

Item 4.**Development Application: Site 15, 77-93 Portman Street, Zetland**

File No.: D/2018/517

Summary

Date of Submission:	Application Lodged 17 May 2018 Several amendments including significant design changes have been submitted since lodgement. The most recent amendments were submitted on 28 October 2019.
Applicant:	Mirvac Green Square Pty Ltd
Architect/Designer:	CO-AP and Smart Design Studio
Developer:	Mirvac
Owner:	Landcom
Cost of Works:	\$240,058,222
Zoning:	B4 Mixed Use Zone - proposal is permissible with consent
Proposal Summary:	<p>Consent is sought for a mixed use development of four buildings over a shared basement on Sites 15A, 15B, 15C and 15D of the Green Square Town Centre (GSTC) comprising the following (as amended):</p> <ul style="list-style-type: none">• Building A - 23 storey mixed use building with ground floor retail and 152 apartments above;• Building B - 13 storey mixed use building with ground floor retail and 119 apartments above;• Building C - 13 storey mixed use building with ground floor retail, vehicular entry to basement and loading dock area, and 45 apartments above;• Building D - 4 storey building with 7 terrace style apartments;• Three level shared basement with 286 car spaces and storage spaces;

- Landscaped common open space areas located between Buildings B & C and B & D at ground;
- Green roof areas provided to Buildings B and C;
- Public domain works including Portman Lane extension and new through site link.

The application was lodged as an Integrated Development requiring approval from Water NSW under the Water Management Act 2000. General Terms of Approval for the proposal were issued by Water NSW.

The site is not a heritage item, nor is it located in a heritage conservation area. The site is located adjacent to heritage items at 65 to 75 Portman Street, Zetland, being two rows of terrace dwellings; and the adjoining 'Zetland Estate' Heritage Conservation Area to the north.

A planning agreement has been executed between the developer and the City and applies to the proposal. The agreement requires the payment of a monetary contribution to the City, dedication of land for public road, developers' works for lane extension, inclusion of green infrastructure including the use of recycled water, and an easement for public access over the new through site link.

A competitive design alternatives process was undertaken for the development between November 2016 to April 2017. The submission from the Smart Design Studio and CO-AP was announced as the winning design.

The submitted development application was first considered by the Design Advisory Panel (DAP) at its meeting on 18 October 2018. Following recommendation from the panel, a design integrity assessment of the development application was undertaken by the reconvened jury panel in December 2018. The jury panel made recommendations for design changes in order for the proposal to achieve design excellence standards including decluttering and defining the through site link with increased building setbacks, improvements to building form, building materiality, landscaping and privacy measures.

Amended plans were received in February 2019 and were considered by the DAP at its meeting on 16 May 2019. Further comments were provided from the panel as follows:

- If more deep soil cannot be provided, then a strong commitment to green walls should be pursued;

- Building A: Deep blades (450mm) should be provided and differentiated to the levels above (350mm);
- Building B: Further building refinement is required;
- Building D: Terrace form supported.

Following this meeting and further feedback from Council Officers, further amended plans were received in September 2019 and October 2019.

The original proposal was notified and advertised between 29 May 2018 to 29 June 2018. The proposal was notified to 411 properties and two objections were received. Amended plans received in September 2019 were notified and advertised between 13 September 2019 to 12 October 2019. Seven submissions objecting to the proposal were received.

Issues raised in submissions include concerns regarding the proposed Portman Lane extension and associated impacts on safety, traffic and parking in the locality; and concerns regarding construction impacts. The proposed Portman Lane extension is consistent with the GSTC DCP road layout design and would be built to Council's specifications. Construction impacts would be limited through the requirements for management plans and limits on the permitted hours of construction.

The proposal complies with the floor space ratio development standard for the site.

The Sydney LEP (GSTC) 2013 applies a range of height controls to the site. The application includes requests to vary the height of buildings development standard and ceiling heights standard pursuant to Clause 4.6. A shift in the building form (noted as a strength of the competition winning scheme) results in non-compliances, with parts of buildings located across different height limit areas. Buildings are generally compliant with the relevant height limits.

The development generally complies with the floor to ceiling height development standard contained within the Apartment Design Guide. There are some instances of non-compliance with the standard which are supported, these relate to residential kitchens where a floor height of 2.4m is proposed rather than 2.7m.

The proposal is recommended for a deferred commencement approval requiring key additional details of the proposed landscaping treatments including a green wall, façade planters, and roof gardens to ensure their delivery and ongoing viability being an important component of the development.

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

Development Controls:

- (i) Water Management Act 2000
- (ii) State Environmental Planning Policy No. 55 - Remediation of Land
- (iii) State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development
- (iv) State Environmental Planning Policy (Infrastructure) 2007
- (v) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (vi) Sydney Local Environmental Plan (Green Square Town Centre) 2013
- (vii) Green Square Town Centre Development Control Plan 2012
- (viii) Sydney Development Contributions Plan 2015
- (ix) Green Square Affordable Housing Program

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Height of Buildings
- D. Clause 4.6 Variation Request - Ceiling Heights
- E. Design Advisory Panel Advice Sheets, 18 October 2018 and 16 May 2019

Recommendation

It is resolved that:

- (A) the variation requested 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 request 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 supported in this instance;
- (C) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2018/517 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The 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 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 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 Sydney Local Environmental Plan (Green Square Town Centre) 2013, the Green Square Town Centre Development Control Plan 2012 and State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development. 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 permissible within the B4 Mixed Use Zone and achieves the zone objectives providing residential and commercial development within the Green Square Town Centre in an integrated development in an accessible location.
- (D) The proposed development satisfies the design excellence provisions within Clause 6.9 of Sydney Local Environmental Plan (Green Square Town Centre) 2013.

Background

The Site and Surrounding Development

1. The site is identified as Lot 7 in DP 1199427 and is located at 77-93 Portman Street, Zetland (previously part of 960A Bourke Street, Zetland). The site is located within the Green Square Town Centre (GSTC) and is known as Sites 15A, 15B, 15C and 15D.
2. The site is irregular in shape and has an area of 5,903sqm. The site has frontages to Ebsworth Street, Portman Street, Portman Lane and the proposed Zetland Avenue and Barker Street. There is a change in level across the site of approximately 4 metres from the north eastern corner at the Portman Street frontage falling to the western corner at Ebsworth Street. The location of the site within the GSTC is shown in Figure 1 below.



Figure 1: Map of the Green Square Town Centre development sites and subject site shown dashed red.

3. The site is currently cleared containing hard stand areas being utilised as part of construction works to store materials and various site sheds associated with construction works in the surrounding area. Forty-two trees within and surrounding the site were assessed as part of the arboricultural impact assessment for the proposal.
4. Previous known uses of the site include a range of industrial uses within sheds and warehouse buildings (now demolished and removed). The Waterloo Dam (swamp) extended into part of the site prior to its industrial development.
5. Photos of the site and surrounds are provided below:



Figure 2: Aerial view of the site.



Figure 3: Site viewed from Ebsworth Street looking east.



Figure 4: Site viewed from corner of Ebsworth Street and future Zetland Avenue looking east.



Figure 5: Site viewed from the intersection of Portman Lane and Barker Street looking south.



Figure 6: Site viewed from Portman Street looking northwest.

6. Existing and future surrounding developments are residential, commercial and civic in nature and include:
 - (a) To the north along Portman Street: a variety of existing terrace dwellings within the 'Zetland Estate' Heritage Conservation Area (HCA), including heritage listed terraces at 65 - 75 Portman Street.



Figure 7: Portman Street looking southeast.



Figure 8: Heritage listed terraces at 65-69 Portman Street, Zetland.



Figure 9: Heritage listed terraces at 71-75 Portman Street, Zetland.



Figure 10: Examples of more recent development at 82-86 Portman Street, Zetland.

- (b) To the northwest at 18 Ebsworth Street (Sites 16A & 16B): a constructed 10 storey mixed use development including a supermarket, bottle shop and café on the ground floor, and residential apartments above.



Figure 11: Mixed use building at 18 Ebsworth Street.

- (c) To the west: Site 18 (D/2017/503) was recently granted approval for a 20 storey mixed use residential building, with retail uses on levels 1 and 2 and residential above (construction not commenced).



Figure 12: Looking west from Zetland Avenue towards Site 18 (currently vacant) and Green Square Library and Plaza.



Figure 13: Montage image of approved development Site 18 (D/2017/503).

- (d) To the south across future Zetland Avenue: a future public open space area known as 'The Drying Green' is currently under construction.



Figure 14: Future Drying Green open space area under construction.

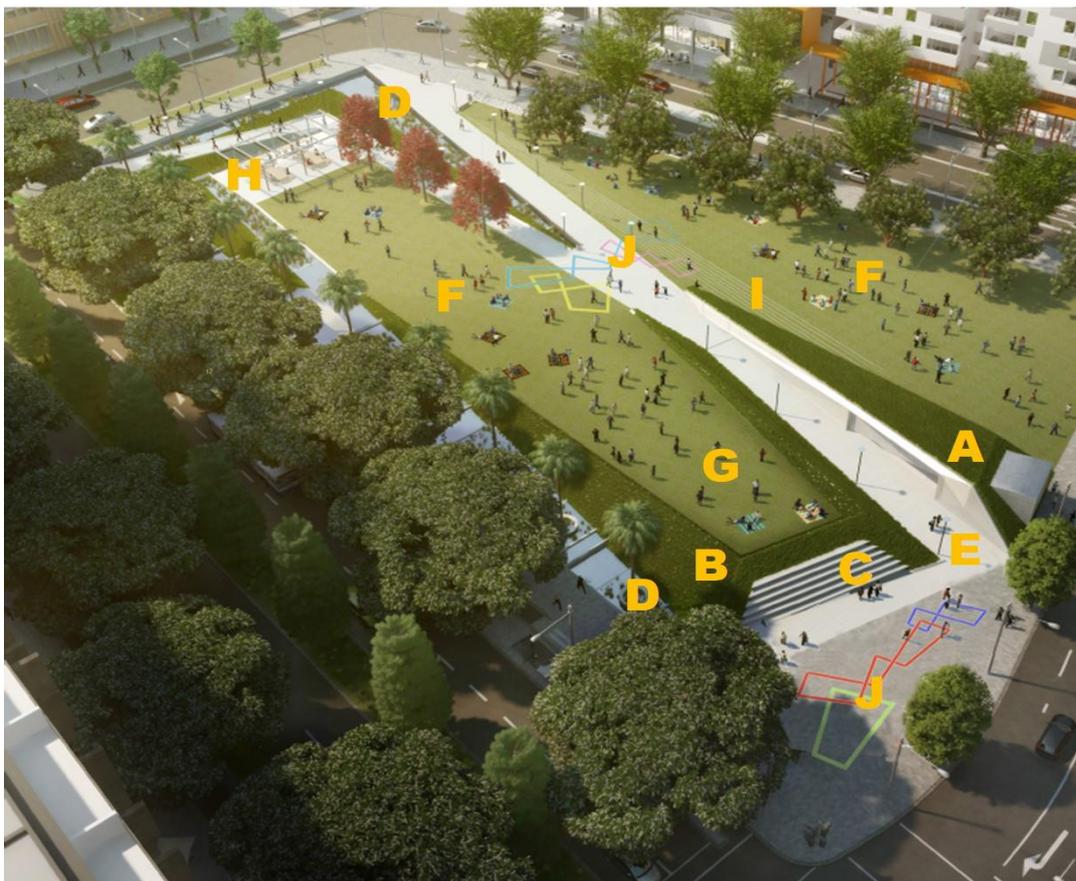


Figure 15: Montage image of The Drying Green design looking from above Building B looking east.

- (e) To the east at 811 Elizabeth Street, Zetland: court approved concept development (Stage 1) for a mixed use development consisting of three tower buildings above a podium level. A detailed development application is currently under assessment. Early site preparation works are currently underway.



Figure 16: Montage image of proposal under consideration at 811 Elizabeth Street (D/2019/258).

Proposal

7. The proposal as amended, is for a mixed use development of four multi-level buildings over a shared basement. Ground level retail tenancies front to Ebsworth Street, Zetland Avenue and to the new through site link. Pedestrian lobbies are provided at Ebsworth Street, and four are located along Zetland Avenue. Vehicular access is proposed from Barker Street with loading dock area and garbage collection from ground level within a combined podium area. Communal open space is provided at Level 2 atop the shared podium. The four buildings each have a distinct design character and materiality with a mixture of glazing and spandrels, precast concrete, cladding, face brick and landscape elements within the facades. The specific components of the development are as follows:

(a) Building A:

- (i) Tower style building at a gateway location in the town centre, with a curved geometric form and glazed facade with spandrels and vertical blades for shading and additional articulation.
- (ii) 23 storeys with ground floor retail and 152 apartments above on levels 2 to 23
- (iii) Ground floor (Level 1): 4 x retail tenancies, residential lobby

- (iv) Level 2: 3 x one bedroom units, 5 x two bedroom units, common residential space, bridge over through site link
- (v) Levels 3-8: 4 x one bedroom units, 5 x two bedroom units
- (vi) Levels 9-10: 5 x one bedroom units, 4 x two bedroom units
- (vii) Levels 11-21: 4 x two bedroom units, 2 x three bedroom units
- (viii) Level 22: 3 x two bedroom units, 3 x three bedroom split level penthouse apartments
- (ix) Level 23: plant and penthouse apartments (split level from below)

(b) Building B:

- (i) Park-facing apartment building articulated into four distinct building facades with different precast concrete tones, and recessed metal clad upper floors. Green roof and facade plantings throughout.
- (ii) 13 storeys with ground floor retail and 119 apartments on levels 2 to 12 and green roof level 13
- (iii) Ground floor: (Level 1): 4 x retail tenancies, 3 x residential lobbies, retail storage and amenities;
- (iv) Level 2: 4 x one bedroom units, 3 x two bedroom units, 4 x three bedroom units
- (v) Levels 3-4: 4 x one bedroom units, 4 x two bedroom units, 4 x three bedroom units
- (vi) Levels 5-10: 2 x one bedroom units, 4 x two bedroom units, 4 x three bedroom units
- (vii) Levels 11-12: 2 x one bedroom units, 6 x two bedroom units, 1 x three bedroom units
- (viii) Level 13: green roof, plant rooms, lift overruns.

(c) Building C:

- (i) Art deco influenced apartment building with dark brick finish. Feature green wall located on eastern facade.
- (ii) 13 storeys with ground floor retail, vehicular entry to basement and loading dock area, and 45 apartments on levels 2 to 12, and green roof level 13
- (iii) Ground floor: 1 x retail tenancy, 1 x residential lobby, vehicle entry from Barker Street, 2 x loading docks, service parking, retail and residential waste areas
- (iv) Level 2: 2 x one bedroom units, 1 x two bedroom units, 3 x three bedroom units
- (v) Level 3: 2 x one bedroom units, 2 x two bedroom units

- (vi) Level 4: 2 x one bedroom units, 2 x two bedroom units, 1 x three bedroom units
- (vii) Levels 5-10: 1 x one bedroom units, 3 x two bedroom units
- (viii) Levels 11-12: 3 x two bedroom units
- (ix) Level 13: green roof, plant room, lift overruns.

(d) Building D:

- (i) Transitional building form between the new apartment buildings and the adjoining heritage conservation area. Terrace typology featuring brick, stone and metal cladding.
- (ii) 4 storeys with 7 terrace style apartment dwellings
- (iii) Four bedroom plus study terrace style dwellings, each with ground floor outdoor rear terrace area, roof top outdoor terrace areas to front and rear. Each dwelling serviced with an internal lift with access to basement.
- (iv) Retail tenancy, bicycle parking, amenities and end of trip facilities, switch room, and substation located beneath the terraces and integrated with the other ground floor retail spaces. 95 bicycle spaces provided for visitors and for commercial retail spaces.

(e) Basement:

- (i) Three level basement
- (ii) Basement Level 1: 71 residential car spaces (including 16 accessible spaces), 4 residential car share spaces, 9 commercial car spaces (including 1 accessible space), 1 commercial car share space, 2 service car spaces, 1 car wash space, 2 motorcycle spaces, garbage storage, residential storage
- (iii) Basement Level 2: 91 residential car spaces (including 26 accessible spaces), 5 motorcycle spaces, residential storage spaces.
- (iv) Basement Level 3: 109 residential car spaces (including 12 accessible spaces), 5 motor cycle space, residential storage spaces.

8. Proposed architectural drawings are provided within Attachment B of this report.
9. Selected images of the proposal (as amended) are shown below.



Figure 17: Site context and building footprint.

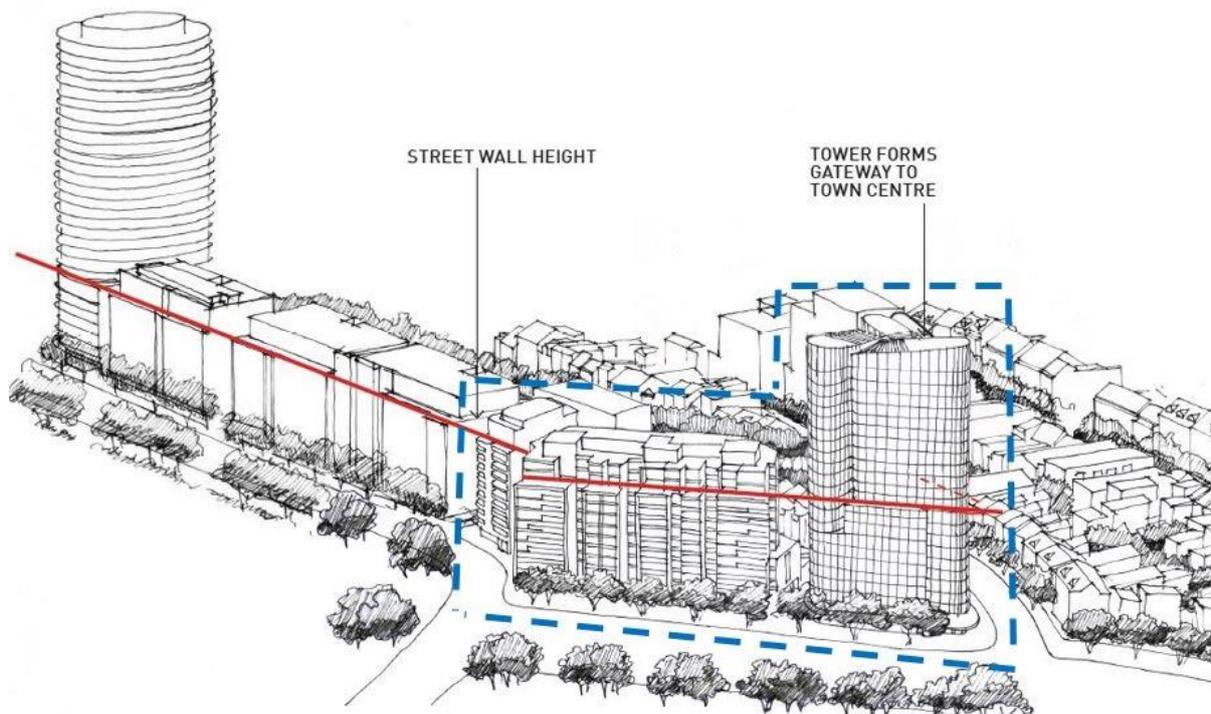


Figure 18: Context sketch of site and surrounds generally looking north.



Figure 19: Montage image of Buildings C, B and A looking north from Zetland Avenue.



Figure 20: Montage image of Buildings A, D, B and heritage listed terraces as viewed from Portman Street.

History Relevant to the Development Application

Voluntary Planning Agreement

10. A planning agreement (VPA) has been executed between the landowner, developer and the City on 20 August 2013 and applies to this development. The key parts of the VPA that relate to the Stage 15 development include:
 - (a) A monetary contribution from the developer to the City of \$13,172,857.20 (to be indexed);
 - (b) Dedication of 220sqm of land for public road (Portman Lane);
 - (c) Developers' works for the construction of Portman Lane extension;
 - (d) Green infrastructure contribution works (recycled water, energy efficiencies, waste collection etc); and
 - (e) Granting of an easement of public access for the new through site link.
11. The application is consistent with the VPA.

Competitive Design Process

12. A competitive design alternatives process was undertaken for the development between November 2016 to April 2017. The submission from the Smart Design Studio and CO-AP was announced as the winning design.
13. The Sydney Local Environmental Plan (Green Square Town Centre) 2013 does not award a design excellence bonus for floor space or height.

Design Advisory Panel (October 2018)

14. The submitted development application was first considered by Council's Design Advisory Panel (DAP) at its meeting on 18 October 2018. Issues raised by the DAP in respect of the proposal as lodged included:
 - (a) Inadequate building separation being provided between Buildings A, B and D;
 - (b) Insufficient provision of deep soil;
 - (c) Definition of the public domain along Zetland Avenue was lacking;
 - (d) The building expression along Zetland Avenue has been lost in comparison to the design winning scheme; and
 - (e) An over use of glazing to Building B.
15. The DAP Advice Sheet may be found at Attachment E.
16. The DAP recommended that the original jury panel be reconvened to consider whether the proposal has achieved design excellence. Images of the original DA submission are shown below.



Figure 21: Original DA montage image of Buildings C, B, and A generally looking north from Zetland Avenue.



Figure 22: Original DA montage image of Buildings B, and A generally looking north from the Drying Green.



Figure 23: Original DA montage image of Buildings A and D viewed from Portman Street.

Design Integrity Assessment

17. The City's Competitive Design Policy allows for a Design Integrity Assessment to be undertaken where a winning scheme is developed or modified. A design integrity assessment of the development application was undertaken by the reconvened jury panel in December 2018. The panel recommended design changes in order for the proposal to achieve design excellence standards which are summarised as follows:
- (a) Building A:
 - (i) Deletion of ground floor apartments;
 - (ii) Integrity of 'pin wheel' plan of tower to be retained (geometric form around a central axis);
 - (iii) Increase depth of blades on the facade to a minimum of 350mm, preferably 450mm;
 - (iv) Planters be reinstated along the edge of the level 11 terrace; and
 - (b) Building B:
 - (i) Requires further refinement of the built form articulation on all facades, particularly the southern facade, to better reflect the competition winning scheme;
 - (ii) The design of the upper storeys to be more recessive;

- (iii) Review the use of full height glazing to south facade to ensure appropriate privacy is provided; and
 - (iv) Provide increased setbacks to level 5 or 6 at eastern end of building.
- (c) Building C:
- (i) A review of materials to reconsider the proposed grey flinty brick with a livelier brick colour.
- (d) Building D:
- (i) Reconsider window arrangement towards through site link.
- (e) Public domain:
- (i) Recommend decluttering of the through site link with relocation of bicycle parking and furniture; and
 - (ii) Review of overhead bridge link to minimise its bulk.

Design Amendments

18. In response to these comments, a revised scheme and sketches were submitted in February 2019. A summary of the key amendments made is as follows:
- (i) Through site link and overhead bridge link redesigned and rationalised;
 - (ii) Ground floor apartments of Building A deleted and replaced with retail;
 - (iii) 350mm fins to Building A;
 - (iv) Building A building expression revisited, slots on southern facade re-instated;
 - (v) Building B setback to through site link above Level 5;
 - (vi) Building B materiality and building expression reviewed;
 - (vii) Building C materiality reviewed; and
 - (viii) Building D apartments replaced with 7 x 4 storey terrace style apartments.

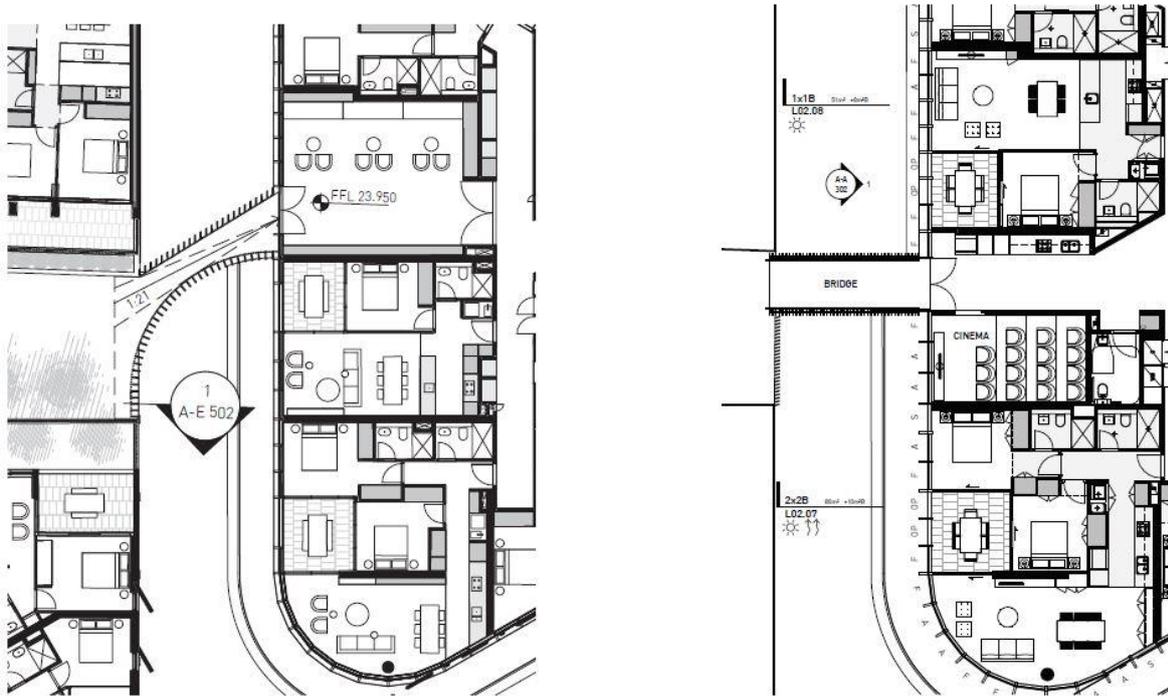


Figure 24: Change in link bridge design: as originally submitted (L) and as revised (R).



Figure 25: Montage of Building A design changes: slot reintroduced outlined red (right), and building separation to Building B increased.



Figure 26: Montage image of Buildings B and A as presented to DAP 16 May 2019.



Figure 27: Building C materials - original submission.



Figure 28: Building C materials - revised.

Design Advisory Panel (May 2019)

19. The revised design was considered by DAP at its meeting on 16 May 2019. Comments provided on the revised scheme are as follows:
 - (a) Building B: further refinement of the building form is required on the southern (Zetland Avenue) facade. If increased deep soil areas will not be provided, then there should be a commitment to green walls for the buildings.
 - (b) Building A: a deeper blade (450mm) should be fitted to the podium level to differentiate from the tower (350mm).
 - (c) Building D: terrace form supported. Concern with respect to folded blade walls on balconies.
20. The DAP Advice Sheet may be found at Attachment E.
21. Further amended plans were submitted on 11 September 2019 and 29 October 2019.
22. Montage images of the most recent amendments are shown within this report above and in the additional figures below.



Figure 29: Montage image of Building B and A generally looking north from the Drying Green



Figure 30: Montage image of Building C, and A as viewed from the corner of Barker Street and Ebsworth Street looking east.

Economic/Social/Environmental Impacts

23. The application has been assessed under Section 4.15 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

24. 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.
25. A Remediation Action Plan (RAP) and letter of interim auditor advice was submitted with the development application. The City's Environmental Health Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.
26. The applicant proposes to submit a Section A Site Auditor Statement (SAS), which certifies that the site is suitable for the intended use, prior to the issue of an Occupation Certificate rather than a Construction Certificate. The applicant has explained that this is due to the below ground conditions of the site are such that rapid upwelling of groundwater can be expected after the basement envelope is established. As a consequence, construction will be required to progress quickly to prevent the integrity of the concrete slab being compromised.
27. This is not supported given the site must be certified by a NSW EPA Accredited Site Auditor as being suitable for the use as residential development prior to construction of the building. Delaying the lodgement of a SAS to the occupation phase can result in an inability to rectify remediation works that are not satisfactory to the City or future residents. Rather it is recommended that the Section A Site Auditor Statement be submitted prior to a construction certificate being issued for above ground works rather than on completion of the whole development. It is also recommended that conditions be included in the consent that prevent any land to be dedicated to the City being subject to Environmental Management Plans, and that land to be held in the ownership of the future residents also not be subject to any onerous Environmental Management Plan(s).

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

28. 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 with 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 site is located within a mixed use zone under Sydney LEP GSTC 2013 and interfaces with existing development located outside GSTC along Portman Street, and with other GSTC development along Ebsworth Street and to a future open space area to the south across Zetland Avenue.

The proposal is generally in accordance with the objectives and provisions of the Sydney LEP GSTC 2013 and the GSTC DCP 2012 and provides for a transition between the two areas generally in accordance with the nominated height controls.

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

The scale of the GSTC area is currently in transition from former industrial and warehousing buildings to a mixed use town centre. The proposal complies with the Sydney LEP GSCT 2013 maximum FSR control for the site.

The proposed variations to the SLEP GSTC 2013 height standard are discussed in detail below. The height variations relate to a shift in the building alignment in relation to the height controls and exceedances from lift overruns. As discussed below, the exceedance of the height standard is supported in this instance.

The proposal is considered to generally provide an appropriate built form for the site. Specific recommendations in relation to certain parts of the proposal are included in the discussion below.

(c) **Principle 3: Density**

As noted above, the proposal complies with the Sydney GSTC 2013 maximum FSR standard for the site. The site is located in close proximity to the GSTC, railway station and bus routes and the proposed density can be sustained by the surrounding existing and planned infrastructure.

(d) **Principle 4: Sustainability**

The proposal is compliant with BASIX requirements. A condition has been included to ensure compliance with the commitments included on the BASIX certificate.

(e) **Principle 5: Landscape**

The proposed landscaping scheme includes a range of planting locations including common open space area, private terraces, green walls, and green wall planters with climbing trellis structures. The proposed landscaping will contribute to the usability and amenity of the development.

Conditions are recommended in relation to greening to ensure the desired vision of landscaping is delivered for the proposal.

(f) **Principle 6: Amenity**

Compliance with amenity controls are detailed in the below Apartment Design Guide (ADG) compliance table.

(g) **Principle 7: Safety**

The proposal is broadly in keeping with the principles of Crime Prevention Through Environmental Design (CPTED). The public and private spaces are clearly defined with defined entry points to the communal open space areas and private terrace areas. The arrangement of apartments provides passive surveillance of both the common open space, new through site link and surrounding street network.

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

The proposal includes a suitable range of dwelling types for different demographics including 1 bedroom (24%), 2 bedroom (53%), 3 bedroom (21%) and 4 bedroom (2%) dwellings.

(i) **Principle 9: Aesthetics**

The proposal generally achieves a built form with good proportions and balanced composition of elements. Refer to the discussion below under the heading Issues in relation to the design development in response to comments provided from DAP and the design integrity review process. Subject to conditions, the proposal is considered to achieve an acceptable aesthetic outcome for the site and context.

29. The development is considered to be 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)	Yes	Generally up to 18m, and 18m glass to glass.

2F Building Separation	Compliance	Comment
Up to four storeys (approximately 12 metres): <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 9m between habitable and non-habitable rooms 	No, but acceptable	The proposal does not provide ADG compliant separation between buildings on the site. Refer to discussion under heading Issues.

2F Building Separation	Compliance	Comment
<ul style="list-style-type: none"> 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 		
<p>At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.</p>	Acceptable	<p>The building form and setbacks of Building D are appropriate for the terrace typology at the change in zoning.</p>

3D Communal and Public Open Space	Compliance	Comment
<p>Communal open space has a minimum area equal to 25% of the site.</p>	No	<p>Total of 860sqm (17%) communal open space provided. (excluding site 15D area)</p>

3D Communal and Public Open Space	Compliance	Comment
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	Principal useable area located between Building B and Creceives 2 hours sunlight to more than 50%.

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	No, but acceptable	4.27% (4.7% excluding dedications and through site link) of deep soil zones is provided. Refer to DAP comments regarding green walls.

3F Visual Privacy	Compliance	Comment
Up to four storeys (12 metres): <ul style="list-style-type: none"> • 6m between habitable rooms / balconies • 3m between non-habitable rooms 	No, but acceptable	Separation to adjoining sites is provided. Separation for buildings within the site is not achieved. See discussion under heading Issues.
Five to eight storeys (25 metres): <ul style="list-style-type: none"> • 9m between habitable rooms / balconies • 4.5m between non-habitable rooms 		
Nine storeys and above (over 25m): <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 6m between non-habitable rooms 		

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

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	Complies
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	Complies
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	Complies

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Subject to Clause 4.6 variation	Kitchens have ceiling heights of 2.4m, with other areas having a height of 2.7m. See discussion under heading issues.
Non-habitable rooms: 2.4m	Yes	Complies
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Subject to Clause 4.6 variation	See ceiling height discussion under 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	Complies
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.	Yes	Complies
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	Complies
8m maximum depth for open plan layouts.	Acceptable	<p>Buildings A, C and D comply.</p> <p>Building B: cross-through apartments have depths greater than 8m. Daylight and natural ventilation are provided to both ends of the apartment.</p>
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	Complies - some corner apartments in Building A have irregular shape with narrower points.

4D Apartment Size and Layout	Compliance	Comment
<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 	Acceptable	<p>Buildings B, C and D comply.</p> <p>Building A generally complies, with a minor non-compliance for one apartment (L02.10.03) being 3.9m rather than 4m - this is considered to be acceptable.</p>
4m minimum width for cross over and cross through apartments.	Yes	Complies.

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments are to have a minimum balcony area of 4m² with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8m² with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m² with a minimum depth of 2.4m.</p>	Yes	Complies.
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m ² and a minimum depth of 3m.	Yes	Building C and Building D provided with ground level private open space areas.

4F Common Circulation and Spaces	Compliance	Comment
<p>Design Criteria - The maximum number of apartments off a circulation core on a single level is eight (8).</p> <p>Design Guidance - Where the design criteria is not achieved, no more than 12 apartments should be provided off a circulation core on a single level.</p>	Acceptable	<p>Buildings B, C and D comply.</p> <p>Building A has a maximum of up to 9 apartments off a circulation core. This is slightly over the Design Criteria, and well under the Design Guidance provisions of the ADG. The proposal is acceptable.</p>
<p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	Yes	Complies
<p>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.</p>	Yes	Complies
<p>Daylight and natural ventilation are provided to all common circulation spaces.</p>	Yes	Complies

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ <p>(Minimum 50% storage area located within unit)</p>	Yes	50% in apartment and storage in basement.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	Yes, generally in accordance with GSTC masterplan and not on main road. Siting considers adjoining future development including open space area opposite.

State Environmental Planning Policy (Infrastructure) 2007

30. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.
31. 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 an electrical substation on ground level. In accordance with the Clause, the application was referred to Energy Australia and Ausgrid for a period of 21 days and no objection was raised.

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

32. The BASIX Certificate has been submitted with the development application.
33. 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 Local Environmental Plan (Green Square Town Centre) 2013

34. The site is located within the B4 Mixed Use Zone. The proposed mixed use development is for ground floor retail uses with residential apartment buildings and are permissible with consent in the zone.
35. The relevant matters to be considered under Sydney Local Environmental Plan (Green Square Town Centre) 2013 (SLEP GSTC) for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	Variation under CI 4.6 supported	<p>A range of building heights apply across the site ranging from RL 22 to RL 98.</p> <p>Variations are proposed to the building massing across the site resulting in non-compliances with the building height standard in particular locations.</p> <p>Refer to discussion below under heading Issues.</p>

Development Control	Compliance	Comment
4.4 Floor Space Ratio	Yes	A maximum FSR of 6.45:1 is permitted. A FSR of 5.8:1 is proposed.
4.6 Exceptions to development standards	Yes	The proposal seeks to vary the development standard prescribed under Clause 4.3 and the ceiling height standard under the ADG See discussion under the heading Issues.
Part 6 Local Provisions	Compliance	Comment
6.2 Flood Planning	Yes	The City's Public Domain Unit have confirmed 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	Yes	An active street frontage is required to the base of Buildings B and C along the western side to Ebsworth Street and corner of Zetland Ave Retail shop fronts and residential lobbies are provided at the base of both Buildings B and C.
6.8 Car parking ancillary to other development	Yes	A maximum of 353 car spaces are permitted. 282 car spaces are proposed.
6.9 Design Excellence	Yes	Subject to conditions, the proposal is considered to achieve the requirement.
6.10 Essential Services	Yes	Services to be delivered for GSTC. The City has entered into a planning agreement with the developer to construct the infrastructure around the site at the same time as the construction of the development.

Green Square Town Centre Development Control Plan 2012

36. The relevant matters to be considered under the Green Square Town Centre Development Control Plan 2012 (GSTC DCP 2012) for the proposed development are outlined below.

2. Locality Statements – Green Square Town Centre

The subject site is located in the GSTC. The proposed mixed use development is considered to be in keeping with the unique character of the area and design principles of the GSTC area. It will integrate into the wider GSTC site in terms of both the existing context and future development.

3. General	Complies	Comment
3.1 Public Domain Elements	Yes	<p>The proposed development will make a positive contribution to the public domain, including the provision of a new planned through site link.</p> <p>The proposal provides for additional sunlight to the new open space area known as the 'Drying Green' located opposite Zetland Avenue to the south, as compared to the DCP envelopes.</p> <p>See discussion under heading Issues.</p>
3.3 Street network	Yes	<p>The proposal generally aligns with the planned street network (as shown in Figure 3.6 of the DCP) including the extension of Portman Lane as a shared zone</p> <p>A 6m wide through site link is provided generally in accordance with the location noted in Figure 3.27 of the DCP with the alignment varied and straightened in accordance with an option outlined in the design competition brief.</p>
3.4 Flooding and stormwater management	Yes	<p>The City's Public Domain Unit have reviewed the proposal and confirmed it is satisfactory.</p>

4. Development Controls	Compliance	Comment
4.1 Location of desired activities	Yes	<p>Land uses are provided in accordance with Figure 4.1 of the DCP. Retail uses are provided at ground level along Ebsworth Street and Zetland Ave, and residential to Portman Street.</p> <p>First floor uses are residential in accordance with Figure 4.2.</p>
4.2 Retail uses	Yes	Ebsworth Street is noted as a 'main street'. The design of retail spaces is fine grained, maximising glazing.
4.3 Active frontages	Yes	Active retail frontages are provided in accordance with Figure 4.5 along Ebsworth Street and Zetland Avenue.
6. Building layout, form and design	Compliance	Comment
6.1 Competitive design process	Yes	<p>The DCP requires a competitive design process to be undertaken for new tall buildings 16 storeys or greater.</p> <p>A competitive design alternative process was undertaken for the development</p>
6.2 Design and architectural diversity	Yes	<p>Building B has a length of 65m at ground and 69m on levels above.</p> <p>The building is divided into four distinct building forms, each not exceeding 20m.</p>
6.3 Building layout	Yes	The siting of buildings is generally in accordance with Figure 6.5
6.4 Height in storeys and street frontage	Acceptable	<p>The proposal complies with the height in storeys in accordance with Figure 6.8.</p> <p>Buildings A and C exceed the permitted building heights contained in Table 6.2, there being differences to the allowable LEP heights which are discussed in greater detail below under the heading Issues.</p>

6.5 Building alignments and setbacks	Variation, acceptable	<p>Setbacks to be provided in accordance with Figures 6.14 and 6.15.</p> <p>A ground floor setback of 2.75m is required for Building C. The proposal complies.</p> <p>A ground floor setback of 4m is required to Portman Street for Building D. A setback of 1.5m for upper levels is also required.</p> <p>The proposal provides a setback of 3.5m for the full height of Building D.</p> <p>The proposed front setback as varied is considered to be appropriate for the proposed terrace typology and the variation is supported.</p> <p>Building chamfers are provided at ground level only and this is considered to be acceptable given the ground level floor to ceiling heights.</p>
6.6 Roof form	Yes	Plant is concealed and architecturally integrated to the building design. Sun access to surrounding buildings and the public domain is not reduced.
6.7 Maximum floor plate of tall buildings	Yes	Building A has an average floor plate above 14 storeys of 798sqm.
6.8 Flexible housing and dwelling mix	Yes	<p>The proposed dwelling mix is:</p> <p>1 bedroom - 24%</p> <p>2 bedroom - 53%</p> <p>3 bedroom - 21%</p> <p>4 bedroom - 2%</p> <p>No studios 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	65 adaptable apartments are provided, being 20% of total number of units.
6.10 Amenity	Acceptable	<p>Many of the provisions of Section 6.10 are superseded by the ADG pursuant to Clause 6A of SEPP 65, others do not apply.</p> <p>Applicable provisions related to reflectivity, external lighting, acoustic privacy and wind effects.</p> <p>Conditions of consent are included with respect to reflectivity and light spill.</p> <p>The City's Environmental Health Unit is satisfied that the acoustic conditions of apartments will be able to comply with the DCP criteria, subject to standard noise conditions.</p>
6.11 Accessible design	Yes	The proposal complies with accessible design provisions and will be required to demonstrate compliance with other relevant accessibility standards at the CC stage.
6.12 Safety and design	Yes	Casual surveillance is available from retail spaces and apartments throughout the site, whilst still maintaining appropriate resident privacy.
6.13 Landscaping and open space	Acceptable	<p>Common open space 25% of site area required.</p> <p>860sqm (17%) is provided (excluding site 15D area).</p> <p>The submitted landscape plan has been reviewed by the City's Landscape Officer. Whilst the quantum of landscaping and common open space has not been achieved, the design concept of providing additional greening as green walls and plantings on buildings is supported, subject to further design and maintenance detail being provided to ensure the viability of wall plantings.</p>

6.14 Footpath awning and colonnades	Yes	Awnings are provided to retail uses and residential lobbies.
7. Signage and Advertising	Compliance	Comments
Signage requirements	Not applicable	Signage does not form part of the application and would require separate approval. A condition requiring the submission of a separate signage strategy has been included.
8. Environmental Management	Compliance	Comment
8.2 Energy	Yes	BASIX certificates have been submitted for the proposal. Plant is located in centralised positions.
8.3 Materials	Yes	The proposed materials are considered to be suitably durable and adaptable in accordance with the DCP.
8.4 Waste	Acceptable subject to conditions	The submitted waste management plan (WMP) has been reviewed by Council's Waste Unit. Additional details are required to be provided. A condition to this effect is recommended.
8.5 Water	Yes	Water efficient fixtures and fittings are to be installed. Stormwater conditions are included within recommended conditions.
8.6 Biodiversity	Yes	Planting of street trees will form part of public domain works.
8.7 Tree management	Yes	8 trees on the site are proposed to be removed, with replacement plantings. 28 street trees are proposed for removal with new tree plantings proposed. 2 street trees proposed to be retained are recommended to be removed due to concerns with ongoing viability.

		<p>The majority of trees on and adjoining the site are in poor condition and/or of low retention value.</p> <p>The planned street trees and onsite plantings will result in a net increase to plantings.</p>
10. Transport and Parking	Compliance	Comment
10.1 Managing transport demand	Yes	A traffic, parking and access assessment has been submitted with the application.
10.3 Vehicle parking	Yes	<p>A shared integrated basement is provided with access for all buildings.</p> <p>65 accessible car spaces are provided, one for each adaptable dwelling.</p> <p>Bicycle parking: a minimum provision of 391 spaces is required. The proposal includes:</p> <ul style="list-style-type: none"> • 95 spaces for staff/visitors provided at ground • 323 spaces for apartments indicatively shown within basement. Further design details required as part of recommended conditions. <p>A total 418 bicycle spaces have been provided.</p>
10.4 Vehicle access and footpaths	Yes	Vehicle access to the site is proposed in accordance with Figure 10.2. The permissible option of a connection to the basement of Site 18 is not proposed.

Issues

Clause 4.6 request to vary a development standard - height of buildings

37. The height of buildings development standard varies across the site. The SLEP (GSTC) 2013 permits maximum building heights ranging from RL 24, RL 27.5, RL 37, RL 40, RL 47.5, RL 62, RL 63, and RL 98 as illustrated in the figure below.

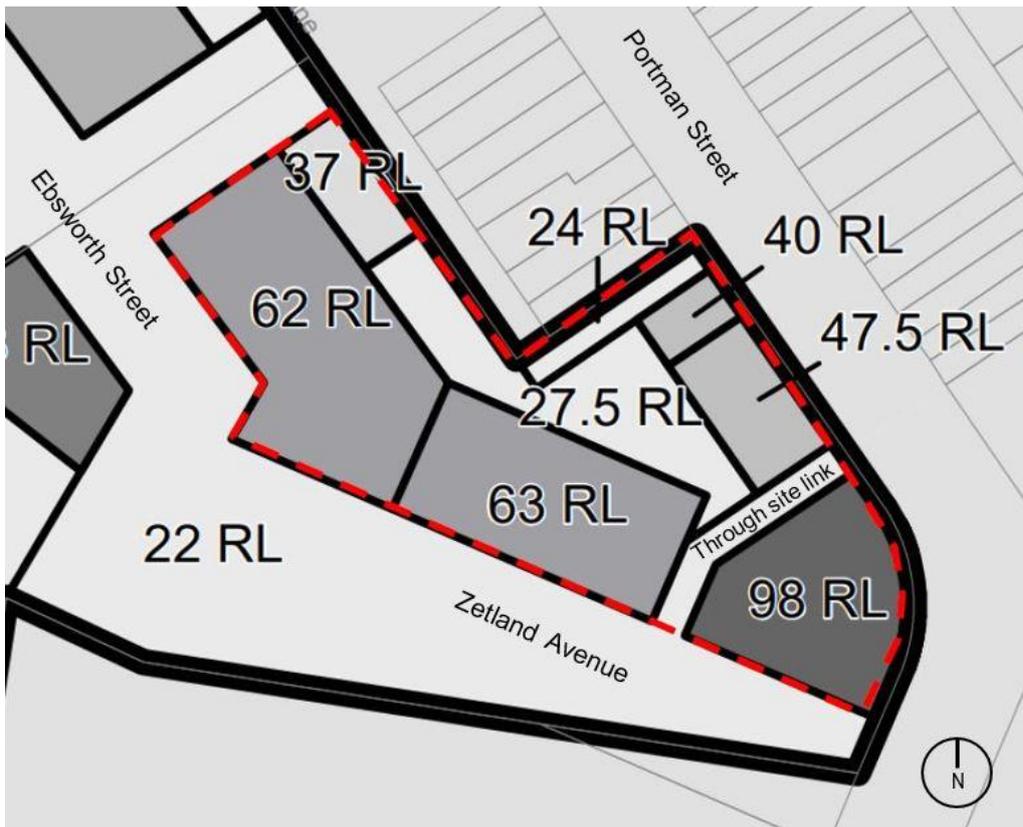


Figure 31: Illustration of Height of Buildings Map for Sydney Local Environmental Plan (Green Square Town Centre) 2013, site outlined red.

38. The proposal exceeds the height of buildings development standard in a number of instances as follows:

- (a) Building A: With an RL 98 this section of the site is intended to contain the highest building on the site. The proposal conforms with this intent. The proposed development includes a straightening of the through site link (noted as a design opportunity within the design competition brief) which results in Building A encroaching laterally into the adjoining RL 22 height area. The height of RL 98 is proposed as a maximum height across the building. The extent of the area in which the height is breached is across a small section of the north and western ends of the building as shown in the figure below. The extent of the lateral variation is 76m, a variance of 345%.

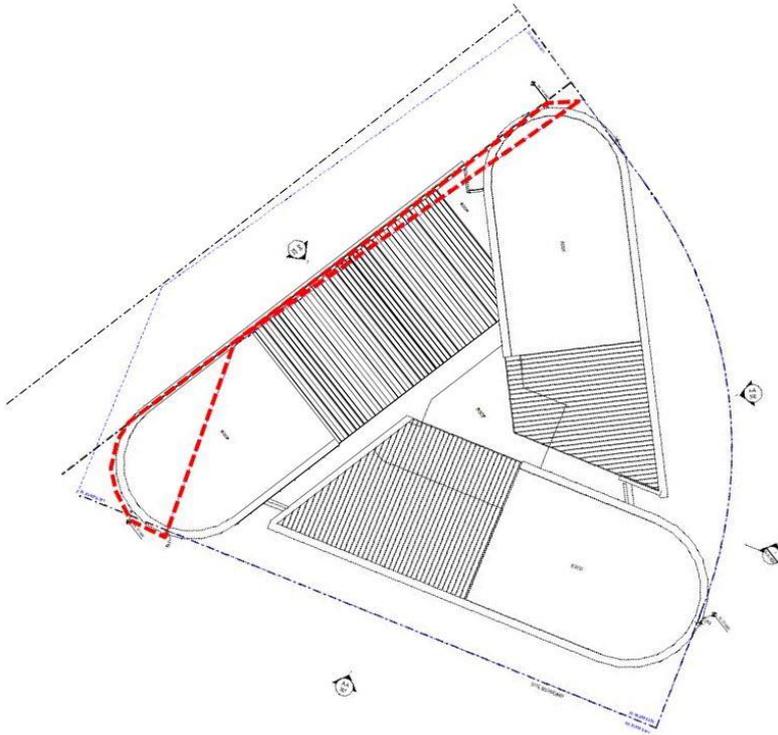


Figure 32: Extent of area for height variation for Building A shown in roof plan dashed red.

- (b) Building B: The Building C envelope has been reduced and the Building B frontage across Zetland Avenue has expanded, resulting in Building B being situated across the RL 62 and RL 63 height areas. A height of RL 63 is proposed as a consistent height across the building, resulting in a breach within the RL 62 height area. The extent of the variation is 1m, a variance of 1.6%.

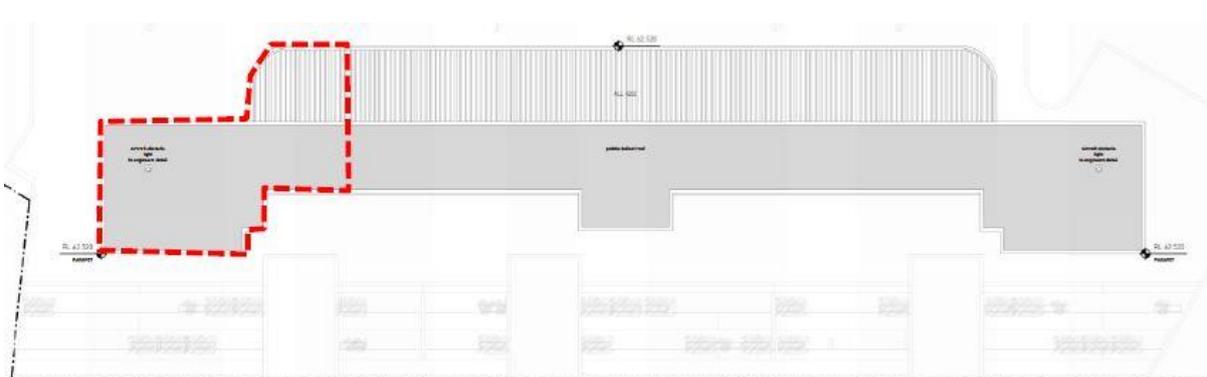


Figure 33: Extent of area for height variation for Building B shown in roof plan dashed red.

- (c) Building C: The building is proposed to a height of RL 62.625 within the RL 62 height area. The portion of building exceeding the height standard is screening for roof top plant, set back from the building facade. The extent of the variation is 0.625m, a variance of 1%.

- (d) Building D: The terrace building includes a maximum height of RL 38.5 (with the majority of the building within the RL 40 & RL 47.5 height areas) and encroaches laterally within the RL 27.5 height area on its southern end. This area forms part of the central podium area between buildings that has been reconfigured with the shift in building configurations of Buildings B and C. The extent of the variation is 11m, a variance of 40%.



Figure 34: Extent of area for height variation for Building D shown in roof plan dashed red.

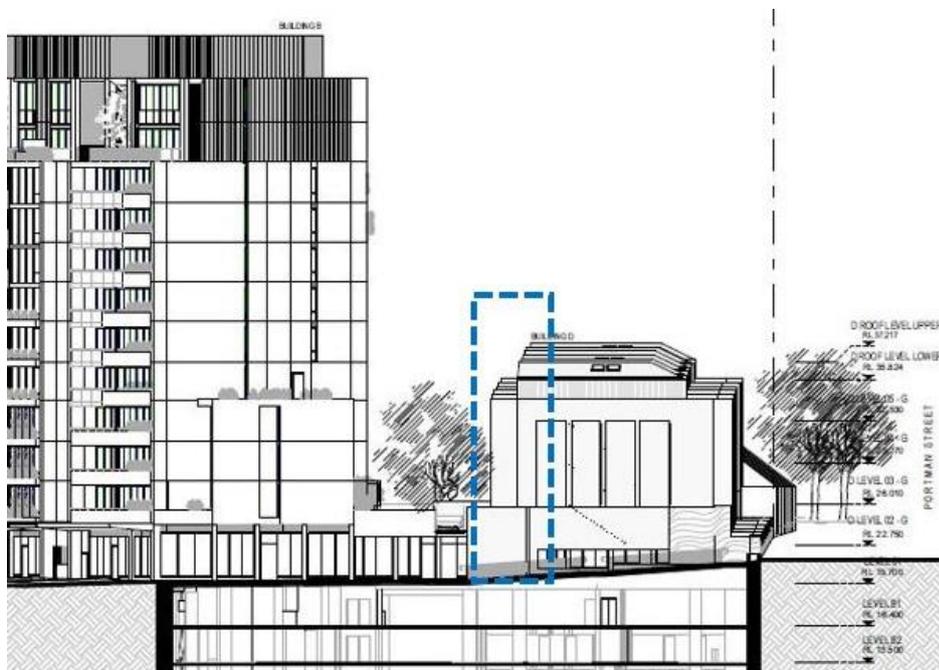


Figure 35: Section view of height breach indicatively shown dashed blue.

39. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the SLEP GSTC 2013 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.
40. A copy of the applicant's written request is provided at Attachment C.

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

41. The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The applicant has referred to the first of 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 is to demonstrate that the objectives of the standard are achieved notwithstanding the 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.

The site adjoins the 'Zetland Estate' HCA to the north of the site. The conservation area is characterised by low density dwellings generally consisting of Victorian style terrace houses. Two heritage listed items (I2218 and I2219) comprising of six terrace dwellings are sited to the north of the site (at No. 65 - 75 Portman Street), orientating away from the site to Portman Street, and are separated from the site by Portman Lane.

Building B is located a distance from the interface to the heritage buildings and HCA. The minor variation (1m) to the height limit for this building will not be perceptible when viewed from the north.

Building C is located adjacent to the heritage buildings and HCA. The portions of the building exceeding the height limit (by 0.625m) are located to the south western portion of the roof. Given the change in topography between ground level of the 'Zetland Estate' and Building C, the variation of less than a metre (0.625m) will not be perceivable and will not result in any adverse visual impact when viewed from the HCA. The eastern portion of the building is consistent with the maximum building height and provides an acceptable transition in height. There is also no impact to the completed development at Site 16 (at a height of RL56.5) and Building C provides a transition between the taller forms of Building A through to Site 16 to the north.

The designs and variations of Building D and Building A do not alter the way these buildings interface with the HCA. Building D acts as a transition building, and for the majority of the building is below the permitted building heights. The portions that exceed the standard are located away from the HCA and are provided at the same height as the Portman Street orientation of the building. Building A is largely compliant with the height limit, and the parts exceed the height standard are the same height as those that are compliant.

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

The site forms part of the highly urbanised context of the GSTC which is characterised by high rise mixed use buildings. Views from surrounding properties typically consist of dense built forms, or when looking north beyond GSTC, low scale development within the residential suburb of Zetland. View corridors from surrounding properties and within the public domain are considered to be non-significant as they do not relate to iconic views.

The massing of Building A provides a superior public view sharing outcome (through the straightened through site link), allowing a clear line of sight between Portman Street and the Drying Green.

The alternate massing for Building B and Building C affords additional view sharing opportunities both at a pedestrian level within the public domain on Ebsworth Street/Zetland Avenues as well as from the eastern portions of the site, including proposed terraces within Building D, through the site towards the Drying Green and new plaza at Ebsworth Street/Zetland Avenue.

The additional height of Building C will not encroach on view corridors on the upper levels of the apartments within Building B as the views from Building B are orientated away from Building C.

The additional height has a negligible impact on the view corridors from the dwellings along Portman Lane. The existing views are impeded by canopy tree planting on Portman Lane and the heights variations will have little visibility and imperceptible impact on views from these properties.

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

The proposed development is generally consistent with the prescribed building height standards and height profiles within SLEP GSTC 2013 and GSTC DCP 2012 by presenting Building A as a 'bookend' to Zetland Avenue, with the Ovo Building being the bookend to the north west.

Buildings A, B and C continue to respond to the established street wall height of Ebsworth Street and present a coherent built form contribution. The variation to Building D relates to building siting and positioning and responds to Council's previous feedback.

The redistribution of massing between all buildings presents as a superior urban design response to the GSTC context as supported by the design competition jury recommendations and decision.

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

The proposal is consistent with this objective with Building A being the only tall building and the development stepping down through Building B and Building C. Building D continues a transition to the Zetland Estate HCA.

The alternate massing provides a superior public domain outcome by providing a clear line of sight through the through site link, consistent with the principles of CPTED. The alternate massing of Building B and Building C provides for an informal plaza at the corner of Ebsworth Street and Zetland Avenue.

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

The alternate massing of the development results in a superior public domain outcome for Site 15. The alternate massing of Building B and Building C provides for a plaza space at the corner of Ebsworth Street and Zetland Avenue. Building B presents a consistent street wall to Zetland Avenue and provides for increased direct sunlight to the Drying Green public open space area. The alternate massing of Building A results in a direct through site link with direct sight lines and activated ground floor uses. The Building D terrace house typology ensures a transition to the Zetland Estate HCA.

- (b) That there are sufficient environmental planning grounds to justify contravening the standard. The applicant submits the following arguments in support:

- (i) Improved residential amenity

The alternate massing for Buildings B and C results in more apartments with a north easterly aspect achieving a greater solar capture in midwinter. It also results in more apartments achieving cross ventilation.

The alternate massing of Building D provides an improved consistent built form terrace typology compared to an alternative compliant apartment scheme.

There are no impacts on the amenity of the neighbouring residential properties.

- (ii) Flooding planning levels

Section 6.4 of the Green Square DCP 2012 prescribes the maximum building height as height in metres above the flood planning level (FPL) on a site-by-site basis. The FFL in the proposal has been slightly raised to meet Council's flooding requirements resulting in higher buildings and vehicle clearance heights. This has contributed to buildings exceeding the height standards.

(iii) Improved public domain outcome

The alternate massing of Building A with the straightening of the through site link provides a superior public domain outcome. The clear line of sight provided between Portman Street and the Drying Green implements the principles of CPTED. The alternate massing of Building B and Building C provides for a plaza space at the corner of Ebsworth Street and Zetland Avenue. This approach to site planning was identified as a key aspect of the winning scheme in the competitive design process.

(iv) Improved built form outcome

The objectives and controls contained within the Green Square DCP always considered a future built form for Site 15 of the proposed nature. Whilst the revised building envelopes involve minor height variations as they depart from the LEP controls prescribed to those building footprints, the proposed massing and building siting provides a superior outcome in accommodating improved through-site links and diversified building typologies as well as high quality built form outcomes that incorporate human scale benefits with deep consideration to neighbouring buildings and open spaces. The proposed development for Site 15 achieves the majority of desired outcomes stated in the DCP.

(v) The variation is minor in nature and extent

As illustrated in the figures above, the extent of the parts of the building that are non-compliant with the height controls are minor. Approximately 89% of Building A is located within the RL 98 height area. The extent of non-compliance for Building B is 1m and is of a height consistent with the adjoining compliant RL 63 height. The Building C non-compliance is 0.625m and is set back from both Barker Street and Ebsworth Street. The portions of Building D that exceed the limit are located at the rear of the building and do not compromise the separation distances.

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

42. 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)?

43. The applicant's written request has addressed one of the 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 in the circumstances. It is considered that the justification provided to satisfy the first test that the objectives of the standard are achieved notwithstanding non-compliance with the standard is adequate.
44. The applicant has demonstrated that the alternate massing proposed as part of both the competition winning scheme and the amended development application scheme achieves the objectives of the height of buildings standard despite the non-compliances. Minor changes to building massing and orientation result in some instances, large lateral variations to small sections of buildings due to the highly tailored height controls. The alternate massing of Buildings A, B and C was a key feature of the competition winning scheme and it is considered important to retain this alternate massing in the proposal for the urban design benefits as described within the applicant's submission. The intent of the height standard is considered to still be achieved in the alternative massing proposed, as the proposal delivers differing building forms across the site that transition from a higher tower form of Building A, to both the adjoining heritage conservation area to the north, and the heart of the GSTC to the west.
45. Council's Heritage Specialist has reviewed the proposal and has advised that the height transition and design of the terrace style dwellings in Building D is an appropriate response to the adjoining heritage items and HCA.
46. Views impacts of the proposal are consistent with those of a compliant scheme with some improvements of sight lines through the straightened through site link.

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

47. The applicant's written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the standard. The urban design benefits of the alternate massing are acknowledged as being key strengths of the design competition winning scheme that should be retained as part of the proposal.
48. The application has separate to the Clause 4.6 request, included solar diagrams demonstrating that the alternate massing of the scheme results in improved solar access to the 'Drying Green' for the proposed development as compared to the DCP envelopes. There is increased direct sunlight available to the Drying Green at all times between 11:00am to 2:00pm mid winter for the proposed alternate massing as compared to the DCP envelope shadowing for the site. This is shown in the solar diagrams below where the yellow colouring indicates an increase in solar access as compared to the outlined DCP overshadowing.



Figure 36: Solar diagrams for 11:00am (left) and 12:00pm (right).



Figure 37: Solar diagrams for 1:00pm (left) and 2:00pm (right).

Is the development in the public interest?

49. 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; and
- (c) To ensure uses support the viability of centres.

50. The proposal provides a mix of compatible land uses including ground floor retail tenancies that activate ground level street frontages in accordance with GSTC DCP 2012 controls, with residential apartments above. The site is well serviced by nearby public transport networks and is situated nearby to other similar ground floor retail uses planned in the vicinity, which will collectively support the establishment of the Green Square Town Centre.

51. The objectives of the height of buildings standard include:
 - (a) To ensure acceptable height transitions between new development and heritage items and buildings in heritage conservation areas;
 - (b) To ensure the 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; and
 - (e) To ensure the built form contributes to the physical definition of the street network and public spaces.
52. The applicant's submission as summarised above is considered to have demonstrated that the objectives of the height of buildings development standard have been achieved by the proposal.
53. The applicant has demonstrated that the alternate massing proposed as part of both the competition winning scheme and the development application scheme as amended achieves the objectives of the height of buildings standard despite the non-compliance. The alternate massing of Buildings A, B and C was a key feature of the competition winning scheme and it is considered important to retain this alternate massing in the proposal for the urban design benefits as described within the applicant's submission.
54. The proposed massing and building typology results in an appropriate transition to the adjoining HCA and heritage items. Council's Heritage Specialist has reviewed the proposal and has advised that the height transition and design of the terrace style dwellings in Building D is an appropriate response to the adjoining heritage items and HCA.
55. Views impacts of the proposal are consistent with those of a compliant scheme with some improvements of sight lines through the straightened through site link.
56. The proposal is therefore considered to be in the public interest in terms of the described height breaches being consistent with the both the objectives of the height of buildings development standard and the objectives of the B4 Mixed Use Zone.

Conclusion

57. For the reasons provided above the requested variation to the height of buildings 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 (GSTC) 2013 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the B4 Mixed Use Zone.

Clause 4.6 request to vary a development standard - ceiling heights

58. The applicant has submitted a request to vary the ceiling height standard as contained within the Apartment Design Guide (ADG) pursuant to Clause 4.6 of the Sydney Local Environmental Plan (Green Square Town Centre) 2013 (SLEP GSTC 2013). The effect of Clause 30(3)(b) of SEPP 65 (Design Quality of Residential Apartment Developments) is that the design criteria identified in subclause 30(1), that is minimum car parking, minimum apartment sizes and minimum floor to ceiling heights (all in the ADG), are development standards.
59. The ADG contains the following three standards in respect of ceiling heights relevant to the proposal:
- (a) 2.7m minimum ceiling height in habitable rooms;
 - (b) 2.4m minimum ceiling height for non-habitable rooms; and
 - (c) 3.3m minimum ceiling height on the ground and first floor in mixed use areas.
60. For the residential apartments in Buildings A, B and C, a compliant floor to ceiling height of 2.7m is provided to all living and sleeping areas, however a ceiling height of 2.4m is proposed to kitchen areas. The lower ceiling height allows for building service infrastructure including vents, conduits, and plumbing to be located in a centralised and accessible location within the apartment. An illustration of the typical kitchen ceiling is provided below:

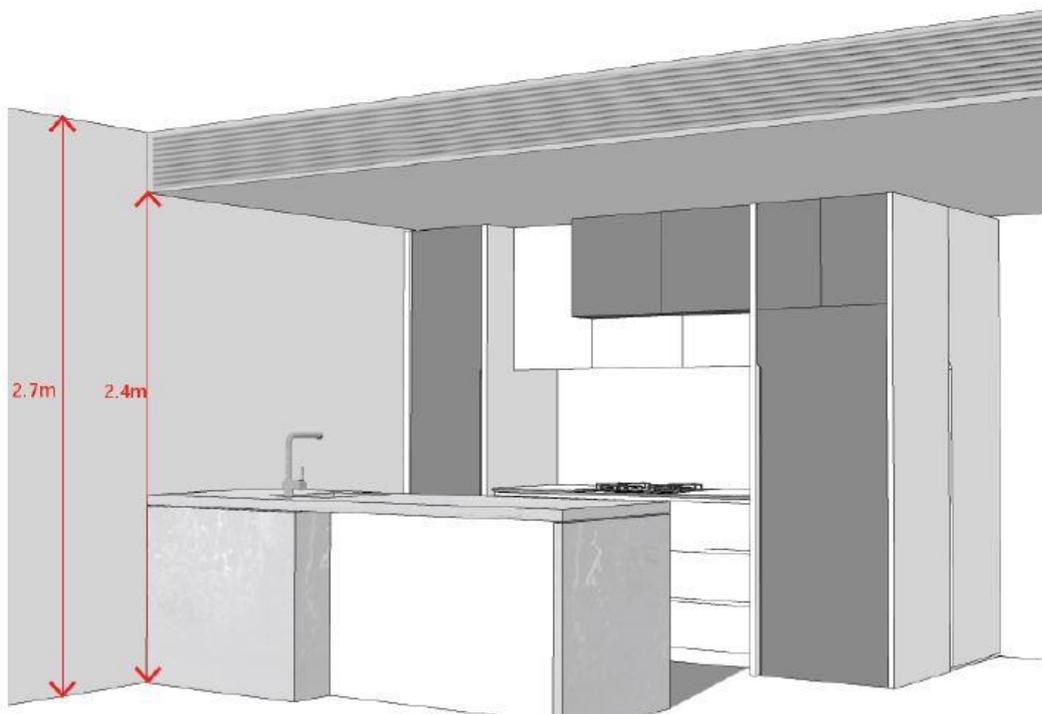


Figure 38: Typical kitchen perspective detail drawing.

61. For the ground floor, the ceiling heights have been designed to comply with Part 4.1 of GSTC DCP 2012 which specifies a minimum floor to ceiling height of 3m
62. The first floor apartments provide ceiling heights consistent with those above being 2.4 to 2.7m high.

63. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the SLEP GSTC 2013 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.
64. A copy of the applicant's written request is provided at Attachment D.

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

65. The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The applicant has referred to the first of 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 is to demonstrate that the objectives of the standard are achieved notwithstanding the non-compliance with the numerical standard.
 - (ii) The objectives of the standard are as follows:
 - 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
 - Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building
 - (iii) A summary of the applicant's assessment against the objectives of the control are provided below.

The vast majority of habitable areas within apartments are provided with ceiling heights of 2.7m. The proposed variation is minor in nature (300mm) and only relates to a small proportion of the apartment area being the kitchen. The kitchen areas are located adjacent to open plan living room areas, ensuring that a generous perception of space is achieved and natural light and ventilation are achieved in both the living room and kitchen areas. Overall, the proposed development also achieves the key design criteria of the ADG in relation to solar access and ventilation with 72% of apartments receiving at least two hours of direct sunlight in mid-winter and 62% of apartments within the first nine storeys achieving natural cross ventilation.

- (b) That there are sufficient environmental planning grounds to justify contravening the standard. The applicant submits that:

The ceiling heights in kitchen areas, while slightly lower, are in compliance with the Building Code of Australia and allow for sufficient ventilation and light in these apartments which achieve suitable levels of direct sunlight and ventilation.

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

66. 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)?

67. The written request has sought to address the first of five tests established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 that the objectives of the standard are achieved notwithstanding the non-compliance.
68. The submission in its totality has demonstrated that the objectives of the standard are achieved despite the non-compliance. The apartments will achieve sufficient natural ventilation and daylight access with good amenity and sense of space within the areas, being located as part of an open plan living area. Flexibility of use of the building is retained to the desired extent.

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

69. The written request has demonstrated that the non-compliance will not result in reduced residential amenity, and that the proposed floor to ceiling heights will still be in accordance with BCA requirements. Therefore, it is considered that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

70. 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; and
- (c) To ensure uses support the viability of centres.

71. The proposal provides a mix of compatible land uses including ground floor retail tenancies that activate ground level street frontages in accordance with GSTC DCP 2012 controls, with residential apartments above. The site is well serviced by nearby public transport networks and is situated nearby similar to other similar ground floor retail uses planned in the vicinity, which will collectively support the establishment of the Green Square Town Centre.
72. The objectives of the ceiling heights standard are as follows:
 - (a) Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access.
 - (b) Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms
 - (c) Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building

Conclusion

73. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by CI 4.6 of the Sydney Local Environmental Plan (GSTC) 2013 and the proposed development would be in the public interest because it is consistent with the objectives of the ceiling height development standard and the B4 Mixed Use Zone.

Design Quality

74. In response to feedback provided by the DAP on two occasions and through the design integrity assessment, the proposal has been amended to address issues raised as described above in this report. The key issues raised by DAP and the design integrity assessment and the manner in which they have been addressed in the amended proposal are detailed as follows:

Landscaping / Deep soil

75. DAP comment: If deep soil planting is severely constrained on the site, there should be a strong commitment to provide green walls for the buildings. The green walls should be a common language between the buildings.

Response

76. The submission includes a revised landscaping plan incorporating a green wall to the eastern side of Building C, planter beds, cascading troughs and climbers as shown in the figure below.

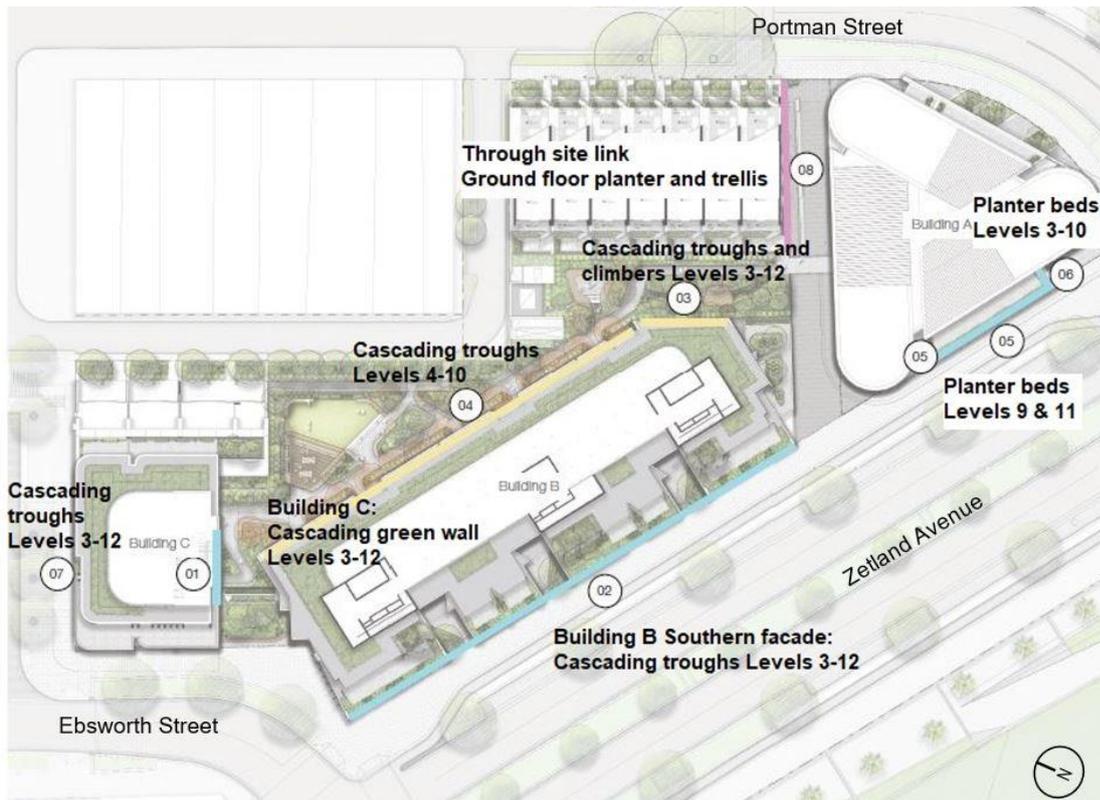


Figure 39: Extract from landscape DA report.

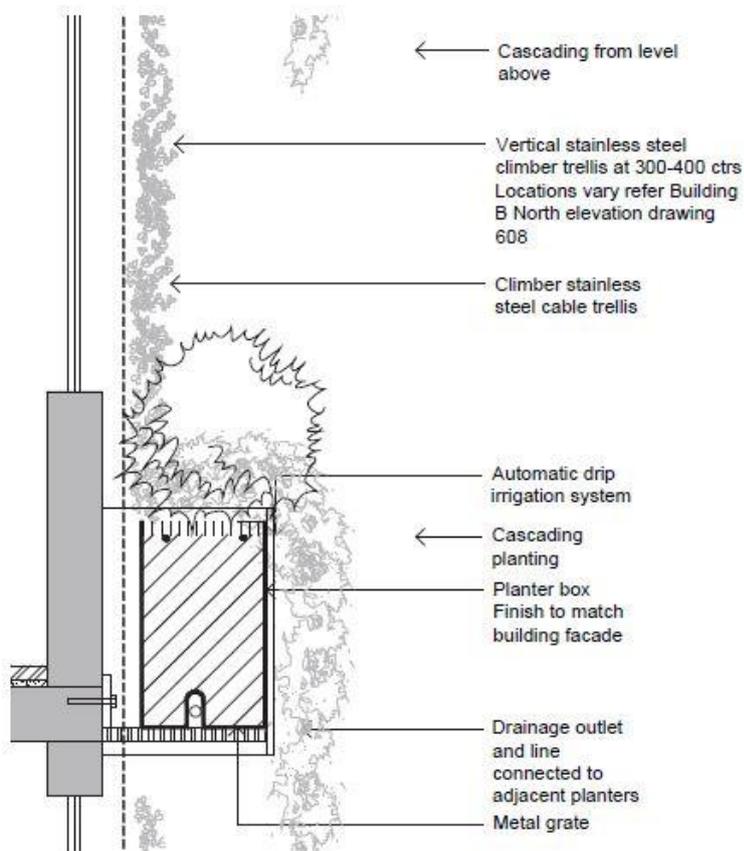


Figure 40: Detail of cascading trough with climbing.



Figure 41: Montage image of original DA submission - generally looking north from Zetland Avenue.



Figure 42: Montage image of amended proposal with additional green walls and planters - generally looking north from Zetland Avenue.

77. The updated landscaping package has been reviewed by Council's landscape officer. The concept of greening the building walls and roof plantings is supported in terms of addressing the DAP comment, however a greater level of detail regarding the green wall and facade planters is required to ensure their delivery and ongoing viability, including:

- (a) Further developed coordinated architecture and landscape design with adequate structure and hydraulics for green roofs, green walls and facade planters. Inconsistent information has been provided in terms of plantings on plans and only indicative details of ongoing access and maintenance have been provided, to areas where access appears to be challenging;
 - (b) Details of how glazing behind inaccessible planters will be accessed for cleaning;
 - (c) Drainage and irrigation design including location of irrigation / fertigation tanks and space for green waste removal within basement;
 - (d) Site-wide management plan including access and maintenance.
78. Given the importance of ensuring the delivery and ongoing viability of the greening to the development, it is recommended that this information be required as a deferred commencement condition.

Building B - Design and Materiality

79. DAP comment: There is an opportunity to substantially increase the quality of the materials and design articulation to match its exceptional park side position. Apartments within the mansard roof portions of the buildings provide an opportunity for a distinctive design response providing high amenity.

Response

80. Different tones of pre-cast concrete have been introduced for the four distinct facades facing the Drying Green. The facade elements have been revised to provide more points of difference and greenery.
81. Levels 11 and 12 have been setback and the materiality revised. Steel framed and metal clad wintergarden structures have been introduced that is differentiated from the robust precast materiality of the street wall building form below.



Figure 43: Building B proposed materials.



Figure 44: Montage image of proposal presented to DAP 16 May 2019 - generally looking north from Zetland Avenue.



Figure 45: Montage image of amended proposal with additional green walls and planters - generally looking north from Zetland Avenue.



Figure 46: Perspective drawing of Level 11 and 12 winter gardens.

82. The revised design is considered to provide an acceptable level of differences and similarities between each of the four building elements. The details of the landscaping are required to ensure the delivery of greenery across the building.

Building A

83. DAP comment: The panel suggested 450mm deep blades for the podium and 350mm deep blades for the tower.

Response

84. Blades increased to 450mm on south façade of Zetland Avenue podium, and are 350mm above.

Building D

85. DAP comment: Terrace typology supported. Panel concerned about the folded blade walls on the balconies and the external finishes.

Response

86. The Building D scheme of terraces (originally lodged as an apartment building) was presented to the DAP in plan form and basic montage images (see example below). The design of the terraces has evolved with more detail and a more resolved design and material selection.



Figure 47: Building D image presented to DAP 16 May 2019 - view from Portman Street.



Figure 48: Building D montage image of amended scheme - view from Portman Street.



Figure 49: Building D perspective image of amended scheme (less landscaping).



Figure 50: Materials samples Building D.

87. The amended design is considered to provide an appropriate contextual response to the heritage conservation area and adjoining heritage items in terms of scale, building form, materials and landscaping opportunities. Details and refinement of the blade forms are considered to address the concern raised by the DAP. The blades offer an element of privacy to the balcony and windows, whilst not appearing overly defensive.

Building Separation

88. The proposal results in instances of non-compliances with the building separation requirements of the ADG.

Separation between Building A and D:

89. Building separation of 6m is proposed rather than an ADG compliant 12m. Privacy is achieved with angled windows, and 1.8m bladed parapet to the Building D terrace.

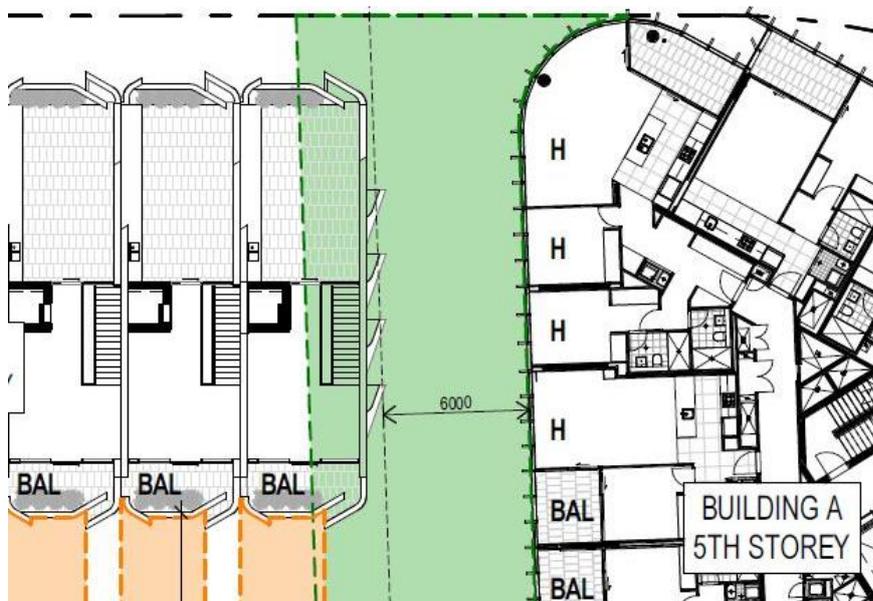


Figure 51: Building separation between Building D (L4) and Building A (L5).

Separation between Building B and D:

90. The building separation is generally a compliant 12m or greater. Three Building D dwellings are set back between 11.4m to 11.55m for the Building D fourth storey. Privacy is achieved through the angled facade of Building D and plantings to the balcony edges of both buildings.

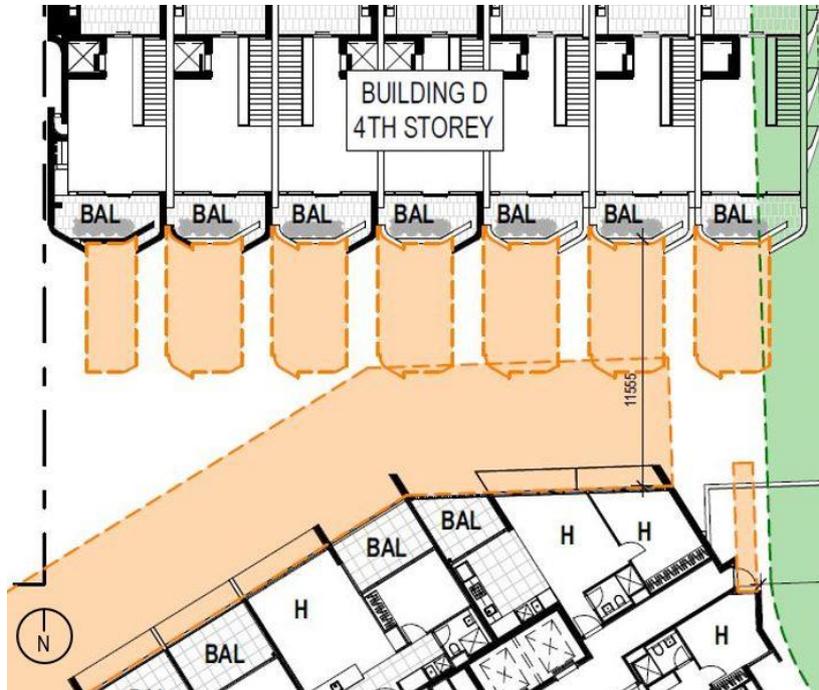


Figure 52: Building separation between Building D (L4) and Building B (L4).

Separation between Building A and B:

91. For Levels 2 to 4, a building separation of 6.1m is provided between habitable rooms and/or balconies rather than an ADG compliant 12m. Privacy is provided by windows on Building B not facing towards Building A and parapets to the eastern balconies of Building B directing overlooking away from Building A.
92. For Levels 5 to 8, a building separation of 9.5m is provided between habitable rooms, rather than an ADG compliant 18m. Privacy is provided by windows on Building B not facing towards Building A.
93. For Levels 9 to 12, a building a building separation of 9.5m is provided between habitable rooms rather than an ADG compliant 24m. Privacy is provided by windows on Building B not facing toward Building A.

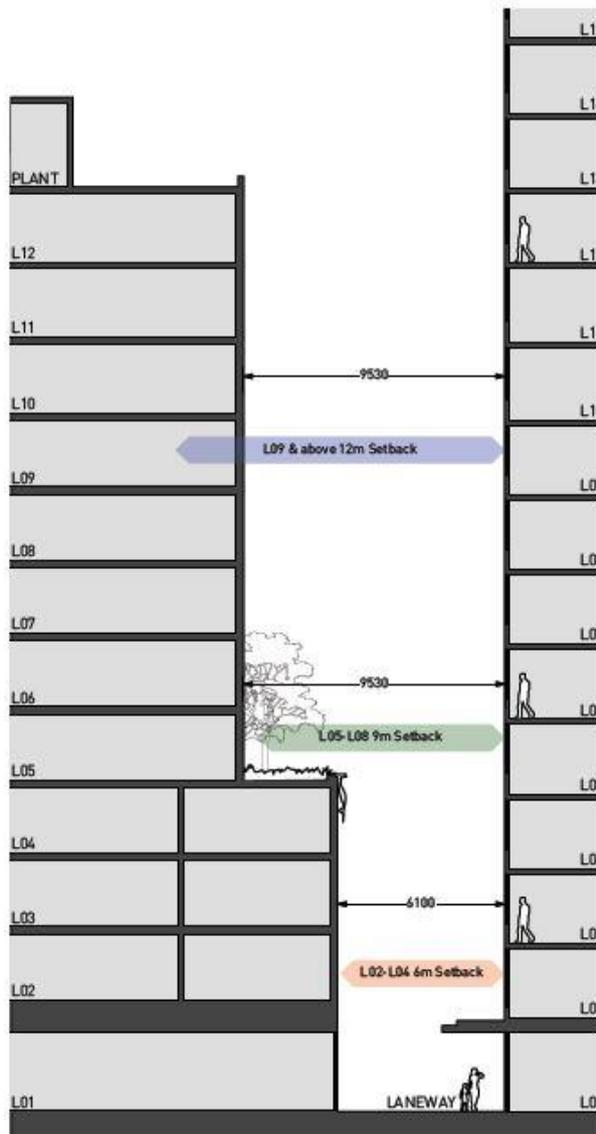


Figure 53: Section drawing of building separation between Building A and B.



Figure 54: Separation drawing between Building A and B for Level 9.

Separation between Building B and C:

94. Buildings B and C are angled towards each other, in part due to the angled alignments of Barker Street and Zetland Avenue.
95. For Levels 2 to 4, a setback of 7.9m is provided between habitable to habitable rooms rather than an ADG compliant 12m. A Building B balcony is located 5.5m from a non-habitable space of Building C, located behind the green wall. Privacy is provided by the provision of narrow slot windows on the eastern facade in Building C, and extended balcony parapet blades on Building B.
96. For Levels 5 to 8, a setback of 7.9m is provided between habitable to habitable rooms rather than an ADG compliant 18m. A Building B balcony is located 5.5m from a non-habitable space of Building C, located behind the green wall. Privacy is provided by the provision of narrow slot windows on the eastern facade of Building C. These narrow windows are provided to kitchen and living areas that have a primary orientation to the north toward Portman Lane.
97. For Levels 9 to 10, a setback of 9.3m is provided between habitable to habitable rooms rather than an ADG compliant 24m. Privacy is provided by the provision of narrow slot windows on the eastern facade of Building C. These narrow windows are provided to kitchen and living areas that have a primary orientation to the north toward Portman Lane and the south toward Ebsworth Street.

98. Levels 11 to 12: a setback of 9.3m is provided, between habitable to habitable rooms/balconies rather than an ADG compliant 24m. Privacy is provided by the provision of narrow slot windows on the eastern facade of Building C. These narrow windows are provided to kitchen and secondary windows to living rooms that have a primary orientation to Portman Lane. Bedrooms on Levels 11 and 12 of Building B have windows to the south elevation.

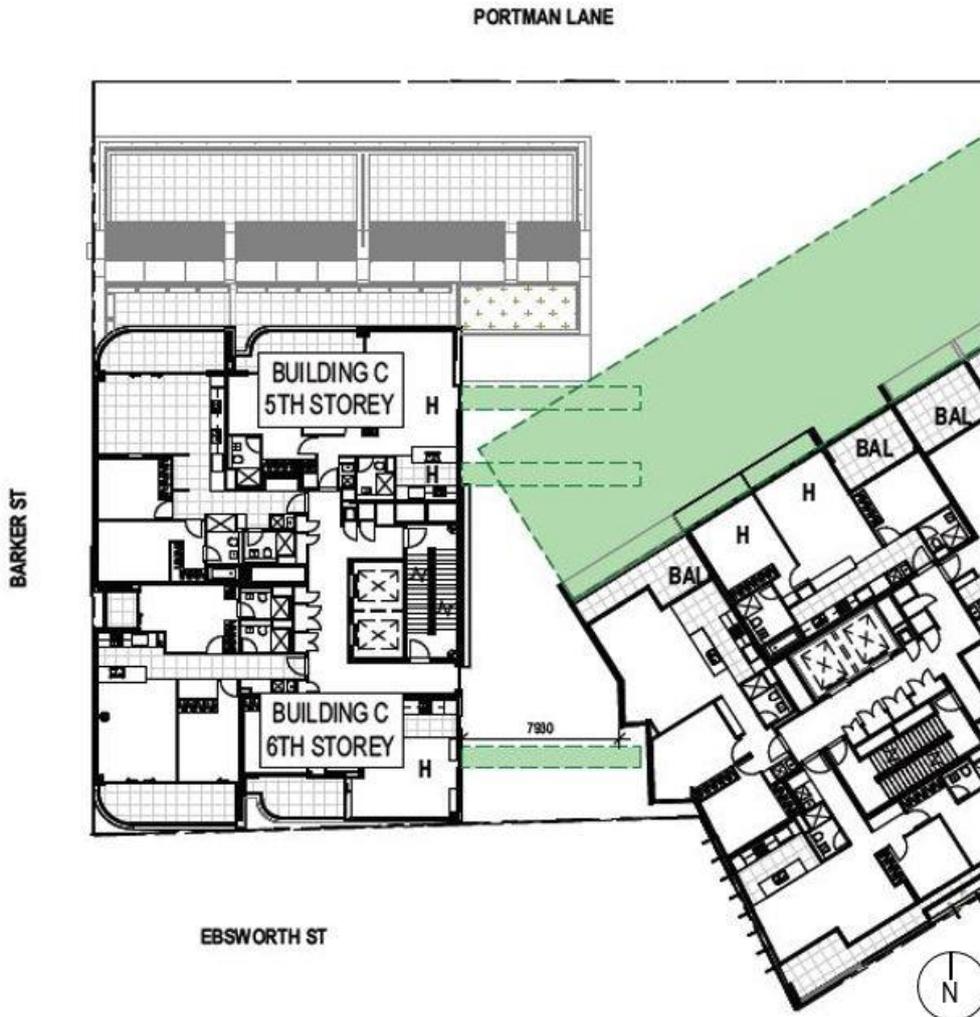


Figure 55: Separation drawing for Levels 5 to 8 Buildings B & C.

99. The development is considered to have provided an acceptable level of separation between buildings having regard to building orientations and privacy measures outlined above. The proposed greening on green walls and facade planters also assists in providing both privacy and sense of space within the development.

Overshadowing of the Drying Green

100. The new area of public open space to be known as the Drying Green is located opposite Building B across Zetland Avenue. Development surrounding the Drying Green is required to achieve direct sunlight each hour between 11:00am and 2:00pm for at least 50% of the park (taken in recent assessments as mid-winter).

101. The application includes an assessment of the available sunlight to the Drying Green with a comparison between the GSTC DCP prescribed maximum building envelopes and the proposed building form as follows.



Figure 56: Solar diagrams for 11:00am (left) and 12:00pm (right). Yellow shaded area for subject development indicates an improvement in sunlight, blue shading indicates loss of sunlight. Site 18 shadowing compares the DCP envelope (dark shaded) to approved shadowing (outlined).



Figure 57: Solar diagrams for 1:00pm (left) and 2:00pm (right). Yellow shaded area for subject development indicates an improvement in sunlight, blue shading indicates loss of sunlight. Site 18 shadowing compares the DCP envelope (dark shaded) to approved shadowing (outlined). Site 19 shadowing is the DCP envelope that may be reduced in the detailed development.

102. The numerical assessment of the available sunlight is submitted as follows:

Time	DCP Envelope	Proposed
11:00am	41%	46%
12:00pm	62%	65%
1:00pm	58%	58%
2:00pm	47%	45%

103. The additional shadowing from the proposal principally occurs at 11:00am and 12:00pm (shown highlighted blue) from Buildings A and B, which is offset by gains made elsewhere (shown highlighted yellow). At these times there is a gain of sunlight to the Drying Green as compared to the DCP envelope.
104. At 2:00pm where the direct sunlight is reduced to the Drying Green, there is a net gain in terms of additional direct sunlight provided from the subject proposal, with only minor parts of increased shadowing (shown highlighted blue), with the overall increase attributed to overshadowing from surrounding sites, noting that the overshadowing from the Site 19 DCP envelope may be further reduced as part of the detailed design process through both the design competition and development application process.

Transport

105. The application seeks to provide 266 residential car spaces and 4 residential visitor car spaces. The provision of residential visitor spaces is considered to be inadequate for the development and should be proportionally increased within the maximum of 266 residential car spaces. Where this maximum is provided, 232 may be for residential car spaces and 34 residential visitors' spaces.
106. The detail of Class 2 Bicycle parking spaces is to be provided as part of the recommended conditions. Where any additional space is required to be provided for bicycle parking, reduced commercial car, motorcycle and residential car spaces should be provided, rather than a reduction in storage spaces within the basement. This is included as part of the recommended conditions.

Public Art

107. The scale of the project requires a public art contribution in accordance with the 'City of Sydney Public Art in Private Development Guideline'. A recommended condition requires the submission of both a preliminary and then detailed public art plan.

Other Impacts of the Development

108. The proposed development is capable of complying with the BCA.
109. 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

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

Internal Referrals

111. Where relevant, the conditions of other sections of Council have been included in the proposed conditions.
112. The application was discussed with the City's Urban Design and Heritage Specialists; Building Services Unit, Environment Health; Public Domain; Surveyors; Transport and Access; Tree Management; Waste Management. Recommendations are discussed above and where relevant, included within the recommended conditions of consent.

External Referrals

Notification and Advertising

113. The application as first lodged was notified and advertised between 29 May 2018 to 29 June 2018. The proposal was notified to 411 properties and two submissions in objection were received. The amended plans received in September 2019 were notified and advertised between 13 September 2019 to 12 October 2019. Seven submissions objecting to the proposal were received. The issues raised in all submissions are addressed as follows:

Issue - Building D Form

- (a) A concern has been expressed that the form of the Building D (as originally lodged) has no relationship to the existing terrace dwellings on Portman Street and results in impacts to the heritage significance to these dwellings.

Response - The amended design of Building D as a terrace typology results in an improved and satisfactory interface to the HCA and adjoining heritage items.

Issue - Portman Lane

- (b) Concerns have been expressed that the proposed extension to Portman Lane to Portman Street between No. 75 Portman Street and Building D will result in negative outcomes to the lane in terms of safety, attracting more vehicular traffic, illegal parking and drop offs and lights spill from increased public domain lighting.

Response - The proposal includes an extension to Portman Lane in accordance with the GSTC DCP 2013. Appropriate parking measures will be put into place as part of the public domain works. Public domain lighting will be provided in accordance with a required public domain lighting plan to the relevant standard.

Issue - Construction Impacts

- (c) A concern was expressed that the proposal will result in unacceptable construction impacts including during night time periods.

Response - The recommended conditions require the preparation of a construction management plan to limit the impacts of the construction. Construction would be permitted only within the standard hours of construction.

Issue - Parking

- (d) Concerns have been expressed that the proposal will contribute to traffic in the local area and impact on residential parking.

Response - The site is located within a highly accessible area with a range of transport options available to future users of the site including nearby public transport. The provision and use of a variety of transport options has been promoted for the development with the provision of cycling parking for residents, visitors and workers at the site. The proposed onsite car parking is within the maximum permitted rates. These measures will assist in reducing impacts on traffic and parking in the local area.

Agencies

114. The application was referred to NSW Roads and Maritime Services, Transport for NSW, Water NSW, and Sydney Water. Where relevant, their issues have been addressed through the recommended conditions of consent.

Sydney Airport Referral Act 1996

115. 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.
116. 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.
117. 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.
118. 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 maximum heights of 115m for Site 15A, 73m for Sites 15B & 15C and 51m for Site 15D. The proposal does not exceed the specified height limits.

Public Interest

119. 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

120. The development is subject to an affordable housing contribution under Clause 6.5 of the Sydney Local Environmental Plan (Green Square Town Centre) 2013. Based on a total floor area calculation of 41,400sqm of residential floor space and 1,681sqm of non-residential floor space, the contribution amount is \$9,812,788.

Section 7.11 Contribution

121. The development would ordinarily be subject to a Section 7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015, however under the terms of the planning agreement applying to the site between the developer and the City for the development, contributions under Section 7.11 (formerly Section 94) are excluded from applying to the development.

Relevant Legislation

122. Environmental Planning and Assessment Act 1979.
123. Water Management Act 2000.
124. Commonwealth Airports Act 1996.

Conclusion

125. The proposed development has been assessed against the relevant planning controls including the provisions of the SLEP (GSTC) 2013, the GSTC DCP 2012 and SEPP 65. Where non-compliances exist, they have been demonstrated in this report to either be acceptable in the circumstances of the case, or can be resolved satisfactorily by the recommended conditions of consent.
126. The proposed request to vary the height of buildings development standard is well founded. The proposed development achieves the objectives of the zone and the height of buildings standard, and the alternative building massing proposed achieves an improved urban design outcome with the straightening of the through site link, consistent building frontage along Zetland Avenue, and terrace building typology to Portman Avenue.
127. The proposed request to vary the ceiling height standard is also supported in this instance given that good amenity to apartments is maintained with the lowered ceiling height to kitchen areas to accommodate services.
128. The proposal demonstrates a design that responds to the GSTC controls and constraints of the site and contributes to the desired future character of the site. The application is recommended for approval subject to the recommendations within this report and the imposition of the proposed conditions.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Shannon Rickersey, Senior Planner