Item 5.

Development Application: 960A Bourke Street, Zetland – D/2017/503

File No.: D/2017/503

Summary

Date of Submission: 24 April 2017

Amended drawings and additional information submitted 9 October 2017

Additional drawing submitted 17 October 2017

Amended drawings submitted 26 October 2017

Amended drawings submitted 29 April 2019

Applicant: Mirvac Green Square

Architect: Mirvac Design and Bates Smart

Developer: Mirvac

Owner: Urban Growth NSW

Cost of Works: $60,634,722

Zoning: B4 'Mixed Use'. The proposed development is permissible.

Proposal Summary:
The proposal is for a 20 storey mixed use residential building, comprising 104 residential apartments over levels 2-20, retail uses on Level 1 (ground) and Level 2, and communal facilities on the rooftop and Level 2. The proposal also seeks consent for a three storey basement to be shared with adjoining sites, the partial fit-out of the basement, site remediation, and landscaping.

The application is Integrated Development requiring approval from the Water NSW under the Water Management Act 2000.
Proposal Summary: (continued)

The site of the proposed building is otherwise known as Site 18 in the Green Square Town Centre (GSTC). The proposed basement is located beneath Site 18, and also the adjoining Sites 7 and 17, directly to the north-west. A separate Development Application for the construction of the buildings on Sites 7 and 17, as well as the fit-out for the parts of the basement associated with those sites, is being assessed concurrently (D/2017/564).

The proposed built form is supported in urban design terms, as it successfully responds to the unique situation of an allotment that is misaligned with the future Zetland Avenue. The cantilevered stepped form facilitates a visual connection between Zetland Avenue and the Green Square Plaza while filling out the allotment on the upper levels.

The site is not a heritage item, nor is it located in a heritage conservation area.

During assessment the scheme was amended, and additional information was submitted, to address the concerns of the City’s Design Advisory Panel and Council officers. These concerns principally related to:

- Land contamination;
- Compliance with development standards and controls;
- Residential amenity;
- Public domain interface;
- Wind effects;
- Subdivision;
- Built elements;
- Private open space; and
- Rooftop plant.

These issues were addressed by the applicant in the amended plans. Subject to the adoption of the recommended conditions of consent, the proposal is now considered to achieve an acceptable degree of compliance with the relevant planning controls, and provides an acceptable level of residential amenity.
Proposal Summary:
(continued)

The proposal does not comply with the Height of buildings development standard provided in the Sydney Local Environmental Plan (Green Square Town Centre) 2013. A maximum height of RL 86.5 (67.8m) is proposed, exceeding the permissible maximum height of RL 83 (64.3m) by 3.5m (5.44%).

The application includes a request to vary the Height of buildings development standard under the provisions of Clause 4.6 of the Sydney Local Environmental Plan (Green Square Town Centre) 2013.

The request to vary the Height of Buildings development standard is supported. The proposed development meets the objectives of the zone and the development standard, and there are sufficient environmental planning grounds to justify the proposed variance. In particular, relocating floor space from the lower levels delivers an increased setback from the future Neilson Square at the ground level.

The proposal does not comply with the Ceiling Heights development standard provided in the Apartment Design Guide (ADG).

The ADG defines a kitchen as a habitable room, and requires a minimum floor to ceiling height of 2.7m in all habitable rooms. A floor to ceiling height of 2.4m in kitchens is proposed in all apartments to facilitate a bulk head for mechanical ventilation.

The ADG requires floor to ceiling heights of 3.3m on the ground and first floors of buildings located in mixed use areas. A floor to ceiling height of 2.7m is proposed.

The application includes a request to vary the Ceiling Heights development standard under the provisions of Clause 4.6 of the Sydney Local Environmental Plan (Green Square Town Centre) 2013.
Proposal Summary: (continued)
The request to vary the Ceiling Heights development standard is supported. The proposed development meets the objectives of the zone and the Ceiling Height development standard, and there are sufficient environmental planning grounds to justify the proposed variance. In particular, the reduced heights within the kitchens facilitates a bulkhead containing mechanical ventilation, improving the amenity for the future occupants. Furthermore, the ADG's classification of the kitchen as a habitable room is inconsistent with the BCA, which classifies kitchens as non-habitable. The reduced heights on the first floor do not inhibit retail development.

The proposal was notified for a period of 30 days between 2 May and 2 June 2017. As a result of the notification there were four (4) submissions received. The key issues raised in the submissions relate to:

- Building height;
- Traffic; and
- Infrastructure capacity.

The amended proposal was re-notified for a period of 14 days between 11 October and 26 October 2017. As a result of the notification, no additional submissions were received.

The additional drawing received on 17 October 2017 was a basement section provided for clarification. The drawings received on 26 October 2017 were administrative, and did not involve changes to the proposal. The amended drawings received on 29 April 2019 included minor design changes to the basement, arising from changes to Site 7 and 17. The amended and additional plans did not warrant re-notification.

Summary Recommendation: Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2017/503, subject to the recommended conditions of consent.
Development Controls:

(i) Environmental Planning and Assessment Act 1979

(ii) Water Management Act 2000

(iii) State Environmental Planning Policy No.55 – Remediation of Land

(iv) State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development

(v) State Environmental Planning Policy (Infrastructure) 2007

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

(vii) Sydney Local Environmental Plan (Green Square Town Centre) 2013

(viii) Green Square Town Centre Development Control Plan 2012

(ix) Sydney Development Contributions Plan 2015

(x) Green Square Affordable Housing Program

Attachments:

Attachment A. Recommended Conditions of Consent

Attachment B. Selected Architectural Drawings

Attachment C. Clause 4.6 - Height of Buildings

Attachment D. Clause 4.6 - Ceiling Heights
Recommendation

It is resolved that:

(A) the variation requested to the height of buildings development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan (Green Square Town Centre) 2013 be upheld;

(B) the variation requested to the ceiling heights development standard of the Apartment Design Guide in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney LEP (Green Square Town Centre) 2013 be upheld; and

(C) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2017/503, 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 proposal is permissible with consent in the B4 Mixed Use Zone.

(B) The proposal complies with the FSR development standard prescribed by the Sydney Local Environmental Plan (Green Square Town Centre) 2013.

(C) The requested variation to the Height of Buildings development standard is upheld because the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney Local Environmental Plan (Green Square Town Centre) 2013 and the proposed development would be in the public interest because it is consistent with the objectives of Height of Buildings development standard and the B4 Mixed Use Zone.

(D) The requested variation to the Minimum Ceiling Height development standard is upheld because the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney Local Environmental Plan (Green Square Town Centre) 2013 and the proposed development would be in the public interest because it is consistent with the objectives of Minimum Ceiling Height development standard and the B4 Mixed Use zone.

(E) The proposal is generally consistent with the relevant provisions of the Green Square Town Centre Development Control Plan 2012. Where variations to the DCP provisions are proposed, impacts to the locality are acceptable.
Background

The Site and Surrounding Development

1. The site is known as 960A Bourke Street, Zetland and is located within the Green Square Town Centre (GSTC). The collective site comprises three sites to be redeveloped by Mirvac: Sites 7, 17, and 18. This Development Application (DA) seeks development consent for the construction of the shared basement of all three buildings, the partial fit-out of the basement, and the construction of the building located on Site 18.

2. The collective site is irregular in shape, with an area of 5,127sqm. It has a primary frontage to Ebsworth Street to the north-east, and secondary frontages to Tweed Place to the north-west, the future Paul Street to the south-east, and the future Green Square Plaza and Neilson Square to the south-west. Figure 1 below is a map showing the site in the context of the GSTC.

![Figure 1: Map of the GSTC development sites. The boundaries of Site 18 are shown in yellow, the boundaries of the remainder of the collective site are shown in black.](image-url)
3. Site 18, which will accommodate the building proposed under this DA, is irregular in shape and has a site area of 645sqm. It is located in the south-eastern portion of the overall site fronting Ebsworth Street to the north-east, the future Paul Street to the south-east, the future Neilson Plaza to the south-west, and the future Barker Street to the north-west.

4. The collective site previously formed part of the Waterloo Incinerator site, which was decommissioned in 1996 and demolished in 2008. The site is currently predominantly covered by concrete and bitumen, and is largely free of vegetation.

5. Future and existing surrounding developments are residential, commercial, and civic. Specifically:

   (a) The site to the north, 18 Ebsworth Street (Site 16), is fully developed and accommodates a 10 storey mixed use development accommodating a supermarket, bottle shop, and cafe on the ground floor, and residential apartments above (refer to Figure 8);

   (b) The site to the north-east, 77-93 Portman Street (Site 15), is yet to be developed but is the subject of a current DA (D/2018/517). The proposal includes excavation, remediation, construction of a shared basement, three mixed use residential flat buildings with ground floor retail (Buildings A, B and C) and one residential flat building (Building D), landscaping and public domain works. Building A is 23 storeys containing 154 apartments. Building B is 12 storeys containing 128 apartments. Building C is 12 storeys containing 45 apartments. Building D is 7 storeys containing 27 apartments.

   (c) A future street, Zetland Avenue, is located to the south-east, and will connect the GSTC with Joynton Avenue. Zetland Avenue is proposed to be open to traffic, pedestrians and cyclists.

   (d) The site to the south-east, on the opposite side of Paul Street, will accommodate the future Drying Green Park. This site will provide approximately 6,000sqm of open space, incorporating public art and spaces for passive and active recreation.

   (e) The site directly adjoining the subject site to the south and west accommodates the recently completed City of Sydney library and a public plaza and square known as Green Square Plaza and Neilson Square.

   (f) Sites 7 and 17 are located to the north-west of Site 18 and form part of the collective site. All three buildings are proposed to share a basement. The buildings proposed for Sites 7 and 17 are the subject of a separate concurrent DA (D/2017/564). The proposal includes:

      (i) Site 7 - a 16 storey mixed use building providing 123 residential apartments, retail uses, commercial uses, and a cinema.

      (ii) Site 17 - a 13 storey mixed use building providing 71 residential apartments, retail uses, and commercial uses.

6. The collective site is not a heritage item, nor is it located within a heritage conservation area.

7. Photographs of the site and surrounds are provided in Figures 2 to 8 below:
Figure 2: Aerial image of the subject site and surrounding area. The boundaries of the GSTC are shown in red; the boundaries of the remainder of the collective site are shown in orange; and the boundaries of Site 18 are shown in yellow (source: Nearmap).
Figure 3: Aerial image of the subject site and surrounding area. The boundaries of the remainder of the collective site are shown in orange; and the boundaries of Site 18 are shown in yellow (source: Nearmap).
Figure 4: The collective site, viewed from the corner of Tweed Place and Green Square Plaza looking east. Vehicular access to the site will be via Tweed Place (left of frame), but is not proposed as part of this DA.

Figure 5: Site 18, viewed from the corner of Ebsworth and Barker Streets, looking south west.
**Figure 6:** Site 15, located to the east and north east of the site, viewed from the Ebsworth Street frontage of the site.

**Figure 7:** Site 16, located on the opposite side of Ebsworth Street, directly to the north of Site 18.
Proposal

8. The proposal, as amended, is for a 20 storey mixed use residential building, comprising 104 residential apartments over levels 2-20, retail uses on Level 1 (ground) and Level 2, and communal facilities on the rooftop and Level 2. The proposal also seeks consent for a three storey basement to be shared with adjoining sites 7 and 17, the partial fit-out of the basement, site remediation, and landscaping. More specifically, the proposed works comprise the following:

(a) Basement Levels 1 to 3
   (i) Excavation and construction of basement across lots 7, 17 and 18;
   (ii) Partial fit-out of the basement to provide facilities associated with Site 18.

(b) Ground Floor (Level 1) and Level 2
   (i) Paving of publicly accessible private land within the Site 18 boundaries;
   (ii) 3 x retail tenancies (including a two storey tenancy);
   (iii) Residential entry, lobby and mail room;
   (iv) Retail lobby;
   (v) Plant and services;
   (vi) Residential amenities room (Level 2); and
   (vii) 1 x one bedroom, one bathroom apartment (Level 2).

(c) Levels 3 to 20
   (i) 10 x studio apartments;
   (ii) 27 x one bedroom, one bathroom apartments;
   (iii) 21 x two bedroom, one bathroom apartments;
   (iv) 32 x two bedroom, two bathroom apartments; and
   (v) 13 x three bedroom, two bathroom apartments.

(d) Roof
   (i) Rooftop terrace and access;
   (ii) WC; and
   (iii) Plant and screening.

9. Photomontages and extracts of selected architectural drawings of the proposed development are provided below.
Figure 8: Photomontage of the proposal as viewed from the Drying Green
Figure 9: Photomontage of the proposal as viewed from Green Square Plaza

Figure 10: Basement Level 3 with boundary of Site 18 shown in yellow (car spaces shown in green are allocated to Site 18)
Figure 11: Basement Level 2 with boundary of Site 18 shown in yellow (storage cages shown in blue and car spaces shown in green are allocated to Site 18)

Figure 12: Basement Level 1 with boundary of Site 18 shown in yellow (storage cages shown in blue and car spaces shown in green are allocated to Site 18)

Figure 13: Longitudinal section of basement
Figure 14: Proposed Ground Level (Level 1) plan

Figure 15: Proposed Level 2 plan
Figure 16: Proposed Level 3 and 4 plan

Figure 17: Proposed Level 5 and 6 plan
Figure 18: Proposed Level 7 plan

Figure 19: Proposed Level 8 plan
Figure 20: Proposed Level 9 and 10 plan

Figure 21: Typical floor plan Levels 11 to 19
Figure 22: Proposed Level 20 plan

Figure 23: Proposed roof plan
Figure 24: South-western elevation (Neilson Square)
Figure 25: North-eastern elevation (Ebsworth Street)
Figure 26: North-western elevation (Barker Street)
Figure 27: South-eastern elevation (Paul Street)
Figure 28: Transverse section
Figure 29: Longitudinal section
History Relevant to the Development Application

Competitive Design Process

10. From 26 October 2015 to 2 February 2016, Mirvac conducted a competitive design alternatives process to ensure design excellence was achievable and subsequently integrated into the detailed development proposal.

11. A competition brief set out the requirements for the proposed competitive design alternatives processes for Site 18, and four architectural firms participated. Of the four schemes presented, the scheme proposed by Bates Smart was considered by the selection panel to be most capable of demonstrating design excellence, and was declared the winner.

12. The Sydney Local Environmental Plan (Green Square Town Centre) 2013 (SLEP (GSTC) 2013) does not award design excellence bonus floor space or height.

13. It should be noted that the amended architectural plans received in response to the City’s request for amended plans and additional information are prepared by Mirvac Design rather than Bates Smart. The amended plans are supported by a statement from Bates Smart advising that the current drawings have been reviewed by their office and the amended proposal is consistent with their design intent.

Design Amendments

14. On 21 August 2017, Council officers requested design amendments and further information to address Council officer’s concerns regarding non-compliance with the Apartment Design Guide (ADG) and the Green Square Town Centre DCP 2012 (GSTC DCP 2012), residential amenity, and the public domain. Modifications included, but are not limited to:

(a) Amendments to the apartment layouts;
(b) Increased active frontage provided on Barker Street;
(c) Floor to floor heights increased from 3.05m to 3.08m, resulting in an overall height increase of 0.5m;
(d) Additional awning cover provided to ameliorate wind conditions; and
(e) Parts of basement fit-out relating to Sites 7 and 17 excluded from the application.

15. The applicant submitted amended basement drawings 29 April 2019, involving minor design changes arising from the amended scheme for Site 7 and 17.

Relevant Development Applications

D/2012/1175

16. On 21 February 2013 the Central Sydney Planning Committee (CSPC) granted deferred commencement consent for the staged provision of essential infrastructure for the GSTC to be delivered by the City of Sydney Council.
17. Relevant to the subject application, development consent D/2012/1175 provides for the delivery of Fellmonger Place situated between Sites 7 and 17, and Barker Street situated between Sites 17 and 18. Barker Street and Fellmonger Place are to be delivered as part of package 4B.

18. A separate DA for the construction of the buildings on Sites 7 and 17, as well as the fit-out for the parts of the basement associated with those sites, is being reported to the CSPC concurrently with this application. Specifically, the proposal includes:

(a) Site 7 - a 16 storey building providing 123 residential apartments, retail uses, commercial uses, and a cinema.

(b) Site 17 - a 13 storey building providing 71 residential apartments, retail uses, and commercial uses. Site 17 is located immediately adjacent to Site 18.

19. On 30 November 2017 the CSPC granted Concept Approval for building envelopes for the future development of Sites 8C, 8D, 19A and 19B, to accommodate mixed uses, including residential and commercial.

20. The Concept Approval provides four building envelopes ranging in height from 4-24 storeys.

21. Section 182 of the Commonwealth Airports Act 1996 specifies that constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.

22. Regulation 6(1) of the Airports (Protection of Airspace) Regulations 1996 specifies that airspace above the Obstacle Limitation Surface (OLS) for Sydney Airport is prescribed airspace.

23. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled actives may not be carried out in relation to prescribed airspace unless an approval has been granted.

24. The delegate of the Secretary of the Commonwealth Department of Infrastructure and Regional Development has previously provided approval for the controlled activity on 11 July 2014 to a height of 88m AHD.

25. The application is Integrated Development requiring approval from the Water NSW under the NSW Water Management Act 2000. General Terms of Approval have been provided and are included in the recommended conditions of consent.
Economic/Social/Environmental Impacts

26. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), including consideration of the following matters:

(a) Environmental Planning Instruments and DCPs.

State Environmental Planning Policy No 55—Remediation of Land

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

28. A Remediation Action Plan (RAP) and letter of interim advice from the site auditor was submitted with the development application. The City’s Environmental Health Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.

29. Notwithstanding this, it should be noted that Section A of the Site Auditor Statement, which certifies that the site is suitable for the intended use, is proposed to be submitted prior to the issue of an Occupation Certificate rather than a Construction Certificate. This is because the below ground conditions on this specific site are such that relatively rapid upwelling of groundwater can be expected after the basement envelope is established. As a consequence, construction will be required to progress quickly to prevent the integrity of the engineered concrete slab being compromised.

30. Accordingly, City Staff are supportive of the certification being provided prior to any Occupation Certificate given the particular circumstances of the case.

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

31. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including nine design quality principles, being:

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

The site is located within the GSTC and within close proximity to Green Square Railway Station and bus routes along Botany Road, Bourke Street and Joynton Avenue. The site is 4.5km to the south of the Sydney CBD.

The proposal contributes to the vitality of the GSTC and broader redevelopment area. It provides for appropriate land uses within the Mixed Use zone and is in general accordance with the aims and objectives of the Sydney Local Environmental Plan (Green Square Town Centre) 2013 (SLEP (GSTC) 2013) and the Green Square Town Centre Development Control Plan 2012 (GSTC DCP 2012).
(b) **Principle 2: Built Form and Scale**

The area is currently in transition from former industrial and warehouse uses to a mixed use town centre. The scale of development anticipated within the GSTC is consistent with the height and typology of this proposal. The floorplate of the proposal sits within the building envelope prescribed by the GSTC DCP 2012.

The proposal does not comply with the SLEP (GSTC) 2013 maximum building height limit of RL 83 and the GSTC DCP height in storeys control of 18 storeys (RL86.5 and 20 storeys is proposed). An assessment has been carried out, and the additional height is considered to be acceptable due to the site context, the improved planning outcome achieved by relocating floor space away from the lower levels (facilitating an increased setback to Neilson Square), and the absence of significant adverse impacts to the surrounding locality. Refer to height discussion under the heading Issues.

(c) **Principle 3: Density**

The proposal complies with the maximum FSR development standard, and the number of apartments proposed for Site 18 is appropriate in the GSTC, given its proximity to established and proposed infrastructure, public transport, and community and recreation facilities. The proposed density responds to the future context and does not result in unacceptable amenity impacts to neighbouring properties or future residents.

(d) **Principle 4: Sustainability**

The proposal is compliant with the requirements of BASIX in terms of thermal comfort and energy, and far exceeds the water target. A condition is recommended to ensure that the development complies with the commitments contained on its BASIX certificate.

(e) **Principle 5: Landscape**

The proposal incorporates a landscaped roof terrace on Level 21, with an area of approximately 370m², which is equal to 57% of the Site 18 site area. The roof terrace provides opportunities for passive recreation and social interaction between neighbours, without impacting upon the residential amenity of private dwellings.

(f) **Principle 6: Amenity**

Compliance with amenity controls are detailed in the below ADG assessment table. In summary, the proposal presents an acceptable level of residential amenity for future occupants.

(g) **Principle 7: Safety**

The proposal is broadly in line with the principles of Crime Prevention through Environmental Design (CPTED).

The development provides new opportunities for passive surveillance of new and existing streets, and will increase on-street activity. Letter boxes are provided in a secure designated mail room.
(h) **Principle 8: Housing Diversity and Social Interaction**

The proposed building has the following unit mix:

(i) 10 x studio apartments (9.6%);

(ii) 28 x one bedroom apartments (26.9%);

(iii) 53 x two bedroom apartments (51%); and

(iv) 13 x three bedroom apartments (12.5%).

However, it is recommended that a condition be imposed requiring Apartment 201 (one bedroom) be deleted from the plans. This will result in the following mix:

(v) 10 x studio apartments (9.7%);

(vi) 27 x one bedroom apartments (26.2%);

(vii) 53 x two bedroom apartments (51.5%); and

(viii) 13 x three bedroom apartments (12.6%).

The unit mix is generally consistent with that envisaged by the GSTC DCP 2012 and is supported.

(i) **Principle 9: Aesthetics**

The proposed materials are acceptable, and it is anticipated that the overall design will positively contribute to the aesthetic qualities of the streetscape.

The amended design is considered to maintain the integrity of the competition winning scheme, which was considered by the selection panel to be the scheme most capable of demonstrating design excellence.

32. The development is considered generally acceptable when assessed against the above stated principles and the SEPP generally, which are replicated in large part within Council’s planning controls.
### Apartment Design Guide

#### 2E Building Depth

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>No, but acceptable</td>
<td>The building does not take a traditional rectilinear form, which the ADG guidelines anticipate. It has a trapezoidal form, with an expanding floorplate as the building rises, cantilevering over publicly accessible space adjacent to Neilson Square below. The result is a varied building depth. On the lowest residential floor (Level 3), the building depth is 6m at its shortest extent, and 22m at its greatest extent. On the highest floor (Level 20), the building depth is 11m at its shortest extent, and 23m at its greatest extent. It is important to note that the building has been designed to respond to the building envelope contained within the GSTC DCP 2013. Despite non-compliance with the building depth guidelines, the building provides an acceptable level of residential amenity, and the building is of a scale appropriate to the site. Accordingly the aims of the building depth provisions of the ADG have been met.</td>
</tr>
</tbody>
</table>

#### 2F Building Separation

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The proposal complies.</td>
</tr>
</tbody>
</table>

- 12m between habitable rooms / balconies
- 9m between habitable and non-habitable rooms
- 6m between non-habitable rooms
<table>
<thead>
<tr>
<th>2F Building Separation</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Five to eight storeys (approximately 25 metres):</td>
<td>No, but acceptable</td>
<td>The building does not comply with the required separation distances between the Sites 18 and Sites 17. A condition of consent is included in the recommended conditions of consent for Site 17, requiring privacy screens to be installed on that building to mitigate any potential privacy impacts. Refer to building separation discussion under the heading Issues.</td>
</tr>
<tr>
<td>- 18m between habitable rooms / balconies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 12m between habitable and non-habitable rooms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 9m between non-habitable rooms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nine storeys and above (over 25m):</td>
<td>No, but acceptable</td>
<td>The building does not comply with the required separation distances between the Sites 18 and Sites 17. There are also minor non-compliances with the separation distances between Site 18 and Site 16, and future development site 15. A condition of consent is included in the recommended conditions of consent for Site 17, requiring privacy screens to be installed on that building to mitigate any potential privacy impacts. The non-compliances between Sites 16 and 15 are very minor, and are unlikely to result in unacceptable privacy impacts. Refer to building separation discussion under the heading Issues.</td>
</tr>
<tr>
<td>- 24m between habitable rooms / balconies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 18m between habitable and non-habitable rooms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 12m between non-habitable rooms</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 3D Communal and Public Open Space

<table>
<thead>
<tr>
<th>Complaince</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The proposed building incorporates a landscaped roof terrace, with an area of approximately 370sqm. The proposed building's site area is 645sqm. Accordingly, the proposed communal open space is equal to 57% of the proposed building’s site area and complies.</td>
</tr>
<tr>
<td>Yes</td>
<td>The roof terrace is not overshadowed and receives the required quantum of direct sunlight.</td>
</tr>
</tbody>
</table>

### 3E Deep Soil Zones

<table>
<thead>
<tr>
<th>Site area</th>
<th>Minimum Dimensions</th>
<th>% of site area</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;650sqm</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>650sqm – 1,500sqm</td>
<td>3m</td>
<td>7%</td>
</tr>
<tr>
<td>&gt;1,500sqm with significant existing tree cover</td>
<td>6m</td>
<td></td>
</tr>
</tbody>
</table>

Despite the ADG requirements, the GSTC DCP 2013 does not require the provision of a deep soil zone on this site. Deep soil is not a matter for which the ADG prevails over a DCP under Clause 6A of SEPP 65.

Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum separation distances from buildings to the side and rear boundaries are outlined below.

Note: Gallery circulation is treated as habitable space.
### 3F Visual Privacy

<table>
<thead>
<tr>
<th>Storeys Level</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to four storeys (12 metres):</td>
<td>N/A</td>
<td>The intent of these guidelines is to achieve the building separation requirements contained within Section 2F. Refer to discussion of compliance with Section 2F earlier in this table, and the building separation discussion under the heading Issues.</td>
</tr>
<tr>
<td>- 6m between habitable rooms / balconies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 3m between non-habitable rooms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Five to eight storeys (25 metres):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 9m between habitable rooms / balconies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 4.5m between non-habitable rooms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nine storeys and above (over 25m):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 12m between habitable rooms / balconies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 6m between non-habitable rooms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment’s service areas.</td>
<td>Yes</td>
<td>The proposal complies.</td>
</tr>
</tbody>
</table>
### 4A Solar and Daylight Access

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>No, but acceptable</td>
<td>The ADG requires solar access to both living room windows and balconies. 53 of 103 apartments recommended for approval meet this dual objective. This equates to 51.5% within the proposed building. As noted elsewhere in this report, it is considered necessary for some apartments within the development not to be provided with a balcony given the structural constraints of the building. If apartments without a balcony that meet the solar access requirements for living rooms are taken into consideration the number of compliant apartments rises to 60 of 103 (58.3%). Refer to solar access discussion under the heading Issues.</td>
</tr>
</tbody>
</table>

Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.  

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>No, but acceptable</td>
<td>28 of 103 apartments recommended for approval within the proposed building achieve no direct solar access at midwinter (27.2%). Refer to solar access discussion under the heading Issues.</td>
</tr>
</tbody>
</table>

### 4B Natural Ventilation

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The proposal complies.</td>
</tr>
</tbody>
</table>

All habitable rooms are naturally ventilated.

Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.

Note: Apartments 10 storeys or greater are deemed to be naturally cross ventilated only if balconies allow for adequate ventilation and cannot be fully enclosed.

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>24 of the 38 apartments that are recommended for approval, and located within the first 9 storeys of the proposed building, are naturally cross ventilated (61.5%). The proposed building therefore complies.</td>
</tr>
</tbody>
</table>

Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows in the table below.
<table>
<thead>
<tr>
<th>4C Ceiling Heights</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Habitable rooms: 2.7m</td>
<td>Acceptable</td>
<td>Floor to floor heights of 3.08m are proposed. While this is marginally short of the 3.1m normally required to achieve a floor to ceiling height of 2.7m, the architectural drawings indicate that a compliant floor to ceiling height will be achieved in living rooms and bedrooms. The applicant has advised that a floor to ceiling height of 2.4m will be achieved in kitchens, bathrooms and hallways. While a 2.4m floor to ceiling height within the kitchen does not comply with the ADG, the City accepts that a 2.7m floor to ceiling height in kitchens is often unachievable when mechanical ventilation is provided within the kitchen bulkhead, which is increasingly becoming a standard provision within modern apartment developments. It should also be noted that the BCA permits a floor to ceiling height of 2.1m within a kitchen, and therefore the proposed 2.4m exceeds the minimum standard in Australia. Accordingly, the proposed floor to ceiling heights are acceptable. A condition of consent is recommended, requiring a registered surveyor to confirm a 2.7m floor to ceiling height is achieved in living areas and bedrooms, and 2.4 is achieved in kitchens, bathrooms, laundries and hallways.</td>
</tr>
<tr>
<td>Non-habitable rooms: 2.4m</td>
<td>Yes</td>
<td>The proposal complies.</td>
</tr>
<tr>
<td>If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.</td>
<td>No, but acceptable</td>
<td>The ground floor retail spaces achieve a floor to ceiling height of 4.1 to 4.8 metres. The first floor retail tenancies achieve a floor to ceiling height of 3.03m. This is considered a minor non-compliance and is considered acceptable.</td>
</tr>
</tbody>
</table>
### 4D Apartment Size and Layout

<table>
<thead>
<tr>
<th>Minimum unit sizes:</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Studio: 35sqm</td>
<td>Yes</td>
<td>The proposed unit sizes are as follows:</td>
</tr>
<tr>
<td>• 1 bed: 50sqm</td>
<td></td>
<td>• 10 x studios each with areas between 40sqm and 47sqm;</td>
</tr>
<tr>
<td>• 2 bed: 70sqm</td>
<td></td>
<td>• 28 x 1 bedroom, 1 bathroom apartments with areas between 50sqm and 62.2sqm (to be reduced to 27 apartments, as discussed elsewhere in this report);</td>
</tr>
<tr>
<td>• 3 bed: 90sqm</td>
<td></td>
<td>• 21 x 2 bedroom, 1 bathroom apartments with areas between 71.7sqm and 93.7sqm;</td>
</tr>
<tr>
<td>The minimum internal areas</td>
<td></td>
<td>• 23 x 2 bedroom, 2 bathroom apartments with areas between 75sqm and 84.9sqm;</td>
</tr>
<tr>
<td>include only one bathroom.</td>
<td></td>
<td>• 13 x 3 bedroom, 2 bathroom apartments with areas between 96.8sqm and 120sqm.</td>
</tr>
<tr>
<td>Additional bathrooms increase the</td>
<td></td>
<td>All apartments meet or exceed the minimum size requirements.</td>
</tr>
<tr>
<td>minimum internal area by 5sqm each.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A fourth bedroom and further</td>
<td></td>
<td></td>
</tr>
<tr>
<td>additional bedrooms increase the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>minimum internal area by 12sqm each.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Every habitable room is to have a   | Yes        | The dominant material on the proposed facades is full height glazing, providing glazed areas far in excess of the 10% minimum requirement. Accordingly, the proposal complies. |
| window in an external wall with a    |            |                                                                                                                                         |
| minimum glass area of 10% of the    |            |                                                                                                                                         |
| floor area of the room.              |            |                                                                                                                                         |

| Habitable room depths are to be no   | No, but    | All apartments provide habitable areas within 8.1m from a window. This is a minor non-compliance that is considered acceptable.             |
| more than 2.5 x the ceiling height,  | acceptable |                                                                                                                                         |
| or 8m for open plan layouts.         |            |                                                                                                                                         |

| 8m maximum depth for open plan       | No, but    | All apartments provide habitable areas within 8.1m from a window. This is a minor non-compliance that is considered acceptable.             |
| layouts.                             | acceptable |                                                                                                                                         |
### 4D Apartment Size and Layout

<table>
<thead>
<tr>
<th>Description</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum area for bedrooms (excluding wardrobes):</td>
<td>No, but</td>
<td>All master bedrooms and secondary bedrooms meet the minimum size requirements, however four bedrooms in the development have a minimum dimension of 2.8 or 2.9m, which is marginally short of the 3m minimum requirement. These bedrooms provide a good level of amenity and can comfortably fit a queen sized bed. The proposed non-compliances are minor and acceptable.</td>
</tr>
<tr>
<td>• master bedroom: 10sqm</td>
<td>acceptable</td>
<td></td>
</tr>
<tr>
<td>• all other bedrooms: 9sqm</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum dimension of any bedroom is 3m (excluding wardrobes).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Living and living/dining rooms minimum widths:</td>
<td>No, but</td>
<td>Due to the trapezoidal shape of the floorplate, many apartments have an unconventional layout. This results in non-compliances with the minimum dimension requirements throughout the proposed building. In total, 78 apartments (75%), are non-compliant. Despite these non-compliances, the applicant has demonstrated that the rooms are all satisfactory in terms of their utility, with furniture layouts provided to demonstrate this. The proposal is acceptable.</td>
</tr>
<tr>
<td>• Studio and one-bedroom: 3.6m</td>
<td>acceptable</td>
<td></td>
</tr>
<tr>
<td>• Two-bedroom or more: 4m</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## 4E Private Open Space and Balconies

<table>
<thead>
<tr>
<th>Dwelling Type</th>
<th>Min. Area</th>
<th>Min. Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>4sqm</td>
<td>-</td>
</tr>
<tr>
<td>One bed</td>
<td>8sqm</td>
<td>2m</td>
</tr>
<tr>
<td>Two bed</td>
<td>10sqm</td>
<td>2m</td>
</tr>
<tr>
<td>Three+ bed</td>
<td>12sqm</td>
<td>2.4m</td>
</tr>
</tbody>
</table>

The minimum depth counting to balcony area is 1m.

All apartments required to have primary balconies as follows:

- No, but acceptable

Departures from the minimum requirements for balconies are proposed.

The departures are arising from the constrained floor plates, which is a consequence of the structural solution required to deliver the stepped cantilevered form of the competition winning scheme.

The reduced provision of private open space is somewhat offset by the increased provision of communal open space on the rooftop, which is more than double the minimum requirements.

Refer to private open space discussion under the heading Issues.

## 4F Common Circulation and Spaces

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The proposed building provides no more than six apartments per floor, and therefore complies.</td>
</tr>
</tbody>
</table>

The maximum number of apartments off a circulation core on a single level is eight (8).

For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.

- No, but acceptable

The building has a single core with two lifts, and 103 apartments are recommended for approval. Strict compliance would require a third lift, however a Vertical Transport Performance Statement has been submitted verifying the proposed lifts are relatively large, capable of carrying up to 18 people, and that wait times should be no more than 50 seconds. Accordingly, the proposed non-compliance is acceptable.
### 4F Common Circulation and Spaces

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The proposal complies.</td>
</tr>
</tbody>
</table>

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.

Daylight and natural ventilation are provided to all common circulation spaces.

Able to comply

All common circulation spaces have access to natural light, however the architectural drawings indicate the windows within the circulation spaces are not openable. A condition of consent is recommended requiring an openable window to be provided to the common corridor on each floor.

### 4G Storage

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>103 storage cages (one per apartment recommended for approval) are provided within the shared basement with Sites 7 and 17 for the use of future residents of Site 18. A compliance schedule has been submitted, indicating each apartment provides at least 50% of the minimum storage requirements within the apartment. The proposal therefore complies. A condition of consent is recommended to ensure the minimum storage requirements of the ADG have been met prior to the issue of an Occupation Certificate.</td>
</tr>
</tbody>
</table>

Minimum storage provision facilities:
- Studio: 4cbm
- 1 bed: 6cbm
- 2 bed: 8cbm
- 3 bed: 10cbm

(Minimum 50% storage area located within unit)
### 4J Noise and Pollution

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>All apartments recommended for approval are capable of natural ventilation and provide acceptable acoustic amenity.</td>
</tr>
</tbody>
</table>

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

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

**Clause 45**

34. The application is subject to Clause 45 (Division 5 ‘Electricity transmission or distribution networks’, Subdivision 2 ‘Development likely to affect an electricity transmission or distribution network’) as the development may involve the penetration of the ground within 2m of an underground electricity power line, and may require a substation.

35. In accordance with the Clause, the application was referred to Ausgrid for a period of 21 days. No objection was raised.

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

36. A BASIX certificate has been submitted with the development application.

37. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

**Sydney LEP (Green Square Town Centre) 2013**

38. The site is located within the B4 ‘Mixed Use’ zone. The proposed use is defined as a residential flat building with ground and first floor retail uses, and is permissible with consent.

39. The relevant matters to be considered under Sydney LEP (GSTC) 2013 for the proposed development are outlined below.
## Compliance Tables

<table>
<thead>
<tr>
<th>Development Control</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.3 Height of Buildings</td>
<td>No, but acceptable</td>
<td>A maximum height of RL 83.0 is permitted. A maximum height of RL 86.5 m is proposed. A request to vary the Height of Buildings development standard under the provisions of Clause 4.6 ‘Exceptions to Development Standards’ has been submitted with the application and is supported. Refer to height discussion under the heading Issues.</td>
</tr>
<tr>
<td>4.4 Floor Space Ratio</td>
<td>Yes</td>
<td>A maximum FSR of 5.47:1 is permitted across sites 7, 17 and 18. The collective site area is 5,127sqm, resulting in a maximum GFA of 28,045sqm. 4,200sqm additional floor space is available to Sites 7 and 17, but not Site 18, for office, business premises and entertainment facilities. The maximum overall GFA is therefore 32,245sqm. The GFA proposed for Site 18 is 9,080sqm. The GFA proposed for Sites 7 and 17 is 23,093sqm. This results in a compliant total GFA of 32,173sqm.</td>
</tr>
<tr>
<td>4.6 Exceptions to development standards</td>
<td>Yes</td>
<td>The proposal seeks to vary the height of buildings development standard prescribed under Clause 4.3. The proposal also seeks to vary to ceiling height development standard contained within Section 4C of the ADG. The submitted variation requests are in accordance with the requirements set out in Clause 4.6 and is supported. See Clause 4.6 discussion under the heading Issues.</td>
</tr>
<tr>
<td>Part 6 Local Provisions - Height and Floor Space</td>
<td>Compliance</td>
<td>Comment</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>------------</td>
<td>---------</td>
</tr>
<tr>
<td>6.1 Acid Sulphate Soils</td>
<td>Yes</td>
<td>The site is located on land identified as Class 5 Acid Sulphate Soil (ASS) that is within 500m of land identified as Class 3 ASS. The proposal involves excavation in the vicinity of 5m AHD, however the Geotechnical Report submitted with the application states that groundwater drawdown will not alter the water table to an extent where development consent would be required under this Clause. A NSW Accredited Site Auditor has provided an Interim Advice Letter that does not identify ASS as an issue. Accordingly, City Staff are satisfied that the Acid Sulphate Soil provisions of the LEP are not triggered.</td>
</tr>
<tr>
<td>6.2 Flood Planning</td>
<td>Yes</td>
<td>The proposal has been designed to the flood planning level. Conditions relating to the management of stormwater are included in the recommended conditions of consent.</td>
</tr>
<tr>
<td>6.3 Airspace operations</td>
<td>Yes</td>
<td>The proposed development breaches the OLS of Sydney Airport. The OLS is RL 51, and the proposed development has a maximum height of RL 86.5. The Commonwealth Department of Infrastructure and Regional Development has previously approved a maximum height of RL 88, subject to conditions.</td>
</tr>
<tr>
<td>6.5 Affordable Housing</td>
<td>Yes</td>
<td>An affordable housing contribution is required and a condition of consent is recommended accordingly.</td>
</tr>
<tr>
<td>Part 6 Local Provisions - Height and Floor Space</td>
<td>Compliance</td>
<td>Comment</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>------------</td>
<td>---------</td>
</tr>
</tbody>
</table>
| 6.6 Active Street Frontages                    | No, but acceptable | The entirety of the Barker Street, Ebsworth Street, and Paul Street frontages are identified on the Active Frontages Map. This equates to a total active frontage of approximately 69m.  

The LEP requires these frontages to have an entirely active frontage, with the exception of the following:  

- entrances and lobbies (including as part of mixed use development);  
- access for fire services; or  
- vehicular access.  

The Barker Street and Ebsworth Street frontages are consistent with the LEP requirements.  

The Paul Street frontage is approximately 6m and comprises a blank wall. The LEP anticipates that this frontage would be 16m long, however the proposed design eliminates much of this due to the increased setback from Neilson Square.  

Consideration has been given to requesting design amendments to provide an active frontage, however the structural solution required to deliver the stepped cantilevered form of the competition winning scheme is highly sensitive to changes, and this is therefore not considered feasible.  

Given the inactive frontage is less than 8.7% of the overall active frontage required, and in consideration of the structural complexities of the design, this minor non-compliance is considered to be acceptable. |
<table>
<thead>
<tr>
<th>Part 6 Local Provisions - Height and Floor Space</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
</table>
| 6.8 Car parking ancillary to other development | Yes        | With regards to the proposed building, a maximum of 96 car parking spaces is permissible, comprising:  
- 77 residential car parking spaces;  
- 13 residential visitor spaces; and  
- 6 retail spaces.  
58 car parking spaces are proposed as part of this application, which complies.  
Refer to parking discussion under the heading Issues. |
| 6.9 Design Excellence | Yes        | A competitive design process for Site 18 was conducted to select the project architect. The selection panel deemed the entry of Bates Smart as the design most capable of achieving design excellence.  
The detailed design proposed in this application continues to satisfy the requirements of this provision. |
| 6.10 Essential Services | Yes        | Utility, drainage and road services are available to the site and are being delivered by the City in its rollout of essential infrastructure for the GSTC.  
The City has entered into a Voluntary Planning Agreement (VPA) with the developer to construct the essential infrastructure around the site at the same time as the construction of the development. |
Green Square Town Centre DCP 2012

40. The relevant matters to be considered under the GSTC DCP 2012 for the proposed development are outlined below.

2. Locality Statements – Green Square Town Centre

The subject site is located in the GSTC. The proposed residential flat building with ground and first floor retail is considered to be in keeping with the unique character of the area and the design principles.

More specifically it provides 104 residential apartments (to be reduced to 103 apartments) and approximately 337sqm of retail space, thereby contributing to the GSTC becoming a planned major centre. It is well integrated into the wider GSTC site; it provides retail uses to activate the ground plane and will provide a sufficient quantum of adaptable units.


<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1 Public Open Space</td>
<td>No, but acceptable</td>
</tr>
<tr>
<td>3.3 Street network</td>
<td>Yes</td>
</tr>
</tbody>
</table>
### 3. General Provisions

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
</table>
| Yes | The site is identified by Council as being flood prone.  
The proposal is generally compliant with the City’s Interim Floodplain Management Policy.  
A condition of consent is recommended, which specifies that the alignment levels are indicative only and not yet approved. Final alignment levels will be required to be submitted to and approved by the City’s Director, City Planning Development and Transport, prior to the issue of a Construction Certificate. |

### 4. Development Types

#### 4.4 Other development types and uses

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
</table>
| Yes | The DCP identifies the site’s desired activity as retail on the ground level. Retail or commercial is the principal desired use on the first floor, with residential also permissible. Residential, retail and commercial is permissible on the levels above.  
The proposal complies with these requirements. |

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The proposal complies with the DCP requirement to provide retail uses with active frontages on Ebsworth Street.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
</table>
| No, but acceptable | The proposal generally complies with the active frontage provisions of the DCP.  
As previously identified, the proposed Paul Street frontage is inactive; however this constitutes less than 8.7% of the overall active frontage required by the LEP.  
The overall provision of active frontages is considered to be acceptable. |
<table>
<thead>
<tr>
<th>6. Specific Sites</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.1 Competitive design</td>
<td>Yes</td>
<td>A competitive design process for the site was conducted to select the project architect. The selection panel deemed the entry of Bates Smart as the design most capable of achieving design excellence. The amended architectural plans received in response to the City’s request for amended plans and additional information are prepared by Mirvac Design rather than Bates Smart. The amended plans are supported by a statement from Bates Smart advising that the current drawings have been reviewed by their office and the amended proposal is consistent with their design intent.</td>
</tr>
<tr>
<td>process</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.2 Design and architectural diversity</td>
<td>Yes</td>
<td>The proposal has a maximum site frontage of 38m to Neilson Square, and therefore the DCP provisions relating to building length do not apply. In terms of architectural diversity, the proposed design is not of a similar design to existing or future buildings in the vicinity.</td>
</tr>
<tr>
<td>6.3 Building layout</td>
<td>Yes</td>
<td>The DCP identifies the site as containing a tall building. The form of the development is in keeping with this requirement.</td>
</tr>
<tr>
<td>6.4 Height in storeys and street frontage</td>
<td>No, but acceptable</td>
<td><strong>Floor-to-floor and floor-to-ceiling heights</strong> Minimum 4.5m floor-to-floor heights apply to retail development, with a minimum 3.6m floor-to-ceiling height. Minimum 3.0m floor-to-floor heights apply to residential development, with a minimum 2.7m floor-to-ceiling height. The proposal complies with these controls, with the exception of the following:</td>
</tr>
</tbody>
</table>
- A 4.4m floor to floor height is proposed for retail tenancies 1 and 2 fronting Barker Street (the architectural sections indicate a floor to ceiling height of 4.1m will be achieved).

- A 4.1m floor to floor height is proposed in the majority of retail tenancy 3 (the architectural sections indicate a floor to ceiling height of 3.9m will be achieved).

- A 3.23m floor to floor height is proposed for retail tenancies on Level 2 (the architectural sections indicate a floor to ceiling height of 3.03m will be achieved).

A condition of consent is recommended to ensure that the minimum floor to ceiling heights required by the DCP are provided for the ground floor retail tenancies.

Increased floor to floor heights for retail tenancies are principally required to facilitate mechanical ventilation for commercial kitchens. It is not considered necessary to increase the floor to floor heights of the Level 2 retail tenancy, as this is a second storey to retail tenancy 3, which could easily accommodate the kitchen on the ground floor. It is not anticipated that these tenancies will be required for future office use, and office uses do not form part of this application.

**Height**

The following DCP controls apply in relation to height:

- 18 storeys;
- 64.5m to top of plant; and
- 59.5m to top of parapet.
The application proposes:

- 20 storeys;
- 68m to top of plant; and
- 65.2m to top of parapet.

Refer to height discussion under the heading Issues.

<table>
<thead>
<tr>
<th>6.5 Building alignments and setbacks</th>
<th>No, but acceptable</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The DCP requires the proposal to provide a 6m colonnade setback from the north-western boundary to Barker Street on the first two floors.</strong></td>
<td></td>
</tr>
<tr>
<td>A 3m footpath widening setback is required to the south-western boundary to Neilson Square.</td>
<td></td>
</tr>
<tr>
<td>The proposal provides a 3m colonnade setback on the first two floors fronting Barker Street. The reduced colonnade setback is offset by the greatly increased setback to the future Neilson Square provided by the cantilevered stepped form.</td>
<td></td>
</tr>
<tr>
<td>A column encroaches approximately 0.8m into the footpath setback fronting Neilson Plaza. This is relatively minor, and cannot easily be rectified due to the sensitive structural system proposed.</td>
<td></td>
</tr>
<tr>
<td>On balance, the proposed non-compliances are considered acceptable in the circumstances of the case.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6.6 Roof form</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The proposal does not comply with the required setbacks for rooftop plant; however the DCP allows for this where the plant is architecturally integrated with the building and where sun access to surrounding buildings and the public domain is unaffected.</strong></td>
<td></td>
</tr>
<tr>
<td>The proposed plant is within an enclosed screened area and s not resulting in additional overshadowing to the public domain or surrounding buildings. In consideration of the</td>
<td></td>
</tr>
</tbody>
</table>
dispensations permitted by the DCP, the proposal is considered to comply.

A condition of consent is recommended to ensure the plant screening is architecturally integrated with the overall design of the building and that the plant will not be visible from the public domain.

| 6.7 Maximum floor plate of tall buildings | N/A | Despite the DCP identifying Site 18 as a tall building site (above 14 storeys), the site is not identified in Table 6.3 'Maximum average floorplate for buildings over 14 storeys'. Accordingly, the provisions are considered not to apply. |

| 6.8 Flexible housing and dwelling mix | Yes | The proposed building has the following unit mix:
- 10 x studio apartments (9.6%);
- 28 x one bedroom apartments (26.9%);
- 53 x two bedroom apartments (51%); and
- 13 x three bedroom apartments (12.5%).

However, it is recommended that a condition be imposed requiring Apartment 201 (one bedroom) be deleted from the plans. This will result in the following mix:
- 10 x studio apartments (9.7%);
- 27 x one bedroom apartments (26.2%);
- 53 x two bedroom apartments (51.5%); and
- 13 x three bedroom apartments (12.6%).

The unit mix is generally consistent with that envisaged by the GSTC DCP 2012 and is supported. |
| 6.9 Adaptable dwelling mix | No, but acceptable | The DCP requires 20% of apartments to be adaptable, and for the adaptable units to be spread across all unit sizes.

20 apartments are adaptable, including:
- 1 x one bedroom apartment;
- 15 x two bedroom apartments; and
- 4 x three bedroom apartments.

This equates to 19.2% of the 103 apartments recommended for approval.

While this is marginally less than the 20% envisaged by the DCP, this is a minor non-compliance which is considered to be acceptable. |

| 6.10 Amenity | Able to comply | Many of the relevant provisions of Section 6.10 are superseded by the ADG, pursuant to the provisions of Clause 6A of SEPP 65. The remaining relevant provisions relate to reflectivity, acoustic privacy, and wind effects.

A condition of consent is recommended to ensure light reflectivity from building materials used on the building’s facades does not exceed 20%.

The City’s Environmental Health Unit is satisfied that the acoustic conditions of the proposed apartments will be able to comply with the DCP criteria, subject to standard noise conditions.

A wind effects report has been submitted in accordance with the DCP requirements. It identifies that non-compliances with the wind criteria are expected to occur in the short term, but are expected to improve following the delivery of surrounding buildings and public domain works. Refer to wind effects discussion under the heading Issues. |
<table>
<thead>
<tr>
<th>Section</th>
<th>Status</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.11 Accessible design</td>
<td>Able to comply</td>
<td>The proposal complies with accessible design provisions. A condition of consent is recommended to ensure that the design remains fully accessible as the detailed design progresses, and that access is fully integrated with the architectural design of the building. Refer to access discussion under the heading Issues.</td>
</tr>
<tr>
<td>6.12 Safety and design</td>
<td>Able to comply</td>
<td>The proposal is generally compliant with the safety and security provisions of the DCP. To ensure full compliance, conditions of consent are recommended, requiring alcoves to be fitted with sensor-activated vandal proof security lights, which will ensure the recesses of the building are well lit. A condition of consent is recommended to reconfigure the basement in order to decrease the path of travel from car parking spaces allocated to Site 18 in basement levels 2 and 3 under Sites 7 and 17, to the Site 18 building.</td>
</tr>
<tr>
<td>6.13 Landscaping and open space</td>
<td>Yes</td>
<td>The proposed Landscape Plan has been reviewed by the City’s Landscape Officer and was found to be acceptable. The proposal includes planting on the rooftop. Common open space is provided in excess of the minimum requirements.</td>
</tr>
<tr>
<td>6.14 Footpath awnings and colonnades</td>
<td>No, but acceptable</td>
<td>The proposal provides a continuous covered path of travel on the northern side of the plaza in the form of the cantilevered stepped form, and provides awnings above commercial entries and common residential entries. Notwithstanding the above, the proposed awnings are generally non-compliant with the DCP requirement to have a minimum width of 3m, typically being 1.5m to 2m wide.</td>
</tr>
</tbody>
</table>
8. Specific Sites | Compliance | Comment
---|---|---
8.2 Energy | Yes | A BASIX certificate has been submitted demonstrating that in all instances the building either meets or exceeds the targets for water, thermal comfort, and energy.
8.3 Materials | Yes | The proposed materials are considered to be suitably durable and adaptable in accordance with this section of the DCP.
8.4 Waste | Able to comply | The Waste Management Plan submitted with the application is not supported, and waste management requires further resolution. However, the identified issues can easily be resolved through conditions of consent, and are not issues so significant that they would warrant refusal of the application.

The width of the awnings on the Ebsworth Street frontage are set by the narrow footpath width on the corner of Ebsworth and Paul Streets. The awning cannot be widened in this location, therefore a compliant awning would have an inconsistent width that would widen as the frontage moves away from the affected corner of the building. This would be an anomalous feature on a building that has an otherwise highly ordered facade.

On the Neilson Square frontage, the awning is provided as a wind mitigation measure. It is not required for weather protection due to the cantilevered stepped form of the building in this location. Similarly, on the Barker Street frontage, weather protection is provided by the colonnade.

In light of the above, it is not considered necessary to impose a design modification condition to provide a compliant awning width.
<table>
<thead>
<tr>
<th>8. Specific Sites</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Refer to waste discussion under the heading Issues.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| 8.5 Water                             | Yes        | Water efficient fixtures and fittings are to be installed, and the BASIX requirements are met.  
Appropriate stormwater and Water Sensitive Urban Design conditions have been recommended. |
| 8.7 Tree management                   | Yes        | The development site is largely clear of vegetation. Any vegetation that does remain is required to be removed to facilitate the delivery of the GSTC. |
| 9.1 Social sustainability and impact  | Yes        | The applicant has addressed the social impact criteria as set out by the DCP.  
The development provides a variety of unit typologies to suit a variety of home structures, including adaptable units to support people with a disability and the aged. The proposal is located within close proximity to employment opportunities, transport, community facilities and open space, and proposes to enhance the public domain through paving treatments, awnings, and weather protection. |
| 10.1 Managing transport demand        | Yes        | A traffic, parking and access assessment has been submitted with the application.  
Refer to discussion of transport, parking and servicing under the heading Issues |
<table>
<thead>
<tr>
<th>8. Specific Sites</th>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
</table>
| 10.3 Vehicle parking | Yes | Site 18 shares a basement car park with Sites 7 and 17, consistent with the DCP recommendation. The proposal includes the allocation to Site 18 of:  
- 38 standard residential car parking spaces;  
- 20 accessible residential car parking spaces;  
- 2 service vehicle bays;  
- 2 car share vehicle parking space;  
- 103 storage cages (to also be utilised for bike parking); and  
- 2 motorcycle bays.  
The proposal is in general accordance with the DCP requirements. The proposal also includes:  
- 103 residential bike parking spaces;  
- 17 Residential and non-residential visitor bike parking spaces;  
- 6 staff bike parking spaces;  
- 6 lockers;  
- 1 shower and change cubicle.  
The proposal complies with the DCP requirements. Refer to transport, parking and servicing discussion under the heading Issues. |
8. Specific Sites

<table>
<thead>
<tr>
<th>Compliance</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>Vehicle access is not proposed as part of this development, as the entry to the shared basement forms part of the DA for Sites 7 and 17. As this application includes the works for excavation and construction of the basement across all three sites, and access to the basement is to be provided via the application for sites 7 and 17, the ability to approve this application relies on concurrent approval of that development application.</td>
</tr>
</tbody>
</table>

Issues

Clause 4.6 request to vary a development standard

41. Under Sydney LEP (GSTC) 2013, the site is subject to a maximum height of buildings control of RL 83. The proposed development has a maximum height of RL 86.5.

42. Under the ADG the development is also subject to a minimum ceiling height development standard of 2.7m in habitable rooms and 3.3m on the ground and first floor. This is a development standard as per Clause 30 (3)(b) of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development. A ceiling height of 2.4m is proposed in all kitchens throughout the development. A floor to ceiling height of 3.03m is proposed on the first floor.

43. Written requests have been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP (GSTC) 2013 seeking to justify the contravention of the development standards by demonstrating:

(a) That compliance with the development standards is unreasonable or unnecessary in the circumstances of the case; and

(b) That there are sufficient environmental planning grounds to justify contravening the standards.

44. Copies of the applicant's written requests are provided at Attachments C and D.
Height of Buildings

Applicants Written Request - Clause 4.6(3)(a) and (b)

45. The applicant seeks to justify the contravention of the Height of Buildings development standard on the following basis:

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

(i) The objectives of the Sydney LEP (GSTC) 2013 Clause 4.3 Height of Buildings will be achieved. More specifically:

Objective (a): to ensure acceptable height transitions between new development and heritage items and buildings in heritage conservation areas.

Site 18 is located within the centre of the GSTC, with a number of buildings (Site 15 and Site 16) separating the site from the Zetland Estate heritage conservation area and the listed items within the conservation area. A 20 storey building will not have any measurable impact on the heritage conservation area or any listed items. The scale of the anticipated development of both Site 15 and Site 16 will provide a transition zone between Site 18 and the Zetland Estate and associated heritage items. Owing to the distance from the conservation area, and the scale of development proposed at Site 15 and Site 16, there would be very limited opportunities to view the proposed development above and beyond the roof of the existing residential properties.

Objective (b): to ensure sharing of views.

Through the Competitive Design Alternatives Process, the proposal has been specifically designed to enhance views within the site and preserve the views from surrounding sites. Through the tapered form of the building and the design of the Neilson Square setback improved view corridors at ground level and within the public domain has been achieved. The proposed exceedance in height is generally limited to a small, central portion of the roof area and will not be visible from the surrounding public domain. The building parapet extends above the height limit by 500mm, however this will not detract from views from neighbouring properties. Further, this additional height will not adversely reduce any view corridor opportunities for other tall buildings in the immediate vicinity. Overall, the proposed exceedance will have a positive impact on view sharing within the GSTC.
Objective (c): to ensure acceptable height transitions from the Green Square Town Centre to adjoining areas.

Site 18 is located in the centre of the GSTC. Sites 17, 7 and 6 will provide a transition to the existing industrial area to the north west of the GSTC. Sites 15 and 16 will provide a transition to the Zetland Estate heritage conservation area to the east and north east. To the south, public open space will provide separation to Sites 12 and 19. These sites provide a step down in height, through to Sites 9 and 11 and the fine grain residential development in Hansard Street and the industrial area beyond. Overall, the minor increase in the height of Site 18 will not alter the transition in height from the GSTC to the established development in the surrounding areas.

Objective (d): to ensure the amenity of the public domain by restricting taller buildings to only part of a site.

Site 18 directly adjoins Neilson Square and the pedestrianised portion of Zetland Avenue, with The Drying Green to the south east of the site. The proposed development has been specifically designed both in orientation and form to respond to these public areas. Further, the proposed building elements that exceed the maximum height limit are limited to the lift overrun, equating to approximately 11% of the roof area. These aspects were a critical component of the Competitive Design Alternatives Brief. The winning entry of the competitive process, the subject of this DA, was commended for the careful transition and transfer of building scale from the lower to upper levels, in particular regard to the natural light benefits provided to the surrounding public domain and the view framing to the new library which is achieved through the stepped form at the lower levels.

Detailed overshadowing analysis has been undertaken by Bates Smart and Mirvac to understand the impact of the proposed development on the Drying Green on 22 June.

Although the proposed development represents a minor exceedance to the building height development standard, the design achieves a superior outcome in relation to the public space adjoining the site and therefore, the proposed development remains consistent with this objective.

Objective (e): to ensure the built form contributes to the physical definition of the street network and public spaces.

Site 18 is a function of the street network of the GSTC, bound by Ebsworth Street, Barker Street, Neilson Square and Paul Street/Zetland Avenue. Through the Competitive Design Alternatives Process, the proposed design was refined to actively respond to the public domain, especially Neilson Square. The proposed exceedance facilitates the definition of public space as this floor area has been relocated to higher levels of the building. The tapering built form allows for light penetration at ground level and presents a superior outcome for both Neilson Square and ground floor retail tenancies oriented to Barker Street and Ebsworth Street. The proposed development enhances these spaces through active uses and high quality design.
(b) That there are sufficient environmental planning grounds to justify contravening the standard:

(i) Ground 1: Improved public domain outcome

The proposed exceedance in building height is the direct result of the relocation of floor space from lower levels on the building to upper levels, in response to the planning objective in the Competitive Design Alternatives Brief, as part of the Competitive Process conducted for the site. The proposed development represents a superior public domain outcome by increasing light penetration in Neilson Square and enhancing view corridors within the public domain. This design outcome is unique to Site 18 and has been formulated to respond directly to the opportunities of the site’s prominent location within the GSTC.

When considered holistically, the public domain outcome based on the proposed stepped building form, will result in a more vibrant, healthy and desirable public open space that will function as a core plaza within the future GSTC. This public open space will not be compromised by the non-compliance with the building height development standard and in fact it will result in a superior outcome.

(ii) Ground 2: Improved residential amenity

The relocation of floor space from lower levels to upper levels of the proposed development will result in a larger number of apartments at upper levels and larger sized apartments. These apartments will enjoy district views and increased solar access that may not have been achievable in the lower levels of the building. This design solution will also improve the amenity of residential uses at lower levels of neighbouring developments by opening up the public domain, increasing light penetration and promoting view sharing at lower levels of surrounding development providing view lines to key public open space within the GSTC. A small proportion of the variation is the result of Council’s recommendation that to achieve a greater level of residential amenity, the floor to floor height of residential levels be increased to 3.1 metres.

The proposed development provides a high level of amenity to residents through the provision of significant communal open space in the form of the rooftop terrace. The proposed exceedance of the height of buildings development standard is a direct result of providing access to this communal open space, responding to the request of the Selection Panel through the Competitive Design Alternative Process to extend the lift shaft to provide access to the rooftop terrace.

The proposed exceedance in building height is generally limited to the lift overrun which takes up a small portion (approximately 11%) of the roof area of the building. This built form will not be visible from ground level and will not result in any additional overshadowing that may impact on the amenity of neighbouring development. This design outcome will promote view sharing at upper levels and lower levels with neighbouring development.
Ground 3: Potential impact on airspace operations

As per the correspondence received from Department of Infrastructure and Regional Development has authorised a maximum building height for Site 18 of 88m AHD, the equivalent to 88 RL. The proposed development, at 86.5 RL, is within this maximum and therefore represents no potential impact on airspace operations.

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

46. Development consent must not be granted unless the consent authority is satisfied that:

(a) The applicant’s written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and

(b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

47. The written request states that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

48. In accordance with the justifications set out in Wehbe v Pittwater Council (2007) 156 LGERA 446, the written request has demonstrated that the objectives of the height development standard are achieved notwithstanding the non-compliance with the standard. Accordingly, it is considered that the applicant has adequately demonstrated that strict compliance with the height development standard is unreasonable and unnecessary in the circumstances of the case.

Does the written request adequately address those issues at clause 4.6(3)(b)?

49. The written request has demonstrated that the non-compliance will result in an improved public domain outcome, will improve internal amenity, and will not result in view loss. Accordingly, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

50. As outlined above, the written request has demonstrated that the objectives of the height development standard are achieved notwithstanding the non-compliance with the standard.

51. The Land Use Table within the Green Square LEP provides the following objectives for the B4 Mixed Use Zone:

(a) To provide a mixture of compatible land uses

(b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
(c) To ensure uses support the viability of centres.

52. The applicant states the development is consistent with these objectives on the following grounds:

(a) The proposed development provides high quality residential development integrated with retail uses.

(b) The proposed retail uses will provide activation of the public domain including Neilson Square and Barker Street which will contribute to the viability of the locality as a centre.

(c) The proposed development is situated within close proximity to existing and planned public transport services including Green Square railway station.

(d) The proposed development will encourage walking and cycling by providing retail uses that are oriented to the public domain including key pedestrian links of Zetland Road and Green Square Plaza.

53. The proposal meets the objectives of the height of buildings development standard and is consistent with objectives of the B4 Mixed Use zone. It is therefore considered to be in the public interest.

**Ceiling Height**

Applicants Written Request - Clause 4.6(3)(a) and (b)

54. The applicant seeks to justify the contravention of the Ceiling Heights development standard on the following basis:

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

(i) The objectives of Section 4C 'Ceiling Heights' of the ADG will be achieved. More specifically:

**Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access.**

**Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.**

Despite the minor non-compliance (30cm) with the recommended ceiling heights within the kitchen area, each apartment achieves sufficient natural ventilation and daylight access.

The ceiling height provided in the kitchen area exceeds the minimum height required for kitchens by the National Construction Code (2.1m).

All kitchens are located directly adjacent to an open plan living and dining layout, thus benefiting from borrowed daylight, ventilation and outlook.

Apartment depths are limited to maximise ventilation and airflow. Kitchens are located no more than 8.1m from a window.
All apartments meet the minimum internal areas recommended by the ADG. Further, minimum room dimensions are generally achieved and furniture placements demonstrate the functional use of spaces.

**Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building.**

The intention of the design criteria is to promote flexibility to allow potential conversion from residential to retail at lower levels of buildings within mixed use areas. In this case, retail uses are proposed at Level 1 and Level 2 and the minor non-compliance with the floor to ceiling height at Level 2 does not inhibit retail development. The reduced floor to ceiling height at Level 2 does not compromise the natural ventilation or daylight access of the retail tenancy.

Note: In relation to objective 4C-3 above, the applicant has prepared the Clause 4.6 variation request assuming Level 2 will not contain a residential unit, in accordance with the recommended conditions of consent.

(b) That there are sufficient environmental planning grounds to justify contravening the standard:

(i) Despite the minor non-compliance (30cm) with the recommended ceiling heights within the kitchen area, each apartment achieves sufficient natural ventilation and daylight access.

(ii) The ceiling height provided in the kitchen area exceeds the minimum height required for kitchens by the NCC (2.1m).

(iii) All kitchens are located directly adjacent to an open plan living and dining layout, thus benefiting from borrowed daylight, ventilation and outlook.

(iv) Apartment depths are limited to maximise ventilation and airflow. Kitchens are located no more than 8.1m from a window.

(v) All apartments meet the minimum internal areas recommended by the ADG. Further, minimum room dimensions are generally achieved and furniture placements demonstrate the functional use of spaces.

(vi) Despite the minor non-compliance with the floor to ceiling height within the Level 2 retail space, the future use of this space for retail / commercial purposes is not inhibited. The reduced floor to ceiling height does not compromise the natural ventilation or daylight access of the tenancy.

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

55. Development consent must not be granted unless the consent authority is satisfied that:

(a) The applicant’s written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
(b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

56. The written request states that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

57. In accordance with the justifications set out in Wehbe v Pittwater Council (2007) 156 LGERA 446, the written request has demonstrated that the objectives of the Ceiling Heights development standard are achieved notwithstanding the non-compliance with the standard. Accordingly, it is considered that the applicant has adequately demonstrated that strict compliance with the height development standard is unreasonable and unnecessary in the circumstances of the case.

Does the written request adequately address those issues at clause 4.6(3)(b)?

58. The written request has demonstrated that the non-compliance will not result in reduced residential amenity, and that the proposed floor to ceiling Heights exceed BCA requirements. Accordingly, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

59. As outlined above, the written request has demonstrated that the objectives of the Ceiling Heights development standard are achieved notwithstanding the non-compliance with the standard.

60. The Land Use Table within the Green Square LEP provides the following objectives for the B4 Mixed Use Zone:

   (a) To provide a mixture of compatible land uses

   (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

   (c) To ensure uses support the viability of centres.

61. The applicant states the development is consistent with these objectives on the following grounds:

   (a) The proposed development comprises retail and commercial uses at the ground and first floor, and residential units above. These uses will contribute to the viability of the GSTC and are compatible with the desired future land use outcomes for the precinct.

   (b) The site is located in close proximity to Green Square Railway Station and Green Square Bus Interchange. It is well connected to the greater Sydney metropolitan area.

   (c) The mixture of uses will result in an increase in employment and housing opportunities in a highly accessible location. The provision of bicycle parking will encourage cycling and the limited vehicular parking will encourage public transport patronage.
(d) The development contributes to the diverse mix of uses within the GSTC. The retail and commercial space will activate the ground plane and support the viability of the centre into the future.

62. The proposal meets the objectives of the height of buildings development standard and is consistent with objectives of the B4 Mixed Use zone. It is therefore considered to be in the public interest.

Conclusion

63. For the reasons provided above the requested variations to the Height of Buildings and Ceiling Heights development standards are supported as the applicant's written request have adequately addressed the matters required to be addressed by clause 4.6 of the SLEP (GSTC) 2013 and the proposed development would be in the public interest because it is consistent with the objectives of development standards and the B4 'Mixed Use' zone.

Overshadowing

64. In addition to the LEP height, as assessed above, the proposal does not comply with the height provisions contained within the GSTC DCP 2012. Specifically a maximum building height of 18 storeys, and heights of 64.5m to the top of the rooftop plant, and 59.5m to the top of the parapet are permitted.

65. The proposal is for a 20 storey building. The overall height is 68m to the top of the rooftop plant, and 65.2m to the top of the parapet. Figure 30 below is an extract of the longitudinal section of the building, annotated to illustrate the top of the building in relation to the relevant DCP controls pertaining to height.
The proposed variations to the DCP controls are acceptable in principle. The competition brief identified an opportunity to relocate floor space from the lower levels to the top of the building in order to provide an increased setback to Neilson Square to improve sightlines into the civic spaces from the surrounding areas. It was therefore anticipated from a very early stage that non-compliances with the height in storeys control would be a likely design outcome on this site.

The applicant was requested to demonstrate the impact of the non-compliances in terms of overshadowing to The Drying Green between 11am and 2pm at midwinter (refer to Figures 31 to 34). The DCP requires less than 50% of the park to be in shadow during these times. The solar access diagrams submitted are based on the building envelopes of the Concept Approval for Sites 8C, 8D, 19A, and 19B (D/2016/1557), the competition winning scheme for Site 15 (which is consistent with the DA with respect to form), and the proposal for Site 18 that is the subject of this report. The cumulative impact is currently as follows:

(a) 11.00am – 49.3% overshadowed;
(b) 12.00noon – 31.6% overshadowed;
(c) 1.00pm – 40.5% overshadowed; and
(d) 2.00pm – 53% overshadowed.
68. As demonstrated above and in Figures 31 to 34 below, the cumulative overshadowing impact is compliant with the DCP provision, with the exception of 2.00pm. The additional overshadowing arising from the proposed LEP height non-compliance is to an area on the southern eastern edge of The Drying Green. It does not fall within the principal usable area.

Figure 31: Overshadowing at 11am midwinter to the future Drying Green from the proposed development, Site 15 (design competition winner), and Site 19A (separate Concept Proposal)

Figure 32: Overshadowing at 12 noon midwinter to the future Drying Green from the proposed development, Site 15 (design competition winner), and Site 19A (separate Concept Proposal)
Notwithstanding the above, opportunities remain to achieve compliance with the DCP requirement. Specifically, a condition of consent has been imposed on the Concept Approval requiring the Competition Brief for Sites 19A and 19B consider the form of the envelope of Site 19A to reduce overshadowing impacts to The Drying Green in order to achieve compliance with the DCP provisions.
Solar access

70. Solar analysis of the proposed building has been undertaken, which considers future development that will surround the subject site. When considering the site’s solar access performance, the following should be considered:

(a) The road location, lots and road widths were ‘locked in’ under development consent D/2012/1175. Delivery of the public domain elements approved under that application is now well underway.

(b) When fully developed, the GSTC will be a dense urban environment. In the immediate context of the collective site, the GSTC DCP 2012 permits 10, 12 and 18 storey developments on the surrounding sites. Furthermore, the buildings approved on those sites may be slightly taller than the DCP controls envisage. This predisposes the site to overshadowing from adjoining development sites.

(c) Green Square Plaza is the primary civic space within the GSTC, and Ebsworth Street is the primary northern gateway into the GSTC. These key public domain elements sit parallel to the proposed building. There are sound planning reasons for orientating the proposed building to the plaza and Ebsworth Street, including the provision of street activation and passive surveillance.

(d) As a result of (c) above, the DCP building envelope is orientated lengthways to the north-east / south-west. This orientation is problematic, as it reduces the overall surface area of the building’s facades that are likely to be exposed to the sun at the winter solstice. Moreover, the trapezoidal building envelope prescribed by the GSTC DCP 2013 results in the south-western face of the building being enlarged, and the north-eastern facade being reduced.

Solar performance of the proposals

71. The ADG has two key guidelines in terms of solar access. Firstly, it is recommended that 70% of apartments receive direct solar access for a period of at least two hours to an area of 1sqm on the living room window and the private open space. Secondly, it is recommended that no more than 15% of apartments are to receive no solar access at midwinter. This can be to any habitable room, but in order to be considered it must be to an area of at least 1sqm and be for a period of not less than 15 minutes.

72. City staff calculate that 63 of 103 apartments recommended for approval receive direct solar access for a period of at least two hours to an area of 1sqm on the living room window. 52 of 94 apartments with balconies receive direct solar access for a period of at least two hours to the floor slab of the balcony. 53 of 103 apartments recommended for approval meet the dual objective of receiving solar access to both the living room window and the balcony. This equates to 51.5% within Site 18.

73. Due to the structural constraints of this building form, it is not feasible for all apartments to be provided with a balcony. If apartments without a balcony that meet the solar access requirements for living rooms are taken into consideration, the number of compliant apartments rises to 60 of 103 (58.3%).

74. In terms of apartments with no solar access, the trapezoidal building envelope prescribed by the GSTC DCP 2013 results in the south-western face of the building being enlarged, and the north-eastern facade being reduced. Consequentially, 28 of 103 apartments recommended for approval achieve no direct solar access at midwinter (27.2%).
While it is acknowledged that this is a significant variation to the ADG guidelines, for the reasons outlined above City staff are confident that there are no reasonable design solutions that could be implemented to improve solar access to the affected apartments, and therefore non-compliance is considered acceptable in the circumstances of this particular site. Furthermore, despite the non-compliances discussed above, the apartments provide a reasonable level of amenity overall.

**Building separation**

The proposal results in non-compliances with the building separation requirements of the ADG. These non-compliances are between the subject site (Site 18), Site 17 to the north-west (subject to a concurrent, separate DA), Site 16 to the north (constructed and occupied), and Site 15 to the north-east and east (subject of a separate DA). The separation distances between the subject site and relevant areas of the adjoining sites are illustrated in Figure 35 below.

![Figure 35: Site map, illustrating the proposed separation distances between Site 18 and existing and future developments in the GSTC](image)

The nearest development site (Site 17) is located approximately 12m from the north-western face of Site 18. Habitable rooms are located on the north-western boundary of Site 18, and south-eastern boundary of Site 17. As a result, the ADG 18m separation requirement on Levels 5-8 and the 24m requirement on Level 9 and above is not achieved.

The completed building to the north (Site 16) has balconies at the southern corner of Levels 9 and 10 of that building, which are located approximately 22m from balconies on the northern corner of the proposed development. This is marginally short of the 24m separation requirement.
79. The proposal for Site 15 will result in a minor non-compliance between the eastern balconies on Levels 9 and above within the subject proposal. There will be a 23m separation between the living room windows on Levels 9, 10 and 11.

80. The proposed non-compliances between the proposal and Sites 15 and 16 are considered to be very minor, and unlikely to result in any impacts that would require mitigation. Accordingly, the proposal is recommended for approval without conditions of consent to address this issue.

81. The proposed non-compliance between the proposal and Site 17 is more significant, and may result in privacy impacts if unmitigated. Amendments to windows or privacy louvres to make views to the opposing building oblique will be sufficient to alleviate the privacy impacts arising from the non-compliant separation distance. However, it is only considered necessary to apply these treatments to one of the buildings.

82. City staff consider building 17 to be the ideal building to be modified. This is because the north-western face of Site 18 is predominantly glazed, comprising full height clear glazing or colour back glazing. The south-eastern face of Site 17 is predominantly solid with minimal fenestration. Accordingly, less privacy louvres are required on Site 17 to ameliorate this issue. A condition of consent requiring design modifications to windows on Level 5 and above of the south eastern elevation of Site 17 is included in the recommended conditions of consent for that proposal.

Alignment Levels

83. The proposed alignment levels result in significant level changes between the Finished Floor Level (FFL) of Retail Tenancy 3 and the adjoining publicly accessible land on the south-western elevation fronting Neilson Square. As illustrated in Figure 36 below, the proposed FFL of the retail tenancy is RL19.100, while the adjoining land is RL18.667. There are other level changes between the FFL of the ground floor retail tenancies and the adjoining land, albeit to a lesser degree, that require further resolution. The drawings do not indicate how access into the tenancies will be achieved, despite the need for stairs, ramping, and handrails being apparent.

Figure 36: Extract of the ground Level Plan indicating the level changes between the FFL of the building and the adjoining land
84. The proposed level change between the retail tenancies and the adjoining land is currently 0.433m. The City’s Public Domain Unit have advised that the Flood Planning Level (FPL) in this location is RL 18.9, accordingly there is scope for the FFL to be reduced by 200mm. City staff have examined the repercussions of this in terms of impacts to the basement below, and find the proposed level change to be of no consequence. A deferred commencement condition of consent is recommended accordingly.

85. Notwithstanding the above, the remaining level changes may necessitate stairs, handrails and ramps. Although this part of the site will remain as private land, it will read as an extension of the adjoining public domain. Accordingly, it is imperative that these elements are designed to be of a high design standard, and fully integrate with the architecture of the building and the materials palette of the adjoining public domain.

86. A condition of consent is recommended, which clarifies that the ground level alignment levels and materials palette are not yet approved. Furthermore, the plans are to be amended to illustrate how access will be provided taking into consideration the level changes. Given the site’s location, fronting onto a major civic space within the GSTC, it is recommended that these elements are to be resolved by way of a deferred commencement condition

Private Open Space

87. Departures from the minimum requirements for balconies are proposed. A summary of the private open space provision within the proposed building is as follows:

(a) 60 apartments (57.7%) are provided with balconies that meet the minimum size and dimension requirements;

(b) 29 apartments (27.8%) are provided with balconies that do not meet the minimum size or dimension requirements, including:

(i) 2 x one bedroom apartments with a balcony of 3.1sqm and a minimum dimension of 1.05m;

(ii) 11 x one bedroom apartments with a balcony of 5.8sqm or 5.9sqm, and a minimum dimension of 1.75m;

(iii) 1 x one bedroom apartment with a balcony of 5.9sqm and a minimum dimension of 1.5m;

(iv) 4 x two bedroom apartments with a balcony of 8.2sqm or 8.3sqm and a minimum dimension of 1.7m;

(v) 2 x two bedroom apartments with a balcony of 9.3sqm and a minimum dimension of 1.95m; and

(vi) 9 x three bedroom apartments with a balcony of 9.8sqm and a minimum dimension of 2.2m.

(c) Three apartments (2.9%) are provided with balconies that meet the minimum dimension requirements, but not the minimum size requirements, including:

(i) 2 x two bedroom apartments with a balcony of 8.6sqm; and

(ii) 1 x three bedroom apartment with a balcony of 10.7sqm.
(d) Two apartments (1.9%) are provided with balconies that meet the minimum size requirements, but not the minimum dimension requirements, including:

(i) 2 x two bedroom apartments with a minimum dimension of 1.8m.

(e) 10 apartments (9.6%) are proposed without balconies, however they are provided with a Juliet opening from the living space. One of these apartments is recommended for deletion, as discussed elsewhere in this report.

88. The departures are arising from the constrained floor plates, a consequence of the structural solution required to deliver the stepped cantilevered form of the competition winning scheme. The cantilevered form was encouraged by the City, in order to provide a view corridor from Zetland Avenue to the civic spaces. The non-compliance should therefore be considered in the context of the substantial public benefit being provided by the cantilevered stepped form.

89. The reduced provision of private open space is somewhat offset by the increased provision of rooftop communal open space, which is more than double the minimum requirements. Furthermore, nine of the 10 apartments that are not provided with a balcony benefit from a larger apartment size, providing improved internal functionality and greater amenity.

90. In light of the above, the proposed non-compliance is considered reasonable in the specific circumstances of the case and is supported.

### Living room widths

91. Due to the trapezoidal shape of the floorplate, many apartments have an unconventional layout. This results in non-compliances with the minimum dimension requirements throughout the building. In total, 78 apartments (75%), are non-compliant.

92. Despite these non-compliances, the applicant has demonstrated that the rooms are all satisfactory in terms of their utility, with furniture layouts provided to demonstrate this. The proposal is therefore acceptable.

### Retail amenities

93. The proposal does not include sanitary facilities to support the retail uses, despite providing 337sqm of retail floor space intended for eventual use as food and drink premises. It should be noted that if the end uses are restaurants and cafés, the BCA may permit more than 200 patrons in the internal areas alone, dependent upon the final fit-out.

94. In order to address this a condition of consent is recommended requiring bathroom facilities, available to the users of all retail tenancies, to be provided on site. The facilities are to be provided on Ground Level (Level 1) or Level 2. Staff toilets may be provided on basement Level 1. Given this will result in the reconfiguration of the floor plates, the required changes are recommended as a deferred commencement condition.

### Unit A201

95. Apartment 201 is the only residential dwelling situated on Level 2 of the building. Figure 37 below shows the unit in plan, while Figures 38 and 39 show it in elevation.
Figure 37: Level 2 floor plan with Apartment 201 outlined in red

un-openable living room windows

kitchen wall with ‘mesh’ finish

living room with ‘Juliet’ opening

Figure 38: Ebsworth Street elevation with Apartment 201 outlined in red
96. Apartment 201 does not provide an acceptable level of amenity for the future occupants for the following reasons:

(a) It is the only apartment located on Level 2, and shares its lobby with the retail space and common area, creating safety and security issues for the residents;

(b) The living room and bedroom windows are within the colonnade, meaning future residents may be impacted by noise generated from food and drink premises operating therein. During operational hours of the future food and drink premises, the acoustic amenity of the bedroom will be dependent on the windows being closed, depriving the occupants of the opportunity to naturally ventilate the room, as per the ADG requirements.

(c) Future occupants will not be afforded an appropriate level of visual privacy. Palisade balustrades are shown for the Juliet balconies, and floor to ceiling glass is proposed to the living areas.

(d) The apartment is not provided with a balcony as per the ADG requirements, and it does not comply with the minimum width requirements.

97. In addition to the above, the proposed mesh finish to the exterior of the kitchen wall is incongruous with the materials palette for the rest of the building.

98. Cumulatively, these issues result in poor amenity for this apartment and it is not supported. A deferred commencement condition is recommended requiring the space to be allocated to a sound isolated music practice room.

99. The mesh finish on the Ebsworth Street frontage is also to be deleted, and replaced with a high quality material more in keeping with the architecture and design of the building.
Wind effects

100. Wind tunnel testing has informed a wind effects report, which has been submitted with the application. Figure 40 below is an extract from the report, which illustrates that nine of the 16 test locations (circled in red) are non-compliant with the wind criteria.

![Figure 40](image-url): Extract from the wind report, identifying non-compliances with the wind criteria. Where a wind rose includes a red bar, a non-compliance with the wind criteria occurs.

101. The report states that testing was completed with the inclusion of nearby developments currently under construction (Site 5, 16, and 6) and developments which will be built concurrently (Sites 7 and 17). The testing does not include future buildings that are not yet the subject of a DA, or public domain works. The report finds that non-compliances with the wind criteria are resulting from direct winds interacting with the building form, rather than downwash winds from the tower. Therefore while exceedances are expected to occur in the short term, conditions are expected to improve following the delivery of surrounding buildings and public domain works.

102. In light of the above, it is recommended that outdoor dining is not to form part of the consent, and that any future application for outdoor dining is to be supported by a wind report demonstrating that the proposed outdoor dining area is suitable for that purpose. A condition of consent is recommended accordingly.
Thermal comfort

103. The Design Advisory Panel raised concerns that additional sun shading may be necessary for the west facing facades in order to provide protection from excessive exposure to afternoon sun.

104. City staff requested the applicant to investigate the impact of the western summer sun to determine if sun shading may be necessary. In response to this request, the applicant commissioned a building sustainability consultant to carry out a thermal comfort study to confirm the necessity of sun shading devices. The study concludes that shading devices are not necessary, as for most of the year the west facing rooms will be within an acceptable comfort range of 18°C to 26°C. Moreover, it found that when the rooms are outside of this range, they are more frequently cold, rather than hot.

105. The study concluded that if additional sun shading was to be provided, this would only provide benefit for 3.6% of the year, but would further cool the rooms to the extent that the proposal would fail thermal comfort in BASIX and require further upgrades.

106. City staff do not agree with the findings of the study. As part of the assessment of the concurrent DA for Sites 7 and 17 (D/2017/564), the City commissioned a third party thermal comfort review, which determined there would be a high level of exposure to afternoon sun on the south western elevation of those buildings (refer to Figure 41 below). The diagram illustrates the likely sun exposure to the south western facade at mid-summer. The red line is the approximate alignment of the south western facade, and the yellow block area shows the duration of the sun’s path were a high level of exposure to afternoon sun may be expected.

Figure 41: Diagram illustrating the likely sun exposure to the south western facade at mid summer.
107. Similar conditions to Sites 7 and 17 apply to this proposal, however the submitted thermal comfort study submitted in relation to this development only considered apartments on the north western elevation, accordingly the thermal comfort of south western facing apartments has not been considered in the applicant’s response. Moreover, the submitted thermal study does not consider operable sun shading devices, which would allow the occupants to adjust the shading device to allow solar access in the winter months, and limit solar access in the summer months. An operable sun shading device is therefore less likely to have a detrimental impact on thermal comfort in the winter months.

108. In light of the above, a deferred commencement condition of consent is recommended, requiring west facing apartments that receive solar access in the summer months, including apartments facing Barker Street and Neilson Square, to be provided with external operable sun shading devices.

109. It must be demonstrated that the devices are operable in order to facilitate solar access in the winter months, and are sufficient to protect the occupants from excessive radiant temperatures in the summer months. Where a west facing apartment is not provided with sun shading, it must be demonstrated that the apartment is not subject to solar exposure that may result in thermal discomfort.

110. The plans are to be updated to include the sun shading devices prior to the consent becoming operational.

Transport, parking and servicing

111. The proposal includes the excavation and construction of the basement slab and walls, but only part of the basement fit-out. As outlined earlier in this report, the remainder of the fit-out of the basement is to be delivered with Sites 7 and 17 (D/2017/564). The design of Barker Street and Fellmonger Place forms part of a separate development consent (D/2012/1175/F) to be delivered by the City.

112. The proposal complies with the SLEP (GSTC) 2013 maximum parking provisions. The proposal also complies with the DCP requirements for motorbikes, service vehicles, and bicycle parking. End of trip facilities are to be delivered with Sites 7 and 17. No visitor car parking is proposed, however given the site’s close proximity to Green Square Railway Station this is supportable.

113. The proposal positions standard car parking spaces and storage cages directly below land that is proposed to be dedicated for the purpose of a road, including Barker Street and Fellmonger Place. This is contrary to Council’s usual practice, which is to require these areas to be common property. A deferred commencement condition is therefore recommended requiring the basement layout to be reconfigured accordingly.

114. It is noted that the clearance heights of the basement are unable to accommodate a small rigid vehicle, which requires a clearance height of 3.5m under Australian Standards, or a medium rigid vehicle which requires a clearance height of 4.5m. This is because the basement has a minimum floor to ceiling height of 2.5m where it traverses under the future Fellmonger Place and Barker Street, meaning the service bays located under Site 18 will be of limited use for the delivery of bulky goods, furniture removalists, and the like. The City’s Transport Planners do not support this arrangement.

115. The applicant proposes that service activities can take place in the loading dock proposed for Site 7, and that a buggy or trolley can be used to transport bulky goods delivered to the loading dock on to Sites 17 and 18.
116. In this instance it is considered that the applicant’s proposition can be supported. However, this arrangement will require ongoing management by the Strata Plan, and therefore a condition of consent is recommended requiring a Loading Dock and Basement Management Plan to be prepared. The Plan is to address waste servicing, removalist vehicles, deliveries, and trades, and must outline who will be responsible for undertaking the transfers and how this will be undertaken in a safe manner. The Plan must be submitted to and approved by Council’s Director, City Planning and Transport, prior to the consent becoming operational.

Waste

117. Council’s garbage truck will be unable to access the basement due to insufficient clearance heights. It is proposed that waste will be transported from the waste collection room under Site 18 for collection by Council’s refuse service in the ground floor loading dock of Site 7.

118. The City’s Waste Management Unit are unable to support the proposal at this time as this is not accurately reflected in the submitted Waste Management Plan. There are also other design issues that require further resolution prior to the issue of a construction certificate.

119. A condition of consent is recommended, requiring the proposed waste management solution to be reflected in an updated Waste Management Plan prior to the consent becoming operational. Other conditions relating to waste are included in the recommended conditions of consent.

Other impacts of the development

120. The proposed development is capable of complying with the BCA. It is Class 2, 6 and 7a.

121. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the development

122. The proposal is of a nature in keeping with the overall function of the site. The premises are in a mixed use surrounding and is amongst similar uses to those proposed.

Internal Referrals

123. The conditions of other sections of Council have been included in the recommended conditions of consent.

124. The application was discussed with the City’s Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Safe City; Surveyors; Transport and Access; Social Planning; and Waste Management Unit. All units, with the exception of the City’s transport planners and Waste Management Unit, advised that the proposal is acceptable subject to the recommended conditions.

125. The concerns of the City’s transport planners and Waste Management Unit have been addressed in the issues section of this report.
Recommendation

127. A detailed wind study of the ground level is required to ensure good environmental conditions at Neilson Square.

Response

128. A wind effects report has been submitted. Refer to wind effects discussion under the heading Issues.

Recommendation

129. Additional sun shading should be provided for the west facing facades to improve solar protection.

Response

130. A deferred commencement condition of consent is recommended, requiring west facing apartments that receive solar access in the summer months, including apartments facing Barker Street and Neilson Square, to be provided with external operable sun shading devices.

Recommendation

131. The proposed floor to floor heights (which in the original submission were 3.05m), should be reviewed.

Response

132. The City’s generally requires a floor to floor height of 3.1m in order to ensure that a floor to ceiling height of 2.7m can be achieved whilst accommodating a standard slab and services.

133. The proponent has elected to increase the floor to floor heights from 3.05m to 3.08m. The drawings indicate that a floor to ceiling height of 2.7m will be achieved in living rooms and bedrooms. The applicant has advised that a floor to ceiling height of 2.4m will be achieved in kitchens, bathrooms and hallways.

134. While a 2.4m floor to ceiling height within the kitchen does not comply with the ADG, the City accepts that a 2.7m floor to ceiling height in kitchens is often unachievable when mechanical ventilation is provided within the kitchen bulkhead, which is increasingly becoming a standard provision within modern apartment developments. It should also be noted that the BCA permits a floor to ceiling height of 2.1m within a kitchen, and therefore the proposed 2.4m exceeds the minimum standard in Australia.

135. Accordingly the proposed floor to ceiling heights are acceptable. A condition of consent is recommended, requiring a registered surveyor to confirm a 2.7m floor to ceiling height is achieved in living areas and bedrooms, and 2.4m is achieved in kitchens, bathrooms, laundries and hallways.
Recommendation
136. Apartment layouts and bedrooms should be reviewed to achieve greater compliance with the amenity provisions of the ADG.

Response
137. Apartment layouts and bedroom sizes have been amended and compliance has greatly improved. Refer to the ADG assessment table earlier in this report.

Recommendation
138. Height non-compliances may be acceptable subject to an assessment of the impact to the future Drying Green.

Response
139. An assessment of the overshadowing of The Drying Green has been carried out, which has determined that the additional overshadowing impact as a result of the non-compliant height is negligible. It is therefore not a determinative factor that would warrant refusal of the application. Refer to overshadowing discussion under the heading Issues.

External Referrals

Public submissions
140. The application constitutes Integrated Development and as such the application was notified and advertised for 30 days between 2 May and 2 June 2017 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of the notification there were four (4) submissions received.

141. The amended proposal was re-notified for a period of 14 days between 11 October and 26 October 2017. As a result of the notification, no additional submissions were received.

142. The additional drawing received on 17 October 2017 was a basement section provided for clarification. The drawings received on 26 October 2017 were administrative, and did not involve changes to the proposal. The amended drawings received on 29 April 2019 included minor design changes to the basement, arising from changes to Site 7 and 17. The amended and additional plans did not warrant re-notification.

143. The key issues raised in the submissions are summarised below:

(a) Height

The building should be significantly reduced in height.

Response - The planning controls for this site are longstanding, and facilitate the provision of a tall building in this location. While the proposed building is slightly taller than the planning controls envisage, the proposed variance is minor. A request to vary the height standard has been submitted and is supported.
(b) **Overlooking**

Tall buildings result in overlooking.

**Response** – The minimum separation requirements to ensure visual privacy are set out in the ADG. This report includes an assessment of potential visual privacy impacts and has identified non-compliances. These non-compliances are either so minor as to not warrant a design response, or are addressed through conditions of consent. It should be noted that the proposal does not result in visual privacy impacts beyond the immediate vicinity of the GSTC.

(c) **Traffic**

The proposal will result in traffic congestion. These developments are the reason why WestConnex is necessary.

**Response** – The proposed car parking provision is less than the maximum permitted under the planning controls. The proposal includes bike parking to encourage active modes of transport, and the site is located in very close proximity to Green Square Railway Station. Accordingly, there are many alternatives to private vehicles within the GSTC to assist in reducing congestion.

(d) **Site suitability**

The City’s approval of tall buildings has changed the character of the area, resulting in traffic congestion and overcrowding of schools.

**Response** – The GSTC has long been identified as an urban renewal site. Planning work to transform the area began in 2001, and it is expected the Green Square Town Centre will accommodate the 61,000 people by 2030. Accordingly, the increase in density and population is in line with the City’s vision for the area. The City acknowledges the community’s concerns regarding the capacity of local infrastructure, including schools, and is liaising with the relevant State authorities in this regard.

**Agencies**

144. The application was referred to NSW Roads and Maritime Services, Sydney Water, and NSW Police (Redfern Local Area Command) for comment. Where relevant, their issues have been addressed through the recommended conditions of consent.

**Public Interest**

145. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed.
Financial implications

Affordable housing contribution

146. In accordance with Clause 6.5 of Sydney Local Environmental Plan (Green Square Town Centre) 2013 an affordable housing contribution is payable.

147. Based on a Total Floor Area calculation of 11644.8sqm of residential floor space and 397.7sqm of non-residential floor space, the contribution amount is $2,754,241.60.

Section 7.11 Contribution

148. The development is subject to Section 7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015, however the contribution is offset by the monetary contribution required under the terms of the Voluntary Planning Agreement. Accordingly, a condition requiring the payment of Section 7.11 contributions is not required.

Relevant Legislation

149. Environmental Planning and Assessment Act 1979.


Conclusion

152. The proposal will provide for residential and retail development within the GSTC on a site with good access to existing and planned employment, services and community facilities.

153. The proposal has been assessed against the aims and objectives of the relevant planning controls including the SLEP (GSTC) 2013, the GSTC DCP 2012 and SEPP 65. Where non-compliances exist they have been demonstrated in this report to be acceptable in the circumstances of the case, or can be resolved by the recommended conditions of consent.

154. The proposed request to vary the height development standard is well founded. The proposed development meets the objectives of the zone and the height development standard, and will facilitate an improved outcome over that which would be achieved by a compliant scheme by relocating floor space from the lower levels in order to deliver an increased setback from the future Neilson Square.

155. Subject to the recommendations within this report, the proposal demonstrates a design that responds to the constraints of the site and contributes to the existing and desired future character of the site.

GRAHAM JAHN, AM
Director City Planning, Development and Transport

Christopher Ashworth, Area Coordinator