordable housing, for example, the preferential zoning scheme that applies in the B7 - Business Park zone.

1.3. Affordable housing contribution schemes

The City's affordable housing contribution schemes, commonly referred to as inclusionary zoning schemes or affordable housing levy schemes, are set out in Sydney Local Environmental Plan 2012 (Sydney LEP 2012), Sydney Local Environmental Plan (Green Square Town Centre) 2013,

and Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013 (the Green Square Town Centre LEPs).

The provisions in the various LEPs:

- set out the different contribution areas (geographies) in the local government area (LGA);
- set out the proportion of any floor space in a development that is to be required to be dedicated for affordable housing (depending on what contribution area the land is located in); and
- allow for an equivalent monetary contribution to be made in accordance with an affordable housing program.

The purpose of an affordable housing program is to provide the operational and management requirements for the administration of the scheme, including:

- the principles by which affordable rental housing is to be provided and managed;
- an equivalent monetary contribution rate a developer may contribute, in lieu of dedicating floor space;
- examples of how a monetary contribution is to be calculated in different contribution areas;
- the approach to indexing the equivalent monetary contribution rate and a contribution requirement over time; and
- who receives contribution funds and how they must be used.

The City of Sydney Affordable Housing Program (the Program), adopted by Council on 24 August 2020, currently contains the requirements for four contribution areas:

- Green Square;
- Southern Employment Lands (now known as the Southern Enterprise Areas);
- Central Sydney; and
- Residual lands (being generally all other areas but land in Ultimo-Pyrmont and land under NSW Government Planning Instruments such as the Redfern Waterloo Authority Affordable Housing Contributions Plan 2006).

The Revised City West Affordable Housing Program (Ultimo-Pyrmont Program), published by the Department in June 2010, sets out the affordable housing contribution requirements for land in Ultimo-Pyrmont.

The Redfern Waterloo Authority Affordable Housing Contributions Plan 2006 sets out the affordable housing contribution requirements for any State Significant Development in the Redfern Waterloo Authority operational area.

While there is variability in the way the above affordable housing programs apply, generally the affordable housing contribution requirement is shown in Table 1.

Table 1: Contributions rates

Affordable housing program	Affordable housing contribution requirement	Equivalent monetary contribution	Receipt of funds
City of Sydney Affordable Housing Program	<p>In Green Square and the Southern Employment Lands:</p> <ul style="list-style-type: none"> 1% of non-residential floor space; and 3% of residential floor space. <p>In Central Sydney and on residual land:</p> <ul style="list-style-type: none"> 0.5% of non-residential floor space until 1 July 2022 and 1% thereafter; and 1.5% of residential floor space until 1 July 2022 and 3% thereafter. 	The equivalent monetary contribution rate is \$11,599.74/sqm at 1 March 2022	<p>Funds from Green Square, Central Sydney and residual land is remitted to City West Housing</p> <p>Funds from the southern employment lands are remitted to the Department of Communities and Justice</p>
Revised City West Affordable Housing Program (Ultimo-Pyrmont)	<p>1.1% of non-residential floor space; and;</p> <p>0.8% of residential floor space</p>	The equivalent monetary contribution rate is expressed differently than the City's Program, but when adjusted is \$4,916/sqm	Remitted to City West Housing
Redfern Waterloo Authority Affordable Housing Contributions Plan 2006 (applies to State Significant Development in the Redfern Waterloo Authority operational area)	A contribution equivalent to the estimated cost of the provision of affordable housing comprising 1.25% of the total gross floor area of the development.	The monetary contribution rate is established at the point of development application based on current property data	Remitted to Infrastructure NSW

1.4. Planning proposal process

This planning proposal is to amend the affordable housing provisions in the Sydney LEP 2012 and the Green Square LEPs in the manner set out in Section 4 of this planning proposal.

This planning proposal will be publicly exhibited together with:

- the draft Program, appended to this planning proposal, that is proposed to replace the current Program; and
- the draft Interim Distribution Plan, appended to this planning proposal, that explains the interim plan for the distribution of affordable housing contribution funds. It is intended that following consultation with the community housing sector and with other experts, that a final distribution plan will be publicly exhibited and adopted by Council.

The reason and the justification for the proposed amendments and the new draft Interim Distribution Plan is set out in Part 5 of this planning proposal.

Following public exhibition, submissions received from the public, and from government or government authorities, ~~will be~~ **have been** considered by the Council and the Central Sydney Planning Committee. Further changes to Sydney LEP 2012, the Green Square Town Centre LEPs, the draft Program and the draft Interim Distribution Plan ~~may be~~ **have been** made because of matters raised in submissions, **as noted in this planning proposal**.

2. Existing planning controls

2.1. Contribution requirements

The Sydney Local Environmental Plan 2012, *Sydney Local Environmental Plan 2012* (Sydney LEP 2012), the *Sydney Local Environmental Plan (Green Square Town Centre) 2013*, and *Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013* (the Green Square Town Centre LEPs) contain provisions for affordable housing. They generally require:

- an affordable housing contribution on all land at Green Square and in the Southern Employment Lands that is:
 - 3% of the total floor area of the development that is intended to be used for residential purposes, and
 - 1% of the total floor area of the development that is not intended to be used for residential purposes.
- an affordable housing contribution on all land in Ultimo-Pyrmont that is:
 - 0.8% of the total floor area of the development that is intended to be used for residential purposes, and
 - 1.1% of the total floor area of the development that is not intended to be used for residential purposes.
- an affordable housing contribution on all land in Central Sydney and on residual land that is:
 - for development applications lodged before 1 July 2022:
 - 1.5% of the total floor area of the development that is intended to be used for residential purposes, and
 - 0.5% of the total floor area of the development that is not intended to be used for residential purposes,
 - for development applications lodged on or after 1 July 2022—
 - 3% of the total floor area of the development that is intended to be used for residential purposes, and
 - 1% of the total floor area of the development that is not intended to be used for residential purposes.

The provisions allow for an affordable housing contribution requirement to be satisfied by making an equivalent monetary contribution in accordance with:

- in Green Square, in the Southern Employment Lands, in Central Sydney and on residual land, the City of Sydney Affordable Housing Program, adopted by Council on 24 August 2020; and
- in Ultimo-Pyrmont, the Revised City West Affordable Housing Program published by the Department in June 2010.

2.2. Affordable Housing Programs

City of Sydney Affordable Housing Program

Council adopted the current City of Sydney Affordable Housing Program (the Program) on 24 August 2020, which came into effect on 1 July 2021. It applies to most of the local area, excluding:

- those areas where the City is not the consent authority;
- those areas where the Sydney LEP 2012 or the Green Square Town Centre LEP's do not apply;
- the Redfern Waterloo Authority operational area, where the Redfern Waterloo Authority Affordable Housing Contributions Plan 2006 applies; and
- the Ultimo-Pyrmont areas, where the Revised City West Affordable Housing Program applies.

Proposed changes to the Program are discussed in section 5.2 of this planning proposal.

Revised City West Affordable Housing Program

The Revised City West Affordable Housing Program (the Ultimo-Pyrmont Program) was published by the Department of Planning and Environment in June 2010 and applies to land in Ultimo-Pyrmont as identified in the Sydney LEP 2012.

Redfern Waterloo Authority Affordable Housing Contributions Plan 2006

The Redfern Waterloo Authority Affordable Housing Contributions Plan 2006 applies to State Significant Development in the Redfern Waterloo Authority operational area.

3. Objectives and intended outcomes

3.1. Objectives

To amend the *Sydney Local Environmental Plan 2012* (Sydney LEP 2012), the *Sydney Local Environmental Plan (Green Square Town Centre) 2013*, and *Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013* (the Green Square Town Centre LEPs) to update provisions relating to affordable housing to increase the amount of affordable housing in the City of Sydney local government area, while maintaining development viability.

3.2. Intended outcomes

The intended outcomes are to:

- increase the affordable housing contribution requirement in Ultimo-Pyrmont to align with other areas in the City of Sydney and implement an aspect of the NSW Government's Pyrmont Peninsula Place Strategy; and
- make reference to an updated City of Sydney Affordable Housing Program in Sydney LEP 2012 and the Green Square LEPs so that:
 - the City of Sydney Affordable Housing Program (Program) applies to Ultimo-Pyrmont and increases the affordable housing contribution requirement. This would bring affordable housing contribution requirements in Ultimo-Pyrmont in alignment with other areas in the City;
 - contribution funds are allocated in accordance with any distribution plan adopted by Council;
 - the Program applies to land where the Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006 applies, but only in the circumstance where that Plan is repealed;
 - contribution funds arising from development in the Southern Employment Lands are allocated in accordance with any distribution plan adopted by Council; and
 - the Program is streamlined, with unnecessary information removed, and some minor house-keeping amendments made to clarify content.
- a reduced affordable housing contribution is facilitated where the required contribution would amount to more than 15 per cent of the agreed cost of construction, as outlined in the updated City of Sydney Affordable Housing Program.

4. Explanation of provisions

4.1. Proposed amendment to Sydney LEP 2012 and Green Square Town Centre LEPs

This planning proposal is to amend the Sydney Local Environmental Plan 2012 (Sydney LEP 2012), the *Sydney Local Environmental Plan 2012* (Sydney LEP 2012), the *Sydney Local Environmental Plan (Green Square Town Centre) 2013*, and *Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013* (the Green Square Town Centre LEPs).

4.1.1. Drafting instructions

To achieve the intended outcomes, this planning proposal is to amend the Sydney LEP 2012 and Green Square Town Centre LEPs as follows:

1. In the Sydney LEP 2012 and Green Square Town Centre LEPs, change all references to the “City of Sydney Affordable Housing Program adopted by the Council on 24 August 2020”, to “City of Sydney Affordable Housing Program adopted by the Council on **XX XX XX**” <date of adoption of Program to be inserted>.

The purpose of this change is to refer to an updated version of the City of Sydney Affordable Housing Program.

2. In the Sydney LEP 2012, amend Clause 7.13(2A) to say “The affordable housing levy contribution for development on land at Green Square, on Pymont Peninsula land or on southern employment land **or on land at Ultimo-Pymont** is –“.

The purpose of this change is to increase the contribution requirement on land at Ultimo-Pymont in line with contribution rates that apply in Green Square and on southern employment land.

3. In the Sydney LEP 2012, repeal Clause 7.13(2B).

The purpose of this change is to increase the contribution requirement on land at Ultimo-Pymont in line with contribution rates that apply in Green Square and on southern employment land.

4. In the Sydney LEP 2012, repeal Clause 7.13(4)(a).

The purpose of this change is to remove reference to the “*Revised City West Affordable Housing Program* published by the Department in June 2010” so that the City of Sydney Affordable Housing Program, as updated, may apply.

5. In the Sydney LEP 2012, amend Clause 7.13(4)(b) to say “for development on land at Green Square or Central Sydney on Pymont Peninsula land or **Ultimo-Pymont**, or on southern employment land or residual land—the City of Sydney Affordable Housing Program adopted by the Council on **XX XX XX**” <date of adoption of Program to be inserted>.

The purpose of this is to apply the City of Sydney Affordable Housing Program, as updated, to Ultimo-Pymont.

6. In the Sydney LEP 2012, amend Clause 7.13(2) to replace the words “equivalent to” with the words “not exceeding”, as follows:

“The consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring a contribution ~~equivalent to~~ not exceeding the applicable **affordable housing levy contribution** for the development provided for in subclause (2A), (2B) or (2C).”

Note: ‘Pymont Peninsula land’ is mapped as Ultimo-Pymont land in the Sydney LEP 2012. As the planning proposal will bring all Ultimo-Pymont land in line with contribution rates in Green Square, it is possible that in drafting the changes to Sydney LEP 2012, where a new rate is to be applied to all land in Ultimo-Pymont (equivalent to that that is being applied in Pymont Peninsula land), that references to ‘Pymont Peninsula land’ can be removed.

5. Justification of merit

5.1. Proposed amendment to LEPs

This section includes justification for the proposed amendments to the Sydney LEP 2012 and the Green Square Town Centre LEPs.

Update references to an updated City of Sydney Affordable Housing Program

This planning proposal will amend references in the Sydney LEP 2012 and Green Square Town Centre LEPs to the “City of Sydney Affordable Housing Program adopted by the Council on 24 August 2020”, to “City of Sydney Affordable Housing Program adopted by the Council on XX XX XX”, with the date of adoption of Program to be inserted when known.

The amendment to the Sydney LEP 2012 will ensure contributions will be paid in accordance with the City’s Program, as opposed to the current requirement in the Sydney LEP 2012 that contributions be paid in accordance with the Revised City West Affordable Housing Program. However, should the amendments to the Sydney LEP 2012 and Program proposed in this planning proposal be put into effect, the City will write to the Department and ask them to repeal the Revised City West Affordable Housing Program.

Proposed amendments to the City of Sydney Affordable Housing Program (Program) are discussed in section 5.2 of this planning proposal.

Increase the affordable housing contribution requirement in Ultimo-Pyrmont

The Sydney LEP 2012 currently requires that development in Ultimo-Pyrmont makes an affordable housing levy contribution of:

- 0.8% of the residential total floor; and
- 1.1% of the non-residential total floor area.

The contribution can be satisfied by making an in-kind contribution of affordable housing dwellings, or by making an equivalent monetary contribution, as set out in the “Revised City West Affordable Housing Program” (the Ultimo-Pyrmont Program).

It is proposed to amend the Sydney LEP 2012 to:

- amend the affordable housing levy contribution requirement in Ultimo-Pyrmont to:
 - 3% of the residential total floor; and
 - 1% of the non-residential total floor area; and
- remove reference to the “Revised City West Affordable Housing Program, published by the Department in June 2010”, and instead refer to the “City of Sydney Affordable Housing Program adopted by the Council on XX XX XX”, with the date of adoption of Program to be inserted when known.

The purpose of the proposed amendment is to align the affordable housing levy contribution requirement in Ultimo-Pyrmont with other areas in the LGA, including urban renewal areas such as Green Square, and to incorporate the operation and management of affordable housing contributions in Ultimo-Pyrmont Program into the Program.

The amendment to the Sydney LEP 2012 will ensure contributions will be paid in accordance with the City’s Program, as opposed to the current requirement in the Sydney LEP 2012 that contributions be paid in accordance with the Revised City West Affordable Housing Program. However, for clarity, should the amendments to the Sydney LEP and Program proposed be put into

effect, the City will write to the Department and ask them to repeal the Revised City West Affordable Housing Program.

The proposed amendment aligns with the NSW Government's Pyrmont Peninsula Place Strategy, which was finalised in December 2020. Under Direction 9: Great homes that can suit the needs of more people, the Strategy commits to 'Reconcile the revised City West Affordable Housing Program with the City of Sydney's affordable housing approach as part of work to unify the planning framework' and 'review and update the existing affordable housing contribution rates.' Ministerial Direction 1.15 requires a planning proposal in Pyrmont to be consistent with the Strategy, including the 10 Directions.

In November 2021, the NSW Government publicly exhibited the 'Pyrmont Peninsula Place Strategy Implementation: Exhibition discussion paper and incorporated Explanation of Intended Effects'. The Explanation of Intended Effects included a statement of intent that Council will amend the Sydney LEP 2012 so that the City of Sydney Affordable Housing Program would apply to the Pyrmont Peninsula.

The Pyrmont Peninsula Place Strategy Implementation: Affordable Housing Study, ~~report~~ exhibited as part of the Explanation of Intended Effects, assessed the ability for future development within the Peninsula to pay the increased affordable housing contribution. It found that the increased rate would not impact on development viability. The Study, as finalised on 22 July 2022, is to be publicly exhibited with this planning proposal.

The Study included a recommendation that '*advance notice (at least 12 months) of Tier 1 AH contributions is provided to the market with savings provisions applying to applications lodged during this time.*' It is considered that as the Study was publicly exhibited in November 2021, together with the Explanation of Intended Effects that included a statement of intent that Council will amend the Sydney LEP 2012 so that the City of Sydney Affordable Housing Program would apply to the Pyrmont Peninsula, that sufficient notice has been given to the market. Moreover, in expediting the exhibition this planning proposal, the market will receive close to an additional 12 months' notice of the contribution rate being increased (assuming the Gateway Determination timeframes are met).

It is also noted that development opportunities in Pyrmont Peninsular (Ultimo – Pyrmont) under current planning controls are largely exhausted and that little development is expected ahead of changes being made in Sydney LEP 2012 to a number of opportunity sites identified in the Place Strategy. It is intended the increased contribution rate would apply to the whole of the Pyrmont Peninsular in the Sydney LEP (and not just those sites induced into the Sydney LEP 2021 in July 2022), ahead of changes to planning controls on those opportunity sites being made. It is unlikely changes to the planning controls on opportunity sites would be made within 12 months of proposed changes to the rates being publicly exhibited.

The Affordable Housing Study also concluded that sites achieving additional residential floor area under site-specific planning proposals would be able to contribute up to 12 per cent of the additional floor space for affordable housing. This already aligns with current rates in the Program for 'Planning Proposal land' and no amendment is needed to facilitate it.

*This planning proposal will also support the revised City of Sydney Affordable Housing Program which introduces a reduced affordable housing contribution where the total amount would be unreasonable given the nature of development. Where development would result in an affordable housing contribution that is more than 15 per cent of the agreed cost of construction, the Program seeks to limit the required contribution to no more than 15 per cent of the agreed construction cost. To facilitate this intent, the current wording of Clause 7.13(2) in Sydney Local Environmental Plan 2012 must also be amended so that it requires a contribution *not exceeding* (as opposed to *equivalent to*) the applicable affordable housing levy contribution stated.*

5.2. Proposed amendment to the Program

This section includes justification for the proposed amendments to the Program.

A draft City of Sydney Affordable Housing Program (draft Program) is appended to this planning proposal. The draft Program is proposed for adoption by the Council and will replace the City of Sydney Affordable Housing Program, adopted by the Council on 16 August 2020.

Incorporating Ultimo-Pyrmont into the City of Sydney Affordable Housing Program

The Program currently does not apply to Ultimo-Pyrmont to the extent that the *Revised City West Affordable Housing Program* applies (relating to the requirement for contribution to affordable housing).

It is proposed to amend the Program so that:

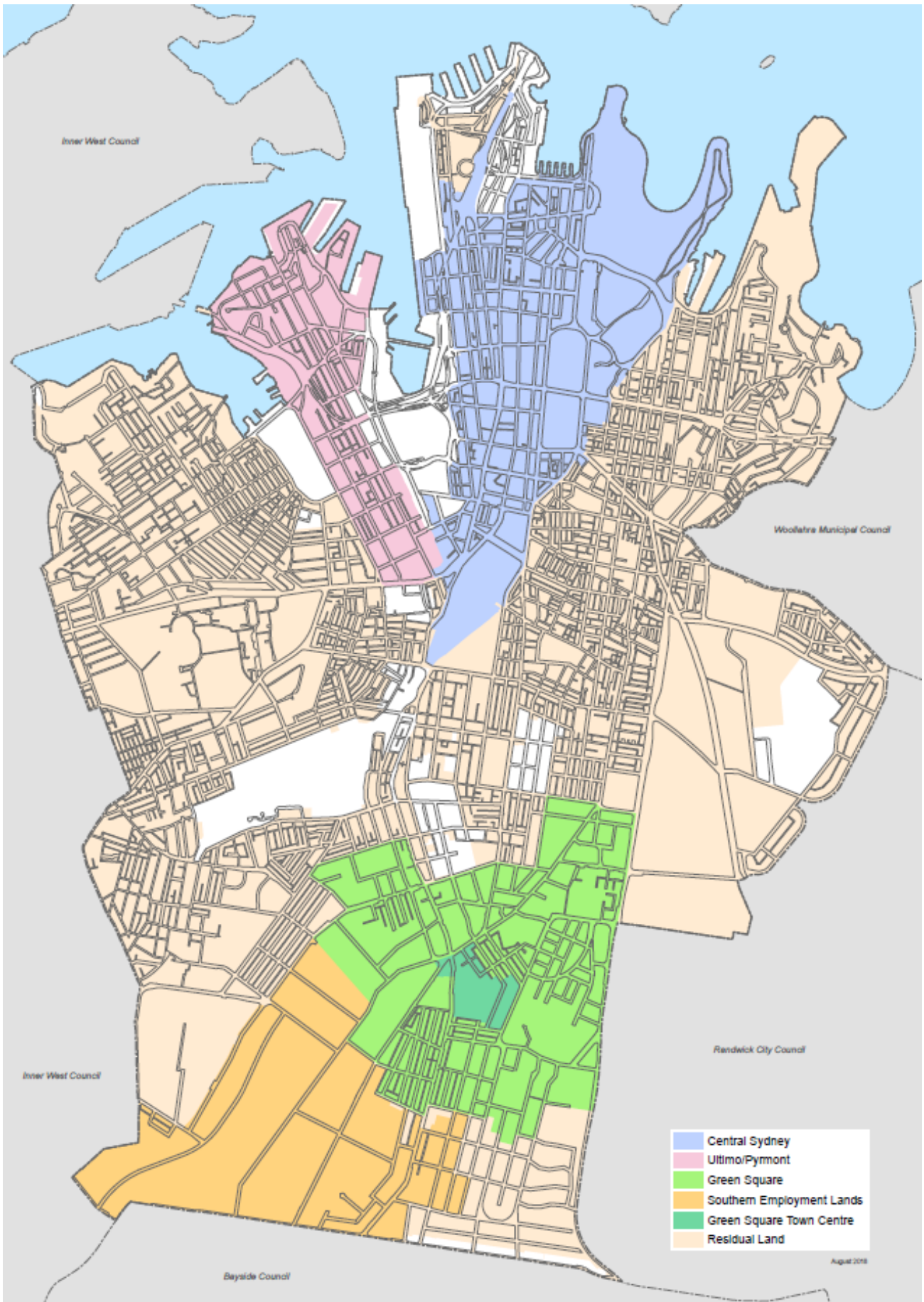
- ~~it~~ the rate that applies to Ultimo-Pyrmont is updated; **and**
- it reflects proposed changes to the contribution rates described in Section 5.1 of this planning proposal, **and**
- **it includes the rationale and justification for applying a contribution requirement in Ultimo-Pyrmont to satisfy the requirements of the Environmental Planning and Assessment Act 1979.**

The change to the Program is necessary to reflect proposed amendments to contribution rates, and to fully incorporate the Ultimo-Pyrmont area into the City's wider Program. The justification for these changes is provided in Section 5.1 of this planning proposal.

Applying the Program to land where other affordable housing contribution schemes, that currently apply to the land, are repealed, and to land where the Sydney LEP 2012 is made to apply in future

Section 1.3 of the Program currently describes where the Program applies and also includes a map showing the land to which it applies (Figure 1).

Figure 1: Current application of the City of Sydney Affordable Housing Program



The current description and map in the Program together mean a contribution requirement does not apply to:

- those areas where the Sydney LEP 2012 or the Green Square Town Centre LEP's do not apply;
- the Redfern Waterloo Authority operational area, where the Redfern Waterloo Authority Affordable Housing Contributions Plan applies; and
- the Ultimo-Pyrmont areas, where the Revised City West Affordable Housing Program applies (noting some supplementary information is provided in the Program as it relates to Ultimo-Pyrmont).

It is proposed to amend the Program so that it applies to land in the Sydney LEP 2012. ~~identified as:~~

- ~~• land in Central Sydney;~~
- ~~• land in Green Square;~~
- ~~• land in Ultimo-Pyrmont;~~
- ~~• land in the Southern Employment Lands; and~~
- ~~• residual land.~~

The Program also applies to all land subject to the Green Square Town Centre LEPs and to 'Planning Proposal land' where it is identified in an LEP.

The Program will not apply to:

- development to which the Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006 applies, where the plan has not been repealed; and
- other land in the City of Sydney where Sydney LEP 2012 and Green Square Town Centre LEPs do not apply.

It is proposed a map no longer be included in the Program. This is to provide flexibility where there are future changes to LEPs or SEPPs that affect the application of the Program. For example, if the Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006 was repealed, then the City's Program would automatically apply, and would not require a further planning proposal to amend to the Program to include it.

~~The draft Program has also been amended to ensure it can apply should any future Environmental Planning Instrument (EPI) be amended to include a provision requiring an affordable housing contribution be made in accordance with the Program. The amendment is intended to facilitate the long-term flexibility of the Program by minimising the need for additional amendments where there may be changes to state environmental planning policies and the like.~~

Allocation of contribution funds

The Program currently lists 'Recommended CHPs', being the CHPs that can receive affordable housing contributions for the purpose of providing affordable housing in the City of Sydney. The only Recommended CHP currently listed on the Program is City West Housing.

It is proposed to amend the Program to:

- delete the Recommended CHP list from the Program, and instead require monetary affordable housing contributions to be remitted in accordance with any distribution plan adopted by Council;
- delete information about how a CHP may be identified as a Recommended CHP, noting funds are instead proposed to be distributed in accordance with any distribution plan adopted by Council;
- require monetary affordable housing contributions resulting from development in the Southern Employment Lands, that are currently remitted to the Department of Communities and Justice, to be remitted in accordance with any distribution plan adopted by Council; and

- require any in-kind contribution of affordable housing dwellings to be given, free of cost, to a Recommended CHP, but allow that where a Recommended CHP does not want to receive the in-kind contribution, it may be given to another Tier 1 or Tier 2 CHP.

The proposed changes to the Program will effectively move information about the administration of monetary contributions funds and distribution of funds into a new 'distribution plan'. A draft Interim Distribution Plan (appended) is recommended to be publicly exhibited together with the planning proposal and draft Program and is described in more detail below. It is intended that following consultation with the community housing sector and with other experts, **and pending further consideration of the issues raised**, that a final distribution plan will be publicly exhibited and adopted by Council.

Request from Bridge Housing to be added to the list of recommended CHPs

Bridge Housing, a Tier 1 CHP operating in the City of Sydney, made a formal request in June 2021 to be added to the list of 'Recommended CHPs' so that they could receive affordable housing contribution funds to provide affordable housing in the local area.

The Program currently outlines the process to add a CHP as a Recommended CHP and provides the matters that must be considered, including:

- the potential impacts on the outcomes of the Program;
- the potential impacts on other Recommended CHPs;
- consultation with the Department of Communities and Justice; and
- how funds are to be distributed to multiple CHPs.

In accordance with the Program, the City wrote to City West Housing, currently the only Recommended CHP, seeking advice about the impacts of identifying another Recommended CHP. A submission was received by City West Housing in November 2021.

The City also wrote to Department of Communities and Justice who wrote back to the City in December 2021 declining to comment.

The City engaged Atlas Urban Economics to undertake an analysis of the request by Bridge Housing and the submission from City West Housing, and to consider those matters outlined in the Program. They were also asked to advise on an approach to distributing funds amongst multiple CHPs.

In considering the application from Bridge Housing, and the submission from City West Housing, the City's consultant noted:

- Bridge Housing is a Tier 1 CHP which owns / manages 3,587 dwellings for low to moderate income households in 20 local government areas. A small proportion of the dwellings are owned and operated as affordable housing (approximately 15 per cent) with the remainder managed for other organisations as social housing (mostly) and affordable housing;
- Bridge Housing proactively increases the properties under its management for low to moderate income households through:
 - tenders to manage properties on behalf of property owners (including councils, Land and Housing Corporation);
 - securing the transfer of properties through Property Transfer Programs;
 - purchase of properties to operate as social or affordable housing; and
 - purchase of development sites and development of new dwelling stock;
- Bridge Housing have a development division which is responsible for the securing of development opportunities and delivery of new dwellings. Bridge Housing maintains a corporate debt facility through a loan with the National Housing Finance and Investment Corporation (NHFIC) which provides long term debt at low rates;
- City West Housing has to date used contribution funds collected through the City's affordable housing programs to build over 859 affordable housing dwellings in the City of Sydney, with a

further 135 in the development pipeline and more expected (not yet in the development pipeline);

- In December 2020, City West Housing was removed from the provisions of the Government Sector Finance Act, enabling it to leverage its significant unencumbered asset base to borrow to fund its development pipeline. This represents a valuable opportunity for City West Housing to scale its dwelling stock more rapidly than it has in the past; and
- City West Housing expects to build over 713 dwellings over the next 10 years (current committed projects), noting some of these may be provided outside of the City of Sydney using equity funding (not Sydney LGA levy funds). There is a strong reliance on the affordable housing contributions to deliver this pipeline, though the ability to now borrow funds will also assist in this.

The impact on City West Housing of adding another provider

In accordance with the **current** Program, the City's consultant considered how identifying another Recommended CHP may impact on City West Housing. They noted that until recently, City West Housing has been largely reliant on funding to grow its equity base, being unable to take on debt, which is evidenced by its current funding structure. Approximately 66 per cent of City West Housing funding is received from local government (in large part contributions received from the City), 23 per cent from rental income and 10 per cent from Commonwealth and state governments.

It was concluded that while steps will need to be taken by City West Housing to review its funding structure and framework to leverage its significant unencumbered asset base, it is important to ensure City West Housing's business model is able to transition in a manner that minimises delivery risk to its development program and does not inadvertently result in pipeline disruption for City West Housing (and by extension the delivery of affordable housing in the City of Sydney) .

The impact on outcomes of the Program of adding another provider

In accordance with the Program, the City's consultant considered how identifying another Recommended CHP might impact on outcomes of the Program. They concluded that subject to the considered transitioning of funding to avoid disruption to City West Housing's development pipeline, the inclusion of other CHP will enable greater opportunity for debt funding leverage and increase of affordable housing stock because:

- procuring development sites in the City of Sydney is expensive and challenging. Enabling CHPs with the capability for site acquisition and development will diversify the risk and lead to greater affordable housing outcomes; and
- the recent broadening of the Program across the local government area provides the City with a unique and valuable opportunity to enable / build resources and capability in the CHP sector. Additional Recommended CHPs will build on this opportunity.

Matters for consideration in developing a distribution plan

In accordance with the Program, the City's consultant provided advice about what matters should be considered in the development of a distribution plan, should **another** other Recommended CHPs be identified. They noted that it is important any distribution plan extend as much certainty as possible to CHPs about the allocation of funding, so that they may manage risks and operate in the market with sufficient confidence. Key considerations include:

- implementation of the Program (which applies inclusionary zoning across the local government area and site-specific requirements for planning proposals) would likely result in larger volumes of contributions over time. The collection of contributions is directly dependent on economic and market conditions, and can therefore be challenging to predict with certainty;
- notwithstanding the above, the setting of fixed allocation of funds (subject to contribution receipts) would provide some degree of certainty for CHPs. This would necessarily require a fixed time frame (where certainty can be provided about receipt of funds for the period) and more generally, limitations of the number of CHPs who may be identified as Recommended CHPs;

- where funds are to be shared between multiple providers, it is important for the City to maintain support to City West Housing in a critical time of transition, though it is conceivable that contributions receipts would facilitate providing support to City West Housing and other CHPs. Priority funding could be provided to City West Housing where the first \$20 million each year is allocated to City West Housing in the short term (five years). This would represent the 'smoothed' historical funding that has occurred under the contribution schemes;
- while the 'opening up' of funding availability to more CHPs will diversify delivery and market risk and provide the opportunity for greater affordable housing outcomes, it is necessary to acknowledge a potential perverse outcome where CHPs (funded by the Program) inadvertently compete and 'bid up' the price of development opportunities. Information sharing and collaboration between CHPs recipients would be important to avoid this; and
- any plan for the distribution of contribution funds amongst Recommended CHPs should be periodically reviewed every four to five years to analyse the patterns of contribution receipts, review effective use of the funds by incumbent CHPs, review continued eligibility to receive funding and consider applications from applicant CHPs (if any).

Expression of Interest Process

~~Although the Program enables the consideration of applications to be a Recommended CHP, it is recommended that, in the interests of fairness, an Expression of Interest process be undertaken to explore interest from other eligible community housing providers who may also seek access to contribution funds.~~

~~The Expression of Interest is to be prepared in accordance with the requirements of the Distribution Plan (described below), if it is adopted by Council following public exhibition.~~

Draft Interim Distribution Plan

The draft Interim Distribution Plan identifies City West Housing, St George Community Housing and Bridge Housing as Recommended CHP's. It says that affordable housing distribution funds arising from the City's levies be distributed equally amongst the three community housing providers commencing on a defined date. These providers have been identified as being the three most active providers in the City of Sydney with likely the most capacity and capability of utilising affordable housing funds to provide affordable housing in the local area.

It is the intent that further consultation with the community housing sector, housing experts and the City's Housing for All working group will test the approach put forward in the draft Interim Distribution Plan and inform the preparation of a final distribution plan to be adopted by Council.

Redirection of funds arising from the Southern Employment Lands

The Program currently says that affordable housing contribution funds arising from the Southern Employment Lands are to be remitted to the Department of Communities and Justice who will allocate funds to a community housing provider to be used to build and manage affordable housing in accordance with the affordable housing principles in the Program.

It is proposed to amend the Program so that affordable housing contribution funds arising from the Southern Employment Lands be remitted in accordance with any distribution plan adopted by Council.

These funds were originally directed to the Department of Communities and Justice so that community housing providers other than City West Housing might benefit from the City's affordable housing contribution schemes. However, with a broader distribution plan being considered other this is no longer considered necessary.

In-kind contributions

The Program currently provides high level guidance about the how in-kind contributions of affordable housing dwellings are to be dedicated to community housing providers and used as affordable housing.

It is proposed to amend the Program to more clearly articulate this process to ensure that:

- in-kind contribution of affordable housing dwellings is to be given, free of cost, to a

Recommended CHP; or

- if a Recommended CHP does not want to receive the in-kind contribution, it may be passed to another Tier 1 or Tier 2 community housing provider.

In-kind contributions are to remain affordable housing in perpetuity and to be owned and managed in accordance with the affordable housing principles set out in the Program. This is secured by covenant on the title of the land.

It is also proposed to amend the Program to include more information at Appendix C, which provides the process for how in-kind affordable housing dwellings are to be dedicated to a community housing provider. The new information includes a description of what early consultation with a community housing provider should include, and clearer information about how any in-kind affordable housing dwellings will be legally secured in accordance with the Program.

Planning proposal land contribution requirements

The framework for identifying 'Planning Proposal land' was first set out in Planning Proposal: Affordable Housing Review (2017). The approach has later been described, with a view to implementation, in Planning Proposal: Botany Road Precinct and Planning Proposal: Waterloo Estate (South), both of which, at the time of preparing this planning proposal, are in the LEP drafting phase.

The purpose of the Planning Proposal land framework is to provide a mechanism that allows sites and/or precincts, that are the subject of a future planning proposal (not this planning proposal) to create new residential floor area, to be added to a Schedule in an LEP to require an affordable housing contribution on that new residential floor space. The contribution rate that is to apply to Planning Proposal land is to be agreed with the proponent in preparing the planning proposal.

The Program establishes 'soft' contribution rates that might apply to the new residential floor space. That is, the rates are a starting point for discussion with a proponent who may seek a planning proposal to increase residential floor space on a site or across a precinct. For example, where there is a planning proposal to increase the amount of residential floor area on a site, the contribution rate in the Program might be applied to 'new' residential floor area in the LEP. However, if that site is also required to dedicate land, for example, for a park, then the contribution rate might be adjusted down in recognition of the additional cost to the developer.

The intent of the Planning Proposal land framework is to provide a flexible LEP mechanism to give effect to the District Plan requirement that 5 – 10 percent of new residential floor area to be provided as affordable housing, contingent on viability. Moreover, by providing a 'soft' contribution rate in the Program, advance notice is given to the market that the City will be seeking a contribution to affordable housing where there is a planning proposal to create new residential floor space. This is important to allow for planning decisions to be made by both government and proponents in a full understanding of what may be required where development uplift is facilitated through a planning process.

This planning proposal does not identify any Planning Proposal land and does not require an affordable housing contribution. It is simply an update of the soft contribution rates in the Program.

Contribution rates in the Program are provided for the west, south and east precincts of the City of Sydney, based on the geographies identified in the City of Sydney Developer Contributions Plan 2015. The rates were first established in the Program as adopted by Council and the Central Sydney Planning Committee in August 2020. The rates are based on independent feasibility analysis to determine the tolerance of development to make the contribution in the different sub-markets across the local government area. The feasibility analysis demonstrates development will remain viable so long as the requirement for an affordable housing contribution does not exceed the identified contribution rate.

The rates require periodical review to ensure they continue to align with current market realities. The most recent reviews of the rates in the Program are to be publicly exhibited with this planning proposal, including:

- Affordable Housing Study: East and West Precincts Update, dated June 2021; and

- Sydney Affordable Housing Program - Review and Update to Southern Precinct Affordable Housing Rates, dated December 2020.

In the review of the west and south precinct no change is recommended to the rate.

In accordance with the recommendation in the most recent review of the east precinct, it is proposed to amend the Program to update the 'soft' contribution rate from 24 percent to 21 percent.

Consistent with other parts of the local government area, it is also proposed to include a soft contribution requirement in Central Sydney for new residential floor area, as shown in Table 3. The contribution rate is based on the 10 per cent affordable housing target in the Region Plan and is subject to site-specific viability testing if there is a planning proposal that seeks new floor area for residential development. No specific viability testing has been undertaken for Central Sydney. As above, the application of any affordable housing contribution requirement would be subject to site-specific viability testing.

The proposed changes to the contribution rates for Planning Proposal land in the Program are shown at Table 3.

Table 3: Adjustments to contribution rates for Planning Proposal land

Precinct*	Contribution rate**
Central Sydney	13% applied to new residential floor area, subject to site-specific viability testing
West precinct	12% applied to new residential floor area
South precinct	12% applied to new residential floor area
Eastern precinct	21% applied to new residential floor area (decreased from 24%)

* Note: Precincts align with those shown in the City's development contribution plan 2015.

** The rates incorporate the LEPs requirement for a 3 per cent contribution. For example, the 12 per cent rate includes 9 per cent for new residential floor area on planning proposal land, plus 3 per cent.

Development that may be exempt from making a contribution, or may have a reduced contribution requirement

The Program currently sets out the circumstances where development may be exempt from making a contribution. It says that where development would result in the affordable housing contribution amounting to more than 15 per cent of the agreed cost of construction, it may be exempt from making a contribution.

It is proposed to amend the Program to say that where the development would result in the affordable housing contribution amounting to more than 15 per cent of the agreed cost of construction, then the affordable housing contribution requirement will not exceed 15 per cent of the agreed cost of construction.

This is to ensure that development still continues to make an affordable housing contribution, but that the contribution is not unreasonable.

Exemptions

The draft Program has been amended to clarify that any floor space in a building, that is a stand-alone building, and contains affordable housing provided in accordance with the Program, is exempt from making an affordable housing contribution. For example, if an affordable housing building included ancillary non-residential floor space at ground level, then a contribution requirement would not apply to the entire building.

Refunds for surrendered consents

The draft Program has been amended to provide guidance around the circumstances where

affordable housing contributions that have already been paid may be refunded.

Clarification has been included that where a development has not commenced and the original payee decides not to proceed with the consent, a refund of contributions already paid may be considered. This includes cases where the consent has lapsed. The payee would be required to surrender the consent in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Clarification on required tenure mix

The Program prescribes a tenure mix for dwellings in the Employment Lands and for dwellings being dedicated. The intention for the expressed tenure mix is currently unclear and has been clarified to ensure the desired mix of tenants over time.

Indexation

The equivalent monetary contribution amount in the Program is adjusted on an annual basis to ensure that the contribution rate keeps pace with the cost of providing housing. Contribution amounts captured in conditions of consent are also indexed in accordance with the Program to account for changes between the time of consent and the date of payment at first construction certificate.

The Program uses changes in the median strata dwelling price over time to do this, as published in the NSW Government's Rent and Sales Report. Currently, the Program compares the median price that was used to establish the current contribution rate with the most recently published median price in the Report.

The draft Program has been amended to update this method. It is proposed to establish new contribution rates using an average of the median strata dwelling prices from the four most recently published Rent and Sales reports. This will provide a fuller picture of the current housing market than relying wholly on one single quarter of data.

Update to background information (Appendix A)

Appendix A of the Program currently contains detailed background information and affordable housing needs analysis.

It is proposed to amend the Program to remove information in Appendix A that is:

- information pertaining to point-in-time data, but is not critical information;
- not critical information; or
- is information that is now documented and regularly updated in the Housing for All: Local Housing Strategy Technical Paper.

The purpose for the proposed amendment is to:

- streamline Appendix A so it contains only relevant information;
- remove non-critical information that quickly becomes out of date; and
- remove information that is now documented elsewhere.

Housekeeping amendments

It is proposed to make a number of minor housekeeping amendments to the Program to:

- clarify information where there has been confusion;
- improve readability and remove any repetitiveness from the document;
- reflect changes to processes, that do not have a substantive impact on the operation of the Program;
- correct any minor spelling or grammar errors in the Program; and
- remove superfluous information to streamline the Program.

5.3. Matters for consideration

This section provides a response to the 'matters for consideration' described in Table 3 of the Local Environmental Plan Making Guideline, published by the Department in December 2021, that are to be taken into account when describing, evaluating and justifying a planning proposal.

Section A- Need for the planning proposal

Q1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?

Yes. Amendments relating to the increase in affordable housing contribution rates in Ultimo-Pyrmont result from the Pyrmont Review. This is discussed in detail in section 5.1.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A planning proposal is the only way to amend the affordable housing provisions in the Sydney LEP 2012.

Section B - Relationship to the strategic planning framework

Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

A Metropolis of Three Cities – the Greater Sydney Region Plan

A Metropolis of Three Cities – the Greater Sydney Region Plan is the NSW Government's overarching strategic document for growth and change in Sydney. The 20 year plan with a 40 year vision seeks to transform Sydney into a metropolis of three cities being the Western Parkland City, the Central River City and the Eastern Harbour City. The City of Sydney LGA is positioned within the Eastern Harbour City.

The plan identifies key challenges facing Sydney including a population increase to eight million by 2056, 817,000 new jobs by 2036 and a requirement for 725,000 new homes.

The plan aspires to deliver the following outcomes:

- liveability – enhancing cultural and housing diversity and designing places for people;
- productivity – developing a more accessible and walkable city and creating conditions for a stronger economy;
- sustainability – valuing green spaces and landscape, improving efficiency of resources and creating a resilient City; and
- infrastructure – ensuring infrastructure supports new developments and governments, community and businesses collaborate to realise the benefits of growth.

To achieve the vision, the plan proposes 10 directions, 40 objectives and associated strategies. Objectives of particular relevance to this Planning Proposal include: 10 - Greater housing supply and 11 - Housing is more diverse and affordable.

This planning proposal is consistent with several relevant directions, objectives and strategies of the plan. Specifically, it will increase the supply of affordable housing and improve housing diversity and choice.

Eastern City District Plan

The Greater Sydney Commission released the District Plans for the Greater Sydney Metropolitan Region in March 2018. The City of Sydney is in the Eastern City District. The District Plans set out how A Metropolis of Three Cities – the Greater Sydney Region Plan applies to local areas.

The district plan has set a 20-year strategic target for housing and employment growth within the district, including a 2036 target of 157,500 dwellings and a short-term (5 years) housing target of 46,550 new dwellings. In the City of Sydney LGA, 18,300 dwellings are to be delivered.

The district plan requires councils to develop local housing strategies and actions to address the

range of housing needs in their LGAs, including affordable housing.

The district plan nominates an affordable rental housing target of five to 10 per cent, subject to viability, in urban renewal and land release areas, noting that the application of the target should not prejudice other approaches to secure affordable housing in areas outside of urban renewal and land release areas. A critical focus of the plan is that any mechanism that is introduced to secure affordable housing should be cognisant of the impact on development viability.

This planning proposal supports the district plan's priority of 'Housing Diversity and Affordability' by facilitating the delivery of affordable rental housing in the city through the planning framework.

Q4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Sustainable Sydney 2030-2050 Continuing the Vision

In April 2022 Council adopted for exhibition the draft Sustainable Sydney 2030-2050 Continuing the Vision. This is consistent with and continues the vision of Sustainable Sydney 2030.

Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress.

Sustainable Sydney 2030 establishes an ambitious target that in 2030, 7.5 per cent of housing will be social housing and 7.5 per cent of housing will be affordable housing. To achieve the City's target approximately 12,000 affordable housing dwellings, out of a total projected 148,000 dwellings, are required in the LGA.

The planning proposal, the Program (as amended) and the draft Interim Distribution Plan will contribute to the City's affordable housing targets. They align with the following strategic directions and objectives:

- Direction 6 - Resilient and inclusive local communities - the planning proposal, proposed amendment to the Program and the draft Interim Distribution Plan, will continue to support the provision of affordable housing in the local area, which is essential for a resilient and inclusive local community.
- Direction 8 - Housing for a Diverse Population - the planning proposal, proposed amendment to the Program and the draft Interim Distribution Plan will promote the delivery of affordable housing in the City of Sydney.

City Plan 2036 - Local Strategic Planning Statement

The City of Sydney Local Strategic Planning Statement (planning statement), adopted by Council in February 2020, sets out the land use planning context, 20-year vision and planning priorities to positively guide change towards the City's vision for a green, global and connected city. The planning statement explains how the planning system will manage that change to achieve the desired outcomes and guides future changes to controls.

In giving effect to the planning statement, the planning proposal, the Program (as amended) and the draft Interim Distribution Plan delivers on the following priorities and actions by:

- contributing to housing supply, choice and affordability in the City of Sydney;
- providing housing that is close to employment and services, contributing to the aspiration for a '30-minute city'; and
- enabling vibrant and diverse communities and economies.

Housing for All – City of Sydney Local Housing Strategy

The City of Sydney Local Housing Strategy: Housing for All provides the City's objectives and actions for the delivery of diverse housing in the local government area.

In giving effect to Housing for All, the planning proposal, the Program (as amended) and the draft Interim Distribution Plan delivers on the following priorities and actions by:

- contributing to the City's housing targets, in particular the delivery of affordable housing; and

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- increasing diversity and choice in housing in the City of Sydney, providing more affordable housing for people on very low to moderate incomes.

Q5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

This planning proposal is consistent with the Pyrmont Peninsula Place Strategy (Implementation) and incorporated Explanation of Intended Effects (EIE) in November 2021. The EIE included a statement of intent that the contribution rates set out in the City of Sydney Affordable Housing Program would be applied to the Pyrmont Peninsular.

Q6. Is the planning proposal consistent with the applicable State Environmental Planning Policies?

This planning proposal is consistent with all applicable State Environmental Planning Policies (SEPPs) and Regional Environmental Plans (REPs), as summarised in 4.

Table 41: Consistency with State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy	Comment
SEPP (Biodiversity and Conservation) 2021	Consistent
SEPP (Building Sustainability Index: BASIX) 2004	Consistent
SEPP (Exempt and Complying Development Codes) 2008	Consistent
SEPP (Housing) 2021	Consistent. This planning proposal is consistent with Chapter 2, Part 1 of the SEPP.
SEPP (Industry and Employment) 2021	Consistent
SEPP (Planning Systems) 2021	Consistent
SEPP (Precincts—Central River City) 2021	Consistent
SEPP (Precincts—Eastern Harbour City) 2021	Consistent. This planning proposal does not impact on Redfern Waterloo Authority sites that remain excluded from the Sydney LEP 2012.
SEPP (Precincts—Regional) 2021	Consistent
SEPP (Precincts—Western Parkland City) 2021	Consistent
SEPP (Primary Production) 2021	Consistent
SEPP (Resilience and Hazards) 2021	Consistent
SEPP (Resources and Energy) 2021	Consistent
SEPP No 65 - Design Quality of Residential Flat Development	Consistent
SEPP (Transport and Infrastructure) 2021	Consistent

Q7. Is the planning proposal consistent with applicable Section 9.1 Ministerial Directions?

This planning proposal is consistent with all Ministerial Directions issued under section 9.1 of the Environmental Planning and Assessment Act 1979, as summarised in Table 5.

Table 5: Consistency with Ministerial Directions

Ministerial Direction	Comment
Focus area 1: Planning Systems	
1.1 Implementation of Regional Plans	Consistent
1.2 Development of Aboriginal Land Council land	Not applicable
1.3 Approval and Referral Requirements	Consistent
1.4 Site Specific Provisions	Consistent
Focus area 1: Planning Systems – Place-based	
1.5 Parramatta Road Corridor Urban Transformation Strategy	Not applicable
1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable
1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable
1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable
1.10 Implementation of the Western Sydney Aerotropolis Plan	Not applicable
1.11 Implementation of Bayside West Precincts 2036 Plan	Not applicable
1.12 Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable
1.14 Implementation of Greater Macarthur 2040	Not applicable
1.15 Implementation of the Pymont Peninsula Place Strategy	<p>Consistent. This Direction says a planning proposal authority must ensure that a planning proposal is consistent with the Pymont Peninsula Place Strategy.</p> <p>The Strategy commits to 'Reconcile the revised City West Affordable Housing Program with the City of Sydney's affordable housing approach as part of work to unify the planning framework' and 'review and update the existing affordable housing contribution rates.'</p>

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1.16 North West Rail Link Corridor Strategy	Not applicable
1.17 Implementation of the Bays West Place Strategy	Not applicable
Focus area 2: Design and Place	Not applicable
Focus area 3: Biodiversity and Conservation	
3.1 Conservation Zones	Consistent
3.2 Heritage Conservation	Consistent
3.3 Sydney Drinking Water Catchments	Not applicable
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable
3.5 Recreation Vehicle Areas	Not applicable
Focus area 4: Resilience and Hazards	
4.1 Flooding	Consistent
4.2 Coastal Management	Not applicable
4.3 Planning for Bushfire Protection	Not applicable
4.4 Remediation of Contaminated Land	Consistent
4.5 Acid Sulfate Soils	Consistent
4.6 Mine Subsidence and Unstable Land	Not applicable
Focus area 5: Transport and Infrastructure	
5.1 Integrating Land Use and Transport	Not applicable
5.2 Reserving Land for Public Purposes	Consistent
5.3 Development Near Regulated Airports and Defence Airfields	Not applicable
5.4 Shooting Ranges	Not applicable
Focus area 6: Housing	
6.1 Residential Zones	<p>Consistent. This planning proposal will:</p> <ul style="list-style-type: none"> • broaden the choice of housing by facilitating more affordable housing; • increase the amount of affordable housing in the City of Sydney, that is well serviced by public infrastructure and services; • ensure resulting affordable housing is of a similar standard as all other forms of housing.
6.2 Caravan Parks and Manufactured Home Estates	Not applicable

Focus area 7: Industry and Employment

7.1 Business and Industrial Zones	Consistent
7.2 Reduction in non-hosted short-term rental accommodation period	Not applicable
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable

Focus area 8: Resources and Energy

8.1 Mining, Petroleum Production and Extractive Industries	Not applicable
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Focus area 9: Primary Production

9.1 Rural Zones	Not applicable
9.2 Rural Lands	Not applicable
9.3 Oyster Aquaculture	Not applicable
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable

Section C - Environmental, social and economic impact

Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

No.

Q9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

No.

Q9. Has the planning proposal adequately addressed any social and economic effects?

An important outcome of this planning proposal is to increase the amount of affordable housing in the local area. The social benefits of providing affordable housing are well documented, and generally understood by government and the community to be overwhelmingly positive.

The economic impacts of this planning proposal have been discussed in Part 5.

Section D - Infrastructure (Local, State and Commonwealth)

Q11. Is there adequate public infrastructure for the planning proposal?

This Planning Proposal does not propose an increase in density and is not expected to result in any additional burden on existing public infrastructure.

Q12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

No consultation has been undertaken with federal public authorities and government agencies prior to preparing this planning proposal.

6. Mapping

There are no proposed changes to maps in the Sydney LEP 2012 or the Green Square Town Centre LEPs.

7. Community consultation

~~This planning proposal is to be exhibited in accordance with the gateway determination once issues by the Department of Planning, Industry and Environment.~~

~~It is anticipated the gateway determination will require public exhibition for a period of not less than 28 days.~~

~~The public consultation will be undertaken in accordance with the City's Community Participation Plan and the principles in the City's Community Engagement Strategy.~~

~~Notification of the public exhibition will be via the City of Sydney website.~~

~~Exhibition material will be made available on the City of Sydney website and at Town Hall House at 456 Kent Street, Sydney.~~

~~Consultation with relevant NSW agencies, authorities and other relevant organisations will be undertaken in accordance with the gateway determination.~~

In accordance with the gateway, this planning proposal and accompanying documentation was exhibited from 18 October to 29 November 2022.

The City notified in writing about 9,100 landowners in Ultimo-Pyrmont of the exhibition. It also notified the 24 Tier 1 and Tier 2 community housing providers (CHPs) operating in the Sydney metropolitan area and peak housing bodies, including Shelter NSW and the Community Housing Industry Association (CHIA). The exhibition was also advertised on the City's Sydney Your Say webpage.

In accordance with the gateway, the following public authorities were also notified of the public exhibition:

- NSW Land and Housing Corporation (LAHC); and
- NSW Department of Communities and Justice (DCJ).

Twenty-four submissions in total were received, including 19 submissions from the general community, two from public authorities, and three from those CHPs that were identified as recipients of affordable housing contribution funds in the exhibited draft interim distribution plan. No further CHPs made submissions.

Some submissions from the community expressed strong support for increasing opportunities for the delivery of affordable housing, while others raised some concerns about more affordable housing in their local area. Submissions from the public authorities that were explicitly consulted expressed general support for the City's efforts in increasing affordable housing.

Submissions from Bridge Housing and St George Community Housing, being those CHPs proposed to receive contribution funds who previously have not, supported the wider distribution of affordable housing contribution funds. Despite all Tier 1 and Tier 2 CHPs operating in the Sydney metropolitan area being notified of the proposals, no other submissions from CHPs were received seeking participation in the City's Program.

A submission from City West Housing, that currently receives all of the affordable housing contribution funds (other than those generated in the Southern Employment Lands), generally supported the wider distribution of contribution funds over time. However, it raised concerns about the impact the change would have on its ability to deliver its significant development pipeline of over 500 dwellings in the City of Sydney local area, where funds that had previously been expected and relied on would no longer be forthcoming. It also raised concerns that affordable housing contribution funds being shared between three providers would spread funding too thin, and that it would take much longer for CHPs to amass sufficient funds to move forward with projects. This latter concern was also raised by DCJ in their submission.

These issues are still being considered and will inform the preparation of the final Distribution Plan.

8. Project timeline

The anticipated timeline for completion of this planning proposal is as shown in 6.

Table 6: Timeline

Stage	Timeframe
Consideration by council	June 2022
Council / CSPC decision	June 2022
Gateway determination	19 August 2022
Pre-exhibition Final approval from Department of changes required by Gateway Determination	21 September 2022
Commencement and completion of public exhibition period	September 2022 – October 2022 18 October – 29 November 2022
Consideration of submissions	October December 2022 - April 2023
Post-exhibition review	June 2023
Submission to the Department for finalisation (where applicable)	no later than the end of June 2023
Gazettal of LEP amendment	no later than August 2023



Attachment C

**Draft City of Sydney Affordable Housing
Program Amendment 2022
(as amended following public exhibition)**

City of Sydney Affordable Housing Program

Adopted XX XX XXXX



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1. About the Program

The City of Sydney Affordable Housing Program (this Program) is to provide the background, requirements and operational detail for various affordable contribution provisions in local environmental plans (LEPs) that operate in the City of Sydney.

This Program was adopted by Council on XX XX XXXX and came into effect on XX XX XXX.

1.1 Program Objectives

The objectives of this Program are to:

- recognise affordable rental housing as critical infrastructure necessary to support sustainable and diverse communities and long term economic growth in the City of Sydney local government area (city)
- ensure that, as the cost of housing increases in the city, affordable rental housing is provided for very low to moderate income households
- ensure there are opportunities for very low to moderate income households, who have an historical connection with the city, to live in the city
- ensure there are opportunities for very low to moderate income earners who work in the city to live in the community in which they are employed, and
- facilitate opportunities for government and community housing providers (CHP) to supply affordable housing within the city.

1.2 Relationship to other Programs

This Program, on the day it came into effect, repeals and replaces the City of Sydney Affordable Housing Program, adopted by Council 24 August 2020.

Any development applications determined prior to the commencement of this Program are not altered by the commencement of this Program.

1.3 Where does this Program apply?

This Program applies to land **to which** in the *Sydney Local Environmental Plan 2012*, identified as:

- ~~land in Central Sydney~~
- ~~land in Green Square~~
- ~~land in Ultimo-Pyrmont~~
- ~~land in the Southern Employment Lands, and~~
- ~~residual land.~~

It also applies to land subject to the *Sydney Local Environmental Plan (Green Square Town Centre) 2013* **or** *Sydney Local Environmental Plan (Green Square Town Centre – Stage 2)* **applies**.

This Program also applies to 'Planning Proposal land' where it is identified in ~~an~~ the **abovementioned local environmental plans (LEPs) or any other Environmental Planning Instrument (EPI)**.

The Program may not apply, ~~given certain circumstances,~~ to:

- development to which the Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006 applies, where the plan is still in effect; and
- other land in the City of Sydney, **unless otherwise identified as applying in another EPI**, where *Sydney Local Environmental Plan 2012*, *Sydney Local Environmental Plan (Green Square Town Centre) 2013* or *Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013* do not apply.

1.4 Legislative basis for affordable housing contributions

This Program applies in accordance with the requirements in the *Environmental Planning and Assessment Act 1979* (the Act).

The State Environmental Planning Policy (Housing) 2021 recognises that all local government areas within NSW are areas where there is a need for affordable housing.

Local environmental plans contain controls for the calculation, levying and management of affordable housing contributions in the City of Sydney.

1.5 Affordable Housing Principles

The City of Sydney affordable rental housing program principles are:

- affordable rental housing is to be provided and managed in the City of Sydney LGA so that a socially diverse residential population, representative of all income groups, is maintained
- affordable rental housing that is provided is to be made available to a mix of households on very low to moderate incomes
- affordable rental housing that is provided is to be rented to very low to moderate income households at no more than 30% of gross household income
- dwellings provided for affordable rental housing are to be managed so as to maintain their continued use for affordable rental housing, and
- affordable rental housing is to consist of dwellings constructed to a standard which, in the opinion of the City, is consistent with other dwellings in the LGA.

1.6 Amending this Program

Amendment to this Program will generally require amendment to LEPs, **or other EPIs**, that directly refer to this Program as dated.

Amendment and/or update to the information provided at the appendices may occur from time to time and does not require an amendment to LEPs or EPIs.

1.7 Terms used in this Program

Affordable housing

Affordable housing is defined by the *Environmental Planning and Assessment Act 1979* as:

“housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument”.

Affordable rental housing

Under this Program, **Affordable rental housing** or **Affordable rental dwelling** is **affordable housing** that is owned and managed by government, a **Recommended Community Housing Provider**, or an **Eligible Community Housing Provider** and rented to **very low to moderate income households**.

City of Sydney Local Government Area

The City of Sydney Local Government Area (LGA) refers to the area within the “LGA Boundary” shown in the *Sydney Local Environmental Plan 2012* Land Application Map, as published in the NSW Government Gazette on 14 December 2012, as updated from time to time.

Council / City / city

References to **City** are references to the City of Sydney organisation. References to the **Council** are references to the Council of the City of Sydney, that is, the elected representatives. References to the **city** are references to the City of Sydney local government area.

Development application

References to **development applications** in this Program refer to both development applications and any application for the modification of a development consent.

Distribution Plan

Distribution Plan refers to any plan adopted by the City of Sydney Council for the distribution of affordable housing contribution funds arising from this Program.

Eligible Community Housing Provider

Eligible Community Housing Providers are community housing providers that are classified as a Tier 1 or Tier 2 providers under the National Regulatory Code.

Environmental Planning Instrument (EPI)

An Environmental Planning Instrument (EPI) is a reference to a state or regional environmental planning policy or a local environmental plan.

Local Environmental Plan (LEP)

Reference to various **LEPs** in this Program apply to any LEP that replaces it, so long as the affordable housing provisions remain substantially unamended.

Recommended CHPs

Recommended CHPs are those providers identified in a Distribution Plan as Recommended CHPs.

Very low to moderate income households

Very low to moderate income households are those households whose gross incomes fall within the following ranges of percentages of the median household income for Greater Sydney—Greater Capital City Statistical Area or the Rest of NSW—Greater Capital City Statistical Area according to the Australian Bureau of Statistics:

- Very low income household - less than 50%
- Low income household – 50% or more but less than 80%
- Moderate income household – 80% to 120%

2 Affordable housing contributions

This Section describes how an affordable housing contribution may be satisfied, the equivalent monetary contribution amounts for the rates in the LEPs, how the contribution will be applied in the development application process and how it will be managed for the provision of affordable housing.

2.1 Contribution rates

Local environmental plans (LEPs), or another EPI, will establish the affordable housing contribution rate as it applies to land the development. The rate varies across different areas and types of land.

2.1.1 Green Square, Southern Employment Lands and Ultimo-Pyrmont

On land in Green Square, on land in the Southern Employment Lands, and on land in Ultimo-Pyrmont the contribution rate is:

- 1 per cent of the total floor area that is to be used for non-residential uses, and
- 3 per cent of the total floor area that is to be used for residential uses.

The contribution may be satisfied by dedication of dwellings or by making an equivalent monetary contribution in accordance with this Program.

2.1.2 Central Sydney and residual lands

In Central Sydney and on residual land, on all development applications lodged after 1 July 2022, the contribution rate is:

- 1 per cent of the total floor area that is to be used for non-residential uses, and
- 3 per cent of the total floor area that is to be used for residential uses.

Date of lodgement of development application	Non-residential rate	Residential rate
1 July 2021 to 30 June 2022	0.5%	1.5%
1 July 2022 onwards	1%	3%

The contribution may be satisfied by dedication of dwellings or by making an equivalent monetary contribution in accordance with this Program.

2.1.3 Other land identified in an EPI where this Program is applied

On land identified in an EPI, where this Program is applied, the relevant affordable housing contribution rate will be set out in the EPI.

The contribution may be satisfied by dedication of dwellings or by making an equivalent monetary contribution in accordance with this Program.

2.1.4 Planning Proposal lands

On Planning Proposal land the contribution rate varies from site to site. The contribution rate, once determined through the planning proposal process, is specified in the an LEP or other EPI.

The contribution may be satisfied by dedication of dwellings or by making an equivalent monetary contribution in accordance with this Program. The LEP, or other EPI, may specify how the contribution requirement must be satisfied.

The approach used to establish the appropriate contribution rate for Planning Proposal land that is listed on the schedule is described at Appendix B.

2.1.5 Satisfying a contribution requirement by making an equivalent monetary contribution

An affordable housing contribution requirement may be satisfied by making an equivalent monetary contribution. This requirement may be satisfied by the payment of money.

The equivalent monetary contribution amount for the period of 1 March 2023 2024 to 28 February 2024 2022 is ~~\$10,611.53~~ ~~\$10,588.00~~ per square metre.

Adjustments are made to the equivalent monetary contribution amount on an annual basis in accordance with this Program. The City of Sydney's website lists the current monetary contribution amounts as indexed.

2.1.6 Satisfying a contribution requirement by dedicating dwellings

An affordable housing contribution requirement may be satisfied by dedication, free of cost, of affordable housing dwellings. Affordable rental dwellings resulting from a contribution are to be provided in the development in accordance with the following requirements:

- affordable rental dwellings are to align with the Affordable Housing Principles at Section 1 of this Program
- affordable rental dwellings are owned by government or a nominated or Recommended and Eligible CHP
- affordable rental dwellings are provided in the city in perpetuity
- affordable rental dwellings are rented to very low, low and moderate income households for an absolute maximum of 30 per cent of gross household income
- where more than 10 affordable rental dwellings are being provided in the development, at least 25 per cent of dwellings are to be allocated to very low income households and 25 per cent of dwellings to low income households*
- all rent received from the affordable rental dwellings after deduction of management and maintenance costs will only be used for the purpose of improving, replacing, maintaining or providing additional affordable rental housing. This includes the investment of monies to meet cyclical maintenance costs and all rates and taxes payable in connection with the dwelling
- affordable rental dwellings are designed and constructed to a standard which, in the opinion of the City, is generally consistent with other dwellings in the city, that is, they are not differentiated as affordable housing compared with the design of other housing
- each affordable rental dwelling is to have a total floor area of not less than 35 square metres, with any remainder being paid as a monetary contribution to the City, and
- where multiple affordable rental dwellings are provided in the development, the amenity benchmarks established by the Apartment Design Guideline (or any subsequent Guideline that may apply from time to time) are to be generally achieved..

* This tenure mix applies at first occupation of the dedicated dwellings. Recognising that the income of residents can vary over time, the tenure mix need only be reviewed at change-over of tenants to ensure the mix remains as close as possible to the required mix. In the interim, a CHPs portfolio can be managed to meet the required tenure mix of very low, and moderate-income households across the City of Sydney LGA.

The location, size and quality of affordable housing dwellings are to be to the satisfaction of the City and the receiving CHP. If they are not to satisfaction of both parties, the City may require changes to the development application, or that the contribution be made by way of an equivalent monetary contribution.

Where part of a contribution is satisfied by dedicating dwellings, any remaining floor area must be paid as a monetary contribution.

All floor area to be dedicated for affordable housing is to be allocated as dwellings, that is, common circulation areas are not considered part of the contribution requirement. An exception to this is where all the affordable housing floor area is provided as a full floor of a development or as a stand-alone building.

Appendix C details the process for dedicating dwellings for affordable housing.

2.1.7 Calculating the contribution in Ultimo-Pyrmont, Green Square and the Southern Employment Lands

In Ultimo/Pyrmont, Green Square and the Southern Employment Lands, the contribution requirement applies because the areas were rezoned. Over time, it is envisaged that all floor area in these areas will make a contribution to affordable housing, because all floor area has benefited from the rezoning.

The contribution is therefore calculated on all of the total floor area in the building to which the development application applies.

Example

A development application in Green Square for a new 10,000sqm development, comprises 1,000 square metres of non-residential total floor area and 9,000sqm of residential total floor area. The affordable housing contribution is calculated as:

$$(1\% \times 1,000\text{sqm}) + (3\% \times 9,000\text{sqm}) = 280\text{sqm of dedicated floor area}$$

or

$$(1\% \times 1,000\text{sqm} \times \$10,588 - \$10,611) + (3\% \times 9,000\text{sqm} \times \$10,588 - \$10,611) = \$2,964,640 - \$2,971,080 \text{ equivalent monetary contribution}$$

Note: This is a simplified example. No exemptions have been applied.

Example

A development application for a warehouse conversion in the Southern Employment Lands includes a new mezzanine level comprising 1000sqm of non-residential total floor area. The existing total floor area in the warehouse is 2000sqm. The affordable housing contribution is calculated as:

$$(1\% \times 3,000\text{sqm} \times \$10,588 - \$10,611) = \$317,640 - \$318,330$$

Note: This is a simplified example. No exemptions have been applied.

Note: In-kind contribution will not be suitable in a non-residential development.

2.1.8 Calculating the contribution in Central Sydney and on residual land

In Central Sydney and on residual land, the contribution requirement applies to new or more intensely used floor area only, because the areas were not rezoned at the time when the contribution was introduced.

The contribution is therefore calculated only on the floor space to which the development application directly relates.

Example

A development application on residual land for the demolition of an existing building and a new building comprising a total floor area of 10,000sqm of residential floor area will be calculated as:

$3\% \times 10,000\text{sqm} = 300\text{sqm}$ of dedicated floor area

or

$3\% \times 10,000\text{sqm} \times \$10,588 - \$10,611 = \$3,176,400 - \$3,183,300$ equivalent monetary contribution

Note: Existing floor area that is demolished and replaced is not 'credited' against the contribution requirement.

Note: This is a simplified example. No exemptions have been applied.

Example

A development application, for a new mezzanine level comprising 200sqm of non-residential total floor area, is made for an existing commercial building. The existing total floor area in the warehouse is 2,000sqm. The affordable housing contribution is calculated as:

$(1\% \times 200\text{sqm} \times \$10,588 - \$10,611) = \$21,176 - \$21,222$

Note: This is a simplified example. No exemptions have been applied.

Note: In-kind contribution will not be suitable in a non-residential development.

Example

A development application, for two new residential storeys on top of an existing building is made in Central Sydney. The new development comprises a total floor area of 800sqm. The affordable housing contribution is calculated as:

$3\% \times 800\text{sqm} \times \$10,588 - \$10,611 = \$254,112 - \$254,664$ equivalent monetary contribution

Note: This is a simplified example. No exemptions have been applied.

Note: An in-kind contribution will not be suitable in this situation because the contribution requirement is for less than 35sqm of floor area.

2.1.9 Calculating the contribution on Planning Proposal land

On Planning Proposal land, the method for calculating the amount is set out in the relevant LEP, or other EPI.

2.1.10 Calculating the contribution on other land identified in an EPI where this Program is applied

On other land identified in an EPI where this Program is applied, the method for calculating the amount is set out in the EPI or, where it is not set out in the EPI, then will be set out in a supplementary note / guideline to this Program, adopted by the Minister for Planning or their delegate.

2.2 Development that may be exempt from making a contribution, or may have a reduced contribution requirement

~~The LEP contains the provisions for where a contribution requirement will be applied to development.~~

The consent authority may consider a case for exempting development from the requirement for an affordable housing contribution if the development application is for one or more of the following (and no other development):

- where the cost of construction is less than \$100,000; or
- where the change of use is from:
 - a commercial use or light industrial use to a general industrial use or heavy industrial use; or
 - a general or heavy industrial use to another general industrial use or heavy industrial use; or
- ~~• where affordable housing is being provided, in accordance with the Principles of this Program.~~

Where the development would result in the affordable housing contribution amounting to more than 15 per cent of the agreed cost of construction, then the affordable housing contribution requirement will not exceed 15 per cent of the agreed cost of construction.

Where social/affordable housing floor space is being provided, in accordance with the Principles of this Program, a contribution requirement will not be applied to that floor space.

Where a building is predominantly affordable housing (with a small proportion of floorspace dedicated to ancillary non-residential uses), provided in accordance with the Principles of this Program, and does not include any market housing, a contribution requirement will not be applied to the entirety of the floor space in that building.

The following are some examples of when the LEP clause may or may not apply to specific types of development.

For example

The City receives a development application for a new 50sqm mezzanine in an office building in Central Sydney. The application will not give rise to an affordable housing contribution because the LEP clause does not apply to development that only results in the creation of less than 60sqm of non-residential floor area, and no other development.

For example

The City receives a development application in the Southern Employment Lands for a new 50sqm (non-residential) mezzanine and a change of use for the 100sqm of existing floor area from a warehouse (general industrial) to a retail use, and no other development.

The contribution requirement will apply because more than 60sqm of existing floor area is changing use.

For example

The City receives a development application in the residual lands for a change of use of 5,000sqm of existing commercial floor area to serviced apartments, and no other development.

The contribution requirement will apply because in Central Sydney (and on residual land) the contribution requirement applies where there is a change of use of existing floor area from a non-residential purpose to a residential purpose or tourist or visitor accommodation purpose, and serviced apartments are 'tourist and visitor accommodation'.

For example

The City receives a development application in Green Square for a change of use of 2,000sqm of existing retail floor area to office floor area, and no other development.

The contribution requirement will apply to the entire development because in Green Square (and in Ultimo/Pymont), any change of use will trigger the requirement for a contribution.

For example

The City receives a development application in Central Sydney for a change of use of 200sqm of existing retail floor area to office floor area, and no other development.

A contribution requirement will not apply because in Central Sydney, only where there is a change of use from a non-residential purpose to a residential purpose or tourist or visitor accommodation purpose, will a contribution be applied.

For example

The City receives a development application for the redevelopment of a large site in Green Square. The development will involve:

- the construction of seven 8-storey mixed use buildings for market housing and various non-residential uses; and
- one 6-storey mixed use building to be provided for affordable housing, with ground level retail.

A contribution requirement *will not* be applied to floor space in the entirety of the building to be provided for affordable housing, including the ground floor retail component. The contribution requirement *will* apply to the floor space in the remainder of the development.

2.3 Where a contribution has been previously paid

If an affordable housing contribution has already been made on existing total floor area, then a subsequent contribution is generally not required unless:

- it is being demolished and being replaced with floor space of the same or a different use. In this case, a contribution will be applied to all of the total floor area, including the replacement floor area;
- for existing floor space, the previous contribution was for a non-residential purpose and the new total floor area is for a residential purpose. In this case the difference in the contribution rates will apply.

2.4 Refunds for demolition or changes in use

2.4.1 For demolition or changes of use

Local environmental plans require that the consent authority must not refund an affordable housing contribution to the applicant where there is a change in use or demolition of floor area.

The same applies where affordable housing dwellings are provided on site, in that the dwellings (as replaced) are to remain the property of a CHP.

2.4.2 Surrendered consents

The City is not obligated under legislation to refund an affordable housing contribution payment. Nevertheless, the City may consider refunding a development contribution payment to the original payee where the development has not commenced and the consent will not proceed, as directed in writing by the payee, or where the consent has lapsed. In this case of former, the applicant will need to surrender the consent in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

The City will only consider refunding the contribution when the City holds adequate contribution funds i.e., funds that have not yet been transferred to a Recommended CHP.

The applicant must apply for the refund in writing to the City.

Other than in exceptional circumstances, requests for refunds must be made within 12 months of paying the contribution for which the refund is sought.

2.5 Conditions of consent

A contribution requirement forms part of a development consent. In all instances the City will require evidence that the condition of development consent relating to affordable housing has been satisfied prior to the granting of any construction certificate.

In circumstances where no construction certificate is required, evidence that the condition of development consent relating to affordable housing will be or has been met will be required by the City before commencement of use/occupation.

2.6 How to make a payment

Payment will be by unendorsed bank cheque to the City prior to issue of any construction certificate. In circumstances where no construction certificate is required, payment is required prior to commencement of use/occupation. The procedure for making payment is provided in the condition of consent.

If a development requires multiple construction certificates, Council will require payment prior to the release of the first construction certificate relating to the development consent on which the contributions were levied.

2.7 Adjustment of equivalent monetary contribution amounts

Monetary contribution amounts are adjusted on an annual basis, being the first day of March, with reference to movements in the median strata dwelling price in the City of Sydney LGA as detailed in NSW Government Rent and Sales Report, Table: Sales Price – Greater Metropolitan Region – Strata.

The Rent and Sales Report is available on the NSW Government, Department of Communities and Justice website.

The formula for adjustment of the equivalent monetary contribution amount is:

$$\text{New Contribution Rate} = \text{Current Contribution Rate} \times (\text{MDP2}/\text{MDP1})$$

Where:

- **MDP1** is the median strata dwelling price used to establish the current contribution rate
- **MDP2** is the median strata dwelling price for the CURRENT period, being established by averaging the four in the most recently published Rent and Sales Report.

The City of Sydney's website contains the current monetary contribution amounts.

2.8 Adjustment of a monetary contribution amount on a development consent

Where a condition requiring a monetary contribution has been imposed, the contribution amount must be adjusted over time. That is, if a consent is issued in June 2021 and the applicant does not wish to pay the contribution and develop the site until August 2024, the contribution amount will need to be adjusted to the period in which it is paid.

Monetary contributions are adjusted by the City and confirmed with the applicant prior to payment being made.

The formula for adjusting a contribution amount in a condition if consent is:

$$\text{Monetary Contribution} = \text{Base Contribution Amount} \times (\text{R2/R1})$$

Where:

- **R1** is the contribution rate that applied at the time of consent.
- **R2** is the contribution rate that applies at the time of payment.

The Base Contribution Amount is the amount obtained from the Notice of Determination of the development application.

2.9 Use of contributions

2.9.1 How in-kind contributions are to be used

In-kind contributions of affordable housing dwellings are to be given/dedicated, free of cost, to a Recommended CHP, as identified in a Distribution Plan. In the circumstances that no Recommended CHP is willing to accept the in-kind contribution, then it may instead be given/dedicated by the developer to another Eligible CHP according to the terms of any planning agreement. In-kind contributions are to remain affordable housing in perpetuity and to be owned and managed by the receiving CHP in accordance with this Program.

2.9.2 How monetary contributions are to be used

Monetary contributions are to be given to Recommended CHPs in accordance with an adopted Distribution Plan.

3 Affordable housing on suitable employment land

In the city, the proximity of some lands generally zoned for employment to amenities and services may make them suitable for affordable housing, provided that the development does not undermine the broader employment focused objectives of the zone. Sydney LEP 2012 identifies these areas in which affordable housing is permitted.

3.1 Requirements for affordable housing on suitable employment land

Monetary contributions are to be used for the sole purpose of providing and managing affordable housing in accordance with this Program.

Affordable rental housing developed on suitable employment land is to be provided in accordance with the Affordable Housing Principles set out in this Program. The Principles are satisfied where all the following conditions are met:

- affordable rental dwellings are owned by government or an eligible CHP
- affordable rental dwellings are provided in the LGA in perpetuity
- affordable rental dwellings are rented to very low, low and moderate income households for an absolute maximum of 30 per cent of gross household income
- up to 70 per cent of dwellings are to be allocated to income-eligible employed households
- ~~where more than 10 affordable rental dwellings are being provided, at least 15 per cent of dwellings are to be allocated to very low income households and 15 per cent of dwellings to low income households~~
- all rent received after deduction of management and maintenance costs will be used only for the purpose of improving, replacing, maintaining or providing additional affordable rental housing. This includes the investment of monies to meet cyclical maintenance costs and all rates and taxes payable in connection with the dwelling
- affordable rental dwellings are designed and constructed to a standard which, in the opinion of Council, is generally consistent with other dwellings in the LGA, that is, they are not differentiated as affordable housing compared with the design of other housing.

3.2 Development applications

The Sydney LEP 2012 requires that any development for affordable housing is compatible with the existing uses and approved uses of land in the vicinity.

Proponents should seek pre-development application advice from the City on any proposal to develop affordable housing on employment land.

Appendix A - Background information and affordable housing needs analysis

1. Introduction

Sydney remains Australia's least affordable city. The high cost of housing is an important economic and social issue in Sydney, particularly within the city where housing prices are amongst the highest in Australia.

For a global city, a sustainable and diverse housing supply is fundamental to the cultural and social vitality, economic growth, and liveability of the city. For a city to maintain its global status it needs to maintain the delivery of essential social and physical infrastructure. Housing is a critical piece of that infrastructure; where it is located, its proximity to employment, its diversity in price and type and its quality, are things that require careful management.

A range of factors are placing upward pressure on housing costs, making it increasingly difficult for very low to moderate income households to afford to rent or buy in the local area.

It is expected that without intervention the market will continue to produce housing aimed at households on relatively high incomes. Lower income households will need to move out of the inner-city, away from their communities and their employment in the inner-city.

Housing affordability may affect a city's ability to attract and retain global businesses and a highly skilled workforce. Where relatively low paid key workers, who underpin and enable growth in high value sectors, and contribute to the efficient functioning of a city, cannot access appropriate and affordable housing, there is direct risk to metropolitan Sydney's global city status and by extension the Australian economy. These low paid key workers are employed across a range of sectors and include, amongst others, our health care technicians, cleaners, bus drivers, childcare workers, administrators, hospitality staff, tour guides, musicians and artists.

Encouraging and providing affordable housing is a complex issue requiring a range of planning and policy solutions. The community housing sector is central to delivering affordable rental housing, but so too is the development sector that creates opportunities for new affordable housing to be delivered.

This Program provides the framework for affordable housing to be provided in conjunction with the development that creates the demand for it.

2. What is affordable housing?

Affordable housing is defined by the *Environmental Planning and Assessment Act 1979* (Act) as “housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.”

In the City of Sydney, the private housing market is unlikely to deliver housing, for purchase or for rental, which does not put a very low to moderate incomes household in housing stress or crisis, which is, they are spending more than 30 per cent of their gross income on rental or mortgage costs. Where low cost housing can be found, the demand for it is so high that it is not necessarily target income groups who absorb it.

Therefore, in the context of the city, the term ‘affordable housing’ is taken to mean ‘affordable rental housing’ that is managed by a registered CHP and rented specifically to target income households.

3. NSW government and City of Sydney affordable housing objectives and targets

3.1 NSW government

The NSW government has long recognised the importance of providing affordable housing through the planning framework.

The Greater Cities Commission’s Region and District Plans include targets and actions for the provision of affordable housing through the planning framework. The plan requires councils to develop local housing strategies to address the range of housing needs in their local areas, including affordable housing.

3.2 City of Sydney Council

The City of Sydney has a target that 7.5 per cent of private housing will be social housing and 7.5 per cent of private housing will be affordable housing.

4. Affordable housing need analysis

4.1 Why do we need affordable housing?

Socio-economic impacts

Rising housing prices, driven by a range of factors including increased demand for inner-city living, population growth, foreign investment, federal and state government fiscal and taxation policies, and constrained land supply, all result in declining housing affordability across Australia, particularly in major cities.

In the city, climbing housing costs are expected to have an increasingly detrimental impact on its socio-economic diversity as low income households are pushed from the LGA because they cannot access affordable housing. The majority of households on low to moderate incomes who remain in the private housing market are increasingly in housing stress or crisis and will eventually be forced to move out as housing costs continue to escalate ahead of wage growth.

The loss of low income households is contrary to the aims of the District Plan and the *Sustainable Sydney 2030*, both of which promote the diverse and liveable socio-economic communities.

The relative inequality among those who can and cannot afford housing in the city has widened. There is a growing disconnect between affluent households able to afford private market housing and socio-economically disadvantaged households living in inner city social housing estates. This 'hollowing out of the middle' impacts on community sustainability.

The issue also has a dimension of generational inequality, as younger people (typically first home buyers) are increasingly priced out of the market.

Economic impacts

Declining socio-economic diversity in the inner city associated with inadequate social and affordable housing supply has significant economic impacts.

The ongoing loss of very low to moderate income households from inner Sydney, as they are forced to the outer suburbs of Sydney, makes it increasingly difficult for essential employment sectors to fill employment vacancies and staff shifts. On the city scale, this hampers business productivity and by extension the wider economic growth of Sydney.

4.2 Satisfying the requirements of the Act

This Program has been prepared in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (the Act), that is, those matters that are required by the Act to be considered when applying a condition of consent, have been considered. Where a condition of consent is applied in accordance with this Program, it is consistent with the Act.

Section 7.32 of the *Environmental Planning and Assessment Act 1979* (the Act) allows for the collection of contributions for affordable housing where a need for affordable housing is identified in a planning instrument and where:

- (a) the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, or

- (b) the consent authority is satisfied that the proposed development will create a need for affordable housing within the area, or
- (c) the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or
- (d) the regulations so provide¹.

The City of Sydney is identified in a state environmental planning policy (SEPP) as an area where there is a need for affordable housing.

Provided below is the rationale and justification for applying a contribution requirement in various land in the city.

Central Sydney

Central Sydney is identified on the Locality and site identification map and zoned SP5 Metropolitan Centre (formerly B8) in the City's planning controls. All development in Central Sydney, that is not minor development, is subject to the requirement to contribute to affordable housing under Section 7.32 of the Act because:

All new development in Central Sydney will reduce the availability of affordable housing within the area.

As jobs growth occurs in Central Sydney, a proportion of the new working population will form part of a very low to moderate income household. As competition for affordable housing options increases, the overall availability of affordable housing will decrease. Given the substantial shortfall of affordable housing options within the City, any decrease in the availability of affordable housing gives rise to an increased need for affordable housing.

All new development in Central Sydney will create a need for affordable housing within the area.

Ensuring the long term sustainable growth of Central Sydney is essential for a strong NSW and national economy. Declining socio-economic diversity in the inner city associated with inadequate social and affordable housing supply has significant economic and social impacts which represent a risk to this growth.

As demonstrated above, rising land and property prices, driven by a range of factors including population growth, constrained land supply and Commonwealth fiscal policy, have resulted in declining housing affordability in Australian cities, in particular Sydney. This trend is coupled with inadequate new supply of social and affordable housing in the inner city, both of which are necessary to mitigate market affordability impacts in maintaining accessibility of inner city housing to socio-economically diverse communities.

In the City, there is a growing disconnect between affluent households able to afford private market housing and highly socio-economically disadvantaged households living in inner city public housing estates. Gentrification of inner city neighbourhoods has exacerbated relative inequality among those who can and cannot afford housing. The purchase and rental

¹ Development must only satisfy one of these conditions for Council to be able to require a contribution.

housing market is becoming virtually inaccessible to those on very low to moderate incomes. This issue also has a dimension of generational inequality, as younger people are increasingly priced out of the market.

There are also substantial economic impacts where affordable housing cannot be accessed close to employment.

As residential growth occurs in Central Sydney, demand for services in which low income workers are employed will increase. These services include childcare, medical services, retail, cleaning, and hospitality and so on. There is a need to ensure some affordable housing is available to accommodate people on low incomes working in these services.

Evidence suggests the loss of low to middle income households from inner Sydney will result in essential sectors in the Australian economy finding it increasingly difficult to fill employment vacancies and staff shifts, hampering business productivity and economic growth.

As the relative economic importance of Central Sydney to the national economy continues to increase, cumulatively all new development will continue to create an economic and social need for affordable housing.

Ultimo-Pyrmont

To promote a socially diverse and sustainable community, it is crucial that affordable rental housing be provided so that very low to moderate income households can live in the area.

All development in Ultimo-Pyrmont is subject to the requirement to contribute to affordable housing under Section 7.32 of the Act because:

Development in Ultimo-Pyrmont will reduce the availability of affordable housing within the area.

The City West region of inner Sydney, comprising the suburbs of Pyrmont and Ultimo, was formally an industrial and port precinct that traditionally provided low-cost accommodation for people working in an around the area.

However, significant gentrification has occurred due to the urban renewal of the area, an accompanying investment in public infrastructure and a wider cultural shift towards inner-city living. As higher income households are attracted to the area, housing prices and rental costs are driven upwards, resulting in the reduction of rental stock availability for very low to moderate income households.

Development in Ultimo-Pyrmont will create a need for affordable housing

The planning controls in Ultimo-Pyrmont permit a range of commercial development to provide a variety of employment opportunities, including for lower paid occupations. The affordable housing provisions in Ultimo-Pyrmont reflect an expectation that people should be able to live and work within the same area.

New residents and workers in the area also generate a demand for services typically staffed by lower income earners, increasing the need for key workers such as cleaners, retail assistants, childcare workers and hospitality staff.

If affordable housing options are not provided in the area, the housing market will serve an increasingly smaller proportion of the population, narrowing the socio-economic diversity of Ultimo-Pyrmont and necessitating unsustainable travel behaviours for lower income workers.

Development in Ultimo-Pyrmont is allowed only because the land was rezoned

In the early 1990's a process of intense urban renewal was instigated with the rezoning of the area for high density residential development. The need to retain a proportion of affordable housing in the area was recognised at this time to ensure a socially diverse and sustainable community representative of all income groups.

The new planning provisions substantially affected and increased the development potential and land value of Ultimo-Pyrmont. This has been further impacted by the significant investment in infrastructure by the New South Wales and Commonwealth Governments to revitalise and redevelop the area. All landowners have and will continue to benefit from this increase in land value.

The increased land value has an impact on the affordability of housing in Ultimo-Pyrmont, particularly for the traditional low and moderate income residents of the inner city, as higher value uses are found for the land.

Green Square

The Green Square urban renewal area will provide housing for around 63,000 residents to 2036. The District plan and *A Metropolis of Three Cities – the Greater Sydney Region Plan* highlight the importance of creating communities that are mixed and cohesive, where there is a greater mix of social and private housing.

To promote a socially diverse and sustainable community, it is crucial that affordable rental housing be provided so that very low to moderate income households can live in the area.

All development in Green Square is subject to the requirement to contribute to affordable housing under Section 7.32 of the Act because:

Development in Green Square will reduce the availability of affordable housing within the area.

Green Square and its immediate surrounds have historically provided relatively cheap housing for inner-city residents.

However, the urban renewal of the area, the investment in public infrastructure and the wider cultural shift towards a preference for inner-city has resulted in the gentrification of Green Square. This has placed, and will continue to place, pressure on housing prices and rental costs as high income households are attracted to the area, pushing up house values and reducing the rental stock available for very low to moderate income households.

The jobs growth associated with the urban renewal of Green Square is also reducing the availability of affordable housing in the area. While there has been a significant change in the nature of employment in the area since it's rezoning in 1999, with a general trend towards higher value jobs, a number of lower paid jobs still locate in the area.

It is desirable that people employed in the area are able to find housing close to their place of employment. This will increase competition for the affordable housing options, decreasing the overall availability of affordable housing and increasing the cost of renting in these areas.

Given the shortfall of affordable housing options currently available in the city, any further decrease in the availability of affordable housing gives rise to an increased need for affordable housing.

Development in Green Square will create a need for affordable housing

More specifically for Green Square, the ongoing urban renewal of the area, and its wider gentrification, will continue to produce upward pressures on property values and place further pressure on purchase and private rental accommodation costs beyond the means of low to moderate income groups.

Without provision of more affordable forms of housing, the market can be expected to continue to produce more expensive housing in the area, so that housing will only be affordable to households on relatively high incomes. Without the supply of more affordable rental dwellings, existing lower income households will continue to be forced out of the area, and new lower income households may be prevented from finding housing in Green Square close to new employment opportunities.

The employment generated by the urban renewal of Green Square will also create a need for affordable housing. On completion, some of which will be for very low to moderate income earners who will seek affordable housing in the area.

Moreover, new residents and workers in the area will generate demand for services typically staffed by lower income earners, increasing the need for key workers such as cleaners, retail assistants, childcare workers and hospitality staff.

Development in Green Square is allowed only because the land was rezoned

In 1999 the majority of the Green Square urban renewal area was rezoned from industrial to mixed use. Substantial value was created on land at the time it was rezoned.

The affordable housing contribution requirement in Green Square was introduced when the land was rezoned. Therefore, any negative impact the contribution requirement might have had on the value of the land was more than mitigated by the increase in land value arising from the rezoning.

Over time land values have continued to increase in Green Square as the area has gentrified and has benefited from substantial investment in public infrastructure. This will continue to place upward pressure on the cost of housing and increase demand for affordable housing.

Southern Employment Lands

The Southern Employment Lands will undergo substantial change over the next 20 years as it transitions from an area characterised by traditional manufacturing industries and low density employment to more diverse employment. The changes will result in an increase in the number of workers in the area, placing an increase in the demand for affordable housing.

All development in the Southern Employment Lands is subject to the requirement to contribute to affordable housing under Section 7.32 of the Act because:

Development in the Southern Employment Lands will reduce the availability of affordable housing within the area

The Southern Employment Lands are Sydney's oldest industrial areas. The 2015 rezoning of the area will result in more jobs that are typically higher in value than those that have traditionally located in the area.

This will place pressure on housing prices and rental costs in adjoining area as high income households are attracted to the area to live near where they work, pushing up underlying land values and reducing the rental stock available for very low to moderate income households.

It is desirable that people employed in the area are able to find affordable housing close to their place of employment. This will increase competition for the affordable housing in the area, decreasing the overall availability of affordable housing and increasing the cost of rents.

Given the shortfall of affordable housing options currently available in the city, any further decrease in the availability of affordable housing gives rise to an increased need for affordable housing.

Development in the Southern Employment Lands will create a need for affordable housing within the area

Redevelopment in and around the Southern Employment Lands will continue to place upward pressure on property values and on purchase and private rental accommodation costs in the area beyond the means of very low and moderate income households.

Without the provision of more affordable forms of housing, the market can be expected to continue to produce more expensive housing products in the area, so that housing will only be affordable to households on relatively high incomes. Without the supply of more affordable rental dwellings, existing lower income households will continue to be forced out of the area, and new lower income households may be prevented from finding housing in close to new employment opportunities.

Development in the Southern Employment Lands is allowed only because the land was rezoned

In 2015, much of the land in the Southern Employment Lands was rezoned. Previously the Southern Employment Lands were zoned for industrial purposes, generally permitting only uses that are industrial in nature, the new zones enabled a more flexible approach to employment generating uses by permitting a wider range of activities, such as commercial offices, retail and so on.

The affordable housing contribution requirement in the Southern Employment Lands was introduced when the land was rezoned. Any negative impact the contribution requirement might have had on the value of the land was therefore mitigated by the increase in land value arising from the rezoning.

Over time land values will continue to increase in the Southern Employment Lands, placing upward pressure on the cost of housing and increasing demand for affordable housing in the surrounding area.

Residual land

As the popularity of inner city living continues to grow and with increasing employment opportunities across the city, the cost of housing will continue to climb, making it increasingly difficult for low income households to live in these areas.

On residual land, development for new floor area, or for a more intense use of existing floor area, is subject to the requirement to contribute to affordable housing under Section 7.32 of the Act because:

Development in the residual lands will reduce the availability of affordable housing within the area

Investment in public infrastructure, increased amenity and the wider cultural shift towards a preference for inner-city has resulted in the gentrification in the LGA. This has placed, and will continue to place, pressure on housing prices and rents. Likewise, the increase in the number of jobs in the LGA, many offering relatively high salaries, increases the demand for housing and pushes up housing costs.

As the desirability of living and working in the local area increases, the demand for an ever-shrinking supply of lower cost housing increases, in-turn decreasing the overall availability of lower cost housing and pushing lower income households out to more affordable areas.

Given the shortfall of affordable housing options currently available in the city, any further decrease in the availability of affordable housing gives rise to an increased need for affordable housing.

Development in the residual lands will create a need for affordable housing within the area

The projected housing growth in the residual lands is shown at Figure 6. As at 2017, it was anticipated that approximately 35% of projected dwellings growth in the city will be in the residual lands.

Employment is also projected to grow in the LGA. The draft district plan projects 817,000 additional jobs across Greater Sydney, a large portion of which will be in the City's strategic centres of the CBD and Green Square and Mascot where a respective 235,000 and 25,500 jobs are projected to 2036.

Job growth in the LGA and new development in the city's residual areas will continue to place upward pressure on housing prices and rents beyond the means of very low and moderate income households.

Without provision of more affordable forms of housing, the market can be expected to continue to produce more expensive housing in the area, so that it will only be affordable to households on relatively high incomes. Without the supply of more affordable rental dwellings, existing lower income households will continue to be forced out of the area, and new lower income households may be prevented from finding housing in the LGA close to new employment opportunities.

Planning Proposal land

Planning Proposal land is land that has been the subject of a planning proposal to change the planning controls that apply to the site to increase development capacity. Planning Proposal land is identified in LEPs.

On Planning Proposal land, all new residential floor area is subject to the requirement to contribute to affordable housing under Section 7.32 of the Act because:

Development in Planning Proposal land will reduce the availability of affordable housing within the area

The cost of land and fragmentation of ownership patterns are key impediments to development and renewal in existing urban areas. Current buildings that are functional and provide good economic utility can in many cases be too valuable to consolidate for redevelopment. Therefore, developers tend to target buildings that are aging and nearing the end of their economic lifecycle. As such, planning proposals in the City, that generally seek increased height or floor area, are associated with former industrial or commercial sites and older, lower quality houses that are then replaced by higher density residential uses.

Where redevelopment of a site replaces older residential stock with a new residential flat building, there is typically a direct loss of lower cost housing that is more likely to be within the means of lower income households.

Where renewal of a site replaces non-residential buildings at the end of their economic life, amenity increases, attracting more investment and higher income households to move into the area. This pushes up house values, placing further demand for rental properties and reduces the available stock of low cost housing.

Development on Planning Proposal land will create a need for affordable housing within the area

Changes to planning controls which permit higher order land uses and increased densities will place further pressure on purchase and private rental accommodation costs beyond the means of very low to moderate income households. Without provision of more affordable housing in the area housing will only be affordable to households on relatively high incomes. This will force existing low income households to move out of the area.

Furthermore, the overall growth in jobs generally across the LGA, coupled with the increased employment opportunities created by planning proposals that include mixed use development with retail tenancies on the street level, will increase the demand for unskilled and semi-skilled workers.

Development is allowed only because the land was rezoned

Planning Proposal land is land that has been the subject of a planning proposal to change the planning controls that apply to the site to increase development capacity. The contribution requirement will only be applied to the new development capacity that would not have been allowed without the changes to the planning controls.

This gives effect to the intent of the District Plan to provide affordable housing where there is an increase in development capacity on land, where need for affordable housing is identified and where development viability can be maintained.

The affordable housing contribution requirement will be introduced when the land is identified as Planning Proposal land in LEPs. Therefore, any negative impact the contribution requirement might have on the value of the land will be mitigated by the increase development potential brought about by the change to the planning controls.

5. Outcomes

The City's planning controls are estimated to deliver up to 1,950 additional affordable dwellings between 2016 to 2036. However, this estimate will be heavily impacted by other matters outside of the City's control, including, but not limited to:

- the property market i.e. the amount of development that occurs. This is highly influenced by the market conditions of the day;
- the ability of community housing providers to successfully leverage contribution funds and existing property portfolios;
- state government policy directions; and
- Federal and NSW Government investment in affordable housing (which may accelerate outcomes under this scheme when available funds are combined with levy funds).

~~The City's targets for affordable housing cannot be achieved through the planning system and by applying levies alone.~~

Appendix B – Planning Proposal land

Where land is the subject of a planning proposal to change the planning controls that apply to the site, it may be identified on a schedule in an LEP, or another EPI, as being required to make an additional contribution for affordable housing.

This appendix is to provide guidance on how the contribution rate is established.

~~1. Applying a contribution rate to Planning Proposal land~~

1. Where a planning proposal has increased Floor Space Ratio

Where there is a planning proposal to increase the Floor Space Ratio (FSR) of a site or sites, an affordable housing contribution requirement will be payable on the new floor area.

The affordable housing contribution rate that applies to the land will also be identified on a schedule in an LEP or other EPI.

The 'listing' of Planning Proposal land on the LEP schedule, or in another EPI, occurs at the same time that the changes to the planning controls are 'made', that is, the LEP schedule / EPI will be amended when the amendment to the LEP / EPI to increase the FSR comes into effect.

On Planning Proposal land, the contribution rate applied to new floor area achieved in the planning proposal to increase FSR is:

Precinct*	Contribution rate**
Central Sydney	13% subject to site specific viability testing
West precinct	12%***
South precinct	12%***
East precinct	21%***

* Note: The West, South and East precincts align with those shown in the City's development contribution plan 2015. The Central Sydney precinct aligns with those shown in Central Sydney Development Contributions Plan 2020. A map of precinct boundaries is available on the City's website

** The contribution applies to new floor area that may be used for a residential purpose, that is, the contribution requirement will be applied to any additional floor area achieved on land zoned residential purposes, unless the whole of that site is restricted to a non-residential purpose.

*** The above Rates incorporate any requirement in an the LEPs requirement for a 3 per cent contribution. For example, the 12 per cent

rate includes 9 per cent for new residential floor area on planning proposal land, plus 3 percent. *Where no other contribution requirement applies, the full 12 percent may be applied.*

The above rates will be reviewed on an as needs basis and any changes will be published on the City's website.

The equivalent monetary contribution amount is provided in Section 2 of this Program.

Explanatory note

Planning Proposal land contribution rates

Planning Proposal land contribution rates have been tested by appropriately qualified land economics experts to ensure development viability is not negatively impacted. Testing takes into consideration all of the contribution requirements that already apply to the land including Section 7.11 contributions, Community Infrastructure floor area, and affordable housing contributions payable under LEPs.

Contribution rates to be applied to new floor area on Planning Proposal land will be reviewed and updated as needed to

While the contribution rates apply to proposals for new residential floor area, this does not preclude the City from working with proponents to identify an appropriate contribution rate that may be applied where a planning proposal results in an increase in non-residential floor area.

How does the contribution requirement look in LEPs?

~~At the time of preparing this Program, there is not a clause or schedule in the LEPs for Planning Proposal land, though there are several proposals for one.~~

~~When new planning provisions are being included in an LEP the legal drafting of the clause is prepared by Parliamentary Counsel following public exhibition and adoption of the planning proposal by Council. The amending LEP including the provision is then made by the NSW Government (unless that responsibility has been delegated back to Council).~~

~~The contribution rates shown in the above table may require some adjustment depending on the wording of the clause prepared by Parliamentary Council, and in particular if the rate is expressed as being inclusive or exclusive of the existing contribution requirement for 3% affordable housing on residential land.~~

2. Where other public benefits are offered

Where it is a superior outcome, and where a landowner/developer has made an offer to enter into a planning agreement to provide affordable housing or other public benefit, a Planning Proposal land contribution may not be applied in an LEP.

Appendix C – Process for dedicating dwellings

This appendix provides guidance on the process for satisfying an affordable housing contribution requirement by dedicating affordable housing dwellings.

Section 2 of this Program provides that where the dedication of affordable housing dwellings is proposed, then the location, size and quality of dwellings must be to the satisfaction of the City and the receiving CHP.

1. Consult with Recommended and Eligible providers

Where a developer intends to provide an in-kind affordable housing contribution by dedicating finished dwellings to a Recommended CHP, the developer must first consult with the provider to establish if they are willing to receive the dedicated dwellings.

In circumstances where no Recommended CHP agrees to accept the dedication, and confirmation of that position is provided in writing, the developer may consult with other eligible providers (Tier 1 or Tier 2) to establish an agreement for a community housing provider to accept the dedication of finished affordable housing dwellings.

The purpose of the consultation is to canvass potential issues and reach in-principle agreement about how the affordable housing dwelling/s are to be provided by the developer to the CHP. Key issues for discussion include, but are not limited to:

- the requirements of the community housing provider in regard to the finished dwelling, for example fit out requirements, preferred layouts, location of the dwelling in the development, and so on;
- the community housing provider is to have a full understanding of the likely strata requirements that will be in place once the development is complete;
- contractual arrangements with regards to the dedication of the dwellings, including discussion about what might be cause for terminating the agreement.

2. Development application

The development application to the City must:

- state the amount (the quantum of total floor area) of affordable housing floor area to be dedicated, and any residual amount for which to where a monetary contribution is required to be paid;
- clearly identify on the plans the affordable rental dwellings proposed to be dedicated, noting the City must be satisfied that dwellings receive adequate amenity relative to the rest of the development i.e. it is not acceptable that all of the affordable housing in the development receive have the lowest amenity;
- demonstrate the appropriateness of the dwellings proposed for dedication, with reference to Section 2 of this Program;

- provide details of the agreement that has been reached between the developer and the community housing provider about the dedication of the dwellings or alternative arrangements in a relevant planning agreement.
- if it is not a Recommended CHP ~~who~~ **that** will receive the contribution, evidence that all Recommended CHPs have declined to accept the dedication of the dwellings is required; and
- evidence ~~from~~ **that** the receiving CHP ~~they~~ **has** **agreed to** ~~and~~ accept the dwellings, **the terms of the agreement**, and ~~understand~~ the requirements of the Program **are understood**, including the requirement for in perpetuity management of the dwellings for affordable housing to be rented to very low to moderate income households for no more than 30% of their income.

3. Assessment

The City will:

- undertake assessment of the appropriateness of the dwellings proposed for dedication, with reference to Section 2 of this Program and any comment provided by the Recommended CHP, and
- if necessary, where the proposed dwellings are not appropriate for the purpose of affordable housing, discuss with the developer amendments to improve the dwellings, or identify preferable dwellings, or instead require a monetary contribution.

4. Securing the dwellings

Where the dwellings proposed for dedication are supported, a condition of consent requiring dedication of the affordable housing dwelling(s) will be imposed by the consent authority.

Prior to transferring the affordable housing dwelling(s) to a Recommended CHP, the City will register on the title a covenant ensuring the affordable housing dwellings are:

- owned and managed by a CHP in accordance with the Program, and
- rented to very low to moderate income earners for no more than 30% of gross household income.

Attachment D

**Draft City of Sydney Affordable Housing
Contributions Interim Distribution Plan
(as amended following public exhibition)**

Draft City of Sydney Interim Affordable Housing Contributions Distribution Plan



1. Purpose

This City of Sydney Interim Affordable Housing Contributions Distribution Plan (Interim Distribution Plan) sets out a temporary plan for how monetary affordable housing contributions (contributions) received under the City of Sydney Affordable Housing Program (Program) are to be distributed to Recommended Community Housing Providers (Recommended CHPs).

This Interim Distribution Plan was adopted by Council on ~~XX XX XXX~~ and commences on ~~that day~~ **1st July 2024**.

The arrangement for the distribution of contributions that was in place on the day this Interim Distribution Plan was adopted by Council is to remain in place until this plan commences.

2. Allocation of funds

This section sets out how contributions are to be allocated to Recommended CHPs.

2.1 Recommended CHPs

Recommended CHPs are the only CHPs who may receive a monetary contribution under the Program. The following are Recommended CHPs:

- City West Housing;
- St George Community Housing;
- Bridge Housing.

The Program requires Recommended CHP's to use contributions for the purpose of providing affordable rental housing in accordance with the Program.

2.2 Distribution Plan

Affordable housing contributions are to be distributed equally to Recommended CHPs identified in this Interim Distribution Plan.

~~3. Review of the Interim Distribution Plan~~

~~This Interim Plan is intended to be replaced following consultation with the Housing for All Working Group and the community housing sector to determine how best to allocate affordable housing contribution funds into the future to:~~

- ~~• contribute to the City's affordable housing targets; and~~
- ~~• increase the amount of affordable housing for Aboriginal and Torres Strait Islander households.~~

~~Following consultation, a draft Distribution Plan will be exhibited for public comment before being reported to Council for their consideration.~~



Attachment E

<h2>Gateway Determination</h2>

Gateway Determination

Planning proposal (Department Ref: PP-2022-2535): to update the City of Sydney Affordable Housing Program and associated references to the program in the Sydney Local Environment Plan 2012, the Green Square Local Environment Plan (Town Centre) 2013 and the Green Square Local Environment Plan (Town Centre – Stage 2) 2013.

I, the Director at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Sydney Local Environmental Plan 2012 (SLEP 2012), Sydney Local Environment Plan (Green Square Town Centre) 2013 and Sydney Local Environment Plan (Green Square Town Centre – Stage 2) 2013 to update the Affordable Housing Program and associated LEP references should proceed subject to the following conditions:

1. Update the planning proposal to accurately reflect the current wording of Clause 7.13(2A) and 7.13(4)(b) of the SLEP 2012
2. Review the extension of the Affordable Housing Program to Ultimo-Pyrmont with consideration to how it will address 'Pyrmont Peninsula land' that is already identified in Clause 7.13 of the SLEP 2012.
3. Provide a detailed explanation and justification for:
 - a. the proposed changes to 'planning proposal land' contributions and confirm when these contributions are expected to apply from
 - b. Proposed 'soft' contributions, including how they relate to 'planning proposal land' contributions, what planning proposal land this applies to (non/residential), how the contribution rate has been determined, and how it reflects the 10 per cent affordable housing target in the Region Plan.
4. Address the recommendations of the Affordable Housing Feasibility Study (Atlas Urban Economics, 29 July 2022), including the recommendation that application of the contributions be staged.
5. Provide justification for the inclusion of St George Community Housing as a recommended Community Housing Provider in the draft Interim Distribution Plan.
6. Include all supporting studies and analyses as part of the exhibition package.
7. Include a map that clearly identifies all areas that the Affordable Housing Program currently applies to, and all new areas proposed for inclusion.
8. Include an updated project timeline.
9. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard is described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 30 **working** days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

Attachment F

<p>Council and Central Sydney Planning Committee Resolutions</p>

Resolution of Council

27 June 2022

Item 8.2

Public Exhibition - Planning Proposal - Affordable Housing Program Update - Sydney Local Environmental Plan 2012, Sydney Local Environmental Plan (Green Square Town Centre) 2013, Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 20

It is resolved that:

- (A) Council approve Planning Proposal - City of Sydney Affordable Housing Program Update, shown at Attachment A to the subject Information Relevant To Memorandum, for submission to the Department of Planning and Environment with a request for a Gateway Determination, subject to the planning proposal being updated in accordance with (D) below;
- (B) Council approve Planning Proposal - City of Sydney Affordable Housing Program, for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) Council approve the draft City of Sydney Affordable Housing Program Amendment 2022, shown at Attachment B to the subject Information Relevant To Memorandum, for public exhibition for a period of no less than 28 days, concurrently with the planning proposal;
- (D) Council approve the draft City of Sydney Interim Affordable Housing Contributions Distribution Plan, shown at Attachment C to the subject Information Relevant To Memorandum, for public exhibition for a period of no less than 28 days, concurrently with the planning proposal, subject to the draft City of Sydney Interim Affordable Housing Contributions Distribution Plan being amended to distribute all affordable housing contribution funds equally amongst City West Housing, St George Community Housing and Bridge Housing;
- (E) Council seek authority from the Department of Planning and Environment to exercise its delegation under section 3.36 of the Environmental Planning and Assessment Act 1979 to make the amending Local Environmental Plan;

- (F) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal - City of Sydney Affordable Housing Program Update, the draft City of Sydney Affordable Housing Program Amendment 2022 and the draft City of Sydney Interim Affordable Housing Contributions Distribution Plan, to correct any drafting errors or inconsistencies, or to ensure consistency with any condition of the Gateway Determination; and
- (G) Council note further consultation will be undertaken with the Housing for All Working Group and the community housing sector to inform the final distribution plan which will be reported to Council for consideration.

The motion was carried on the following show of hands:

Ayes (9) The Chair (the Lord Mayor), Councillors Chan, Davis, Ellsmore, Gannon, Kok, Scott, Scully and Weldon

Noes (1) Councillor Jarrett.

Motion carried.

X084801

Resolution of Central Sydney Planning Committee

23 June 2022

Item 6

Public Exhibition - Planning Proposal - Affordable Housing Program Update - Sydney Local Environmental Plan 2012, Sydney Local Environmental Plan (Green Square Town Centre) 2013, Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 20

Moved by the Chair (the Lord Mayor), seconded by Mr Persson -

It is resolved that:

- (A) the Central Sydney Planning Committee approve Planning Proposal - City of Sydney Affordable Housing Program Update, shown at Attachment A to the subject Information Relevant To Memorandum, for submission to the Department of Planning and Environment with a request for a Gateway Determination, subject to the planning proposal being updated in accordance with (D) below;
- (B) the Central Sydney Planning Committee approve Planning Proposal - City of Sydney Affordable Housing Program, for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Housing For All Committee on 20 June 2022 that Council approve the draft City of Sydney Affordable Housing Program Amendment 2022, shown at Attachment B to the subject Information Relevant To Memorandum, for public exhibition for a period of no less than 28 days, concurrently with the planning proposal;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Housing For All Committee on 20 June 2022 that Council approve the draft City of Sydney Interim Affordable Housing Contributions Distribution Plan, shown at Attachment C to the subject Information Relevant To Memorandum, for public exhibition for a period of no less than 28 days, concurrently with the planning proposal, subject to the draft City of Sydney Interim Affordable Housing Contributions Distribution Plan being amended to distribute all affordable housing contribution funds equally amongst City West Housing, St George Community Housing and Bridge Housing;

- (E) the Central Sydney Planning Committee note the recommendation to Council's Housing For All Committee on 20 June 2022 that Council seek authority from the Department of Planning and Environment to exercise its delegation under section 3.36 of the Environmental Planning and Assessment Act 1979 to make the amending Local Environmental Plan;
- (F) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal - City of Sydney Affordable Housing Program Update, the draft City of Sydney Affordable Housing Program Amendment 2022 and the draft City of Sydney Interim Affordable Housing Contributions Distribution Plan, to correct any drafting errors or inconsistencies, or to ensure consistency with any condition of the Gateway Determination: and
- (G) the Central Sydney Planning Committee note further consultation will be undertaken with the community housing sector to inform the final distribution plan which will be reported to Council for consideration.

Carried unanimously.

X084801

Item 8.

Approved Variations to Development Standards Reported to the Department of Planning and Environment

File No: S040864

Summary

This report is to inform the Central Sydney Planning Committee of development applications determined where there has been a variation in standards approved under clause 4.6 of the Sydney Local Environmental Plan 2012 in the third quarter of 2022/23.

Recommendation

It is resolved that the subject report be received and noted.

Attachments

Attachment A. Variations Approved by Council and Reported to the Department of Planning and Environment for the period 1 January to 31 March 2023

Background

1. On 24 June 2004, the Central Sydney Planning Committee (CSPC) delegated authority to the City of Sydney for the determination of development applications involving a variation to a development standard and costing less than \$50 million.
2. In accordance with planning circular PS 08-014, the City of Sydney is required to submit to the Department a quarterly report of all variations approved.
3. The City also maintains a publicly available register of all variations to development in accordance with the above circular.
4. Planning Circular PS 20-002 requires that a quarterly report of variations approved under delegation from Council is also to be provided to a meeting of Council. A report is also provided to the Central Sydney Planning Committee on a quarterly basis.
5. Twenty-three applications were approved where there has been a variation to development standards during the period 1 January 2023 to 31 March 2023. Details of the applications are provided in Attachment A.

Relevant Legislation

6. Environmental Planning and Assessment Act 1979
7. City of Sydney Act 1988

GRAHAM JAHN AM

Director City Planning, Development and Transport

James Farrar, Information and Systems Officer

Attachment A

**Variations Approved by Council and
Reported to the Department of Planning
and Environment for the period 1 January
2023 to 31 March 2023**

DA Number	No	Street name	Suburb	Zoning of land	Development standard to be varied	Extent of variation	Type of development	Justification of variation	Authority	Date Determined
D/2022/1075	158	Little Eveleigh Street	REDFERN	R1 General Residential	Height	5%	Residential - Alterations & additions	Objectives of zone and height standard met. No significant adverse impacts. Development does not significantly impact on the bulk and scale of the existing building.	Delegated	31/03/2023
D/2022/1108	471	Riley Street	SURRY HILLS	R1 General Residential	Height	2.2%	Residential - Alterations & additions	Objectives of zone and height standard met. No significant adverse impacts. Development does not significantly impact on the bulk and scale of the existing building and is consistent with neighbouring sites.	Delegated	13/03/2023
D/2022/1209	22	Dibbs Street	ALEXANDRIA	R1 General Residential	FSR and Height	15%, 8.3%	Residential - Alterations & additions	Objectives of zone and height and FSR standards met. No significant adverse impacts.	Delegated	13/03/2023
D/2022/1255	403	South Dowling Street	DARLINGHURST	R1 General Residential	Height	1.09%	Residential - Alterations & additions	Objectives of zone and height standard met. No significant adverse impacts. Development does not significantly impact on the bulk and scale of the existing building.	Delegated	7/02/2023
D/2022/292	2	Edward Street	DARLINGTON	R1 General Residential	Height	4.8%	Residential - Alterations & additions	Objectives of zone and height standard met. No significant adverse impacts.	Delegated	7/03/2023
D/2022/460	23	Little Cleveland Street	REDFERN	R1 General Residential	FSR	25%	Residential - Alterations & additions	Objectives of zone and FSR standard met. The proposal is considered not to have unreasonable impact on the amenity of the adjoining properties or the street scape.	Delegated	10/03/2023
D/2022/483	33	Leamington Avenue	NEWTOWN	R1 General Residential	Height	8.3%	Residential - Alterations & additions	Objectives of zone and height standard met. No significant adverse impacts.	Delegated	7/02/2023
D/2022/539	60	Kellett Street	POTTS POINT	CPB4 - B4 Mixed Use	FSR	1%	Residential - Alterations & additions	Objectives of zone and FSR standard met. There are no significant adverse impacts, and the development is consistent with neighbouring sites.	Delegated	3/03/2023
D/2022/545	7	Nobbs Street	SURRY HILLS	R1 General Residential	Height	6%	Residential - Alterations & additions	Objectives of zone and height standard met. No significant adverse impacts. Development does not significantly impact on the bulk and scale of the existing building.	Delegated	8/02/2023
D/2022/680	372	Moore Park Road	PADDINGTON	R1 General Residential	Height	16%	Residential - Alterations & additions	Objectives of zone and height standard met. No significant adverse impacts. Development does not significantly impact on the bulk and scale of the existing building.	Delegated	17/01/2023

DA Number	No	Street name	Suburb	Zoning of land	Development standard to be varied	Extent of variation	Type of development	Justification of variation	Authority	Date Determined
D/2022/727	18	Ridge Street	SURRY HILLS	R1 General Residential	Height	3.3%	Residential - Alterations & additions	Objectives of zone and height standard met. No significant adverse impacts. Development consistent with neighbouring sites.	Delegated	6/02/2023
D/2022/765	123	Wigram Road	FOREST LODGE	R1 General Residential	FSR	11.4%	Residential - Alterations & additions	Objectives of zone and FSR standard met. No significant adverse impacts. Development does not significantly impact on the bulk and scale of the existing building.	Delegated	4/01/2023
D/2022/826	79	Wigram Road	GLEBE	R1 General Residential	Height	13%	Residential - Alterations & additions	Objectives of zone and height standard met. No significant adverse impacts. Development consistent with neighbouring sites.	Delegated	1/03/2023
D/2022/879	75	Kepos Street	REDFERN	R1 General Residential	FSR and Height	32.6%, 12.6%	Residential - Alterations & additions	Objectives of zone and height and FSR standards met. Height, scale, and bulk consistent with other developments within the terrace row. No significant adverse amenity impacts	LPP	22/02/2023
D/2022/900	187	Albion Street	SURRY HILLS	R1 General Residential	Height	13.79%	Residential - Alterations & additions	Objectives of zone and height standard met. No significant adverse impacts. Development consistent with neighbouring sites.	Delegated	24/03/2023
D/2022/915	34	Surrey Street	DARLINGHURST	R1 General Residential	Height	1%	Residential - Alterations & additions	Objectives of zone and height standard met. No significant adverse impacts. Development does not significantly impact on the bulk and scale of the existing building.	Delegated	6/03/2023
D/2023/22	532	Crown Street	SURRY HILLS	R1 General Residential	FSR	17%	Residential - Alterations & additions	Objectives of zone and FSR standard met. No significant adverse impacts.	Delegated	13/03/2023
D/2022/589	15	Northcote Road	GLEBE	R1 General Residential	Height	40%	Residential - New second occupancy	The proposal maintains the existing ridge height of the principal dwelling, which already exceeds height development standard. Objectives of zone and height standard met. No significant adverse impacts. Development consistent with neighbouring sites.	Delegated	8/03/2023
D/2022/1142	35	Myrtle Street	CHIPPENDALE	R1 General Residential	FSR	18.6%	Commercial / retail / office	Objectives of zone and FSR standard met. No significant adverse impacts. Development does not significantly impact on the bulk and scale of the existing building.	Delegated	30/03/2023

DA Number	No	Street name	Suburb	Zoning of land	Development standard to be varied	Extent of variation	Type of development	Justification of variation	Authority	Date Determined
D/2022/1256	243	George Street	SYDNEY	B8 Metropolitan Centre	FSR	5.70%	Commercial / retail / office	Objectives of zone and FSR standard met. No significant adverse impacts.	Delegated	1/03/2023
D/2022/274	16	Meagher Street	CHIPPENDALE	B4 Mixed Use	Height	37.50%	Commercial / retail / office	Objectives of zone and height standard met. Existing building exceeds height standard, proposed addition is consistent with character of the area and surrounding development.	LPP	22/02/2023
D/2022/637	418	Elizabeth Street	SURRY HILLS	B4 Mixed Use	FSR and Height	158%, 110%	Commercial / retail / office	Objectives of zone and FSR and height standard met. No significant adverse impacts. Development does not significantly impact on the bulk and scale of the existing building.	Delegated	1/03/2023
D/2021/1415	903	Bourke Street	WATERLOO	SP2 Infrastructure	Height	2%, 8%, 3%	Mixed	Objectives of zone and height standard met. No significant impacts for site and surrounds.	CSPC	16/02/2023

Item 9.**Summary of Applications to be Reported to the Central Sydney Planning Committee**

File No: S042755-02

Summary

The purpose of this report is to inform members of the Central Sydney Planning Committee of development applications being assessed that are to be determined by the Central Sydney Planning Committee. The list of current applications containing the target meeting date is provided in Attachment A.

Recommendation

It is resolved that the subject report be received and noted:

Attachments

- Attachment A.** Applications to be Reported to the Central Sydney Planning Committee
- Attachment B.** Statistical Information about Applications be Reported to the Central Sydney Planning Committee
- Attachment C.** Appeals Related to the Central Sydney Planning Committee

Background

1. There are currently 10 development applications and three modification applications (as at 5 June 2023) to be considered by the Central Sydney Planning Committee (CSPC). These applications are listed in Attachment A.
2. The total stated value of all development applications currently under assessment is \$3.5 Billion.
3. The value of applications to be considered by the Central Sydney Planning Committee is \$2.4 Billion with an average of 270 days from time of lodgement.
4. For comparison, there are 416 development applications outstanding to be determined under delegation or to be referred to the Local Planning Panel with a total value of \$1.1 Billion with an average of 104 days from time of lodgement. A further 281 development related applications are also under assessment including applications to modify or review a determination, subdivision certificates, heritage works and footway applications.
5. Trend graphs in Attachment B show numbers and value of applications as well as the average of development applications to be considered by the Central Sydney Planning Committee at the end of each quarter. The graphs represent the period from fourth quarter of 2021/22 to the third quarter of 2022/23.
6. There are two applications previously reported as requiring determination by the CSPC which are now subject to an appeal. Details of those applications are in Attachment C.

GRAHAM JAHN AM

Director City Planning, Development and Transport

James Farrar, Information and Systems Officer

Attachment A

**Applications to be Reported to the Central
Sydney Planning Committee**

Applications to be considered by the Central Sydney Planning Committee

DA Number	Address	Lodged	Proposal	Cost \$m	Target meeting date
D/2022/152	262-266 Castlereagh Street SYDNEY NSW 2000	03/03/2022	Construction of mixed use development including site amalgamation and the construction of a 19-storey building with 5 basement levels, 3 retail tenancies at lower and upper ground floor levels, and residential levels above comprising 53 apartments. The application is Integrated Development, pursuant to the Water Management Act 2000.	\$100M	22/06/2023
D/2021/1484	330 Botany Road ALEXANDRIA NSW 2015	20/12/2021	Amended concept Development Application for a mixed use development including concept envelopes up to approximately 40m in height, with vehicular access from the yet to be constructed Green Square to Ashmore Connector Road and indicative uses comprising basement car-parking, ground level retail and commercial tenancies, affordable housing (264 apartments) and public benefits including dedication of land for footpath widening to each of its three street frontages.	\$119M	22/06/2023
D/2018/1144/A	133-141 Liverpool Street SYDNEY NSW 2000	26/05/2022	S4.55 (2) Modification consent to modify previously approved concept building envelope for a mixed-use development. Development application D/2022/495 for the detailed design of the 55-storey mixed use development is being assessed concurrently.	\$0	17/08/2023

DA Number	Address	Lodged	Proposal	Cost \$m	Target meeting date
D/2022/495	133-141 Liverpool Street SYDNEY NSW 2000	30/05/2022	Detailed design application for demolition of underground structures on the site, excavation and construction of a mixed use development comprising a 55 storey tower with podium (maximum height of RL228.00 AHD). Proposal includes 8 basement levels, commercial and retail use at the podium (ground to 4th level), apartments in the tower above podium and vehicular access from Castlereagh Street. Proposal to include lot consolidation and stratum subdivision. The application is being assessed concurrently with concept modification D/2018/1144/A. The application is Integrated Development requiring the approval of Water NSW under the Water Management Act 2000.	\$169M	17/08/2023
D/2022/417	355 Sussex Street SYDNEY NSW 2000	11/05/2022	Proposed demolition of the existing buildings including structures, retention of part of 357 Sussex Street including the existing facade, excavation to accommodate 2 basement levels (to a depth of RL -0.15) to enable construction of a new building with a maximum height of RL 63.72 (approximately 17-storeys plus plant) for hotel, and food and drink premises at ground floor and vehicular and loading access from Sussex Street. Proposed trading hours is 24 hours for the hotel, ancillary restaurant and bar (Mondays to Sundays inclusive).	\$58M	17/08/2023
D/2022/139	164-172 William Street WOOLLOOMOOLOO NSW 2011	28/02/2022	Renotification of amended plans - Stage 1 concept proposal for a mixed use development including a concept envelope up to a height of approximately 33.4m (RL52.3), indicative future residential, commercial and retail land uses, vehicular and loading access from Forbes Street, 3 indicative basement levels for parking, services and storage as well as provision of a publicly accessible through-site link off Dowling Street that connects to Judge Lane and Forbes Street.	\$161M	14/09/2023

DA Number	Address	Lodged	Proposal	Cost \$m	Target meeting date
D/2022/614	169-183 Liverpool Street SYDNEY NSW 2000	27/06/2022	Stage 2 application for the construction of a mixed use development comprising commercial, retail and residential uses.	\$380M	14/09/2023
D/2019/992/A	169-183 Liverpool Street SYDNEY NSW 2000	28/07/2022	S4.55 (2) Modification of consent to amend the approved concept envelope to reflect the proposed detailed design, as well as other condition changes.	\$0	14/09/2023
D/2022/178	458-466 George Street SYDNEY NSW 2000	17/03/2022	Concept development application for demolition of 458-466 and 468-472 George Street and a concept envelope for a mixed use development up to a height of RL 149.30 (approximately 33 storeys), indicative future retail, hotel, and commercial office land uses, vehicular access from Market Street, and 4 indicative basement levels. The application is Integrated Development requiring the approval of Heritage NSW under the Heritage Act 1977.	\$291M	14/09/2023
D/2023/113	4-6 Bligh Street SYDNEY NSW 2000	23/02/2023	Construction of a 59-storey mixed-use hotel and commercial building with associated basement parking, food and drink premises and business identification signage.	\$334M	14/09/2023
D/2019/649/B	14-26 Wattle Street PYRMONT NSW 2009	16/02/2023	S4.56 modification of Land and Environment Court concept approval to amend the building envelope to be consistent with the detailed design development application D/2023/97.	\$0	29/02/2024

DA Number	Address	Lodged	Proposal	Cost \$m	Target meeting date
D/2023/97	14-26 Wattle Street PYRMONT NSW 2009	16/02/2023	Detailed design proposal for the demolition of existing structures, remediation, removal of trees, excavation and construction of a mixed use development comprising residential, commercial, retail, childcare and indoor recreation centre across five (5) buildings, basement car parking, landscaping, public domain and civil works, and subdivision. The proposal is Integrated Development under the Water Management Act 2000, requiring approval from the Department of Planning & Environment - Water. The application is being assessed concurrently with concept modification D/2019/649/B.	\$331M	29/02/2024

Applications to be considered by the Central Sydney Planning Committee (Recently lodged)

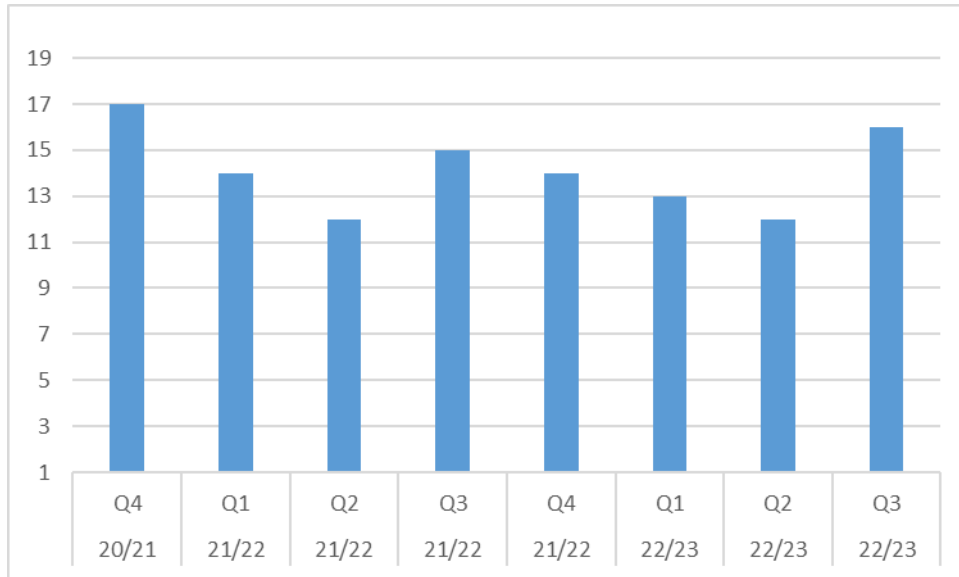
DA Number	Address	Lodged	Proposal	Cost \$m	Target meeting date
D/2023/453	2 Chifley Square SYDNEY NSW 2000	30/05/2023	Site establishment works, demolition, basement works and construction of a new podium and 41-storey commercial building on the southern portion of 2 Chifley Square, known as 'Chifley South', including a publicly accessible through-site link connecting Bent Street and Hunter Street, internal alterations to the existing Chifley North podium, new retail and commercial floor space, end of trip facilities, landscaping, provision of public art, extension and augmentation of services and utilities to the building and reinstatement of the existing 'Chifley' building identification signage onto the new Chifley South podium.	\$474M	2024

List as at 2 June 2023

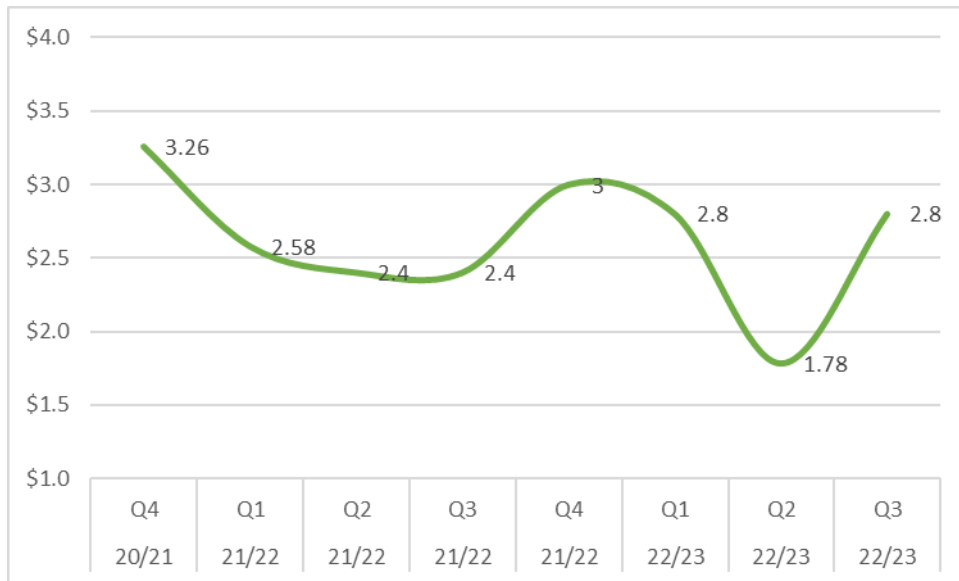
Attachment B

**Statistical Information about Applications
to be Reported to the Central Sydney
Planning Committee**

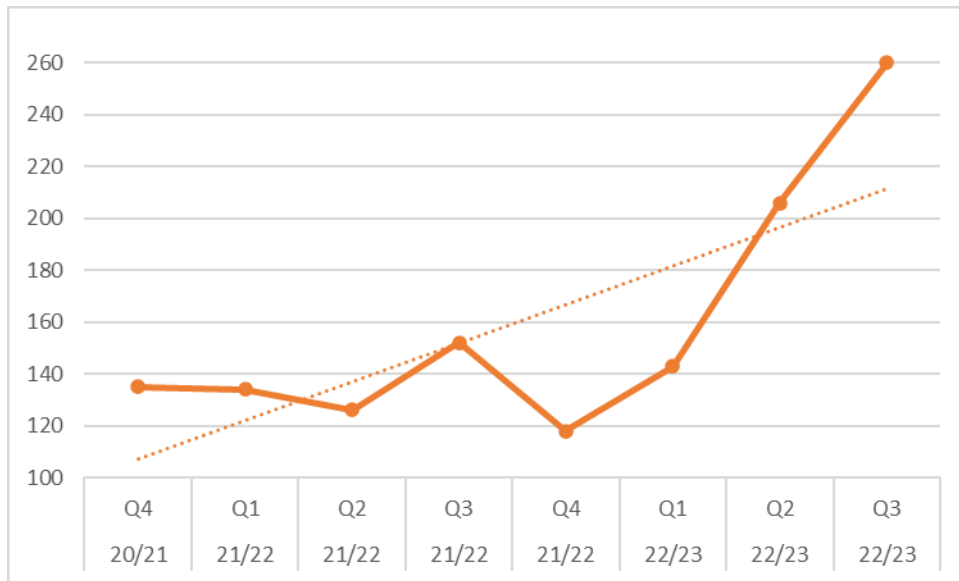
Number of applications to be reported to the CSPC



Value of DAs under assessment to be reported to the CSPC (\$ billion)



Average age of DAs under assessment to be reported to the CSPC (total days)



Attachment C

**Appeals Related to the Central Sydney
Planning Committee**

Appeals Related to the Central Sydney Planning Committee

Development applications which have been reported as coming to the CSPC, but an appeal has been lodged.

Application number	Address	Description	Appeal date	Status
D/2022/960	45-53 Macleay Street , POTTS POINT NSW 2011	Concept building envelope with a maximum height of 35 metres, including the indicative demolition of the existing building and construction of a mixed use development, with 9 storeys, 2 basement parking levels, ground floor retail premises and 28 residential apartments above, and vehicle access from McDonald Street. No owner's consent.	11/04/2023	Listed for s34 conciliation conference on 28/9/23.
D/2023/10	311-315 Sussex Street , SYDNEY NSW 2000 317 Sussex Street , SYDNEY NSW 2000	Demolition of existing structures, excavation for three basement levels and construction of a 17-storey hotel development comprising of 106 rooms and ancillary uses including food and drink premises, function centre and recreational areas. Exceeds the height limit and maximum floor space.	5/04/2023	Listed for hearing on 19-21/9/23.