

Item 6.**Development Application: Sites 7 and 17, 960A Bourke Street, Zetland – D/2017/564****File No.:** D/2017/564**Summary**

Date of Submission:	The application was lodged on 5 May 2017. Several amendments including significant design changes have been submitted since lodgement. The most recent amendments were submitted on 24 April 2019.
Applicant:	Mirvac and Landcom
Architect/Designer:	Tzannes (original submission Silvester Fuller)
Developer:	Mirvac and Landcom
Owner:	Landcom
Cost of Works:	\$125,721,654 (original submission \$98,514,463)
Zoning:	B4 - Mixed Use zone - Permissible With Consent
Proposal Summary:	<p>Consent is sought for a new mixed-use development on Site 7 and Site 17 in the Green Square Town Centre (GSTC) comprising the following:</p> <ul style="list-style-type: none">• Site 7 includes a new 16 storey building plus roof plant with 123 residential apartments on Levels 6 - 18, retail uses on Level 1, commercial uses on Levels 4 and 5, and an entertainment facility (cinema) across Levels 1-5. A landscaped podium roof terrace is on Level 6.• Site 17 includes a new 13 storey building plus roof plant with 71 residential apartments on Levels 2-13, retail uses on Level 1, and commercial uses on Levels 2-5. A landscaped podium roof terrace is on Level 6.

**Proposal Summary
(continued):**

A separate Integrated Development Application for the construction of a new 20 storey mixed use building and three levels of basement to be shared under Sites 7, 17 and the adjoining Site 18 to the south west, is being assessed concurrently (D/2017/503). That application also includes the partial fit-out of the basement for that site.

The subject application seeks approval for the general layout of the basement levels, and a partial fit out (129 parking spaces) for Sites 7 and 17.

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

The project has been subject to design development guidance of the Design Advisory Panel Sub-Committee, which included workshops that took place from 15 March to 24 July 2018 during which the architects for the project changed from Silvester Fuller to Tzannes. Following that the scheme was amended significantly with additional information submitted to address the collective concerns of the City's Design Advisory Panel, the Design Advisory Sub-Committee Panel and Council officers. These concerns principally related to:

- Compliance with development standards and controls;
- Residential amenity;
- Building facade elements;
- Materials and finishes;
- Sun protection;
- Bicycle parking; and
- Basement layout and servicing.

The original proposal was notified for a period of 28 days between 17 May and 15 June 2017. As a result of the notification there were no submissions received. On 23 November 2018, significant amendments to the scheme were submitted, which were re-notified for a period of 49 days (extended due to holiday period) between 30 November 2018 and 18 January 2019 as it was considered that there was potential for additional impacts to be created as a result of the changes. Two submissions were subsequently received. These submissions have been considered within the report where it is concluded that either the concerns raised are not well founded, or they are able to be addressed via conditions.

**Proposal Summary
(continued):**

Except for minor lateral protrusions, overall there is a reduction in height and bulk across the site compared to the maximum envelope.

On Site 7, elements of the facade articulation on the south western (Plaza) elevation of the tower protrudes into the maximum permissible height (RL64) by 8.4m resulting in a 13% variation (to a depth of 450mm at Levels 17 to 19).

On Site 17, a portion of the tower on the south western (Plaza) elevation of the tower protrudes into the maximum permissible height (RL50) by 10.46m resulting in a 20.9% variation (to a depth of 1450mm at Levels 11 to 13). As discussed in this report, the Height of Buildings variation request is supported given that the non-compliances are minor lateral protrusions.

For the most part, the development complies with the ceiling height development standard. There are some non-compliances with the standard which are supported. These relate to residential kitchens (2.4m instead of 2.7m), cinema candy bar (2.6m instead of 3.3m), first floor residential apartments (2.7m instead of 3.3m), and first floor commercial (localised non-compliance under a structural beam less than 3.3m). However, there are two ground floor (Ebsworth Street) retail tenancies with ceiling heights as low as 2.59m. It is recommended that these be increased to comply with the minimum 3.3m requirement.

The proposal complies with the Floor Space Ratio Development Standard for the site (inclusive of additional floor space allowed under the LEP for specified land uses).

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 having regard to the constraints of the site, and provides an acceptable level of residential amenity.

Summary Recommendation: The development application is recommended for approval, subject to deferred commencement.

- Development Controls:**
- (i) State Environmental Planning Policy No.55 – Remediation of Land
 - (ii) State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development
 - (iii) State Environmental Planning Policy (Infrastructure) 2007
 - (iv) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
 - (v) Sydney Local Environmental Plan (Green Square Town Centre) 2013
 - (vi) Green Square Town Centre Development Control Plan 2012

- Attachments:**
- Attachment A.** Recommended Conditions of Consent
 - Attachment B.** Selected Drawings
 - Attachment C.** Clause 4.6 Variation Request - Height of Buildings
 - Attachment D.** Clause 4.6 Variation Request - Ceiling Heights
 - Attachment E.** Design Advisory Panel Advice Sheets - 14 February and 14 March 2019

Recommendation

It is resolved that:

- (A) the variation sought to the height of buildings standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan (Green Square Town Centre) 2013 be supported in this instance;
- (B) the variation sought to the ceiling heights standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan (Green Square Town Centre) 2013 be partially supported in this instance; and
- (C) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2017/564 subject to the conditions set out in Attachment A to this report.

Reasons for Recommendation

The application is recommended for Deferred Commencement approval for the following reasons:

- (A) The requested variations to the maximum Building Height and Ceiling Height development standards are upheld because the consent authority is satisfied that the applicant's written requests have adequately addressed the matters required to be addressed under 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 the respective development standards and the B4 - Mixed use zone.
- (B) 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.
- (C) The proposed development is considered to be appropriate within its setting and will provide for residential, retail and commercial development within the Green Square Town Centre. In addition, it provides a cinema entertainment facility on a site which is highly accessible to existing and planned employment, services and community facilities.
- (D) Subject to the recommendations within this report, and the imposition of the proposed conditions, 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

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 entire site comprises three sites to be redeveloped by Mirvac: Sites 7, 17, and 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 Public Plaza to the south-west. Figure 1 below is a map showing the site in the context of the GSTC.



Figure 1: Map of the Green Square Town Centre development sites. The boundaries of the overall site are shown in black; and the boundaries of Sites 7 and 17 are shown in yellow.

3. Sites 7 and 17, which will accommodate the two buildings proposed under this DA, are irregular in shape and have a combined site area of 3,688sqm. They are located towards the north western portion of the overall site, fronting Ebsworth Street to the north-east, Tweed Place to the north-west, the future Green Square Public Plaza to the south-west, and the future Barker Street to the south-east.
4. The overall 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 free of vegetation.

5. Future and existing surrounding developments are residential, commercial, and civic in nature. Specifically:
 - (a) Directly to the north of Sites 7 and 17 is the “Ovo” building at 956-960 Bourke Street (Sites 5A and 5B) accommodating a 10 storey and 28 storey mixed use building with retail uses and residential apartments above.
 - (b) The site to the north-east, 18 Ebsworth Street (Site 16A and 16B) accommodates a 10 storey mixed use development including a supermarket, bottle shop, and café on the ground floor, and residential apartments above.
 - (c) The site to the east, 77-93 Portman Street (Site 15A, 15B, 15C, and 15D) has been the subject of a competitive design alternatives process. A subsequent Stage 2 development application has been lodged (D/2018/517) and is currently under assessment for 3 mixed use buildings and 1 residential flat building, plus 3 levels of shared basement across the site.
 - (d) The future Barker Street, and Site 18 is located to the south-east and is proposed to share a basement with Sites 7 and 17. The site has been subject of a competitive design process. The winning scheme, which is subject of a separate concurrent DA (D/2017/503), seeks approval for a 20 storey mixed use residential building, with retail uses on levels 1 and 2, and communal facilities on the rooftop and Level 2. A separate report on this DA has been finalised and submitted to the Central Sydney Planning Committee for determination.
 - (e) The site directly adjoining the subject site to the south-west accommodates the recently completed and occupied City of Sydney library, Green Square Plaza and Neilson Square.
 - (f) The site to the north-west, known as the ‘Infinity’ building, at 301 Botany Road (Site 6), has approval for construction of a part 8, part 20 storey mixed use development with residential and retail uses with a multi-purpose function facility. This approval was later amended to convert the residential component to serviced apartments (D/2017/457). Construction is almost complete.
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 below:

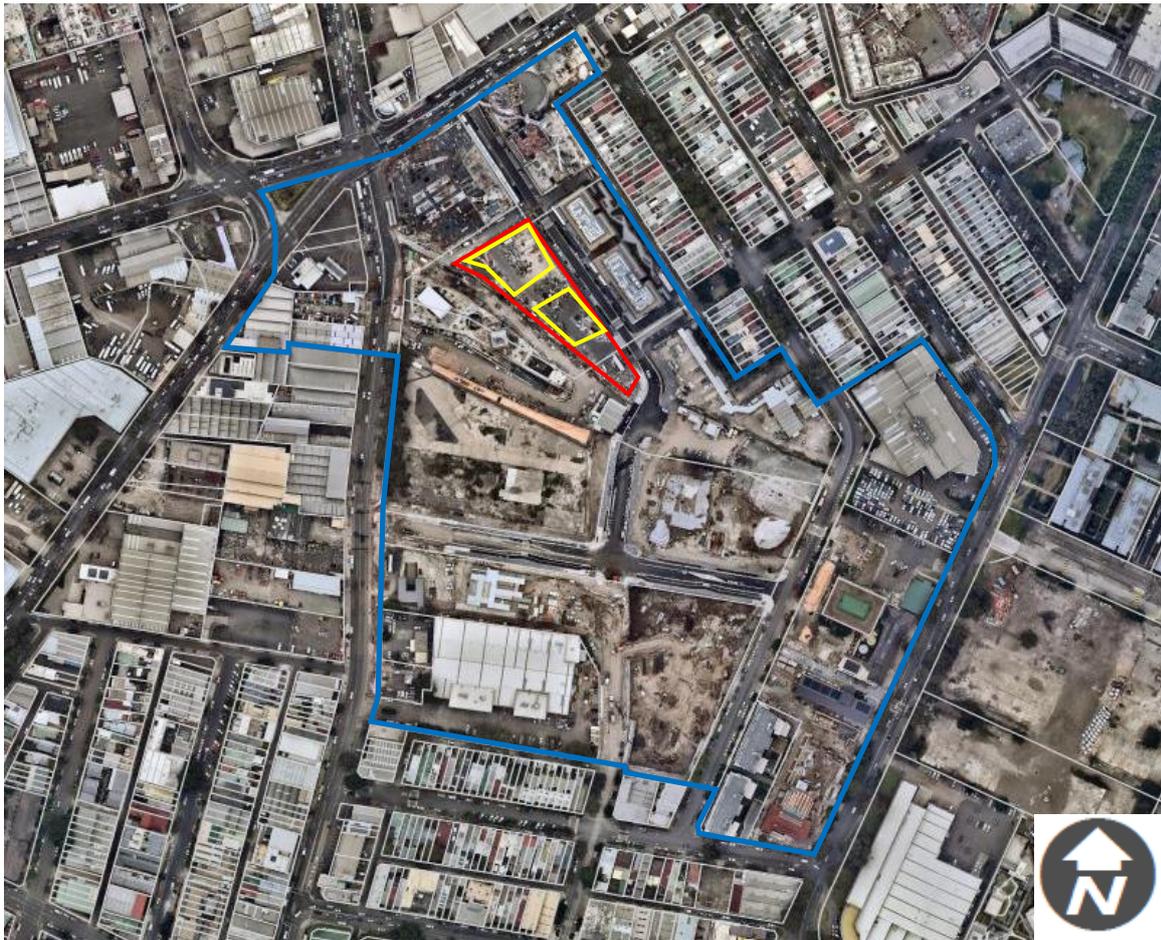


Figure 2: Aerial image of the subject site and surrounding area. The boundaries of the Green Square Town Centre are shown in blue; the boundaries of the overall site are shown in red; and the boundaries of Sites 7 and 17 in yellow (source: Nearmap).



Figure 3: Aerial image of the subject site and surrounding area. The boundaries of the overall site are shown in red; and the boundaries of Sites 7 and 17 are shown in yellow (source: Nearmap).



Figure 4: The collective site viewed from the south along Barker Street looking north.



Figure 5: The site (extent marked by the red line) viewed along Ebsworth Street looking north from the intersection of Barker Street and Ebsworth Street.



Figure 6: The site viewed from the intersection of Ebsworth Street and Tweed Place looking south.

History Relevant to the Development Application

Design Amendments

8. The scheme has been amended a total of four times during the assessment resulting in significant internal and external design changes from the originally submitted scheme in May 2017.
9. The design has evolved through a series of collaborative design development workshops where the applicant, Council staff and the Design Advisory Panel Sub-Committee (DAPSC) members worked together to resolve design issues with the proposal. A total of nine workshops took place from the 15 March to 24 July 2018. It was at the start of that process that the architects for the project changed from Silvester Fuller to Tzannes.
10. The following is a brief summary of the main issues that were the focus of those design workshops:
 - (a) Reduced setbacks to Ebsworth Street and resultant overshadowing impacts to the Plaza;
 - (b) Rearrangement of the internal layout of apartments to achieve better massing and improved amenity;
 - (c) Approaches to massing and building articulation;

- (d) The relocation of the cinemas to the Ebsworth Street side of the building to allow greater flexibility to the foyer spaces and maximise activation to the Plaza;
 - (e) More detailed resolution of the materials palette; and
 - (f) The podium interface with the Plaza and implications on any potential future light rail infrastructure adjacent to the site.
11. Following the workshops, design development was progressed by the applicant with two presentations of the proposal to the Design Advisory Panel in February and March 2019.
12. A final amended proposal was submitted on 24 April 2019 in order to address the various design issues raised during the above mentioned workshops, the comments of the Design Advisory Panel from February and March 2019 meetings, as well as Council officer's concerns regarding non-compliances with the Apartment Design Guide (ADG), the Sydney Local Environmental Plan (Green Square Town Centre) 2013 (LEP GSTC 2013), and the Green Square Town Centre DCP 2012 (GSTC DCP 2012).
13. Significant amendments include, but are not limited to:
- (a) Reduction in number of proposed apartments from 195 to 194 with a revised dwelling mix and apartment layouts;
 - (b) Apartments with roof top terraces located on the podium of Site 7 directly fronting the Plaza;
 - (c) Chamfered corners at ground level where Ebsworth Street meets Tweed Place, Fellmonger Place and Barker Street;
 - (d) Residential floor to floor heights increased from 3.05m to 3.08m;
 - (e) Relocation of above ground storage to the basement levels resulting in compliant Gross Floor Area;
 - (f) Relocation of communal open spaces for both buildings to Level 6 with an additional communal open space on the podium roof at Level 9 on Site 7;
 - (g) External facade changes including revised materials and colours palette; and
 - (h) Changes to basement servicing and layout.

Proposal

14. In summary, the proposal, as amended, seeks consent for two mixed-use residential buildings including a 16 storey and 13 storey building, plus roof plant, with 12 x retail tenancies, 4 x commercial tenancies, an entertainment facility (cinema), and a total of 194 apartments comprising 61 x 1 bedroom apartments, 104 x 2 bedroom apartments, 28 x 3 bedroom apartments, and 1 x 4 bedroom apartment. No signage is proposed.

15. The two 'above ground' buildings are connected 'below ground' by a basement with a shared driveway off Tweed Place that leads into the loading dock at Building 7. The shared basement levels are being constructed under a separate development application for development at the adjoining Site 18 (D/2017/503). The general layout of the basement is proposed under the subject DA and the partial fit out including a total of 129 parking spaces relating to sites 7 and 17.
16. More specifically, the amended proposal comprises the following:
 - (a) Basement Levels 1 to 3
 - (i) General layout and partial fit-out to provide facilities associated with Sites 7 and 17 including:
 - (ii) 81 standard residential car parking spaces;
 - (iii) 39 accessible residential car parking spaces;
 - (iv) 2 car share vehicle parking spaces;
 - (v) 6 service vehicle bays;
 - (vi) 1 car wash bay;
 - (vii) 3 motorcycle bays;
 - (viii) 194 storage cages (also bicycle parking); and
 - (ix) Plant, garbage and storage rooms.
17. Across both buildings, the following is proposed:
 - (a) Ground Floor (Level 1)
 - (i) Basement car park vehicle entry/exit off Tweed Place;
 - (ii) Loading dock (to be shared with Sites 7, 17 and 18) with 3 loading bays;
 - (iii) Plant and service equipment and storage rooms;
 - (iv) End of Trip facilities for Sites 7, 17 and 18;
 - (v) 12 x retail tenancies;
 - (vi) 1 x cinema entry off the Plaza, 1 x commercial lobby at the corner of Barker Street and the Plaza, 2 x residential lobbies off Ebsworth Street and 1 x residential lobby off Fellmonger Place; and
 - (vii) 19 visitor bike spaces within Sites 7 and 17 and 56 visitor bike spaces externally within the public domain.
 - (b) Level 2
 - (i) 718.9sq.m of cinema entry, lobby, amenities and back of house;
 - (ii) 1 x commercial tenancy (454.7sq.m);

- (iii) 3 x one bedroom/bathroom apartments;
 - (iv) 1 x two bedroom, two bathroom apartment;
 - (v) 1 x two bedroom, one bathroom apartment; and
 - (vi) Continuous awnings to Barker Street, Fellmonger Place and Ebsworth Street and a partial awning to Tweed Place.
- (c) Levels 3 - 5
- (i) 5 x cinema auditoriums with voids above and back of house;
 - (ii) 3 x commercial tenancies (1,426.5sq.m);
 - (iii) 9 x one bedroom/bathroom apartments;
 - (iv) 3 x two bedroom, two bathroom apartments; and
 - (v) 3 x two bedroom, one bathroom apartments.
- (d) Levels 6 - 9
- (i) 19 x one bedroom/bathroom apartments;
 - (ii) 41 x two bedroom, two bathroom apartments;
 - (iii) 10 x three bedroom, two bathroom apartments;
 - (iv) 1 x four bedroom, two bathroom apartment;
 - (v) Communal terraces and associated landscaping for residents of both buildings at Level 6 (Site 7 and 17);
 - (vi) Communal roof terrace above podium apartments on Level 9 of site 7; and
 - (vii) Plant associated with the cinema.
- (e) Levels 10-14
- (i) 30 x one bedroom/bathroom apartment;
 - (ii) 34 x two bedroom, two bathroom apartments;
 - (iii) 10 x three bedroom, two bathroom apartments; and
 - (iv) Roof plant and screening for Site 17 (Level 14).
- (f) Levels 15 – 18
- (i) 21 x two bedroom, two bathroom apartments;
 - (ii) 8 x three bedroom, two bathroom apartments; and
 - (iii) Cooling tower plant.
- (g) Roof (Level 19)

(i) Plant and screening.

18. The subject application seeks consent for use of the cinema complex only. The proposed hours of operation are between 10.00am and 1.00am, daily. The maximum patron capacity is 840 patrons.
19. A selection of the proposed architectural drawings are provided within Attachment B of this report.
20. For a comparative analysis of how the design has evolved during the assessment process, photomontages of the original and final amended proposal are provided below.



Figure 7: Photomontage of Plaza frontage - original Silvester Fuller submission, May 2017



Figure 8 Photomontage of Ebsworth Street frontage - original Silvester Fuller submission, May 2017



Figure 9: Photomontage of Plaza frontage - final amended Tzannes proposal, April 2019



Figure 10: Photomontage of Plaza frontage - final amended Tzannes proposal, April 2019



Figure 11: Photomontage of Plaza frontage - final amended Tzannes proposal, April 2019



Figure 12 Photomontage of Ebsworth Street frontage - final amended Tzannes proposal, April 2019



Figure 13: Photomontage of Ebsworth Street frontage - final amended Tzannes proposal, April 2019

Relevant Development Applications

D/2012/1175

21. On 21 February 2013 the Central Sydney Planning Committee granted deferred commencement consent for the staged provision of essential infrastructure for the Green Square Town Centre.
22. 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.

D/2017/503

23. A separate DA for the construction of three levels of basement under sites 7, 17 and 18 and a new building on Site 18, as well as the fit-out for the parts of the basement associated with that site, is being reported to the CSPC concurrently with this application.
24. That proposal has been subject to an alternative competitive design process from which Bates Smart were declared the winner. Approval is sought for a 20 storey mixed use residential building, comprising 104 residential apartments, retail uses on levels 1 and 2, and communal facilities on the rooftop and Level 2. The basement is to be shared between Sites 7, 17 and 18 accessed from a single driveway off Tweed Place.

D/2016/1557

25. 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.
26. The Concept Approval provides four building envelopes ranging in height from 4-24 storeys.

Economic/Social/Environmental Impacts

27. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
 - (a) Environmental Planning Instruments and DCPs.

State Environmental Planning Policy No 55—Remediation of Land

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

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

30. 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 9 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 overall place-making objectives of the GSTC and broader redevelopment area. It is within the Mixed Use zone and is in accordance with the aims and objectives of the Sydney LEP GSTC 2013 and the GSTC DCP 2012.

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

The scale of the area is currently in transition from former industrial and warehousing uses to a mixed use town centre. The proposal complies with the Sydney LEP GSTC 2013 maximum FSR control of the site, which includes specified use floor space for commercial and entertainment floor space permitted under the LEP.

The proposed development does not comply with the SLEP GSTC 2013 maximum building height limit of RL50 for Site 17. A portion of the tower protrudes laterally into the maximum permissible podium height (RL50) by 10.46m resulting in a 20.92% variation (to a depth of 1.45m at Levels 11-13). The proposal also does not comply with the maximum height limit of RL 64 for Site 7. A portion of the tower on Levels 17 to 19 protrudes laterally 450mm into the RL64 height limit. The protrusion is attributed to facade articulation and results in a height of 72.4m, a variation of 8.4m (13%).

Further, Site 7 exceeds the GSTC DCP height in storeys control of 15 storeys by 1 storey, and Site 17 exceeds the height in storeys control of 12 storeys by 1 storey. The height non-compliance is considered to be acceptable – refer discussion below.

(c) **Principle 3: Density**

As stated above, the proposal complies with the Sydney LEP GSTC 2013 maximum FSR control of the site, which includes specified use floor space for commercial and entertainment floor space permitted under the LEP. The proposed density of development is consistent with the desired future character envisaged within the Green Square Town Centre and the broader redevelopment area.

(d) **Principle 4: Sustainability**

The proposal is compliant with the requirements of BASIX, and a condition is recommended to ensure that the development complies with the commitments contained on its BASIX certificate.

Notwithstanding that a BASIX certificate has been provided, concerns are raised with the amenity of a number of apartments - namely, the upper level south-west facing apartments that are not adequately protected from the summer sun. Accordingly, conditions of consent are recommended to improve residential amenity (and thus reduce the lifetime running cost of the development) – refer discussion below.

(e) **Principle 5: Landscape**

The proposal incorporates landscaped terraces on each building, with a total area of approximately 1,416.8sqm, which is equal to 38.42% of the site area of buildings 7 and 17. The landscaped terraces provide opportunities for passive recreation and social interaction between neighbours, without unreasonably impacting upon residential amenity of private dwellings. Subject to recommended conditions of consent, the communal areas are capable of being high quality, useable spaces for both passive and active recreation for a varied demographic.

(f) **Principle 6: Amenity**

Compliance with amenity controls are detailed in the below ADG assessment table.

(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. Public and private spaces are clearly defined with access points to the buildings generally appropriate to their location and purpose.

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

Sites 7 and 17 have the following proposed unit mix:

- (i) 61 x 1 bedroom apartments (31.44%);
- (ii) 104 x 2 bedroom apartments (53.61%);
- (iii) 28 x 3 bedroom apartments (14.43%); and
- (iv) 1 x 4 bedroom apartment (0.52%)

While no studio apartments are proposed by the amended scheme, the dwelling mix increases the number of 1 bedroom and 3 and 4 bedroom apartments consistent with the objectives of Section 6.8 of the GSTC DCP and is supported. It is noted that the larger 3 and 4 bedroom apartments include variances in their internal design which would allow adaptation to a different dwelling mix over time.

(i) **Principle 9: Aesthetics**

The visual appearance of the development responds to the future local context. The proposed materials are acceptable, and it is anticipated that the overall design will positively contribute to the aesthetic qualities of the streetscape.

31. 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	Compliance	Comment
12-18m (glass to glass)	No, but acceptable	<p>The building depths range from 13.9m up to 25.3m.</p> <p>Despite non-compliance with the building depth guidelines, the building provides an acceptable level of residential amenity (subject to conditions), 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.</p>

2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms <p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> • 18m between habitable rooms / balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable Rooms <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 24m between habitable rooms / balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable Rooms 	No, but acceptable	<p>It is noted that the building separation distances were established under the GSTC DCP envelopes for the site prior to the ADG.</p> <p>Refer to building separation discussion under the heading Issues.</p>
3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	The proposal incorporates landscaped terraces on each building, with a total area of approximately 1,416.8sqm, which is equal to 38.42% of the site area of buildings 7 and 17.

<p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).</p>	<p>No, but acceptable</p>	<p>Due to the orientation of the site, proximity of taller buildings to the north and north west of the site, and the building envelopes established for Sites 7 and 17 under the GSTC controls, compliance with the control is difficult to achieve.</p> <p>In midwinter, the communal open spaces are largely overshadowed, though some direct solar access is achieved to part of Site 7 between 1pm and 3pm.</p> <p>The applicant has submitted additional shadow analysis which generally indicates that between 12.00pm and 2.00pm on 21 September and between 1.00pm and 4.00pm on 21 March the communal open space can receive at least 2 hours of direct sunlight to more than 50% of the area. Therefore, for at least 6 months of the year sunlight to the communal areas is achieved.</p> <p>The proposal is considered acceptable in the circumstances.</p>
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3E Deep Soil Zones	Compliance	Comment														
<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="204 389 639 1048"> <thead> <tr> <th data-bbox="209 396 368 539">Site area</th> <th data-bbox="373 396 555 539">Minimum Dimensions</th> <th data-bbox="560 396 639 539">% of site area</th> </tr> </thead> <tbody> <tr> <td data-bbox="209 546 368 622"><650m²</td> <td data-bbox="373 546 555 622">-</td> <td data-bbox="560 546 639 622"></td> </tr> <tr> <td data-bbox="209 629 368 741">650m² – 1,500m²</td> <td data-bbox="373 629 555 741">3m</td> <td data-bbox="560 629 639 741"></td> </tr> <tr> <td data-bbox="209 748 368 824">>1,500m²</td> <td data-bbox="373 748 555 824">6m</td> <td data-bbox="560 748 639 824" rowspan="2">7%</td> </tr> <tr> <td data-bbox="209 831 368 1041">>1,500m² with significant existing tree cover</td> <td data-bbox="373 831 555 1041">6m</td> </tr> </tbody> </table>	Site area	Minimum Dimensions	% of site area	<650m ²	-		650m ² – 1,500m ²	3m		>1,500m ²	6m	7%	>1,500m ² with significant existing tree cover	6m	<p>N/A</p>	<p>Despite the ADG requirements, the GSTC DCP 2013 does not require the provision of a deep soil zone on this site.</p> <p>Deep soil is not a matter for which the ADG prevails over a DCP under Clause 6A of SEPP 65.</p>
Site area	Minimum Dimensions	% of site area														
<650m ²	-															
650m ² – 1,500m ²	3m															
>1,500m ²	6m	7%														
>1,500m ² with significant existing tree cover	6m															
3F Visual Privacy	Compliance	Comment														
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> • 6m between habitable rooms / balconies • 3m between non-habitable rooms <p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> • 9m between habitable rooms / balconies • 4.5m between non-habitable rooms <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 6m between non-habitable rooms 	<p>No, but acceptable</p>	<p>As discussed above under 2F Building Separation, non-compliances arise between the subject buildings themselves, and between the site and adjacent development on Site 6, Sits 16A and 16B, and Site 18.</p> <p>It is noted that the building separation distances were established under the GSTC DCP envelope for the site prior to the ADG.</p> <p>Refer to building separation discussion under the heading Issues.</p>														

Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	
4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	No, but acceptable	Solar analysis has been undertaken, which concludes that due to the orientation of the subject buildings, the site is heavily overshadowed by surrounding existing and future development. As a result of this, the proposal is non-compliant. Refer to solar access discussion under the heading Issues.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	The proposal complies in that it has approximately 12% of apartments with no direct sunlight.
4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	The proposal complies.
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.	Able to comply	See Natural Cross Ventilation discussion under the heading Issues.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The proposal complies.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	No, but acceptable	<p>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.</p> <p>The applicant has advised that a floor to ceiling height of 2.4m will be achieved in kitchens, bathrooms and hallways.</p> <p>It is noted that the 300mm non-compliance within the kitchens is localised under the bulkhead where mechanical ventilation is to be provided. Otherwise, the proposed floor to ceilings heights in the kitchens can generally comply.</p> <p>It should also be noted that the BCA permits a floor to ceiling height of 2.1m within a kitchen.</p> <p>See Ceiling Height discussion under the heading Issues</p>
Non-habitable rooms: 2.4m	Yes	The proposal complies.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	No, but generally acceptable	See Ceiling Height discussion under the heading Issues

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Yes	<p>The proposed unit sizes are as follows:</p> <p>1 bedroom apartments with areas between 50sqm and 64sqm;</p> <p>2 bedroom apartments with areas between 76sqm and 105sqm;</p> <p>3 bedroom apartments with areas between 94sqm and 117sqm; and</p> <p>4 bedroom apartment with area of 170sqm.</p> <p>All apartments meet or exceed the minimum requirements, including the apartments that have more than one bathroom.</p> <p>It is noted that no studio apartments are proposed.</p>
<p>Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.</p>	Yes	The proposal is able to comply.
<p>Habitable room depths are to be no more than 2.5 x the ceiling height, or 8m for open plan layouts.</p>	Yes	The proposal complies.
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	<p>The minimum area for bedrooms complies</p> <p>The minimum bedroom dimensions are generally achieved with the exception of Apartments 7.6.7 and 7.6.9 (the room areas are greater than the required minimum and retains good room usability).</p>

<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m 	<p>No but acceptable</p>	<p>A 2 bedroom townhouse (unit 7.6.8) has an approximate width of 3.7m. This layout has a generous open-plan depth in length, provides a functional internal layout and the overall apartment is well sized.</p> <p>The typical 2 bed apartments 7.6.1, 7.7.1, 7.8.1, 7.15.1, 7.16.1, 7.17.1, 7.18.1 have an approximate width of 3.8m. This is due to the side tapering boundary at Tweed Place. These plans have a generous open-plan depth in length, benefit from a corner aspect and have a functional internal layout overall. To increase the internal width to 4m would limit the useable balcony area directly adjacent.</p> <p>The typical 3 bed apartments to the north-western corner of the Site 7 tower have an approximate width of 3.5m. This is due to the tapering boundary at Tweed Place. These plans have a generous open-plan depth in length, benefit from a corner aspect and have a functional internal layout overall. They are provided with balconies exceeding the minimum depth requirements and the overall apartment is generously sized.</p> <p>The typical 3 bed apartments to the south-eastern corner of the Site 7 tower have an approximate width of 3.8m. These plans have a generous open-plan depth in length, benefit from a corner aspect and have a functional internal layout overall. They are provided with balconies exceeding the minimum depth requirements and the overall apartment is generously sized.</p> <p>All other apartment types comply with the minimum widths.</p>
<p>4m minimum width for cross over and cross through apartments.</p>	<p>Yes</p>	<p>The proposal complies.</p>

4E Private Open Space and Balconies	Compliance	Comment															
<p>All apartments required to have primary balconies as follows:</p> <table border="1" data-bbox="209 427 683 954"> <thead> <tr> <th data-bbox="209 427 379 551">Dwelling Type:</th> <th data-bbox="379 427 528 551">Min. Area</th> <th data-bbox="528 427 683 551">Min. Depth</th> </tr> </thead> <tbody> <tr> <td data-bbox="209 551 379 636">Studio</td> <td data-bbox="379 551 528 636">4m²</td> <td data-bbox="528 551 683 636">-</td> </tr> <tr> <td data-bbox="209 636 379 721">One bed</td> <td data-bbox="379 636 528 721">8m²</td> <td data-bbox="528 636 683 721">2m</td> </tr> <tr> <td data-bbox="209 721 379 806">Two bed</td> <td data-bbox="379 721 528 806">10m²</td> <td data-bbox="528 721 683 806">2m</td> </tr> <tr> <td data-bbox="209 806 379 954">Three+ bed</td> <td data-bbox="379 806 528 954">12m²</td> <td data-bbox="528 806 683 954">2.4m</td> </tr> </tbody> </table> <p>The minimum depth counting to balcony area is 1m.</p>	Dwelling Type:	Min. Area	Min. Depth	Studio	4m ²	-	One bed	8m ²	2m	Two bed	10m ²	2m	Three+ bed	12m ²	2.4m	<p>No, but acceptable</p>	<p>All of the proposed apartments have private open space in the form of balconies.</p> <p>All of the balconies meet or exceed the minimum requirements with the exception of the 2 bedroom cross through apartments on Levels 10-18 of Site 7 (18 apartments or approximately 9% in total). These balconies measure at 6.2sqm and are approximately 1.5m deep, and are able to be furnished with small outdoor settings. The associated living rooms are generous, with the glazing line 'pushed out' to optimise solar access. On balance, this arrangement is considered acceptable.</p>
Dwelling Type:	Min. Area	Min. Depth															
Studio	4m ²	-															
One bed	8m ²	2m															
Two bed	10m ²	2m															
Three+ bed	12m ²	2.4m															
<p>Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m² and a minimum depth of 3m.</p>	<p>Yes</p>	<p>The proposal generally complies.</p>															

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	No but acceptable	<p>Site 17 complies.</p> <p>On Site 7, the proposal complies with the exception of Levels 6, 8 and 9.</p> <p>The non-compliance is considered acceptable having regard to the following:</p> <p>The circulation corridors on Levels 6 and 8 are able to be accessed from 2 separate residential lobbies on different streets;</p> <p>Seven of the 15 apartments on Level 6 are 'townhouse' style over 2 floors (meaning that there is no circulation corridor on this part of the building on the level above); and</p> <p>The non-compliance on Levels 8 and 9 is by one apartment (each) only.</p>
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	On Site 7, 123 apartments share 5 lifts and on Site 17, 71 apartments share 2 lifts. The proposal complies.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	The proposal complies.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	All common circulation spaces have access to natural light, however the architectural drawings are not clear as to whether the windows to those spaces are openable. A condition of consent is recommended requiring an openable window to be provided to the common corridor on each floor.

4G Storage	Compliance	Comment
Minimum storage provision facilities: <ul style="list-style-type: none"> • Studio: 4m3 • 1 bed: 6m3 • 2 bed: 8m3 • 3 bed: 10m3 (Minimum 50% storage area located within unit)	Yes	The proposal complies.
4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	All apartments recommend for approval are capable of natural ventilation and provide acceptable acoustic amenity.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

33. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development includes a substation at ground level on Site 7. In accordance with the Clause, the application was referred to Energy Australia for a period of 21 days. No comments were received and therefore, it is assumed there is no objection to the proposal.

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

34. The BASIX Certificate has been submitted with the development application.
35. 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

36. The site is located within the B4 – Mixed Use zone. The proposed use of Sites 7 and 17 is defined as residential flat buildings with retail, commercial and entertainment facility (cinema), and is permissible with consent
37. The relevant matters to be considered under Sydney LEP (Green Square Town Centre) 2013 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	No, but acceptable	<p>The maximum permissible height varies within Sites 7 and 17.</p> <p>Site 7 has maximum heights of RL 75, RL 64, and RL 50.</p> <p>Site 17 has maximum heights of RL 62.5 and RL 50.</p> <p>The proposal does not fully comply with the LEP height provisions. These non-compliances are small lateral protrusions.</p> <p>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.</p> <p>Refer to height discussion under the heading Issues.</p>

Development Control	Compliance	Comment
<p>4.4 Floor Space Ratio</p> <p>4.4A Exceptions to Floorspace ratio</p>	Yes	<p>A maximum permissible FSR of 5.47:1 is allowed for Sites 7, 17 and 18.</p> <p>Under Clause 4.4A, Sites 7 and 17 (identified as Area 4 for the purpose of this Clause) is allowed to exceed the FSR where the proposal accommodates a specified use. The specified land uses are office premises or business premises, entertainment facilities and centre based childcare facilities, and the additional allowable GFA is up to 4,200sqm.</p> <p>The applicant is seeking to utilise the additional floor space of 4,200sqm for specified uses (office or business premises and entertainment facilities being the cinema).</p> <p>Accordingly, the total allowable GFA for Sites 7, 17 and 18 is 32,245sqm.</p> <p>When combined with the proposed GFA for Site 18 (D/2017/503), both developments (GFA of 32,173sqm), will comply.</p> <p>It is also recommended that a covenant be placed on title (via a condition) requiring the retention of a minimum of 4,200sqm of the specified uses on site.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the height of buildings development standard prescribed under Clause 4.3.</p> <p>See height discussion under the heading Issues.</p>
Part 6 Local Provisions	Compliance	Comment
6.2 Flood planning	Yes	The City's Public Domain Team have confirmed that the proposal has been designed to the flood planning level.
6.5 Affordable Housing	Yes	An affordable housing contribution is recommended.

6.6 Active Street Frontages	No, but acceptable	<p>All street frontages of the subject buildings are identified on the Active Frontages Map.</p> <p>Ground floor retail is proposed on all fronts of both Sites 7 and 17, with the exception of the majority of the Tweed Place frontage of Site 7.</p> <p>The LEP requires the frontages to have an entirely active frontage, however allowances are made for vehicular access and fire services.</p> <p>The vehicular entry to the site is off Tweed Place, which provides direct access to the ground level loading dock and shared basement levels which service Sites 7, 17 and 18. The non-active frontage to Tweed Place is also attributed to electrical substations, meter rooms and fire exits.</p>
6.8 Car parking ancillary to other development	Yes	The proposed 129 car parking spaces complies with the maximum permitted number of spaces.
6.9 Design Excellence	Yes	<p>The proposal has been amended to ensure the highest standard of architectural design, materials and detailing appropriate to the building type and location.</p> <p>Subject to the recommended conditions of consent, it is considered that the form and external appearance of the proposed development will help improve the quality and amenity of the public domain, and the proposal is capable of exhibiting design excellence.</p> <p>Neither of the buildings have a building height greater than RL 75 and the project does not have a capital investment value of more than \$100 million and therefore, a design competition is not required.</p>

6.10 Essential Services	Yes	<p>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.</p> <p>The City has entered into a Voluntary Planning Agreement with the developer to construct the essential infrastructure around the site at the same time as the construction of the development.</p>
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Green Square Town Centre DCP 2012

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

2. Locality Statements – Green Square Town Centre		
<p>The subject site is located in the GSTC. The proposed residential flat buildings with a mix of retail, commercial and entertainment uses is considered to be in keeping with the unique character of the area and the design principles in that it contributes 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 Level and will provide a sufficient quantum of adaptable units.</p>		
3. Development Control	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>The proposal does not hinder the attainment of the DCP objectives for the adjoining Green Square Plaza and the nearby Neilson Square.</p> <p>The proposal complies with the requirement to maintain direct solar access to 50% of a 4m wide strip along the southern edge of the Plaza between 12 midday and 2pm at midwinter.</p> <p>Refer to height discussion under the heading Issues.</p>
3.3 Street network	Yes	<p>The proposal broadly aligns with the street network and the corresponding reservation widths envisaged by the DCP. The delivery of the streets forms part of separate development consent and will be delivered by the City (D/2012/1175/F).</p>

3.4 Flooding and stormwater management	Yes	The City's Public Domain Team have confirmed that 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.
4. Development Controls	Compliance	Comment
4.1. Location of desired activities	Yes	The DCP identifies the desired activity for Sites 7 and 17 as being retail on the ground floor, with back of house and basement access permitted on the ground floor of site 7; residential, retail or commercial permissible on the first floor and above, with car parking permissible up to level 4 on Site 7. No above ground car parking is proposed. The proposed distribution of land uses complies.
4.2 Retail Uses	Yes	The proposal complies with the DCP requirement.
4.3 Active frontages	Acceptable	Discussed under LEP Clause 6.6 above.

6. Specific Sites	Compliance	Comment
6.1 Competitive design process	Yes	The DCP requires a competitive design process to be undertaken for new tall buildings 16 storeys or greater. Notwithstanding that, for the reasons outlined under LEP Clause 6.9 above, the proposal was not subject of a competitive design process.

6. Specific Sites	Compliance	Comment
6.2 Design and architectural diversity	Yes	<p>Neither of the proposed buildings on Sites 7 and 17 have a maximum frontage length greater than 65m however, 3 out of the 4 frontages to Site 7 are in excess of 45m. The buildings are required to have distinctive building components and reflect the building's internal organisation.</p> <p>On Site 7, the building has a tripartite expression on Ebsworth Street, comprising a 'scaloped' concrete cinema podium (affording a play of light and shadow across the facade), a mid-rise featuring bronze coloured residential facade and a lighter, high-rise concrete framed facade. Curved, distinctive corners reinforce the building identity softening the bulk and scale of the tower and podium.</p> <p>On Site 17, the building has a bipartite expression on Ebsworth Street, comprising a residential brick facade (up to 9 storeys), and a 'lighter' concrete-framed facade above. Full height perimeter balconies on the upper floors sit in direct contrast to the brick facade below, further reducing the building scale.</p>
6.3 Building layout	Acceptable	<p>The DCP identifies Site 7 as containing a podium, street wall and perimeter block building, and a tall building.</p> <p>Site 17 is identified as containing a podium with a street wall and perimeter block building.</p> <p>While the buildings do not comply with the built form envisaged under the DCP, the proposal is generally consistent with the principles of the control in that the built form addresses and aligns appropriately with the street.</p>

6. Specific Sites	Compliance	Comment
6.4 Height in storeys and street frontage	Acceptable	<p>The following height in storeys controls apply to the site:</p> <p>Site 7:</p> <ul style="list-style-type: none"> • 15 storeys • 12 storeys • 8 storeys <p>Site17:</p> <ul style="list-style-type: none"> • 12 storeys • 8 storeys <p>Site 7 proposes 16 habitable storeys plus mid-rise and rooftop plant along Ebsworth Street, with a 6 storey podium to the plaza. Site 17 is 13 storeys plus roof plant with a 4 storey podium to the plaza.</p> <p>Refer to height discussion under the heading Issues.</p>

6. Specific Sites	Compliance	Comment
6.5 Building alignments and setbacks	Acceptable	<p>A ground floor 3m footpath widening setback is required to the south-western boundary to Green Square Plaza. The proposal complies.</p> <p>An 8 storey street frontage height with a varied secondary setback (minimum 8m) is required to the south-western boundary to Green Square Plaza. With the exception of the southern-most corner of the Site 17 tower, the proposal complies.</p> <p>An 8 storey street frontage height with a 3m secondary setback is required to the Ebsworth Street frontage of Sites 7 and 17. The proposal does not comply.</p> <p>A 3m x 3m chamfered corner setback is required from the site boundary at levels 1 and 2 at the intersections of streets. While chamfered corners are provided, the proposal does not fully comply.</p> <p>The above non-compliances are further considered in the Issues section below.</p>
6.6 Roof form	Yes	<p>The roof plant on Levels 17-19 of Site 7, and Level 14 of Site 17 do not comply with the minimum setbacks for rooftop plant. However, the DCP allows for setback non-compliances where the plant and lift overruns are architecturally integrated with the building and where sun access to surrounding buildings and the public domain is not reduced.</p> <p>Otherwise, the proposed plant is screened and encased within the overall built form. The plant does not result in additional overshadowing to the public domain or surrounding buildings above that allowed under the LEP. In consideration of the dispensations permitted by the DCP, the proposal is considered to comply.</p> <p>Refer to other discussion in the Issues section regarding building parapets.</p>

6. Specific Sites	Compliance	Comment
6.7 Maximum floor plate of tall buildings	Acceptable	<p>The component of Site 7 that is above 14 storeys has a floorplate of 1039sqm, which is not within 5% of 800sqm, as required by the control. There is no floor plate control for Site 17.</p> <p>The floorplate control works in conjunction with the setbacks control to minimise the bulk and scale of tall buildings and the resulting visual and amenity impacts on surrounding development and public spaces.</p> <p>Refer to the building setback discussion in the Issues section of the report.</p>
<p>6.8 Flexible housing and dwelling mix</p> <p>Studios: 5 to 10%</p> <p>1 bed: 10 to 30%</p> <p>2 bed: 40 to 75%</p> <p>3 bed+: 10 to 30%</p>	Acceptable	<p>The proposed unit mix is:</p> <p>1 bedroom - 61 apartments (31.44%);</p> <p>2 bedroom - 104 apartments (53.61%);</p> <p>3 bedroom - 28 apartments (14.43%); and</p> <p>4 bedroom - 1 apartment (0.52%).</p> <p>No studio apartments are proposed.</p> <p>The proposed mix is generally consistent with the DCP required mix and is supported.</p>
6.9 Adaptable dwelling mix	Yes	<p>The DCP requires 20% of apartments to be adaptable, and for the adaptable units to be spread across all unit sizes</p> <p>39 adaptable apartments are proposed including:</p> <p>2 x one bedroom apartments;</p> <p>16 x two bedroom apartments; and</p> <p>21 x three bedroom apartments.</p> <p>This equates to 20.1% and complies.</p>

6. Specific Sites	Compliance	Comment
6.10 Amenity	Acceptable	<p>Many of the provisions of Section 6.10 are superseded by the ADG, pursuant to the provisions of Clause 6A of SEPP 65. Many other provisions do not apply to the subject development. Non-compliances with respect to solar access, natural cross ventilation and privacy are discussed in the above ADG table and the Issues section of the report.</p> <p>The remaining relevant provisions relate to reflectivity, acoustic privacy, and wind effects.</p> <p>A condition of consent is recommended to ensure light reflectivity from building materials used on the building's facades does not exceed 20%.</p> <p>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.</p>
6.11 Accessible design	Yes	<p>The proposal complies with accessible design provisions. A condition of consent is recommended to ensure that the design remains fully accessible.</p>

6. Specific Sites	Compliance	Comment
6.12 Safety and design	Acceptable subject to conditions	<p>The residential entry lobbies off Ebsworth Street and Fellmonger Place to both buildings are designed to be clearly legible and unobstructed from the public domain.</p> <p>A mail room and parcel drop area is nominated within the ground floor residential and commercial lobby area of each building off Ebsworth Street. A condition is recommended to ensure that secure mail rooms are provided with restricted access to residents.</p> <p>The Tweed Place fire stair egress door is recessed and should be brought forward.</p> <p>Subject to the recommended conditions, the application satisfactorily addresses safety and security measures and is generally compliant with the provisions of the DCP.</p>
6.13 Landscaping and open space	Yes	<p>The proposed Landscape Plan has been reviewed by the City's Landscape Officer and was found to be generally acceptable, subject to more detailed design development. A condition of consent has been imposed accordingly.</p>
6.14 Footpath awnings and colonnades	Acceptable subject to conditions	<p>With the exception of Tweed Place, a combination of a continuous awning and weather protected footpath widening is provided. The part of Tweed Place that does not include any weather protection contains the driveway, substations, meter rooms and the like. This arrangement is considered to be acceptable.</p> <p>The DCP requires awnings to have a clear height between 3.2-4.2m. It appears that the Barker St clearance is less than 3m. A condition addressing this is recommended.</p>

7. Signage and Advertising	Compliance	Comments
Signage requirements	Not applicable	Signage does not form part of the application. A separate signage development application will need to be submitted for Council's consideration.
8. Specific Sites	Compliance	Comment
8.2 Energy	Yes	BASIX certificates have been submitted for the proposal demonstrating compliance. It is nevertheless recommended that additional sun shading be provided to the exposed south-west facing apartments. Refer discussion in the Issues section below.
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	Acceptable subject to conditions	Refer discussion in the Issues section below.
8.5 Water	Yes	Water efficient fixtures and fittings are to be installed when BASIX requirements are met. Appropriate stormwater conditions have been recommended.
9. Specific Sites	Compliance	Comment
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 types, including adaptable units. The proposal is located within close proximity to employment opportunities, transport, community facilities and open space infrastructure.

10. Specific Sites	Compliance	Comment
10.1 Managing transport demand	Yes	<p>A traffic, parking and access assessment has been submitted with the application.</p> <p>Refer to discussion of transport, parking and servicing under the heading Issues.</p>
10.3 Vehicle parking	Able to comply	<p>A shared basement is proposed for use by Sites 7, 17 and 18.</p> <p>The proposed allocation for Sites 7 and 17 are as follows:</p> <ul style="list-style-type: none"> • 81 x standard residential car parking spaces; • 39 x accessible residential car parking spaces; • 6 x service vehicle bays; • 2 x car share vehicle parking space; • 194 x storage cages; • 1 car wash bay; • 3 motorcycle bays; and • End of Trip Facilities. <p>Non-compliances with respect to the general basement layout including visitor bicycle parking are discussed in the Issues section of the report.</p>
10.4 Vehicle access and footpaths	Yes	<p>Vehicle access is proposed into Site 7 off Tweed Place for shared use of the loading dock area and access to the basement levels for Sites 7, 17 and 18.</p>

Issues

Building Height - LEP

39. The height of buildings development standard varies across the site. For Site 7, the SLEP (GSTC) 2013 permits a maximum building height of RL 75, RL 64 and RL 50. For Site 17, RL 62.5 and RL 50 are permitted.

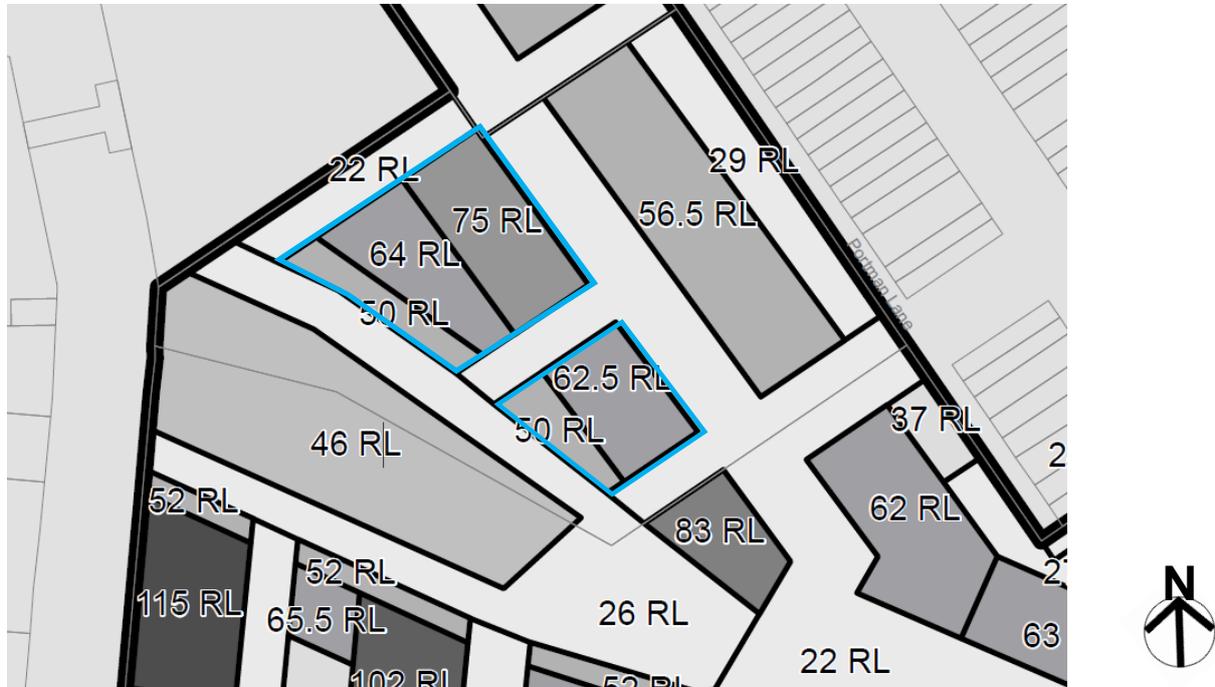


Figure 14: Excerpt from Height of Buildings Map in the Sydney Local Environmental Plan (Green Square Town Centre) 2013. The boundaries of Sites 7 and 17 are shown in blue.

40. For Site 17, a strip, measuring a maximum depth of 1.5m across Levels 11-13 of the south western facade (facing the Plaza) of the residential tower protrudes laterally beyond the RL 50 LEP height control portion (equivalent to a height of approximately 33m). At this location the proposed building height is approximately 43m, which equates to a variance of 20.92%.
41. For Site 7, a portion of the south western facade (facing the Plaza) on Levels 17 to 19 of the residential tower protrudes laterally 450mm into the RL 64 height limit. The protrusion is attributed to facade articulation. For this portion, the building has a height of 72.4m, a variation of 8.4m (13%).
42. The departures from the height controls are illustrated in the Figures below.

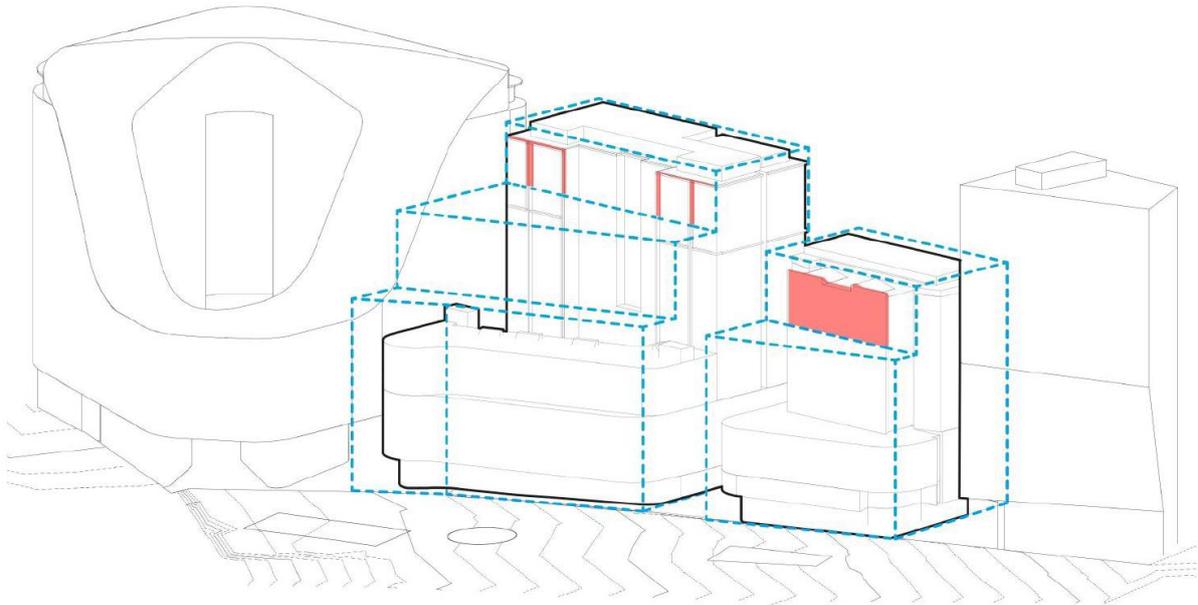


Figure 15: LEP height departure (shown in red) - envelope view from Plaza

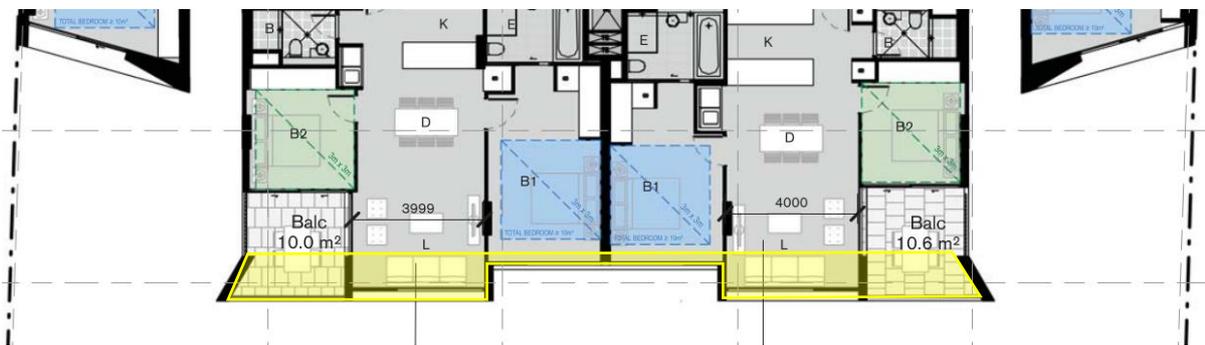
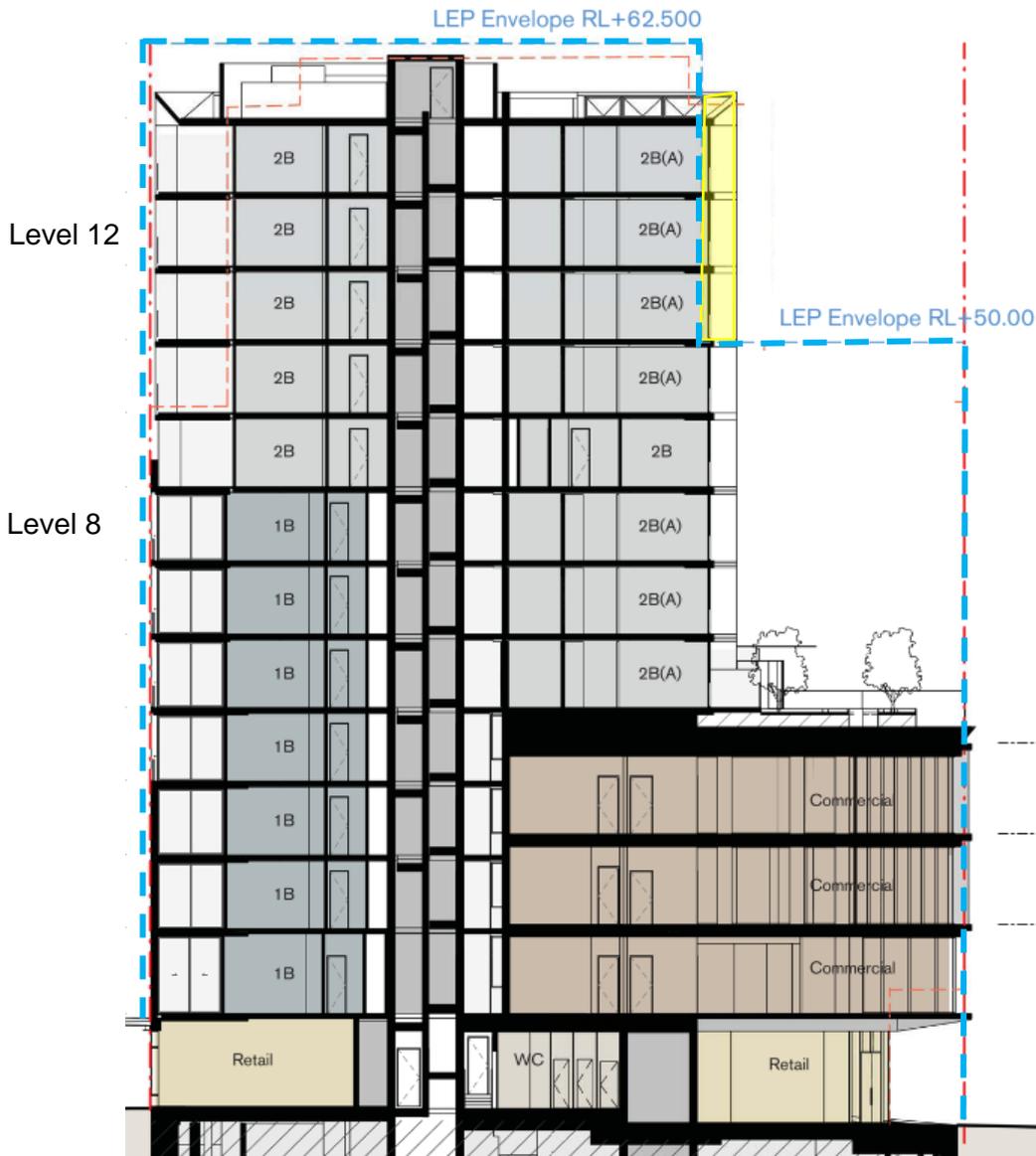


Figure 16: Top - proposed section of Site 17 showing SLEP (GSTC) 2013 maximum height control with the portion of the building that exceeds LEP RL 50 highlighted in yellow. Below – the south western half of one of the affected floors showing the approximate depth of non-compliance highlighted in yellow.

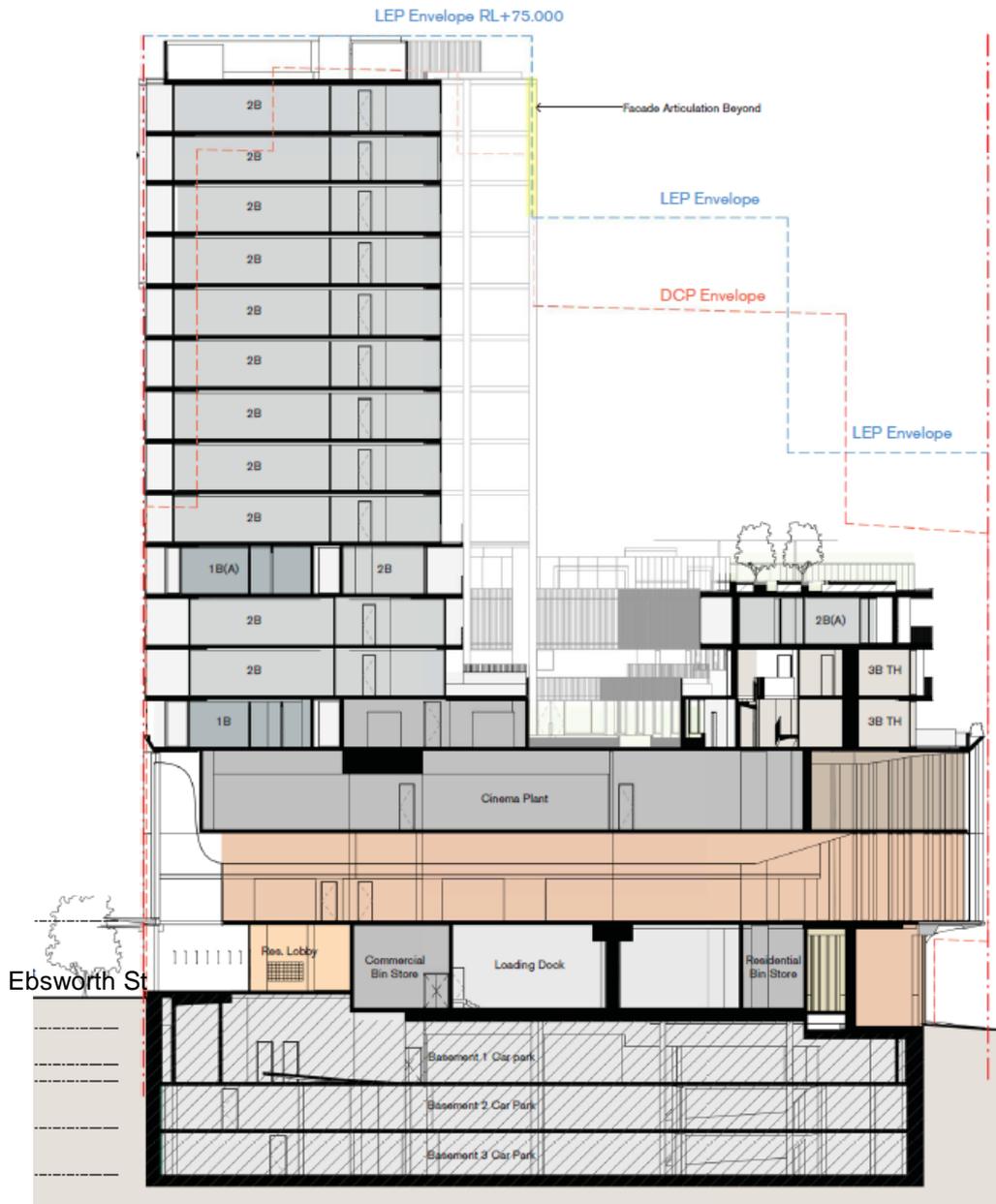


Figure 17: Section of Site 7 showing SLEP (GSTC) 2013 maximum height control with the portion of the building articulation that exceeds LEP RL 64 highlighted in yellow

Clause 4.6 request to vary a development standard

43. A portion of Site 7 is subject to a maximum height control of RL 64. The proposed development has a height of RL 72.4 to part of the building within that portion of the building on Site 7.
44. A portion of Site 17 is subject to a maximum height control of RL 50. The proposed development has a height of RL 60.46 to part of the building within that portion of the building on Site 17.
45. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

46. A copy of the applicant's written request is provided at Attachment C.

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

47. The applicant seeks to justify the contravention of the height 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 applicant has referred to the first of the five tests established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The test seeks to demonstrate that the objectives of the standard are achieved notwithstanding non-compliance with the numerical standard. A summary of the applicant's assessment against the objectives of the control are provided below:
 - (ii) Objective (a): to ensure acceptable height transitions between new development and heritage items and buildings in heritage conservation areas.

There are no heritage items or conservation areas in close proximity to the site. The proposed development provides appropriate height transitions to surrounding development.

- (iii) Objective (b): to ensure sharing of views.

There will be no additional impact on the sharing of views as a result of the additional height when compared to a compliant proposal, as the vertical protrusion is on the south western side of the development adjoining the Green Square Plaza.

The proposal is compliant with the DCP envelope in the area it is inconsistent with the SLEP GSTC 2013 envelope indicating the non-compliance will not result in any unforeseen impacts.

- (iv) Objective (c): to ensure acceptable height transitions from the Green Square Town Centre to adjoining areas.

The proposed building massing demonstrates an acceptable height transition to the Green Square Plaza to the south west as well as to the surrounding mixed-use developments. The proposed minor non-compliance will not impact on the height transition of the built form from the GSTC to adjoining areas as the site is located within the centre of the GSTC.

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

The building envelope as proposed has been developed to minimise overshadowing of the adjacent public domain through the proposed envelope. The significant setbacks and lower podium heights along the plaza edge in comparison to the DCP and SLEP GSTC 2013 envelopes result in a reduced impact on this important public space.

The proposed development will contribute to the residential, commercial, retail and cultural objectives of the GSTC. The development provides access to the newly completed Green Square Plaza and activates the street frontages of the public domain via the inclusion of ground floor retail.

Amenity impacts including solar, wind, facade reflectivity and CPTED have been considered within the SEE accompanying the development application.

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

The proposed buildings are bound by roads to the north, east and west and the Green Square Plaza to the south. The proposed built-form defines the boundaries of the site, in particular the built form defines the high street of Ebsworth Street with a 0m setback to this boundary.

Active uses (retail, cinema, residential and commercial lobbies) are proposed at ground level with a generous setback providing wide pedestrian footpaths around the site contributing to pedestrian movement along the street network and within the adjoining Green Square Plaza.

The minor non-compliance to the building height on the south western side of the Site 7 and Site 17 tower forms will not impact on the physical definition of the street network or public places.

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The non-compliance is very minor with only a 0.45m wide vertical protrusion of the Site 7 tower and a 1.45m wide vertical protrusion of the Site 17 tower into the lower height limits on the site.
 - (ii) The non-compliance is numerical in nature only, and does not result in any adverse impact on the surrounding public or private domain.
 - (iii) The proposed variation does not impact on the perceived bulk or scale of the development. The buildings have been designed to address the unique character of the site and the future surrounding land uses.
 - (iv) There are no amenity impacts associated with the non-compliance. The proposed building has been carefully designed to reach a built form that is contextually sensitive and architecturally prominent to GSTC. It has been demonstrated that the non-compliance does not result in additional overshadowing, view loss or an unacceptable scale of development.

- (v) The non-compliance is offset by a reduced podium height and is the result of numerous massing studies which determined the proposed built form provides a superior outcome when compared to a compliant SLEP GSTC 2013 envelope with particular regard to overshadowing of the public plaza, solar access to apartments and the urban design response to adjacent development. The proposed built form results in high amenity for residents and the public.

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

48. 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.
49. Does the written request adequately address those issues at Clause 4.6(3) (a)?
50. The applicant's written request has addressed one of five tests established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to adequately demonstrate that compliance with the development standard is unreasonable and unnecessary. It is considered that the justification provided in the first test that the objectives of the standard are achieved notwithstanding non-compliance with the standard is adequate.
51. The applicant has demonstrated that due to the height exceedances being a relatively minor lateral protrusion on the south west facade, appropriate height transitions between neighbouring developments and sharing of views will be maintained notwithstanding the part of the development that exceeds the maximum height control. The areas of the non-compliance is well set back from the Plaza edge which reduces the impact on the public domain and ensures that the built form will not cause adverse amenity impacts.
52. Does the written request adequately address those issues at clause 4.6(3) (b)?
53. A narrower floorplate for Site 17 to meet the LEP requirement would reduce valuable amenity within the 6 affected south-west facing apartments on Levels 11-13. The additional depth that creates the lateral protrusion causing the height exceedance creates a total area of approximately 27sq.m. This additional floor area results in improved internal amenity to those apartments that otherwise perform poorly in other respects such as solar access due to their aspect. More functional balcony spaces are also provided by as a result of the additional depth.
54. Removal of the non-complying elements to achieve strict compliance would not result in an improved planning outcome – the additional height does not cause any material impact in terms of privacy or view loss to neighbouring residential areas, or adverse overshadowing to residential properties or the public domain.

55. The applicant was asked to demonstrate the impact of the non-compliance in terms of overshadowing to the Green Square Plaza. More specifically, the DCP requires the following:
- At least 50% of a 4m wide strip along the full length of the southern edge of the Green Square plaza between 12pm and 2pm at midwinter to achieve direct sunlight during these times.
 - Ability to achieve consolidated areas of direct sunlight between 12pm and 2pm at midwinter generally consistent with the location and size indicated in Figure 3.2 of GSTC DCP.

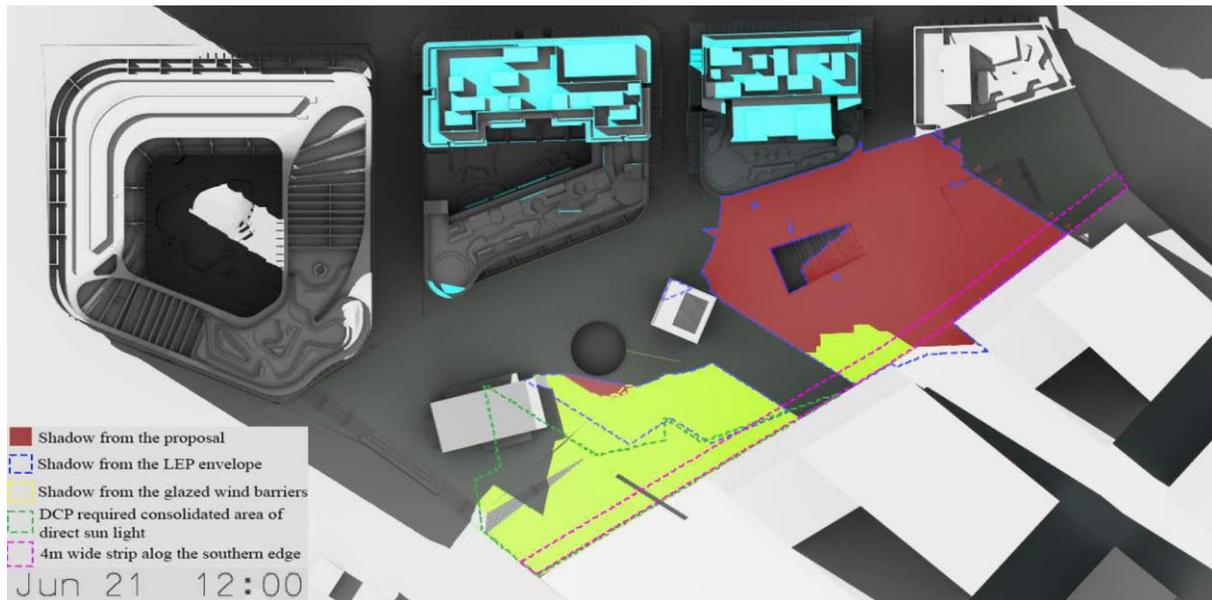


Figure 18: Shadow diagram at 12 noon, midwinter. Additional shadows from the proposal are shown in red, with the DCP required 4m strip shown by the dashed purple line and the DCP required "consolidated area" shown by the dashed green line.

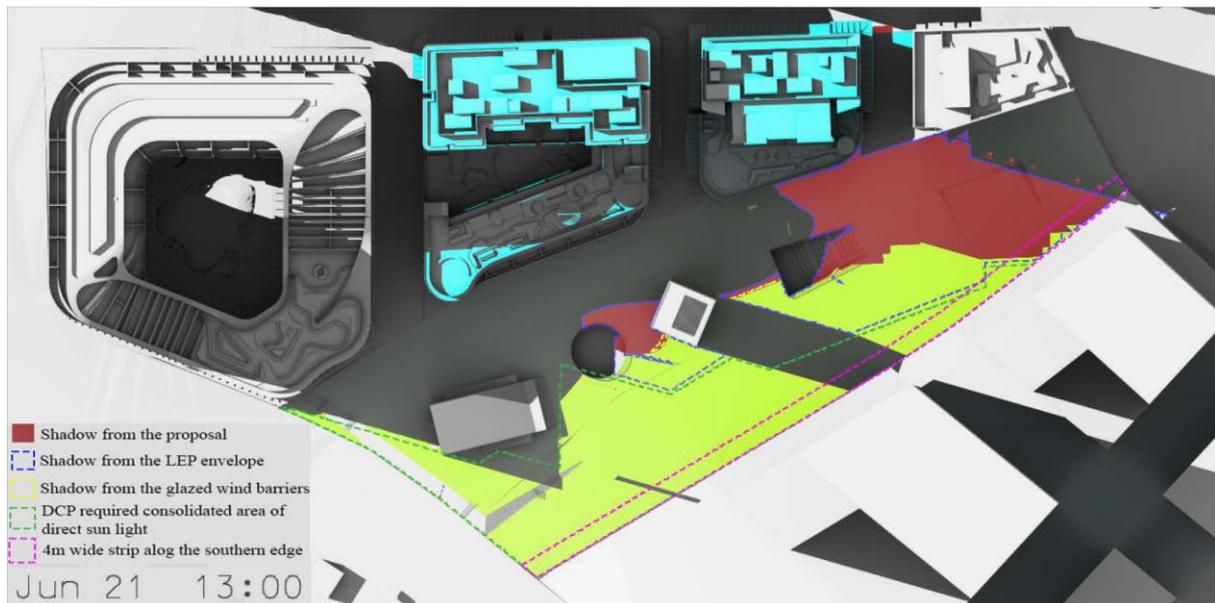


Figure 19: Shadow diagram at 1.00pm, midwinter. Additional shadows from the proposal are shown in red, with the DCP required 4m strip shown by the dashed purple line and the DCP required "consolidated area" shown by the dashed green line.

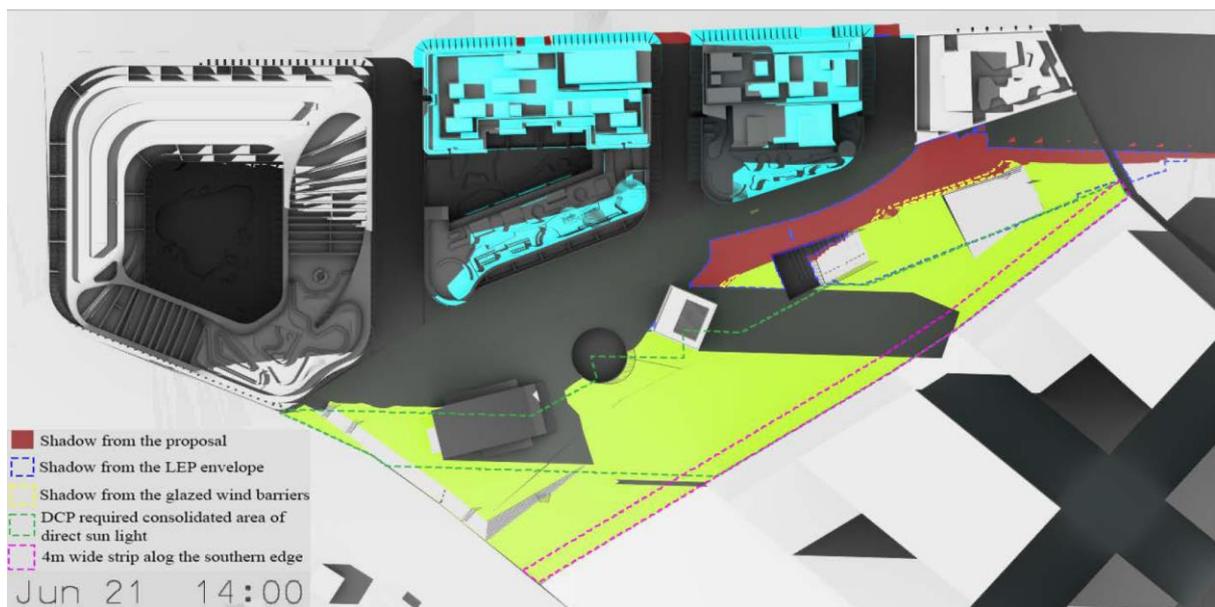


Figure 20: Shadow diagram at 2.00pm, midwinter. Additional shadows from the proposal are shown in red, with the DCP required 4m strip shown by the dashed purple line and the DCP required "consolidated area" shown by the dashed green line.

56. As demonstrated in the Figures above, notwithstanding the height exceedances, the proposal maintains direct sunlight between 12 midday and 2pm at midwinter generally consistent with the location and size of the consolidated areas of the Plaza, as required by the DCP.
57. In addition, solar access to at least 50% of a 4m wide strip along the southern edge of the Plaza is achieved by the proposal.

58. Additional shadow information provided by the applicant for March, September and December shows that the Plaza will get significant periods of direct sunlight throughout the rest of the year during those times.

Is the development in the public interest?

59. The objectives of the B4 Mixed Use zone include:
- (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.
60. The proposal provides a mix of compatible uses including ground floor retail tenancies that maximise street activation to the plaza and surrounding streets, commercial tenancies within the podiums with residential apartments above, and an entertainment facility (cinema) within Site 7. The site is well serviced by local public transport networks and is situated close to similar development planned in the immediate vicinity and surrounds, which collectively support the viability of Green Square Town Centre.
61. The objectives of the height development standard include:
- (a) to ensure acceptable height transitions between new development and heritage items and buildings in heritage conservation areas,
 - (b) to ensure sharing of views,
 - (c) to ensure acceptable height transitions from the Green Square Town Centre to adjoining areas,
 - (d) to ensure the amenity of the public domain by restricting taller buildings to only part of a site,
 - (e) to ensure the built form contributes to the physical definition of the street network and public spaces.
62. The subject site is not within the immediate vicinity of any heritage items or a conservation area. Notwithstanding that, the proposed buildings are clustered around various other taller developments in the centre of the GSTC, and as a consequence the additional height, which are minor lateral protrusions, have no discernible impact on the transition of heights between the GSTC and the surrounding areas.
63. The height non-compliances are localised at the south-western facades of the towers facing the Plaza with higher, compliant components of the buildings fronting Ebsworth Street. Consequently, view corridors from the north and north-east towards the Plaza are not impacted as a result of the non-compliant height.
64. The height exceedances is confined to a portion of the upper tower levels and therefore, is very unlikely to be easily discernible resulting in any adverse impacts on the amenity of the public domain. The portions of the development that exceed the height control are well set back from the Plaza frontage and therefore the resultant built form will not impact the definition of surrounding streets or open spaces that it faces on to.

65. The proposal is in the public interest because it is consistent with both the objectives of the height development standard and the objectives of the B4 Mixed Use zone.

Conclusion

66. For the reasons provided above the requested variation to the height development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 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 the height development standard and the B4 - Mixed use zone.

Height in Storeys - DCP

67. The GSTC DCP 2012 permits the following maximum building height in storeys for Sites 7 and 17:

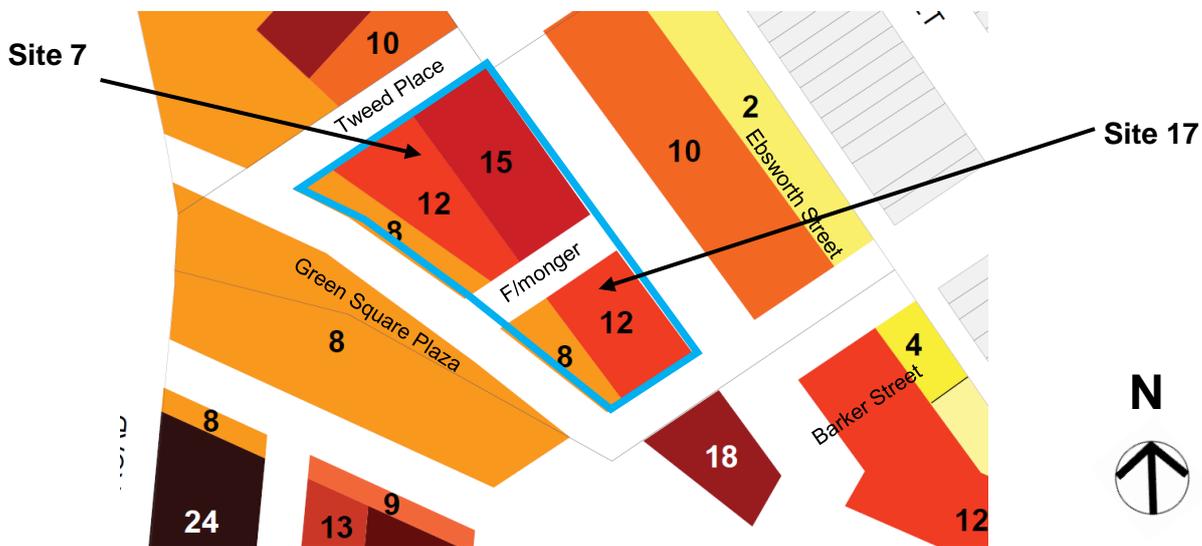


Figure 21: Excerpt from Figure 6.8: Building Height in storeys control in the GSTC DCP 2012. The boundaries of Sites 7 and 17 are shown in blue. Street names added for context.

68. At 16 storeys, the building on Site 7 exceeds the DCP height in storeys control by one storey (though is within the LEP height limit).

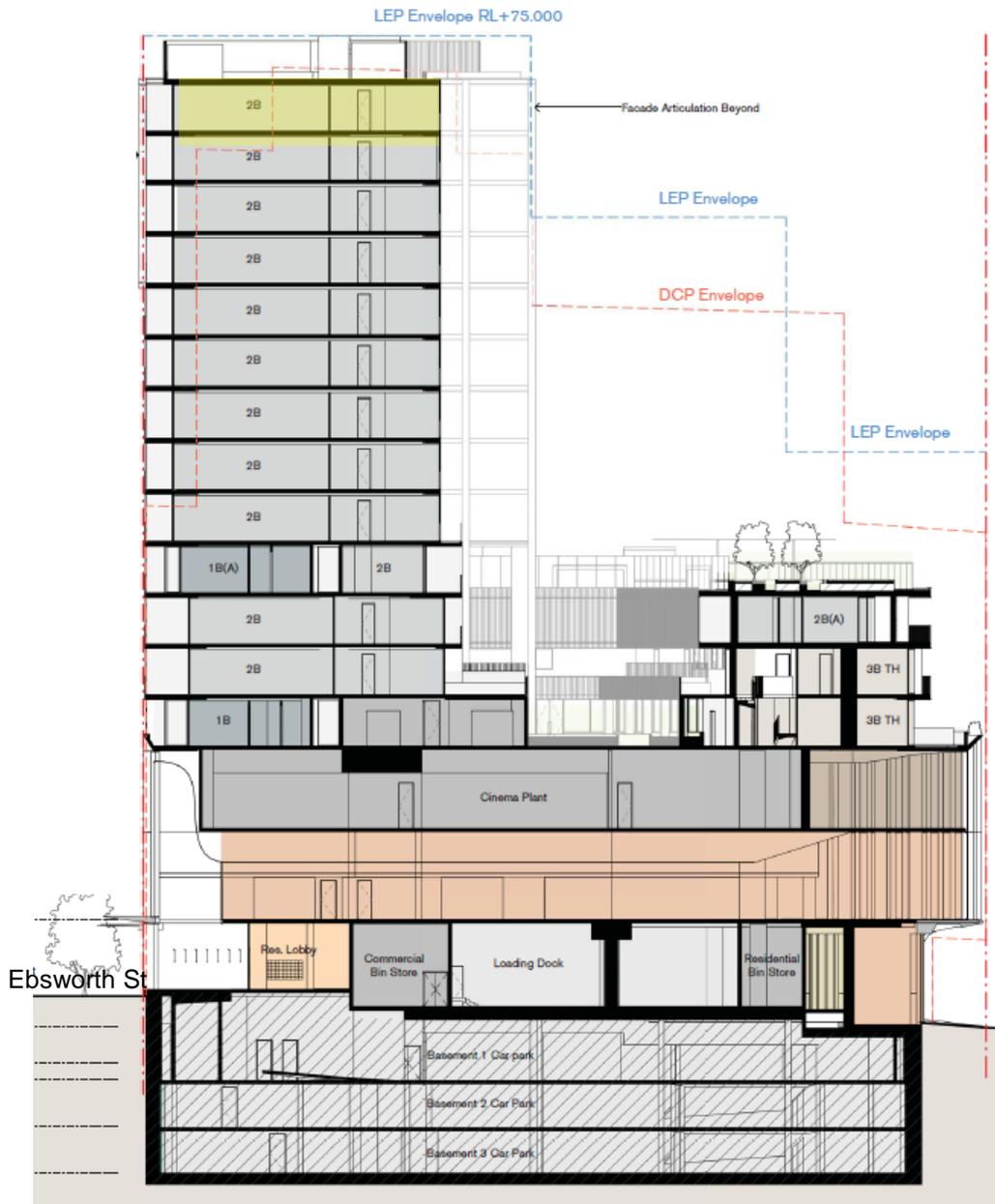


Figure 22: Section of Site 7 with additional storey highlighted in yellow. The SLEP (GSTC) 2013 maximum height is shown with a blue dashed line.

- 69. At 13 storeys, the building on Site 17 also exceeds the DCP height in storeys control by one storey (though is also within the LEP height limit and the upper limit of the DCP prescribed envelope).

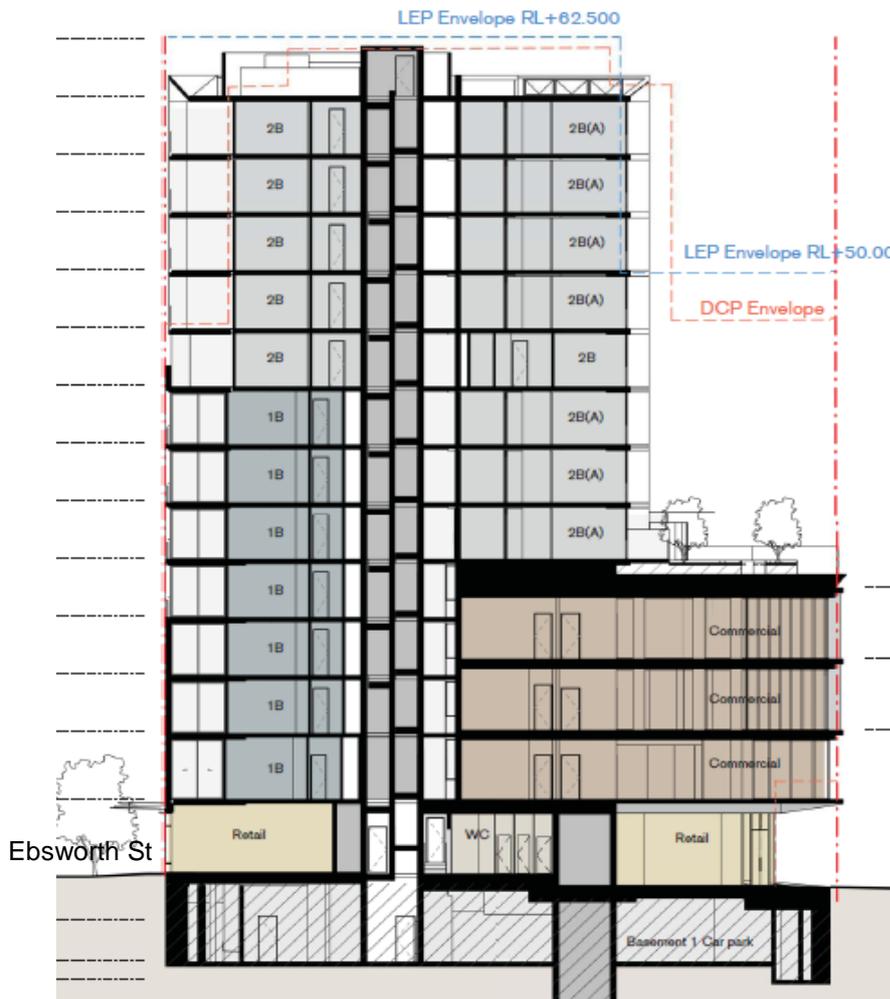


Figure 23: Section of Site 17 showing that the additional storey is contained within the upper limit of the SLEP (GSTC) 2013 maximum height (shown with a blue dashed line) and the upper limit of the SDCP (GSTC) 2012 building envelope (shown with a red dashed line).

70. The applicant submits that the proposed heights are appropriate for the site for the following reasons:
- (a) The objectives of the provision have been met - the gradual increase in height away from the plaza to prevent overshadowing is met by this proposed height. This height allows for reduced massing on the plaza, and thus reduced overshadowing.
 - (b) Solar compliance is maximised - this massing move to the northern edge of the site maximises the number of apartments achieving solar compliance as outlined in the ADG. It significantly improves the solar performance of both buildings.
71. The Figure below provide a comparison of the unused DCP envelope (shaded in green) with the area of non-compliance (shaded in red).

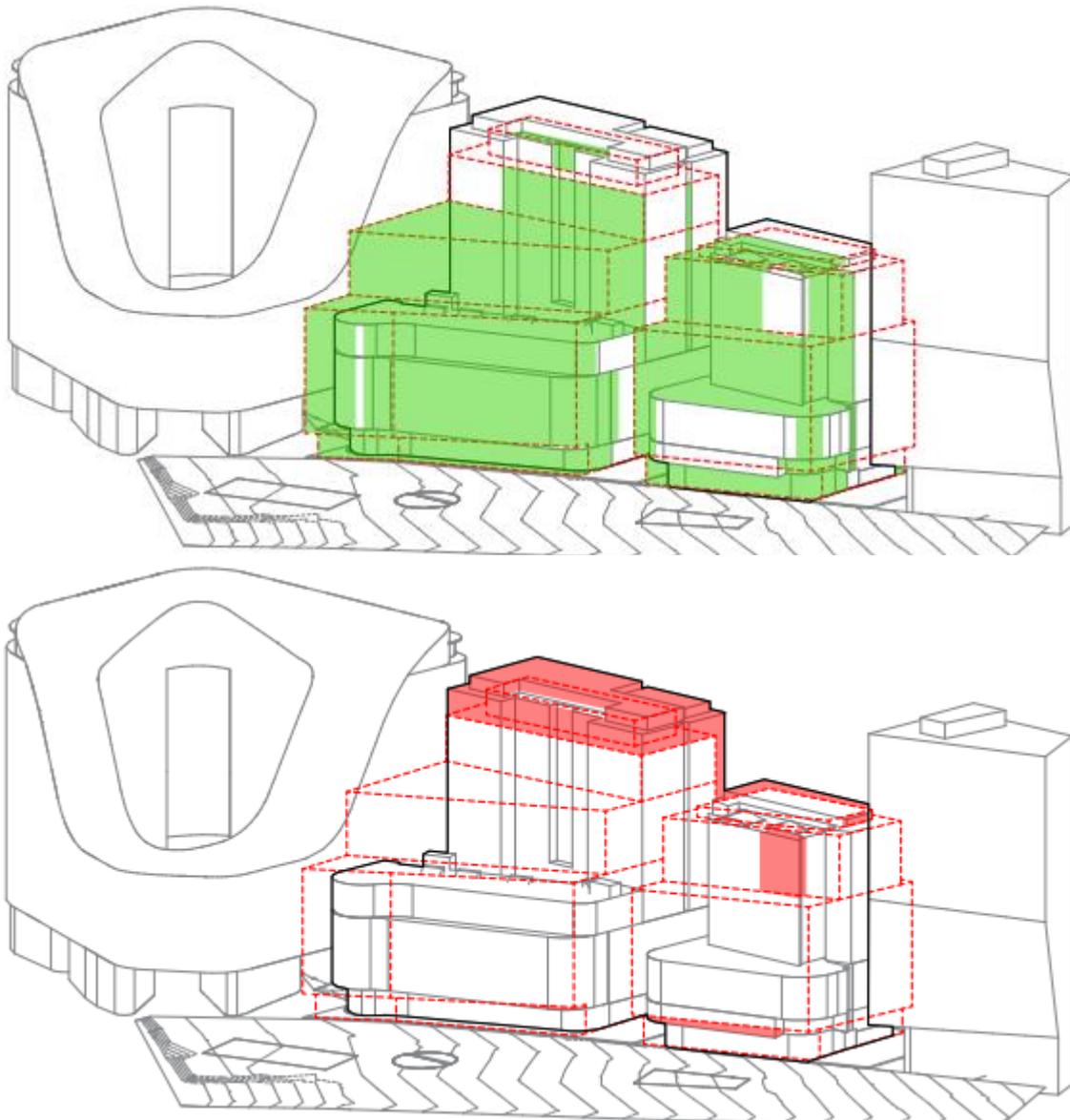


Figure 24: Plaza View, DCP Envelope Diagram - Unused envelope shaded green (top) and Envelope non-compliance shaded red (bottom). It is noted that the additional storey is contained within the upper limit of the LEP maximum height.

72. On balance, as the additional storey on both Sites are within the maximum permitted LEP height and will not result in unreasonable impacts (refer earlier discussion), the proposal is considered to be acceptable.

Ceiling Height

73. The effect of Clause 30(3)(b) of SEPP 65 (Design Quality of Residential Apartment Developments) is that the design criteria identified in sub-clause (1), that is minimum car parking, minimum apartment sizes and minimum floor to ceiling heights (all in the Apartment Design Guide), are development standards. As such, a proposal that does not comply with any of these standards needs to be subject of a request to vary the standard under Clause 4.6 of Sydney Local Environmental Plan (Green Square Town Centre) 2013.

74. The ADG contains the following two standards of particular note for this development:
- 2.7m minimum ceiling height in habitable rooms; and
 - 3.3m minimum ceiling height on the ground and first floor to promote future flexibility of use.
75. For the residential apartments, a compliant ceiling height is provided to the living and sleeping areas, however a ceiling height of 2.4m is proposed to kitchens.

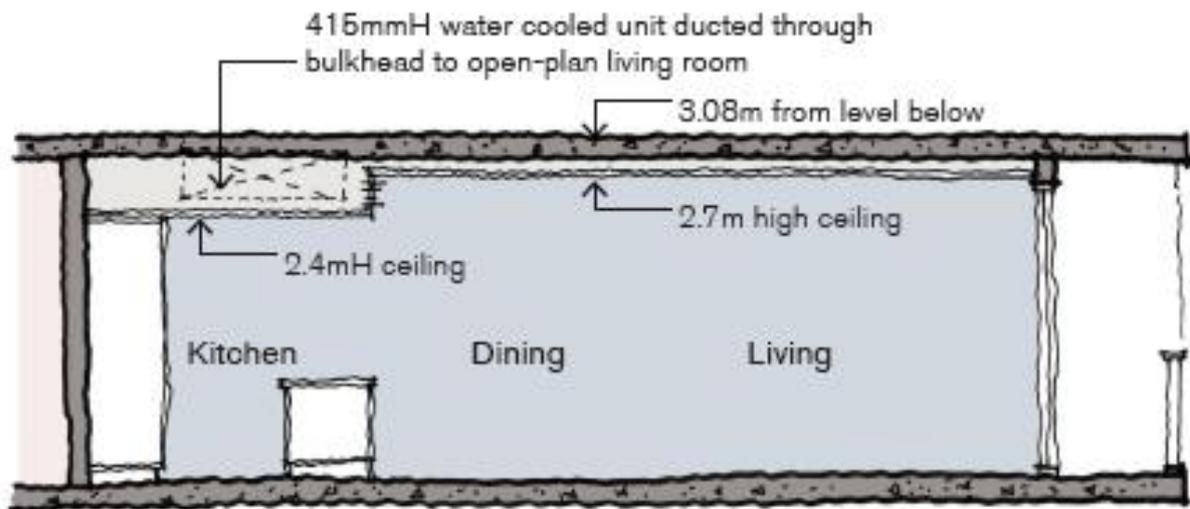


Figure 25: Typical Kitchen Section

76. For the ground and first floors, the ceiling heights comply with the exception of the following areas:
- Cinema (Site 7) candy bar (2.6m);
 - Ground floor (Ebsworth Street) retail tenancies 17.1 (3.09m to 3.3m) and 17.2 (2.59m to 3.19m);
 - First floor (Ebsworth Street) residential units on Site 17 (2.4m to 2.7m); and
 - First floor commercial tenancy on Site 17 (localised under a structural beam).

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

77. The applicant seeks to justify the contravention of the Ceiling Heights development standard on the following basis:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - 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 generally located no more than 8m 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 commercial / retail at lower levels of buildings within mixed use areas. In this case, commercial / retail uses are proposed at Level 1 and Level 2 and the minor non-compliance with the recommended floor to ceiling height do not inhibit commercial / retail development within these levels nor or in the future. The reduced ceiling heights are required to accommodate services, plant and structure, whilst also dealing with changes in levels across the site. They do not compromise natural ventilation or solar access of the commercial / retail tenancies or circulation spaces.

- (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 ceiling heights at ground and first floors, the future use of these spaces for retail, commercial and cinema is not inhibited. The reduced ceiling heights are required to accommodate services, plant and structure, whilst also dealing with changes in level across the site. They do not compromise the natural ventilation or solar access of the commercial / retail tenancies or circulation spaces.

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

78. 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)?

79. The written request states that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.
80. Notwithstanding this, the non-compliance with the minimum 3.3m ceiling heights for the two ground floor retail tenancies is not supported. The low ceiling heights (as low as 2.59m) does not promote flexibility of building use over the life of the building, on this important site within the heart of the Green Square Town Centre.
81. In accordance with the justifications set out in *Wehbe v Pittwater Council (2007) 156 LGERA 446*, the written request has otherwise demonstrated that the objectives of the Ceiling Heights development standard are for the most part achieved notwithstanding the non-compliance with the standard. Accordingly, with the exception of the ceiling heights for the two ground floor Ebsworth Street retail tenancies, 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)?

82. 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, with the exception of the ceiling heights for the two ground floor Ebsworth Street retail tenancies, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

83. As outlined above, with the exception of the ceiling heights for the two ground floor Ebsworth Street retail tenancies, the written request has demonstrated that the objectives of the Ceiling Heights development standard are achieved notwithstanding the non-compliance with the standard.

84. 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.
85. The applicant states the development is consistent with these objectives on the following grounds:
- (a) The proposed development comprises retail at the ground floor of Sites 7 and 17 and commercial uses on the south western side of the first floor of Site 17. These uses will contribute to the viability of the GSTC and are compatible with the desire 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.
86. With the exception of the ceiling heights for the two ground floor Ebsworth Street retail tenancies, the proposal meets the objectives of the ceiling height development standard and is consistent with objectives of the B4 Mixed Use zone. It is therefore considered to be in the public interest.

Conclusion

87. For the reasons provided above, with the exception of the ceiling heights for the two ground floor Ebsworth Street retail tenancies, the requested variation to the Ceiling Height development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 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.
88. A condition is recommended requiring the ceiling heights for the two ground floor (Ebsworth Street) retail tenancies 17.1 (proposed at 3.09m to 3.3m) and 17.2 (proposed at 2.59m to 3.19m) to be increased to a minimum of 3.3m.

Building Separation and Setbacks - Ebsworth Street

- 89. The proposed buildings, with no setbacks as it fronts Ebsworth Street, do not comply with the following controls:
 - (a) Under the ADG, the floors 9 storeys and above are required to have a 24m separation from other buildings; and
 - (b) Under the DCP, above an 8 storey street frontage height, a 3m secondary setbacks is required.

- 90. The non-compliances are illustrated in the Figures below.

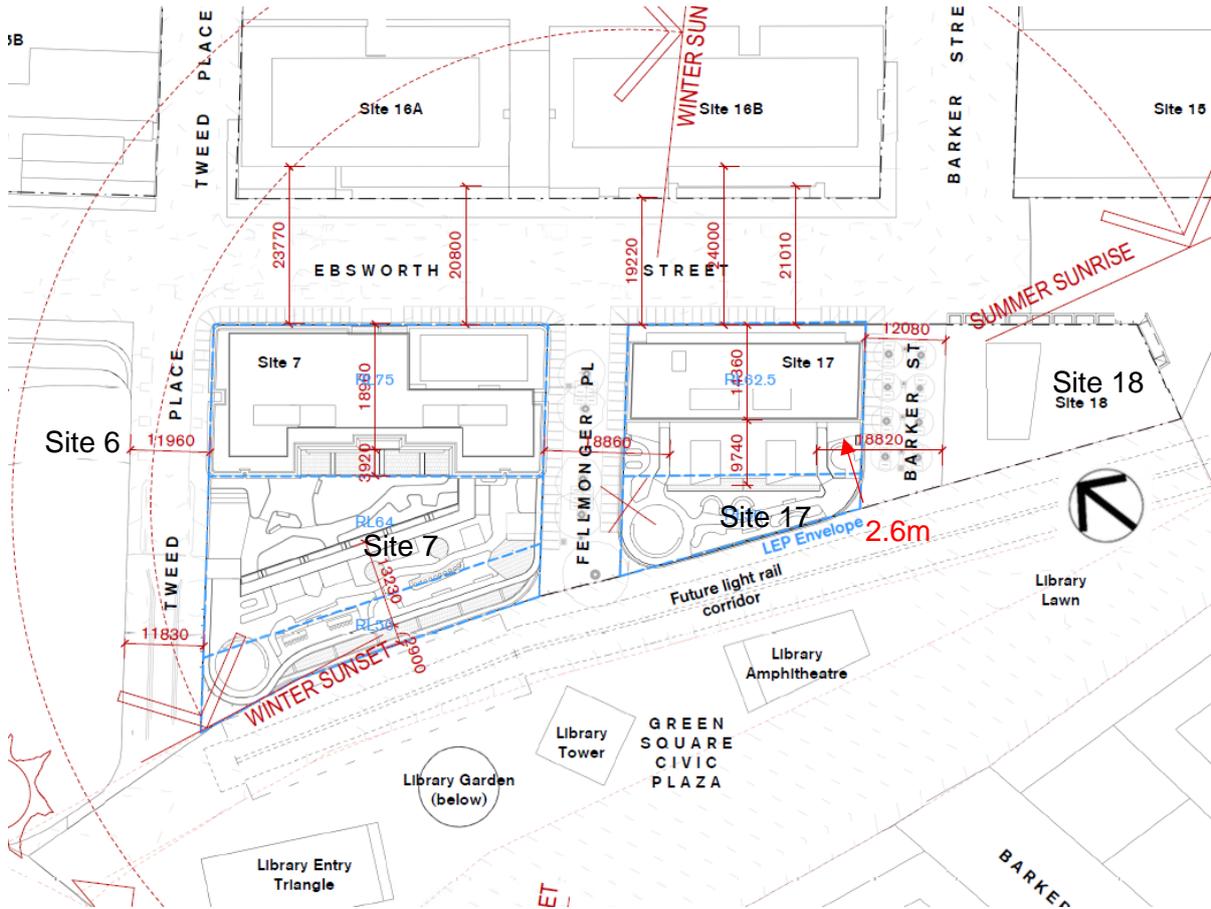


Figure 26: Site analysis plan illustrating the proposed separation distances between Sites 7 and 17 and existing and future developments in the GSTC.

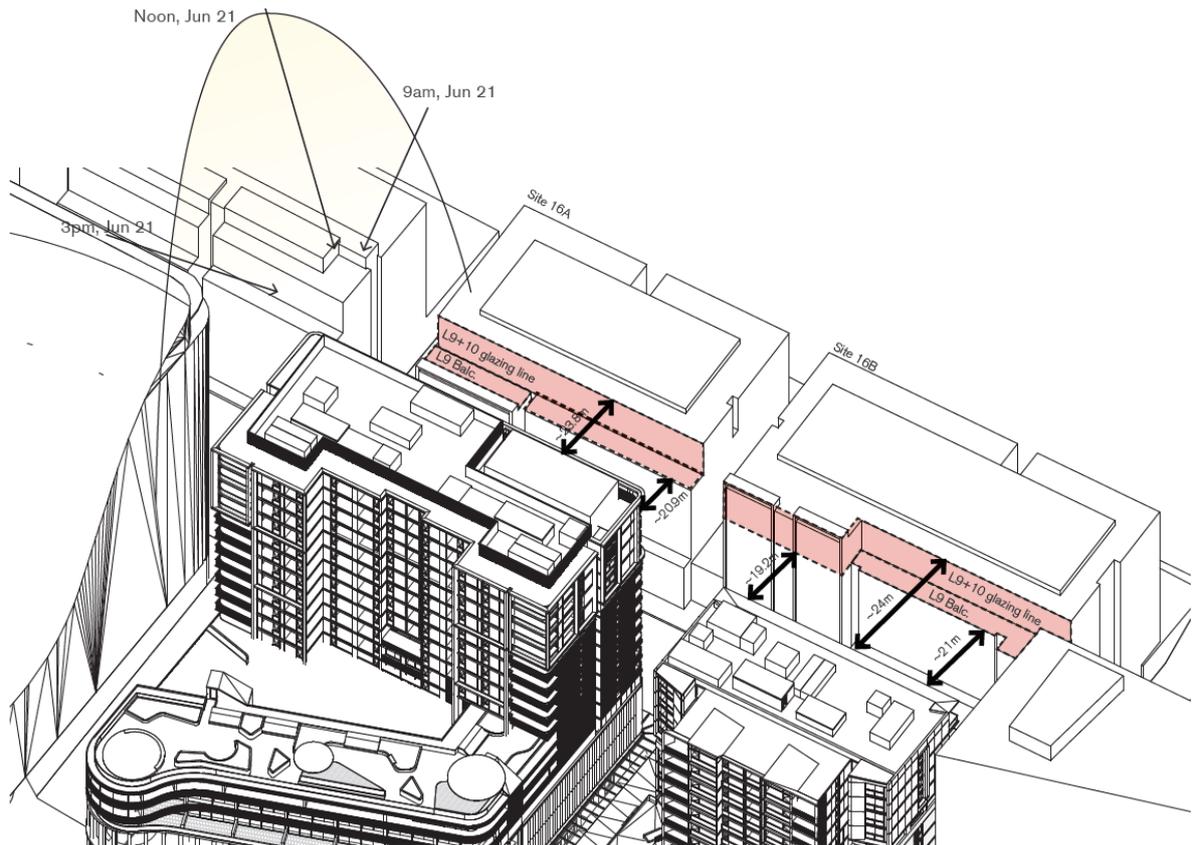


Figure 27: ADG Building Separation - context diagram showing separation distances from Sites 16A and 16B (constructed and occupied)



Figure 28: ADG Building Separation - Ebsworth St Elevation with floors achieving less than 24m separation shaded

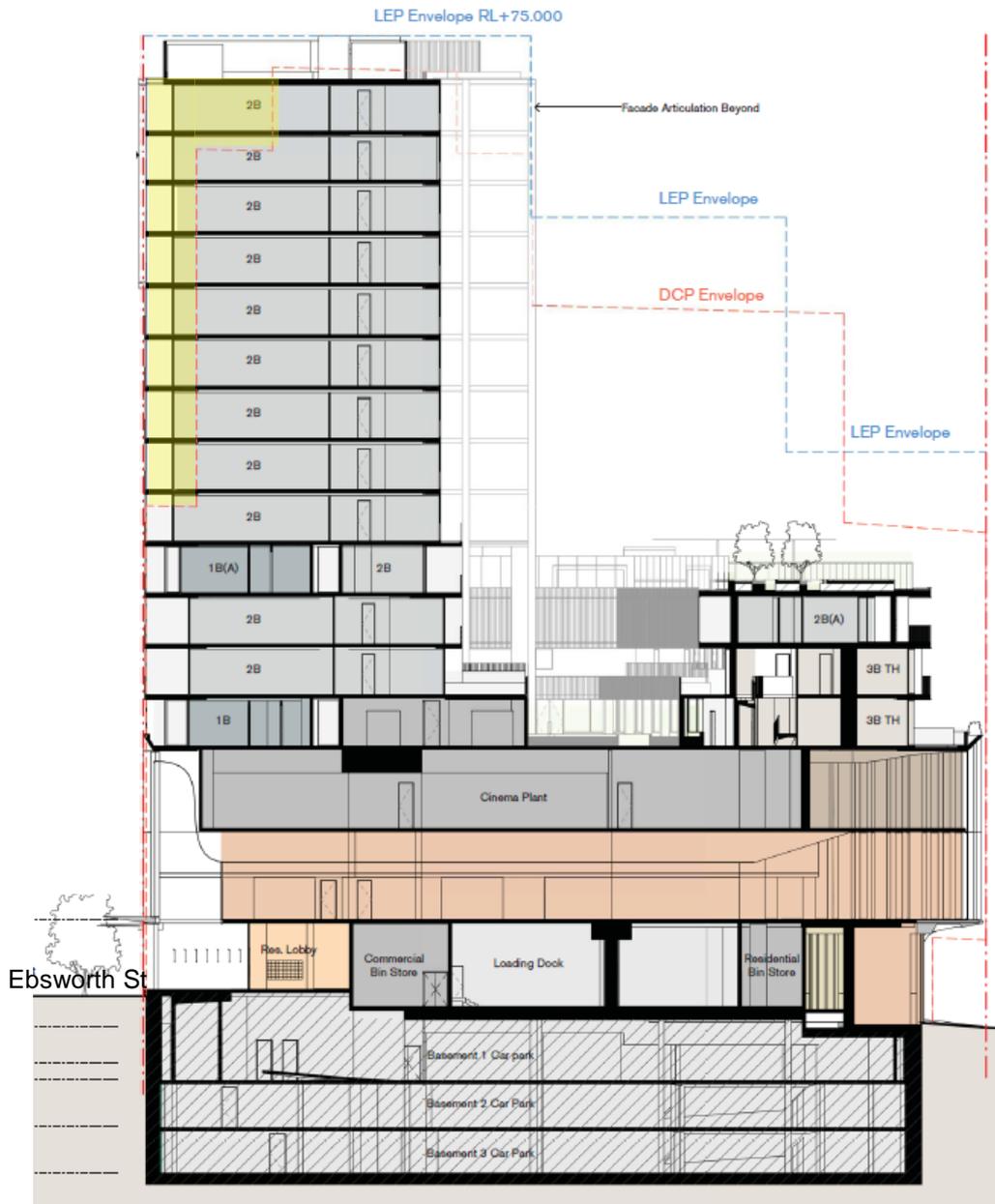


Figure 29: DCP Upper Level Setback - Site 7 Section with dashed red line indicating DCP envelope and the portion of the building that exceeds the DCP upper setback highlighted in yellow

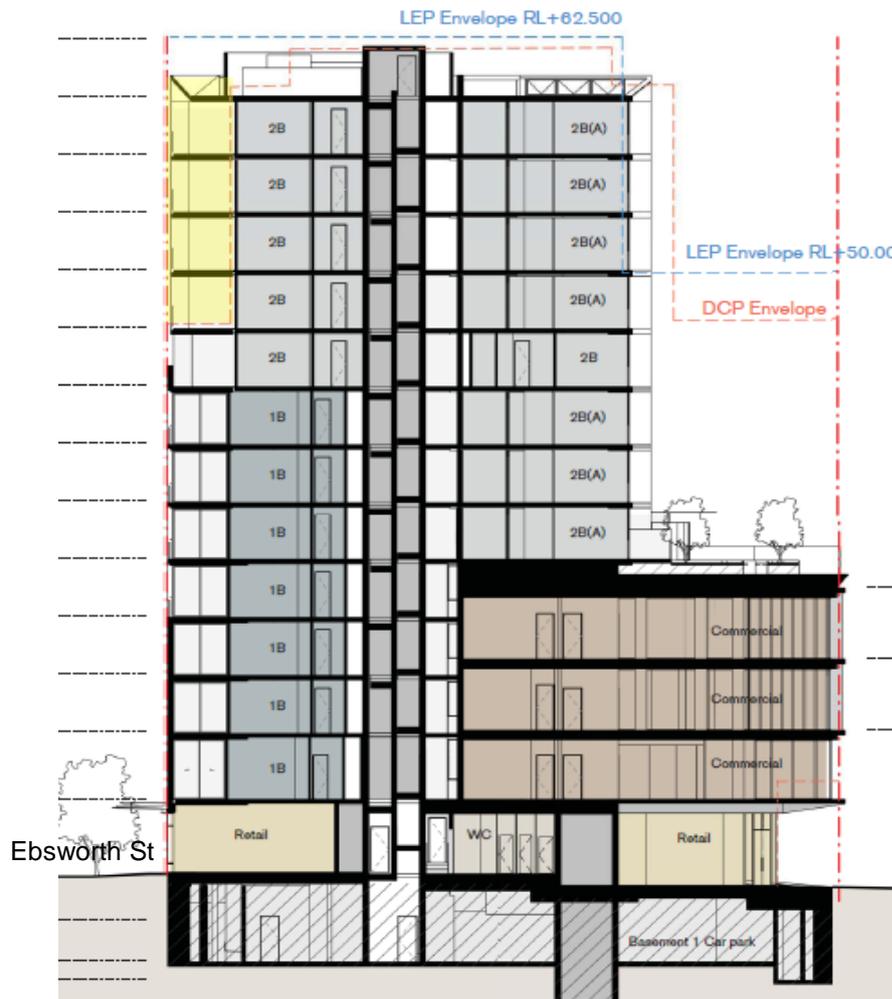


Figure 30: DCP Upper Level Setback - Site 17 Section with hatched red line indicating DCP envelope and the portion of the building that exceeds the DCP upper level setback highlighted in yellow

91. On balance, the proposed non-compliances are considered to be acceptable, particularly noting the following:
- (a) At between 19m and 21m, the building separation non-compliances between the proposed development on Sites 16A and 16B (which terminates at level 10) are considered to be acceptable and unlikely to result in any unreasonable impacts that would require mitigation.
 - (b) Due to the layout of the Green Square Town Centre public domain and development blocks (established as part of the LEP and DCP), the orientation of Sites 7 and 17 are such that optimum solar access to the buildings is gained from the Ebsworth Street frontage. Consequently, no setbacks have been provided to maximise the amount of sun access to the balconies and living room spaces of those Ebsworth Street facing apartments.

Building Separation - other frontages

92. Site 18 (which is subject of a separate report for the CSPC's consideration) is located approximately 12m from the south eastern face of Site 17, across Barker Street. Habitable rooms and balconies are located on the opposite facades of Sites 17 and 18. As a result, the ADG 18m separation requirement on Levels 5-8 and the 24m requirement on Levels 9 and above is not achieved.
93. Similarly, Site 7 is located approximately 12m from the south eastern face of the Infinity development on Site 6 (nearing completion) across Tweed Place. Habitable rooms and balconies are located on the opposite facades of Site 7 and the Infinity development. As a result, the ADG 18m separation requirement on Levels 5-8 and the 24m requirement on Levels 9 and above is not achieved.
94. Fellmonger Place is approximately 12.2m wide and separates primary and secondary windows of habitable and non-habitable rooms between Sites 7 and 17. As a result, the ADG 18m separation requirement on Levels 5-8 and the 24m requirement on Levels 9 and above is not achieved.
95. The proposed non-compliances between Site 17 and Site 18; between Site 7 and the Infinity development; and between the subject buildings across Fellmonger Place are likely to create adverse privacy impacts if not appropriately addressed. A condition of consent requiring design modifications to windows on the affected levels of Sites 7 and 17 is recommended. It is considered that mitigation measures such as angled windows, frosted or opaque glazing, or privacy louvres are applied to offset views to the opposing buildings will be sufficient to alleviate the privacy impacts arising from the non-compliant separation distances.
96. It is noted that the building separation distances were established under the GSTC DCP envelopes for the site prior to the ADG.

Building Setback - Green Square Plaza

97. The GSTC DCP requires an 8 storey street frontage height with a varied secondary setback (minimum 8m) to the Green Square Plaza frontage. The proposal complies with the exception of the southern-most corner of the Site 17 tower. This corner of the development is the narrowest part of the overall site.



Figure 31: Typical Upper Level Tower Plan (Site 17) with area of non-compliance identified in red



Figure 32: Perspective of Site 17 from the Green Square Plaza

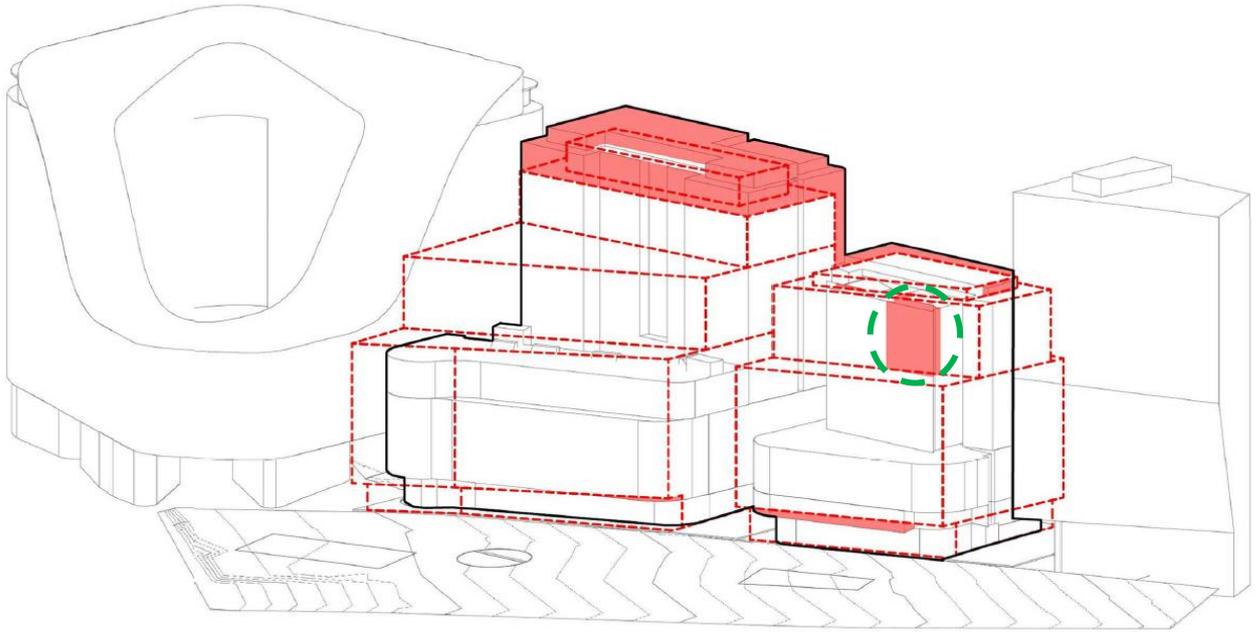


Figure 33: Plaza View of DCP envelope non-compliance (shown in red) with the Plaza setback non-compliance shown by the green dashed line. Note that the proposed envelope complies with the upper limit of the LEP height control.

98. The non-compliance with the 8m setback is considered to be acceptable having regard to the following matters:
- (a) There are no additional mid-winter overshadowing impacts on Green Square Plaza and Neilson Square (refer Building Height discussion above); and
 - (b) The overall development presents an appropriate backdrop to Green Square Plaza.

Building Chamfers

99. A 3m x 3m chamfered corner setback over two levels is required from the site boundary at the intersections of streets to ensure adequate sight lines for cyclists.
100. While chamfered corners are provided, the proposal does not comply in that the chamfers are only single storey in height for both Sites along Ebsworth Street, and columns have been provided to the Site 17 Ebsworth Street corners.
101. The provision of the chamfered setbacks at ground level only (as opposed to taking them up to the first floor) allows the retail awnings to continue around the building corners, providing legibility of pedestrian traffic paths and continuous weather protection.
102. For Site 17, chamfers are set back behind a structural column. The chamfer dimensions have been increased in order to accommodate this whilst not interfering with the structural loading of the building and the visual legibility of the brick tower form and streetscape language.

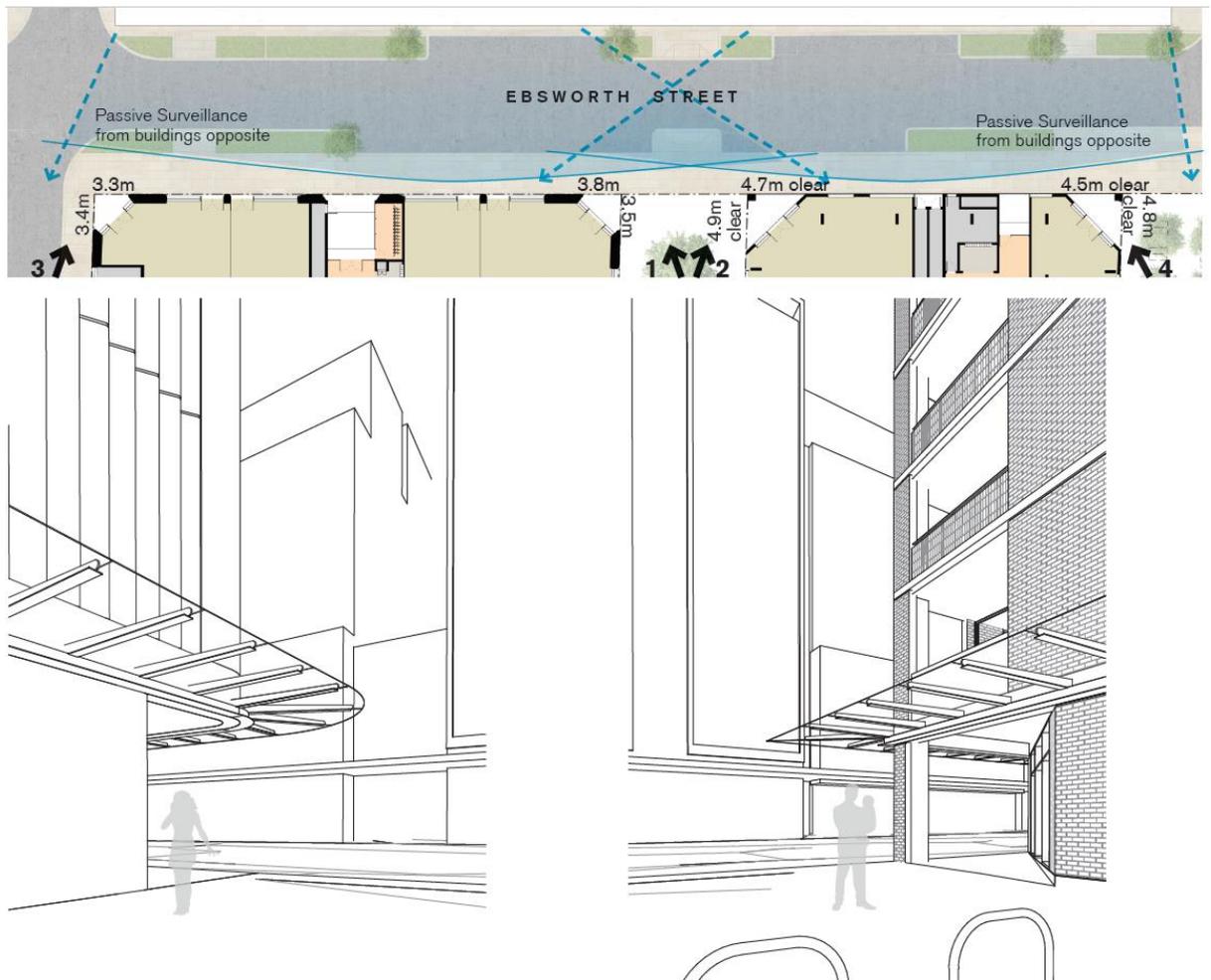


Figure 34: Plan View of Proposed Chamfer Dimensions (top) and Fellmonger Place Perspectives at Site 7 (bottom left) and Site 17 (bottom right)



Figure 35: Photomontage generally looking west down Fellmonger Place

103. On balance, these non-compliances are considered to be acceptable.

Building Parapets

104. A parapet is required to ensure sufficient freeboard and depth to allow draining of the roof and to manage any staining of rainwater coming off the roof and onto the facades. No parapets are shown for the building on Site 7.



Figure 36: Site 7 cross section at the top of the building

105. A condition requiring provision of a parapet is recommended.

Natural Cross Ventilation

106. The ADG requires the number of apartments with natural cross ventilation to be maximised, with the associated design criteria requiring a minimum of 60% in the first nine storeys to be naturally cross ventilated.

107. Staff have calculated that this requirement may be satisfied subject to conditions addressing the following:

- (a) Apartment 7.6.7 relies on a skylight within an undercroft to achieve natural cross ventilation. This may hamper prevailing breezes and neutralise the pressure difference between the sides of the apartments. To optimise access to prevailing winds, a condition is required to remove the communal terrace associated with the community room. This will also manage any noise and BBQ smoke impacts from the terrace to Apartment 7.6.7 via the skylight.
- (b) While the applicant has indicated that Apartment 7.6.8 will be natural cross ventilated, the submitted drawings do not support this. It is recommended that a condition be imposed requiring provision of a window to the stair.
- (c) Similarly, the applicant has indicated that Apartment 7.6.9 will be natural cross ventilated. In order for the majority of the living room to be naturally cross ventilation, a window is required to the stair.

108. With these conditions, staff calculate that 55 out of 91 apartments (60%) in the first nine storeys of Sites 7 and 17 can achieve natural cross ventilation.

Solar access

109. The ADG requires at least 70% of apartments receive a minimum of 2 hours of direct solar access on the living room window and the private open space between 9am and 3pm at midwinter.

110. City staff calculated that in the original 2017 Silvester Fuller scheme, 96 out of the 195 apartments (49%) received 2 hours direct sun to living rooms and private open space at mid-winter between 9am and 3pm.

111. Under the current, amended Tzannes proposal, a total of 120 out of 194 apartments (approximately 62%) receive 2 hours direct sun to living rooms and private open space at mid-winter between 9am and 3pm.
112. While remaining non-compliant, it is evident that the design development process has resulted in significant improvements with respect to direct solar access to living room and private open spaces of the development and therefore on balance is considered to be acceptable particularly noting the following:
- (a) The project has been subject to detailed design development studies resulting in various design modifications to the proposal in an effort to maximise solar access to apartments in accordance with the ADG objectives. Those options tested the solar access impacts for various scenarios including the effect of a zero setback to Ebsworth Street by pushing the tower north east to optimise solar access to living rooms and private open spaces on that side of the development whilst managing building separation and privacy impacts to those apartments opposite.
 - (b) The layout of roads (including their width) and development lots were 'locked in' under development consent D/2012/1175. Delivery of the public domain elements approved under that application is now well underway.
 - (c) 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. It is noted that the LEP and DCP envelopes were established prior to the ADG.
 - (d) 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 collective site. There are sound planning reasons for orientating the proposed buildings on the collective site to the plaza and Ebsworth Street, including the provision of street activation and passive surveillance.
 - (e) The DCP building envelopes are rectilinear and orientated along a north-west / south-east axis. This orientation creates a long south-west facing elevation and reduces the overall surface area of the building's facades that are likely to be exposed to the sun at the winter solstice.

Sun Shading to South Western Facade

113. The applicant maintains that the submitted design exceeds the minimum mandatory sustainability targets required under the BASIX SEPP. Sample thermal modelling has been undertaken of two apartments with south west facing living rooms using air conditioning to provide an internal air temperature of 25°C. This shows that a combination of an improved glazing system in addition to operable internal blinds will be sufficient to protect occupants from excessive radiant temperatures in the summer months and have a very similar impact as an external shade or blinds.
114. The south western facade of the development is orientated parallel to the alignment of Ebsworth Street. This results in a high level of exposure to afternoon sun during the summer. Staff are concerned about the resilience of the applicant's proposal and the resultant amenity of the south western facing apartments. The Design Review Panel (refer discussion further below) has also raised similar concerns.

115. The bedrooms of the south west facing apartments within the Site 7 tower, and the living rooms and Bedroom 1 of the south west facing apartments within the Site 17 tower are particularly vulnerable to overheating in summer, which have exposed predominately unshaded glazing. The majority of other bedrooms and living spaces on the south western side of the towers benefit from passive shading from their adjacent balconies or because they are recessed and shaded by the overhang above.

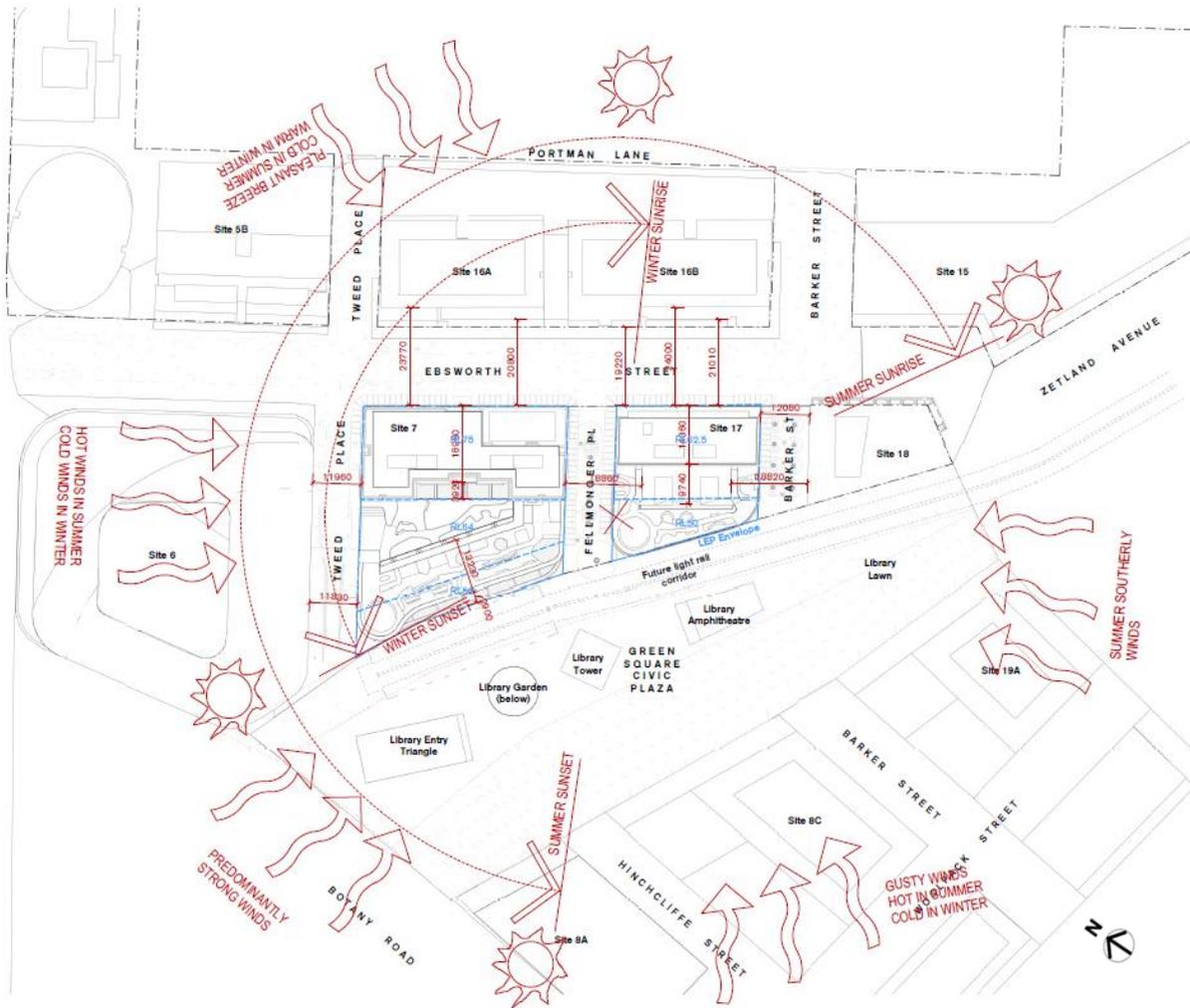


Figure 37: Site analysis drawing



Figure 38: Typical Tower Floorplan with vulnerable rooms identified

116. An independent review of the need for sun shading to the south western facade conducted for Council concluded that the optimum solution for solar shading to the south western facade is an operable external blind. This removes the inherent challenge of obstructing the ingress of summer sun and also provides the most adaptable solution to improve apartment amenity. The maintenance and cost involved in installing operable blinds is acknowledged by staff and has been highlighted previously by the applicant. This needs to be carefully designed to ensure that the composition of the facade maintains an appropriate backdrop to Green Square Plaza, and that outlook from the affected rooms are not unreasonably compromised. A condition to this effect is recommended.
117. It is acknowledged that the proposal complies with the requirements of BASIX, which measures thermal performance of the development. The applicant has proposed performance glazing to the south western facing apartments which helps achieve thermal performance compliance, and protects from external noise.
118. *SEPP 65* and the *Apartment Design Guide* aims to deliver better quality design for buildings to improve liveability. Objective 4A-3 of the ADG requires design features that incorporate shading and glare control, particularly for the warmer months. Sun protection measures outlined above to achieve compliance with this objective are not considered inconsistent with the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

Transport and Parking

119. As outlined earlier in this report, the excavation and construction of the basement slab and walls is to be delivered under the DA for Site 18 (D/2017/503) including part of the basement fit-out. The subject development application includes the remainder of the fit-out of the basement. The design of Barker Street and Fellmonger Place forms part of a separate development consent (D/2012/1175, as amended) to be delivered by the City.
120. The proposal complies with the SLEP (GSTC) 2013 maximum parking provisions. The proposal also generally complies with the DCP requirements for motorbikes, service vehicles, and car share vehicles. No visitor car parking is proposed, however given the site's close proximity to Green Square Railway Station and other numerous more sustainable transport modes this is supportable.
121. 39 accessible car parking spaces are proposed across Basement Levels 1-3. While numerically the proposal complies, it is preferable that accessible spaces are located on the upper basement levels for residents' convenience and safety. It is recommended that the car parking layout is amended to maximise the number of accessible spaces on Basement Levels 1 and 2 and relocate non-accessible car spaces to the lower basement levels.
122. End of Trip (EOT) facilities for employees of Sites 7, 17 and 18 are to be provided at ground floor level of Site 17 and includes showers, amenities, bike racks and lockers for all 3 buildings. 22 bike racks and lockers are proposed but a total of 27 are required. A condition is recommended to address this shortfall.
123. A total of 194 residential bicycle parking spaces that double up as storage cages are proposed to be located across the three basement levels for Sites 7 and 17. The updated Basement and Loading Dock Management Plan will ensure that the safety concerns of all users of the basement are taken into consideration.

124. Staff calculate a total of 96 visitor bicycle parking spaces are required by the proposed development, that being 20 residential visitor and 76 non-residential visitor (customers of the retail, commercial and cinema spaces). The applicant has proposed a total of 76 visitor bike parking spaces (19 residential and 56 non-residential visitor). The 19 residential visitor bike spaces are located within the ground floor of the development close to residential lobbies and are acceptable. However, the 24 bikes proposed to be located down the middle of Fellmonger Place and the 32 visitor bike spaces down the middle of Barker Street are not supported.
125. While it is preferable for all bike parking required by the development to be accommodated within the site, there is a strong desire for retail activation to be maximised on the ground floors of both buildings to support the viability of the Town Centre. In the circumstances of the case, it is acceptable for further analysis and design coordination to be undertaken by the applicant to determine capacity within the existing public domain areas within close proximity to the site to accommodate up to 76 additional non-residential visitor bike parking spaces that are required by the development. A condition of consent is recommended to be imposed accordingly.
126. A condition is also recommend that the layout, design and security of all bicycle facilities must comply with the minimum requirements of *Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities*.
127. It is noted that the clearance heights of the basement are unable to accommodate a small rigid vehicle (SRV), which requires a clearance height of 3.5m under Australian Standards, or a medium rigid vehicle (MRV) which requires a clearance height of 4.5m. This is because the basement has restricted ceiling height (approximately 2.5m) where it traverses under the future Fellmonger Place and Barker Street. Therefore, the service bays located in the basement 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.
128. 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. A trolley store has been provided adjacent to the MRV and SRV parking bays on the ground level of Site 7.
129. 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.

Waste

130. Each residential level will be supplied with a chute outlet behind an air lock door that provides the opportunity to dispose of garbage and recyclable items into the waste collection rooms at basement level under each building at Sites 7, 17 and 18. The applicant proposes that waste will be transported from the waste collection rooms for collection by Council's refuse service on the ground floor loading dock of Site 7.
131. The City's Waste Management Unit are unable to support the proposal at this time as it is not sufficiently detailed in the application how the bins will be transported across the basement and up to the ground floor collection area on Site 7 in a safe and efficient manner.

132. In addition, the proposal is not supported noting the following:
- (a) The waste management plan needs to be updated to account for the retail tenancies, including perishable waste (such as from any future food premises), and address the construction stage;
 - (b) There is no waste room/s for general and bulky waste for the retail and commercial uses on Site 17;
 - (c) There is no bulky waste room for the retail and commercial uses on Site 7;
 - (d) The bulky goods storage collection area adjacent to the loading dock is not sufficient to cater for the waste generated from all three buildings ie. Sites 7, 17 and 18; and
 - (e) The compactors and chutes should not be accessible to the public.
133. Appropriate conditions addressing the above matters are recommended.
134. A condition is also recommended requiring a more robust Waste Management Plan that sits under an over-arching Basement and Loading Dock Management Plan, which is to be submitted that sufficiently details how bins will be transported across the basement and up onto the ground floor loading dock for collection.
135. The City's Transport Planners have also requested that a revised swept path analysis is to be undertaken to show how a 9.25m Council Waste Vehicle can enter and exit the subject site in a forward direction.

Public Domain Interface

136. The proposed ground floor retail tenancies and lobbies at Sites 7 and 17 abut both private and public land (to be dedicated in the future in certain locations).
137. Having reviewed the survey information submitted with the application against the proposed ground floor plans, it is apparent that various level changes occur between the retail tenancies and lobbies and the adjoining land of up to 400mm and may necessitate stairs, handrails or ramps. Although the retail tenancies and lobbies will remain as private land, they 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.
138. A condition of consent is recommended, which clarifies that the ground level alignment levels and materials palette is not yet approved. Furthermore, the plans are to be amended to illustrate how access will be provided to the retail tenancies taking into consideration the apparent level changes from the adjacent public domain areas. Conditions to this effect are recommended.
139. Concerns are raised that the street tree planting along Tweed Place will be eroded due to the servicing needs of the electrical substations on the north western side of Site 7. A condition is recommended that requires details of how the substations will be serviced considering the operational requirements of Ausgrid, without impacting on the longevity of the street trees adjacent to them.

Cinema

140. The subject application seeks consent for use of the cinema complex only. The proposed hours of operation are between 10.00am and 1.00am, daily. The proposed maximum patron capacity is 840.
141. The proposed cinema use is permitted with consent in the B4 Mixed Use zone and is supported, particularly noting that it makes a significant contribution to the overall place making objectives of the Green Square Town Centre.
142. For the purpose of operating hours, under the existing GSTC DCP, the cinema is classified as a 'Category B - Low Impact Premises' located in the 'white area' of the Late Night Trading Areas DCP. The proposed hours of operation are within the permitted base indoor hours for the GSTC and are acceptable.
143. It is noted that under the certain and imminent revised Late Night Trading Areas DCP controls, the current proposal would be classified as a 'Category C - Unlicensed Premises' located within the new Local Centre, which permits indoor trading from 7.00am to 2.00am, which the proposal complies with.
144. A combined retail, cinema and commercial premises Plan of Management was submitted with the original application, which incorporates uses at Site 18. The overarching plan outlines the general operational and management approach for those components of the development.
145. Conditions of consent will be imposed accordingly in relation to submission of an updated overarching Plan of Management (as the details contained in the appendices are now outdated), hours of operation, maximum capacity, and general amenity.
146. It is noted that the applicant has indicated that the detailed fit-out, signage and any extension of hours is to be subject to a separate, future DA, which will be accompanied with a more specific cinema Plan of Management once an operator is known.

Other Impacts of the Development

147. The proposed development is capable of complying with the BCA. It is Class 2, 5, 6, 7a and 9b.
148. 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

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

Internal Referrals

150. Where relevant, the conditions of other sections of Council have been included in the proposed conditions.
151. The application was discussed with the City's Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Safe City; Surveyors; Transport and Access; Landscaping; Sustainability; 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 conditions.
152. The concerns of the City's transport planners and Waste Management Unit have been considered in the Issues section of this report.

Design Advisory Panel

153. The amended proposal was presented by staff to the City's Design Advisory Panel (DAP) on 14 February 2019. Following this, the applicant and the project Architect further presented to the panel on 14 March 2019 to clarify issues raised by the panel at the previous meeting in February. A copy of the Advice Sheets for both meetings may be found at Attachment E (it should be noted that the March Advice Sheet No. 09/2019 has an incorrect February date). Key issues raised by the DAP at the February and March meetings, and the manner in which they have been addressed, are summarised below.

Recommendation

154. 14-02-2019 DAP Meeting Comment:

There is too much difference in materiality, colour and form between the base and upper building parts. The shift should be more subtle so that the parts of the building relate better.

14-03-2019 DAP Meeting Comment:

The Panel noted that both the Light and Dark material/ colour investigations for Site 17 are improvements on the current scheme. The Panel prefers the Light scheme, however will defer to the Architect.

Response

The materiality has been revised to a lighter scheme for both buildings Site 7 and Site 17 as recommended by the DAP. Refer to images below of Site 17 as an example.



Previous Scheme



New Scheme

Figure 39: Ebsworth Street Perspective (Site 17) comparing the previous and current schemes

Recommendation

155. 14-02-2019 DAP Meeting Comment:

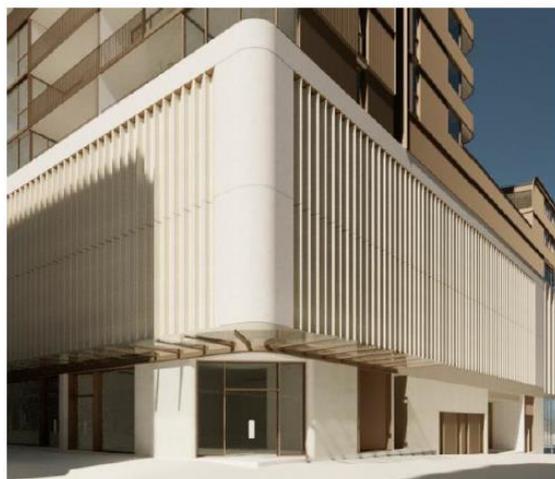
The solid framing of the white element around the blank facade of the cinema at the base of the building compromises the ambitions of the form. The scalloping of the surface on the Ebsworth Street frontage was not adequately explained in the drawings. The framing could be deleted and its verticality emphasised to give greater visual integration to the overall 3D. This is a dominant element and needs further investigation and refinement.

14-03-2019 DAP Meeting Comment:

Regarding the cinema wall framing alternatives, the Panel recommended adoption of Corner Option 1, which extends the vertical flutes around the building corner and minimises the dimension of the podium capping element.

Response

156. The cinema facade has been revised as recommended by the DAP, to extend the vertical flutes around the building corner and minimises the dimension of the podium capping element. Refer to comparisons below between the previous and current scheme.



Previous Scheme



New Scheme

Figure 40: Ebsworth Street Cinema Podium Perspective (Site 7) comparing the previous and current schemes

Recommendation

157. 14-02-2019 DAP Meeting Comment:

The Level 6 floorplan on Site 7 was considered unacceptable, and would not comply with the ADG. The arrival experience to the front apartments across the common landscape area, as well as the distance from the core to the entry of these apartments is unacceptable, as is the alternate route through long blank corridors on Level 5. An additional core should be introduced to access the front apartments. It was noted that these apartments would be more prestigious and the proposed access arrangements are not in line with this.

158. 14-03-2019 DAP Meeting Comment:

Introduction of the Skyhome lift is a significant improvement, reducing travel distances between apartments and a lift. The Panel noted however, that there is still no access to light in the corridor at the corner junction. The Panel recommended plan adjustments to bring light into the corridor adjacent to the lift or alternatively from above. The Panel further recommended articulation of the corridor and apartment entries to minimise tunnel effect of the current proposal's long corridors.

Response

159. Access to the podium apartments has been revised to include an additional lobby entry and lift off Fellmonger Place. The applicant has indicated that the corridor walls are glazed to bring light into the corridor and provide an outlook onto the landscaped area. As this is not clear from the drawings, for the avoidance of doubt a condition is recommended to provide more details to this effect, and also ensure there is an operable component in the glazing for fresh air into the corridors. Articulation is provided to apartments such as slightly recessed entries. This, together with the glazing, will minimise the effect of a long corridor.

Recommendation

160. 14-02-2019 DAP Meeting Comment:

The datum of the colonnade is too low at eastern end of site 17 and the step up at the corner with double height awning was considered a good solution, but needs further refinement to reduce blank facades.

14-03-2019 DAP Meeting Comment:

The Panel recommended that access under a continuous awning cover is required at street level on Site 17. It is up to the Architect to resolve this issue.

Response

161. The podium cantilever at the eastern corner of Site 17 achieves a clearance height of 3.4m (bottom of raked soffit) to 3.8m (top of raked soffit) adjacent to the double height (7.1m) masonry element at the commercial lobby on the south east corner. The change of height at the threshold of the entry enhances pedestrian experience moving between the covered areas. The amended proposal allows pedestrians to step from the building into Barker Street under a continuous awning, which is an improved outcome from the previously amended scheme.
162. The applicant maintains that the height of the covered area is acceptable as it is integrated with the broader architectural expression of the building and increasing the height would diminish its relationship to the commercial entry and the scale of relationships between the colonnade, the entry, the colonnade opposite on Site 18, and may result in a less coherent and legible public domain.
163. Design studies were undertaken by the applicant to reduce the perception of the double height blank facade that under the amended proposal is adjacent to the recessed visitor bike parking that faces the Plaza. The applicant maintains that visual amelioration of the blank walls occurs through the effects of light on built form, texture and material.
164. It is nevertheless considered that this building element requires further design refinement to ensure that an optimum design solution is achieved for this prominent corner. This should include investigating the suitability of the blade wall (circled in red in the Figure below) near the recessed visitor bicycle parking spaces. A condition to this effect is recommended.

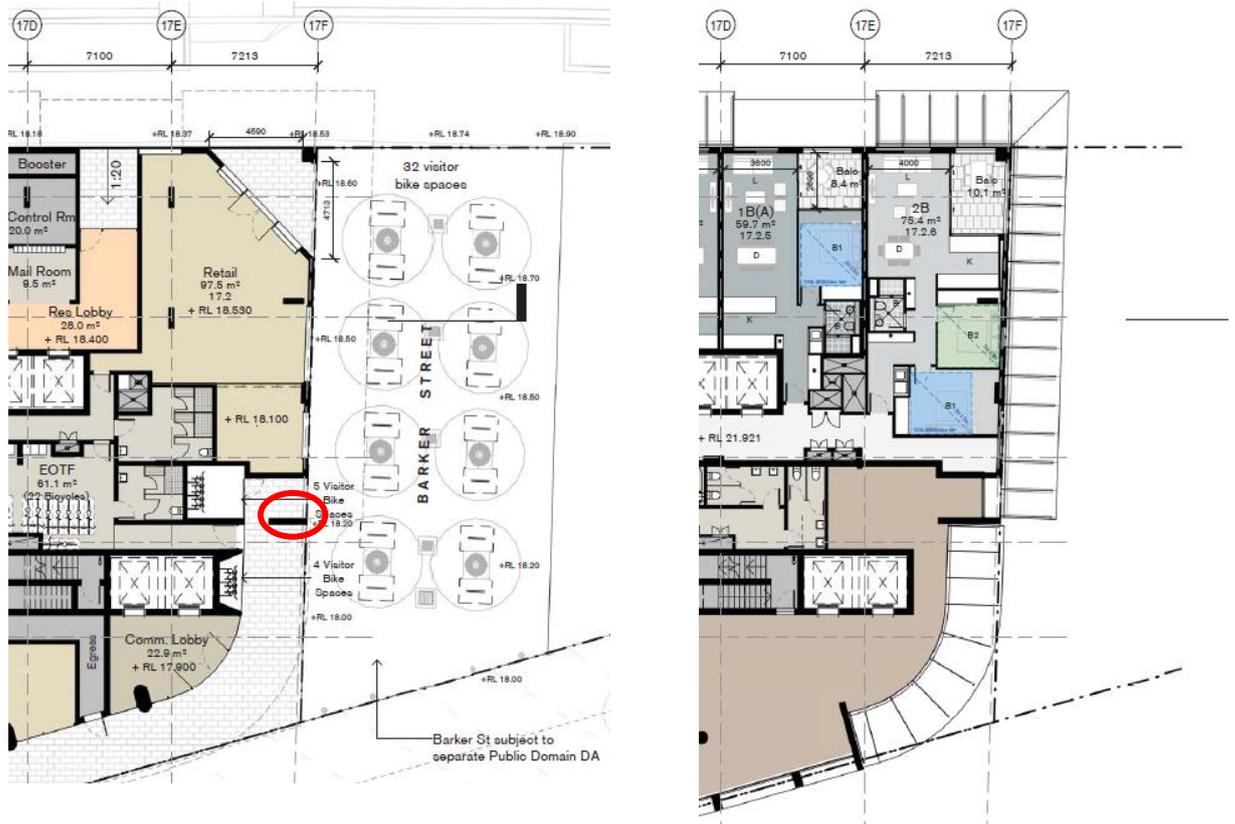


Figure 41: Ground floor (left) and First Floor (right) plans of the subject corner



Figure 42: Plaza Perspective of the subject corner

Recommendation

165. 14-02-2019 DAP Meeting Comment:

The curved element on the south west corner should incorporate more vertical fins to shade the upper apartments from setting sun. The fins may also help to deal with the scale of the corner within the composition of the building.

14-03-2019 DAP Meeting Comment:

Internal blinds / curtains for floor-to-ceiling glazed windows on the south western elevation is an unacceptable sun shading / protection solution. The Panel noted that although the design meets BASIX, it recommends additional sun shading that is appropriate to orientation to provide adequate amenity and protection to habitable rooms.

Response

166. Vertical fins have been provided to apartments 7.6.17 and 7.8.13, which are located in the top two floors of the three storey curved element of the building in the south west corner of Site 7.

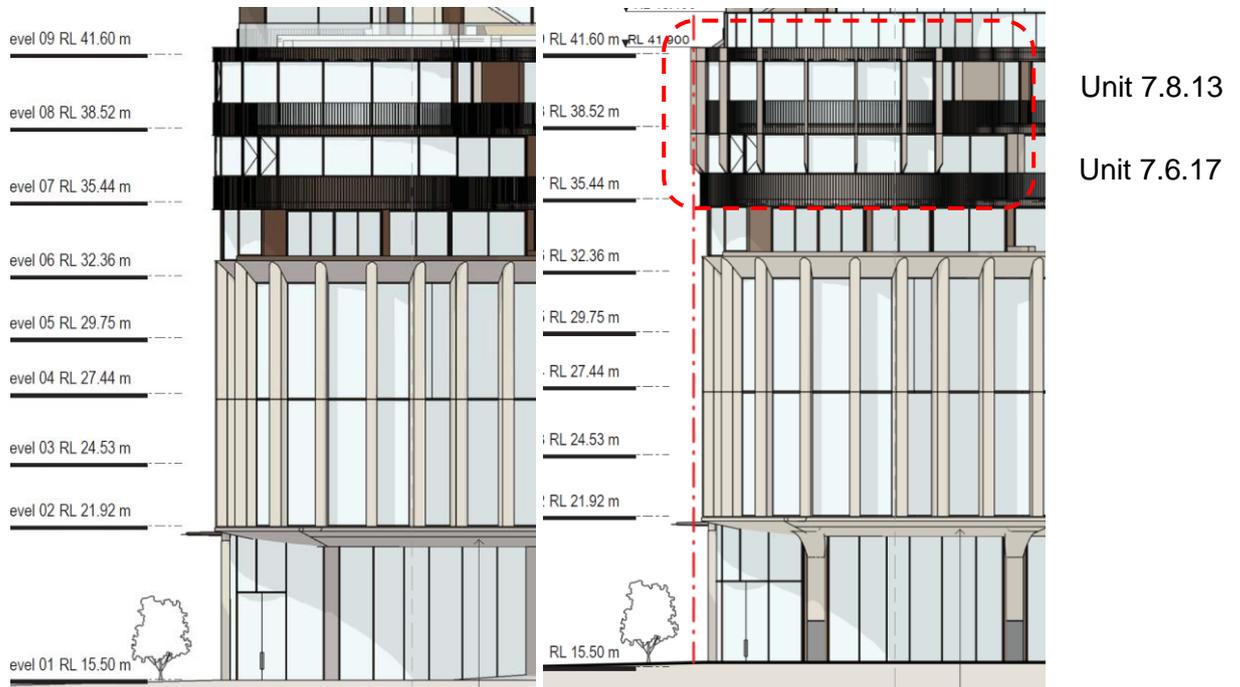


Figure 43: Left - curved element of previously amended scheme, right - curved element of final amended scheme with fins to two upper level units in curved element of podium on Site 7.

167. The applicant maintains that the submitted design exceeds the minimum mandatory sustainability targets required under the BASIX SEPP. Sample thermal modelling has been undertaken of two apartments with south west facing living rooms using air conditioning to provide an internal air temperature of 25°C. This shows that a combination of an improved glazing system in addition to operable internal blinds will be sufficient to protect occupants from excessive radiant temperatures in the summer months and have a very similar impact as an external shade or blinds.
168. Notwithstanding the above, as discussed earlier in the Issues section, it is considered that sun protection to the north and south west facing glazing needs further consideration. A condition of consent has been imposed accordingly.

Recommendation

169. 14-03-2019 DAP Meeting Comment:

Additional assessment of wind conditions created in Fellmonger Place is required. Applicants must demonstrate that a glass canopy will resolve wind issues and improve the amenity of the street, or provide an alternative proposal. The Panel maintains visual connection to the Green Square Library from Fellmonger Place is an important urban principle.

Response

170. Wind conditions along Fellmonger Place are generally acceptable with respect to walking and standing however, the wind analysis indicates that Fellmonger Place is not suitable for sitting for prolonged periods and wind mitigation measures are required. The applicant has stated that further analysis of wind conditions on Fellmonger Place will be undertaken in the future. Any future outdoor seating areas along Fellmonger Place or the resultant requirement for a canopy or wind barriers and the like will be subject to a separate DA. No outdoor dining is approved as part of this consent.

Recommendation

171. 14-03-2019 DAP Meeting Comment:

As a cinema complex with a strong civic presence, the Panel recommended that signage solutions with architectonic integrity be incorporated in the podium facades on Green Square Town Centre Plaza and Ebsworth Street.

Response

172. No signage is proposed as part of the subject development application. The applicant has indicated that a future DA will be submitted for signage in relation to the development. A condition has been imposed requiring a signage strategy for the development to be submitted that has been developed in consultation with the Architect for the project.

External Referrals**Notification, Advertising and Delegation**

173. In accordance with Schedule 1 of the Green Square Town Centre DCP 2012, the proposed development is required to be notified and advertised. As such the application was notified and advertised for a period of 28 days between 17 May and 15 June 2017, with no submissions being received.
174. On 23 November 2018, significant amendments to the scheme were submitted, which were re-notified for a period of 49 days (extended due to Christmas holiday period) between 30 November 2018 and 18 January 2019 as it was considered that there was potential for additional impacts to be created as a result of the changes. Two submissions to the amended proposal were received:
- (a) Poor current/interim situation for both pedestrians and cyclists in the midst of prolonged major construction in the area.

Response - Green Square Town Centre is going through a period of significant transformation. A Construction Management Plan was submitted with the original application that addresses the site's existing site context including environment, location and road networks, provides a description and duration of the project and construction activities, and examines and address the proposed site's likely impact on vehicular, pedestrian and cycling traffic and mitigating control measures to ensure minimal impacts. As part of a condition of consent an updated Construction Pedestrian and Traffic Management Plan is required to be submitted that responds to the current conditions in and around the site to ensure a safe environment for the local community while construction progresses on site.

- (b) More needs to be done to preserve the history and architecture trends of the area. Additional high rise buildings will dwarf local houses and earlier construction in a predominantly low rise neighbourhood.

Response - The planning controls for Green Square Town Centre envisage tall buildings on the subject site to respond to the commercial and residential needs of the urban renewal area. The site is not a heritage item or in a heritage conservation area. The proposed height of the buildings is discussed earlier in the report.

- (c) Additional tall residential buildings in the neighbourhood puts pressure on the housing market leading to low occupancy rates and large numbers of properties owned by overseas investors making it even more difficult for first time buyers.

Response - Market conditions are not a planning consideration that can be taken into account as part of the assessment process.

- (d) With an increased population, the supply of green parks and capacity of Green Square railway station outweighs the demand.

Response - The strategic plan for the Green Square Town Centre included the provision of five public open spaces to meet the needs of the growing population including Green Square Plaza, Neilson Square and The Drying Green which are directly to the west, south-west and south of the subject site. Green Square Plaza, which accommodates a public library, and Neilson Square are now complete and functional spaces for use by the existing and future community.

Further, the site specific planning controls for Green Square Town Centre include the Eastern Transit Corridor (the "ETC") which will connect the eastern suburbs of Green Square to Transport Place through the Town Centre, along Zetland Avenue and across the plazas. A future light rail alignment directly to the south west of the subject site is protected to enable the implementation of light rail through the ETC and plazas in a later stage of development

- (e) The chamfered corners at the end of Fellmonger Place reduce the apparent length of the 'laneway' and compromise the clarity of the street as a distinct urban lane.

Response - The site controls envisage chamfered corners provided from the site boundary at the ground and first floors at the intersection of streets to ensure adequate sight lines, which the proposal generally complies with.

- (f) The retail units are large inhibiting fine grain retail opportunities to bring a human scale. Lack of active frontages to Tweed Place.

Response - The retail tenancies are of varying sizes ranging from approximately 60sq.m to 154sq.m creating opportunities for a variety of retail offerings that will service the needs of the community. The tenancies will be subject to future detailed fit-out approvals. The location of plant and services along Tweed Place has been minimised in so far as practicable. Gas rooms, substations and the like are an essential component of the development that cannot be avoided.

- (g) There is a misalignment of the ground floor retail facade to the south eastern corner of site 17. The commercial lobby steps back significantly on the corner create a discontinuous street frontage.

Response - The scale and built form of the lobby exterior architecture is responsive to the scale and built form of the architecture of Site 18 on the opposite side of Barker Street creating a distinctive relationship to enhance the legibility, public domain and urban role of Sites 7 and 17. As discussed earlier, this building element nevertheless requires further design refinement to ensure that an optimum design solution is achieved for this prominent corner.

- (h) There is a lack of continuously accessible retail to ground level plaza elevation. Particularly to Building 7 where there is only 1 set of doors in approx. 45m of ground level plaza frontage. It appears that the floor levels have not been stepped and aligned with the adjacent plaza levels.

Response - A condition of consent has been imposed to make sure equitable access from the public domain into the retail tenancies is preserved.

- (i) There are a number of architectural languages adopted across buildings to both sites. Particularly to the southern facades of the tower portions of each building. The mixtures of styles and multiple building setbacks blurs the identity of each building and diminishes their architectural clarity. We do not believe the design achieves Design Excellence.

Response - The project has been subject of extensive design development with important contribution from the Design Advisory Panel and the Design Advisory Panel Sub-Committee. The built form, materials and architectural details have been developed to enhance the legibility of the public domain by distinguishing corner and infill elements and by establishing deeper recessed elements for better scale and proportion. The architecture gives expression to a rational assessment of interior amenity and urban conditions. The proposal, as amended, is considered to exhibit design excellence.

- (j) As buildings of significance which frame a major public square, more distinction in the built character should be pursued rather than seeking to blur in with surrounding developments.

Response - A revised colour palette has been submitted that achieves suitable distinction from existing surrounding development.

- (k) The extent of the Library plaza paving type should align with the building frontages, be read as a direct extension of the plaza surface, and adopt the Library plaza materials palette where possible.

Response - A condition of consent is imposed requiring submission of a public domain plan to be approved by Council which will resolve the detailed design of the public domain areas directly adjacent to the buildings to ensure their seamless integration with the existing paving types, palette etc of the Plaza and environs.

Independent Quantity Surveyor

175. The original and final amended DAs were referred to an external Quantity Surveyor (QS) to review the Applicant's estimated cost of development. Council's QS determined that the Applicants estimated cost of development is fair and reasonable.

Agencies

176. 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.

Sydney Airport Referral Act 1996

177. Section 182 of the Commonwealth *Airports Act 1996* specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
178. Regulation 6(1) of the *Airports (Protection of Airspace) Regulations 1996* specifies that airspace above the Obstacle Limitation Surface for Sydney Airport is prescribed airspace.
179. Section 183 of the *Commonwealth Airports Act 1996* specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted.
180. 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 maximum height of 88m AHD on Site 7 and 73m AHD on Site 17. This proposal does not exceed the specified limits.

Public Interest

181. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

Financial Implications

Affordable Housing Contribution

182. The development is subject to an Affordable Housing Contribution. The Affordable Housing Contribution is levied under Clause 6.5 of the Sydney Local Environmental Plan (Green Square Town Centre) 2013. Based on a Total Floor Area calculation of 24,823.48sq.m of residential floor space and 9088.97sq.m of non-residential floor space, the contribution amount is \$6,513,431.6.

Section 7.11 Contribution

183. The development is subject of a S7.11 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

184. Environmental Planning and Assessment Act 1979.
185. Airports Act 1996.

Conclusion

186. 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.
187. The proposed development is considered to be appropriate within its setting and is generally compliant with the relevant planning controls. Some proposed variations to the controls are generally considered to be acceptable and have been discussed throughout the report.
188. The proposal will provide for residential, retail and commercial development within the Green Square Town Centre, and in addition provides a cinema entertainment facility on a site which is highly accessible to existing and planned employment, services and community facilities.
189. Subject to the recommendations within this report, and the imposition of the proposed conditions, 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

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