

**Item 5.****Development Application: 811 Elizabeth Street, Zetland**

File No.: D/2019/258

**Summary**

<b>Date of Submission:</b>	The application was lodged on 15 March 2019.  Amended plans were submitted on 18 September 2019, 15 November and 20 November 2019.
<b>Applicant:</b>	Karimbla Construction Services (NSW) Pty Ltd
<b>Architect:</b>	DKO
<b>Developer:</b>	Meriton
<b>Owner:</b>	Karimbla Properties (No. 56) Pty Ltd
<b>Cost of Works:</b>	\$76,834,076
<b>Zoning:</b>	The site is zoned B4 - Mixed Use under the Sydney LEP (Green Square Town Centre - Stage 2) 2013. The proposed uses comprise residential accommodation, a child care centre, and retail premises, which are permissible within the zone with consent.
<b>Proposal Summary:</b>	Proposal  Consent is sought for the redevelopment of the site, known as Site 14, within the Green Square Town Centre.  The proposal is for the remediation of the site and construction of a mixed use development comprising three buildings with a total of 254 residential apartments and ground level retail and child care uses. This is detailed as follows: <ul style="list-style-type: none"><li>• A 9-15 storey residential flat building at the southern boundary of the site containing 154 residential apartments and retail tenancies ('Building A'),</li><li>• A 7 storey residential flat building at the eastern boundary containing 65 residential apartments ('Building B'), and</li></ul>

- A 3-4 storey residential flat building at the northern boundary containing 35 apartments and a child care centre ('Building C'); and
- Construction of 2 levels of basement for 206 car parking spaces accessed from Portman Street.

Land dedication (a new shared laneway at the northern boundary of the site and the future Zetland Avenue at the southern boundary) is to occur by way of a previously executed Voluntary Planning Agreement.

The development requires dewatering and is Integrated Development, requiring approval from Water NSW under the Water Management Act 2000. General terms of approval have been issued by Water NSW and form part of the recommended conditions of consent.

The development has been the subject of a competitive design alternatives process, with DKO preparing the winning scheme. The proposal is generally consistent with the overall intent of the winning scheme in terms of materiality and articulation, and has addressed the recommendations of the selection panel. Further refinement has since occurred, with changes to the bulk and scale of Buildings A and C to provide a more appropriate transition to the adjoining heritage conservation area. This is considered to be a superior planning and design outcome compared to the winning scheme.

#### Development Standards

The proposal seeks to utilise the design excellence provisions pursuant to Clause 6.9 of the Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013. If supported this allows for a further 10% floor space ratio (FSR). The development therefore includes a maximum FSR of up to 2.54:1 (2.31:1 + up to 10%). The application proposes an FSR of 2.54:1 (24,821sqm) which complies.

A written request has been submitted to vary building height on the site pursuant to Clause 4.6 of the Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013. It is proposed to vary the Height of Buildings development standard of RL 44 which applies to the south-east corner of the site. The additional height is confined to Building A. The height exceedance ranges between 4.4m and 6.9m. The non-compliance is due to the relocation of bulk from Building C to Building A to address the development's interface with the adjoining conservation area and low scale terraces to the north of the site. The request to vary the Height of Buildings development standard is supported. The proposed development meets the objectives of the B4 Mixed Use zone and the development standard, and there are sufficient environmental planning grounds to justify the proposed variation. The height non-compliance is confined to a recessed element of the building envelope, and is sited so that it distributes bulk across the site without adverse impact on the public domain and amenity of the surrounding area.

#### Notification

The development was notified for a period of 28 days between 3 April and 2 May 2019. As a result of the notification period there were 17 individual submissions received, and 2 pro-forma responses submitted by 8 objectors. Submitters raised concerns with:

- Height, bulk and scale of Building C, and its transition to the heritage conservation area;
- Traffic impacts (construction, pick-up and drop-off zones, and general access to the development);
- The need for dilapidation reports;
- The need for environmental control measures to deal with construction impacts;
- Landscaping;
- The design competition process; and
- The design of Frog Park Lane and the use of Christies Lane.

On 18 September 2019, amendments to the scheme were submitted, which were re-notified for a period of 14 days between 24 September and 9 October 2019. There were 5 submissions raising concerns with the design of Frog Park Lane, flooding, the retail tenancies, parking and landscaping of the site.

All submissions have been considered within the report.

The proposal in its final form responds satisfactorily to surrounding development and provides an appropriate transition between the adjoining heritage conservation area and the urban renewal area of Green Square Town Centre. The development achieves a standard of architectural design that demonstrates design excellence in accordance with Clause 6.9 of the Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013.

**Summary Recommendation:** The development application is recommended for approval, subject to conditions.

**Development Controls:**

- (i) Sydney Airport Referral Act 1996
- (ii) Water Management Act 2000
- (iii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (iv) State Environmental Planning Policy (Infrastructure) 2007
- (v) State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017
- (vi) State Environmental Planning Policy No. 55 - Remediation of Land
- (vii) State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development
- (viii) Apartment Design Guide 2015
- (ix) Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013
- (x) Green Square Town Centre Development Control Plan 2012
- (xi) City of Sydney Development Contributions Plan 2015
- (xii) Green Square Affordable Housing Program

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Architectural Drawings
- C. Clause 4.6 Variation Request - Height of Buildings
- D. Competitive Design Alternatives Report

## Recommendation

It is resolved that:

- (A) the variation requested to 'Height of Buildings' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013 be upheld; and
- (B) consent be granted to Development Application No. D/2019/258 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 applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013, that compliance with the 'Height of Buildings' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013; and
- (B) The proposal is in the public interest because it is consistent with the objectives of the B4 - Mixed Use zone and the 'Height of Buildings' development standard.
- (C) The proposal has been assessed against the aims and objectives of the relevant planning controls including SEPP 65, the Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013 and the Green Square Town Centre Development Control Plan 2012. Where non-compliances exist, they have been demonstrated to be acceptable in the circumstances of the case, or can be resolved by the recommended conditions of consent.
- (D) The development is consistent with the design intent of the winning scheme of a competitive design process, and has been further refined to transition appropriately to the adjoining heritage conservation area. The proposed architectural design, materials and detailing of the development responds to its heritage context, the public domain and the Green Square Town Centre. The development achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence in accordance with Clause 6.9 of the Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013.
- (E) The proposed development is considered to be appropriate within its setting and will provide for residential, retail and child care uses that will support the vitality of the Green Square Town Centre, and the desired future character of the area.

## Background

### The Site and Surrounding Development

1. The site, known as Site 14 within the Green Square Town Centre (GSTC), has frontages to the south-western side of Elizabeth Street, the western side of Joynton Avenue, the eastern side of Portman Street and the southern terminus of Christies Lane. Maps and aerial photos within Figures 1, 2 and 3 below illustrate this context.



Figure 1: Map of Green Square Town Centre depicting development sites. Site 14 is highlighted in red.

2. The overall site has an irregular shape with a total area of 9,771sqm. The topography of the site slopes down from the north-west in a south-westerly direction by approximately 1.8 metres. The site previously accommodated a vehicle sales premises, vehicle repair station and open at-grade car parking storage areas. The buildings and car park have been demolished, and excavation works are currently being carried out.
3. The site adjoins the Zetland Estate Heritage Conservation Area (C73) to Elizabeth Street and Portman Street.

4. The surrounding area contains a diverse mixture of land uses and built forms, including:
- (a) One and two storey Victorian and Federation-era terrace houses and infill interwar-era commercial buildings to the north-west (Portman and Elizabeth Streets) in the Zetland Estate Heritage Conservation Area;
  - (b) Woolwash Park and a construction site to the east and south-east (Elizabeth Street and Joynton Avenue) for the future Zetland Avenue and Gunyama Park Aquatic Centre and playing fields;
  - (c) The former Royal South Sydney Hospital site to the south (across the new Zetland Avenue), which includes a number of heritage items and is currently being redeveloped as a community and cultural precinct; and
  - (d) Construction sites to the south-west and west for the future Zetland Avenue, Drying Green Park and development Site 15 in the GSTC.

The Drying Green Park will provide approximately 6,000sq of open space, incorporating public art and spaces for passive and active recreation.

Site 15 is yet to be developed, but is the subject of a current DA (D/2018/517). The proposal is for the excavation, remediation, construction of a shared basement, three mixed use residential flat buildings and 7 terrace houses.

5. Photographs of the site and surrounds are provided below:



Figure 2: Aerial image of the subject site (in yellow) and the boundary of the GSTC (in red).



Figure 3: Aerial image of the subject site and the immediate surrounding area



Figure 4: Site viewed from Portman Street (looking north-east)



Figure 5: Internal view of the site looking towards Joynton Avenue and Zetland Avenue



Figure 6: Internal view of site at northern boundary, looking towards Elizabeth Street



Figure 7: Christies Lane looking south towards the subject site



Figure 8: Portman Street terraces adjoining the site, looking north-east



Figure 9: Site 15 GSTC directly opposite the subject site, Portman Street elevation



Figure 10: Elizabeth Street terraces adjoining the site, looking north-west



Figure 11: Elizabeth Street looking north-east

## Proposal

6. The proposal, as amended, is for the redevelopment of the site, comprising site remediation and construction of a mixed use development with 3 buildings (illustrated as Buildings A, B and C) , incorporating 254 residential apartments, 740sqm of retail and a child care centre with an area of 959sqm.
7. As part of a Planning Agreement between the City and the Developer, the following areas are to be transferred to Council, and have been depicted in schematic form in the subject development application:
  - (a) Dedication of 1,833.1sqm of land for the future Zetland Avenue and a new laneway/pedestrian/bike link, as well as developer's works to complete a portion of Zetland Avenue, and;
  - (b) Developer's works to construct the new laneway/pedestrian/bike link connecting to Christies Lane.
8. A site plan of the proposed development is provided below.

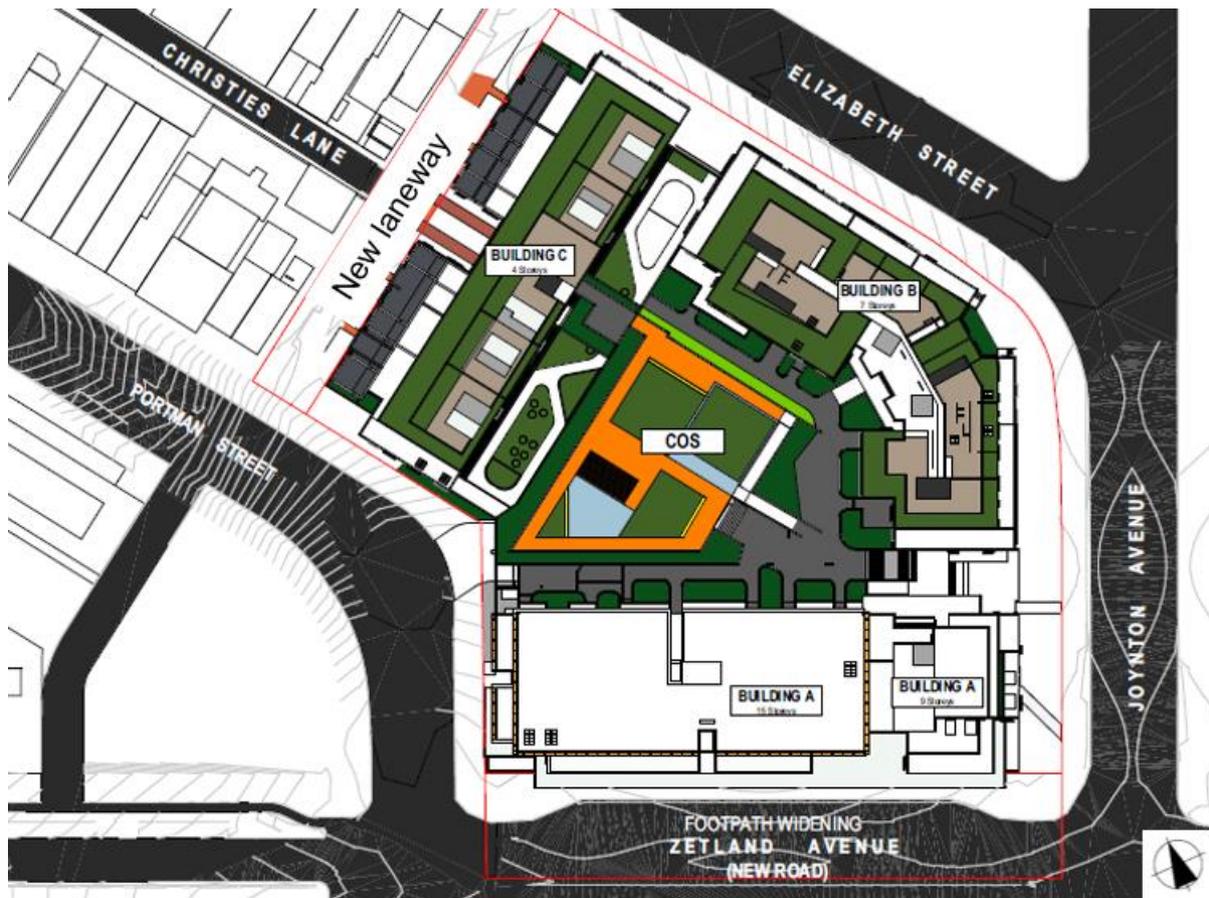


Figure 12: Site plan of the proposed redevelopment of the site

9. A breakdown of the proposed development is provided as follows:
  - (a) Basement Levels 1 and 2:
    - (i) Vehicles will access the basement levels from Portman Street and include 192 car spaces, bicycle storage, waste storage and other storage areas, OSD tanks and plant areas;
  - (b) Ground Floor:
    - (i) Pedestrian laneway at the north-west boundary of the site, at the terminus of Christies Lane. Ground floor residential apartments are to face this new laneway, with an entry to the lobby of Building C;
    - (ii) Child care centre within the north west section of the site (422sqm internal area, and 537sqm external area) accessed from Elizabeth Street;
    - (iii) Residential apartments of Building B facing Elizabeth Street and Joynton Avenue, with access to the shared lobby of Buildings A and B provided on Joynton Avenue;
    - (iv) Driveway access to ground floor loading dock, waste areas, bicycle parking, 23 x car spaces (retail, car share and child care centre pick-up/drop-off) provided at the mid-point of the Portman Street frontage;

- (v) Swimming pool, plant areas;
  - (vi) 5 x retail tenancies within Building A, facing Zetland Avenue;
  - (vii) Deep soil zones around the perimeter of the site;
- (c) Level 1
- (i) Communal open space for residents (1,910sqm), with stair access from ground floor;
- (d) Building A (Zetland Avenue) - 15 storeys, 154 apartments
- (i) 54 x 1 bedroom apartments;
  - (ii) 85 x 2 bedroom apartments;
  - (iii) 11 x 3 bedroom apartments;
  - (iv) 4 x 4 bedroom apartments;
- (e) Building B (Elizabeth Street / Joynton Avenue) - 7 storeys, 65 apartments
- (i) 22 x 1 bedroom apartments;
  - (ii) 29 x 2 bedroom apartments;
  - (iii) 10 x 3 bedroom apartments;
  - (iv) 4 x 4 bedroom apartments;
- (f) Building C (pedestrian laneway) - 4 storeys, 35 apartments
- (i) 20 x 1 bedroom apartments;
  - (ii) 6 x 2 bedroom apartments; and
  - (iii) 9 x 3 bedroom apartments.
10. Selected photomontages and architectural drawings of the proposed development are provided below.



Figure 13: Proposed perspective of Buildings A and B viewed from the corner of Zetland Avenue and Joynton Avenue



Figure 14: Proposed perspective of Building B, viewed from Elizabeth Street



Figure 15: Proposed perspective of Buildings A and C, viewed from Portman Street and the proposed laneway



Figure 16: Proposed perspective of Building C viewed from the laneway, with Building A in the background



Figure 17: Proposed landscape concept plan for Frog Park Lane at the north-west boundary of the site

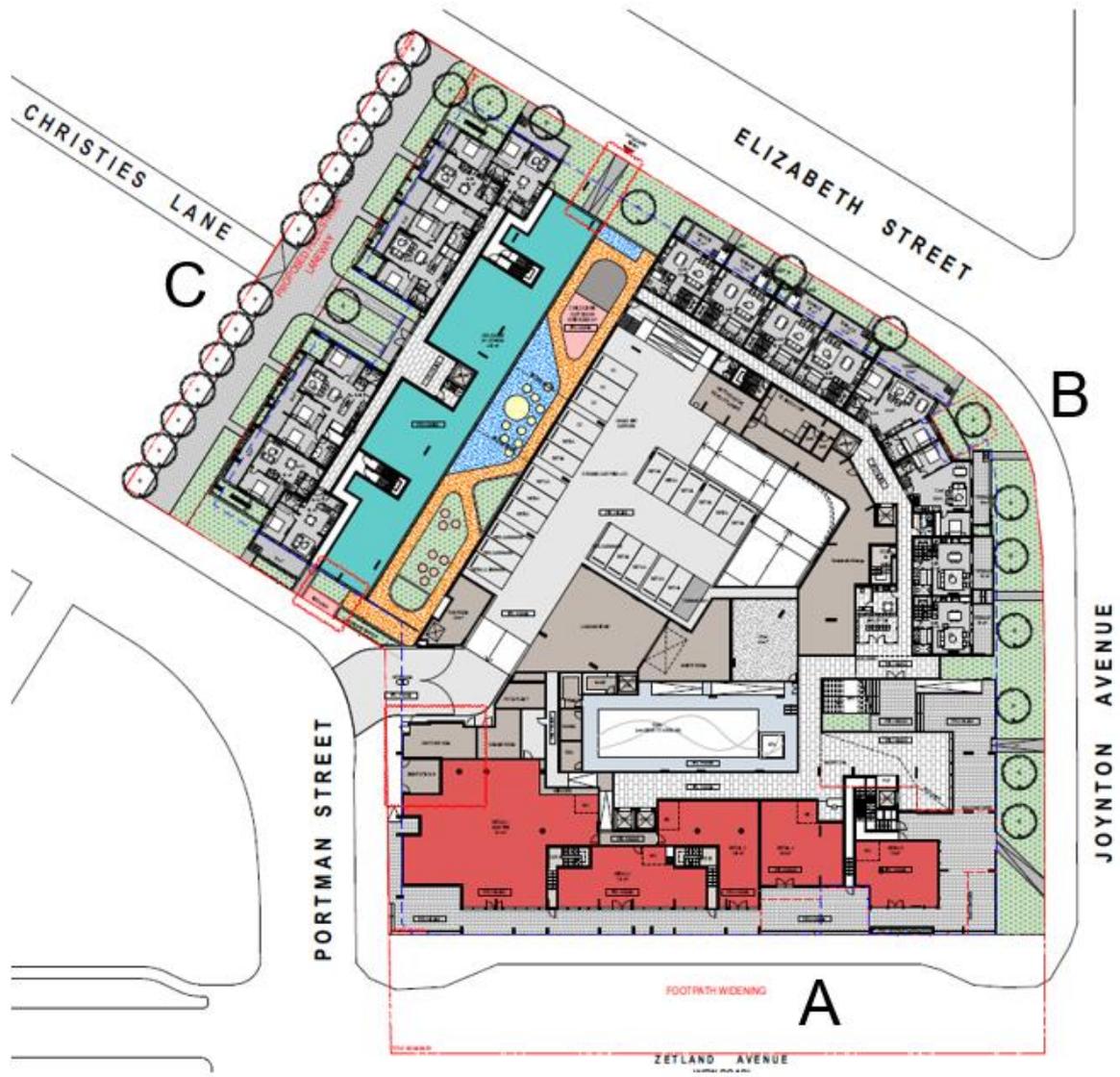


Figure 18: Proposed Ground Floor plan



Figure 19: Proposed Level 1 plan



Figure 20: Proposed Level 2 Plan



Figure 21: Proposed Level 3 Plan



Figure 22: Proposed Level 4 Plan

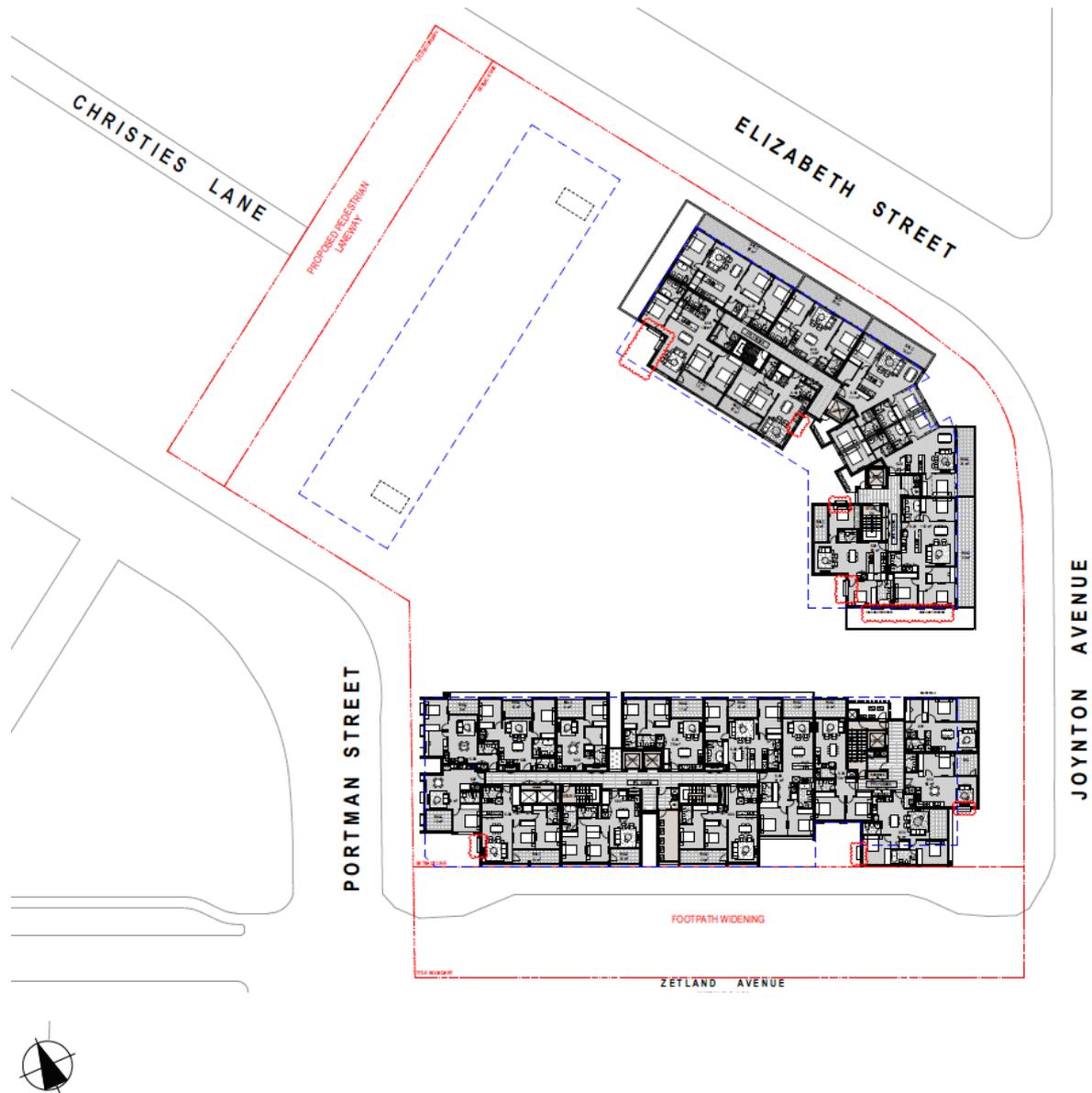


Figure 23: Proposed Level 5 Plan



Figure 24: Proposed Level 6 Plan



Figure 25: Proposed Level 7 Plan



Figure 26: Proposed Level 8 Plan



Figure 27: Proposed Level 9 Plan



Figure 28: Proposed Level 10 Plan

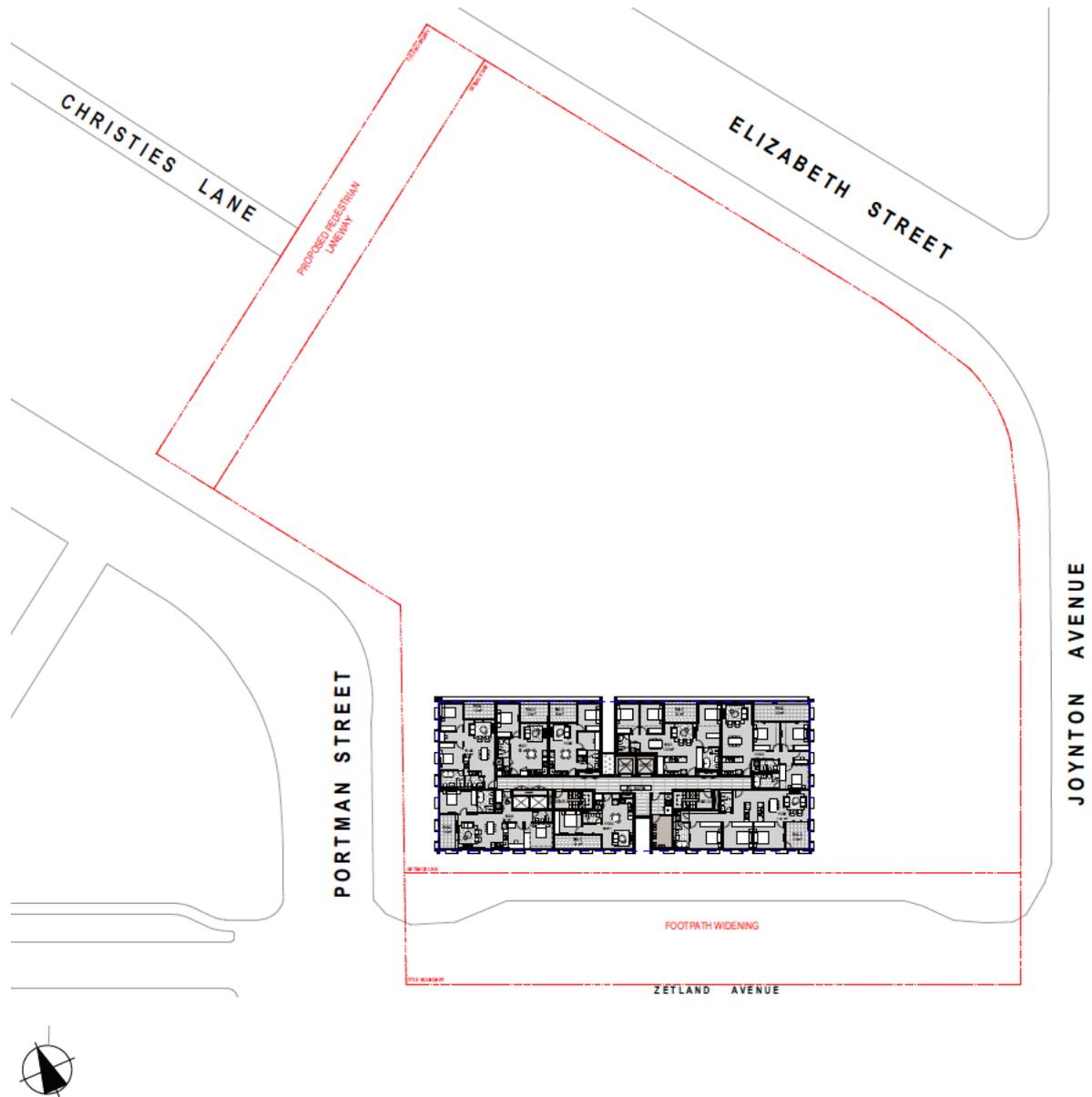


Figure 29: Proposed Level 11 Plan (Level 12 & 13 similar)



Figure 30: Proposed Level 14 Plan

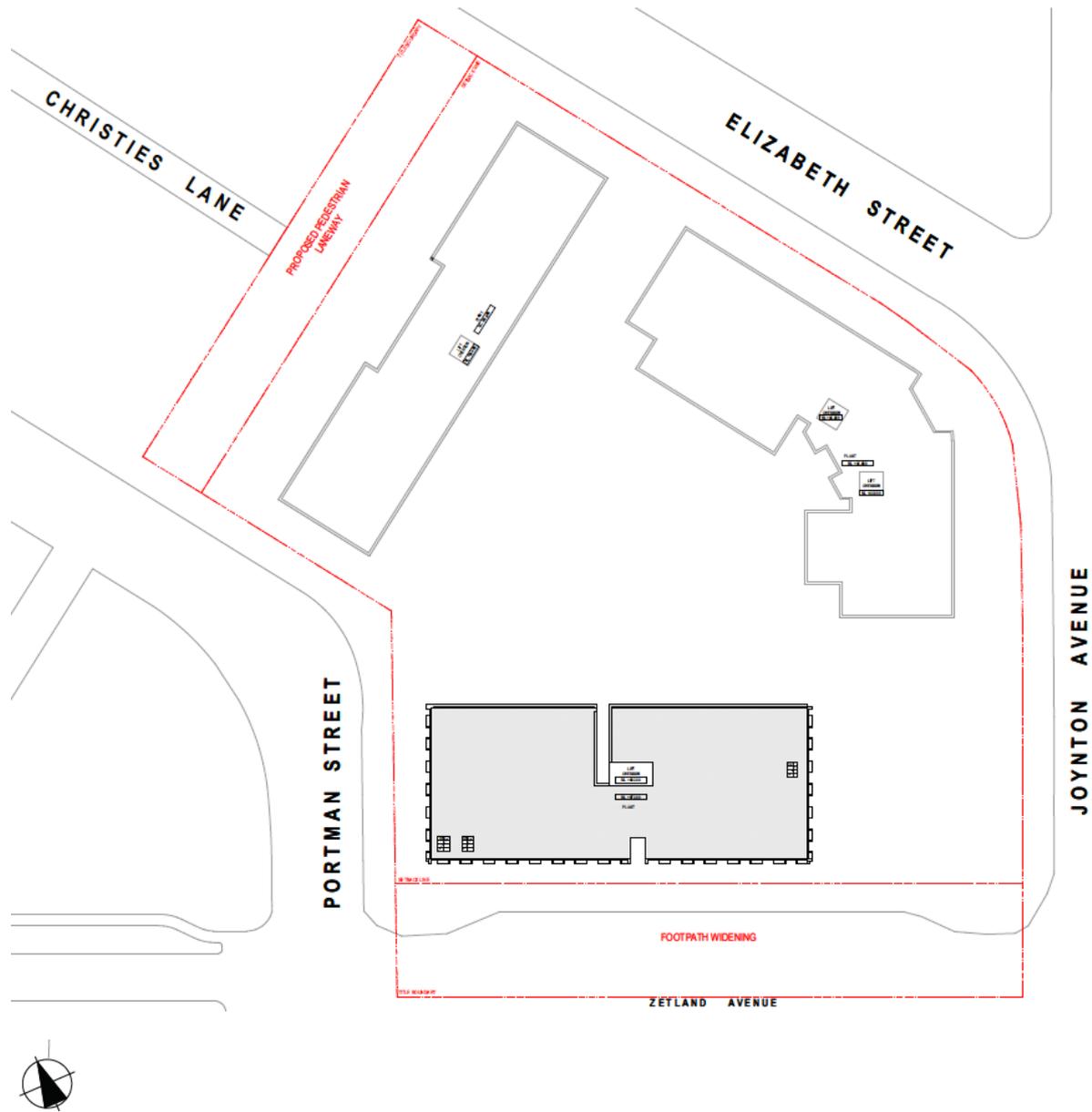


Figure 31: Proposed Roof Plan

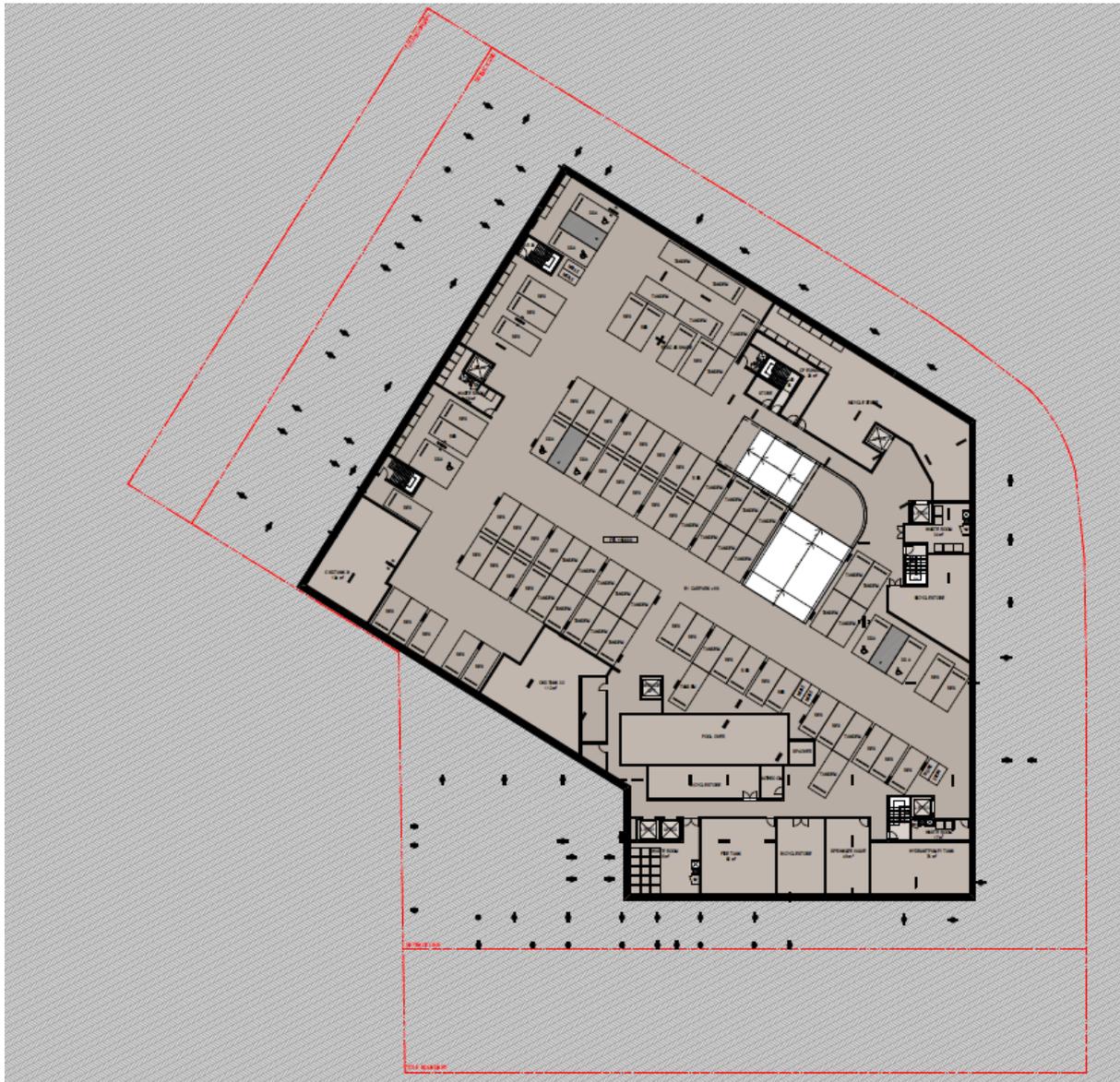


Figure 32: Proposed Basement 1 Plan

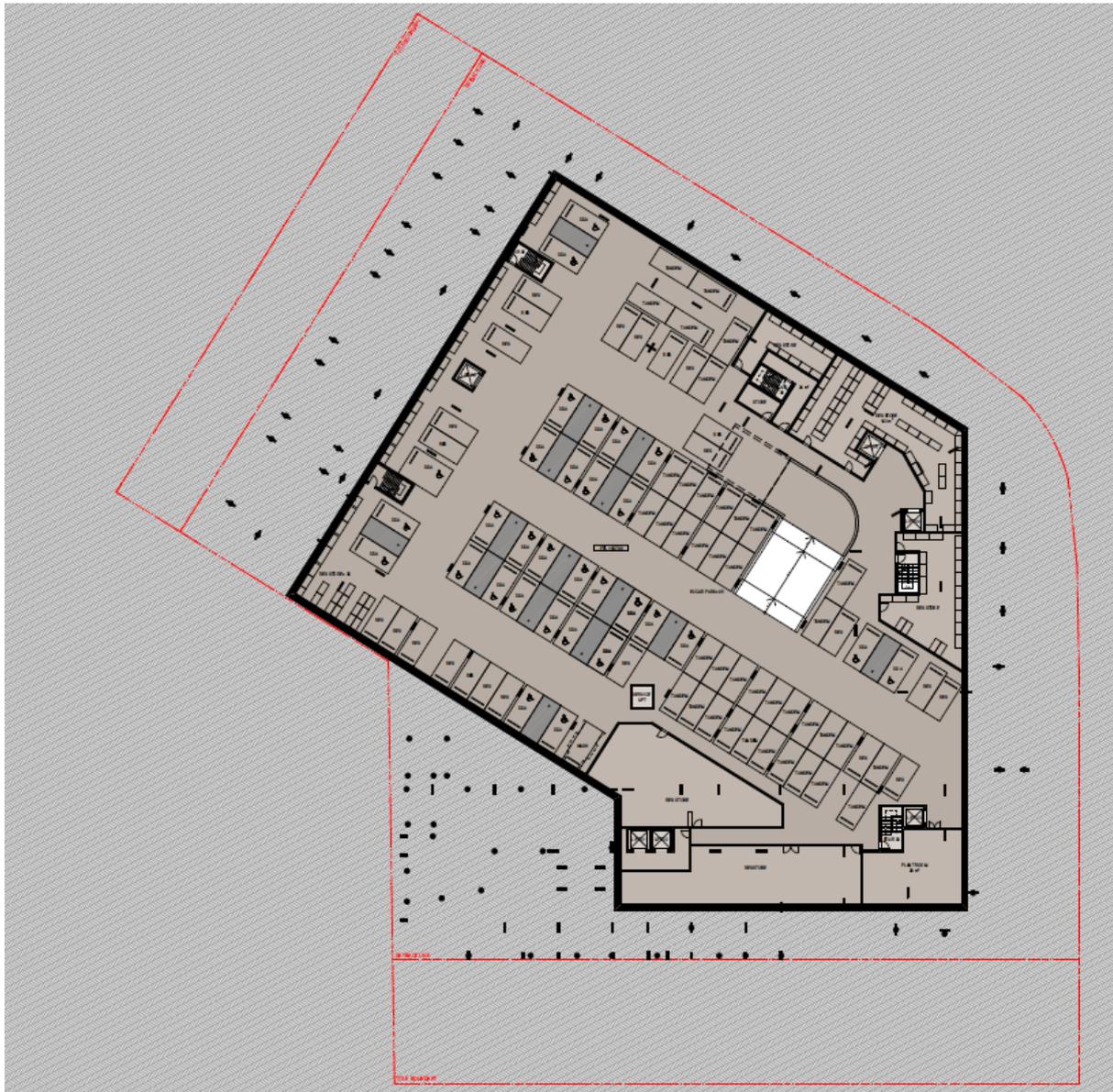


Figure 33: Proposed Basement 2 Plan



Figure 34: Proposed laneway elevation of Building C



Figure 35: Proposed Elizabeth Street elevation of Building B

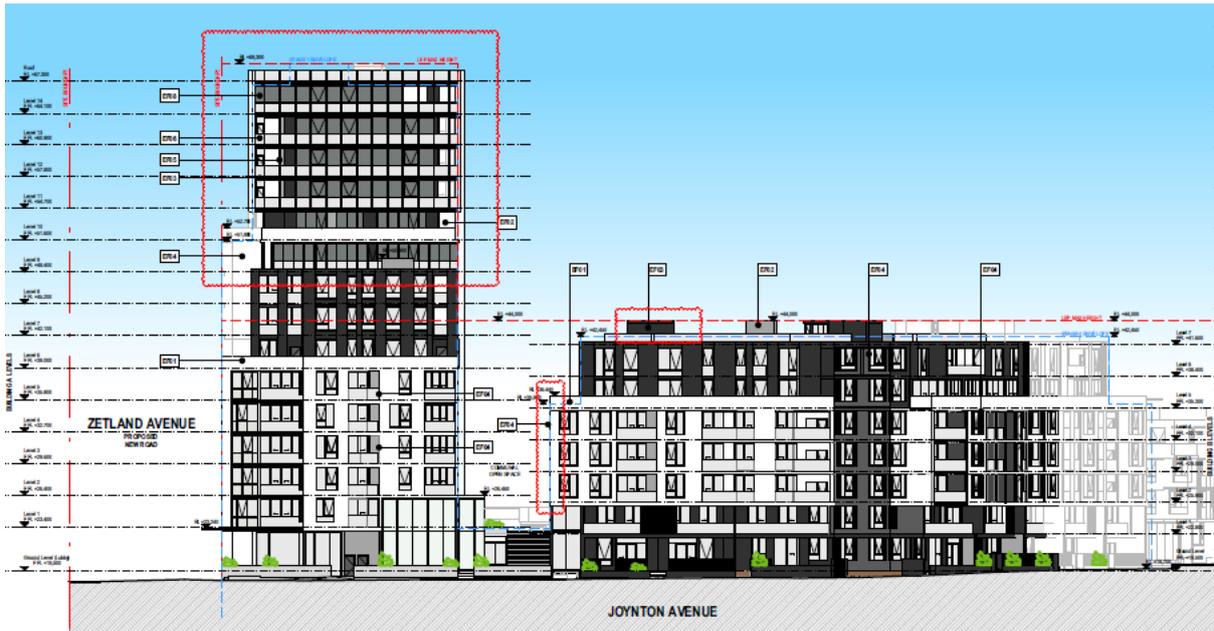


Figure 36: Proposed Joynton Avenue elevation of Buildings A and B

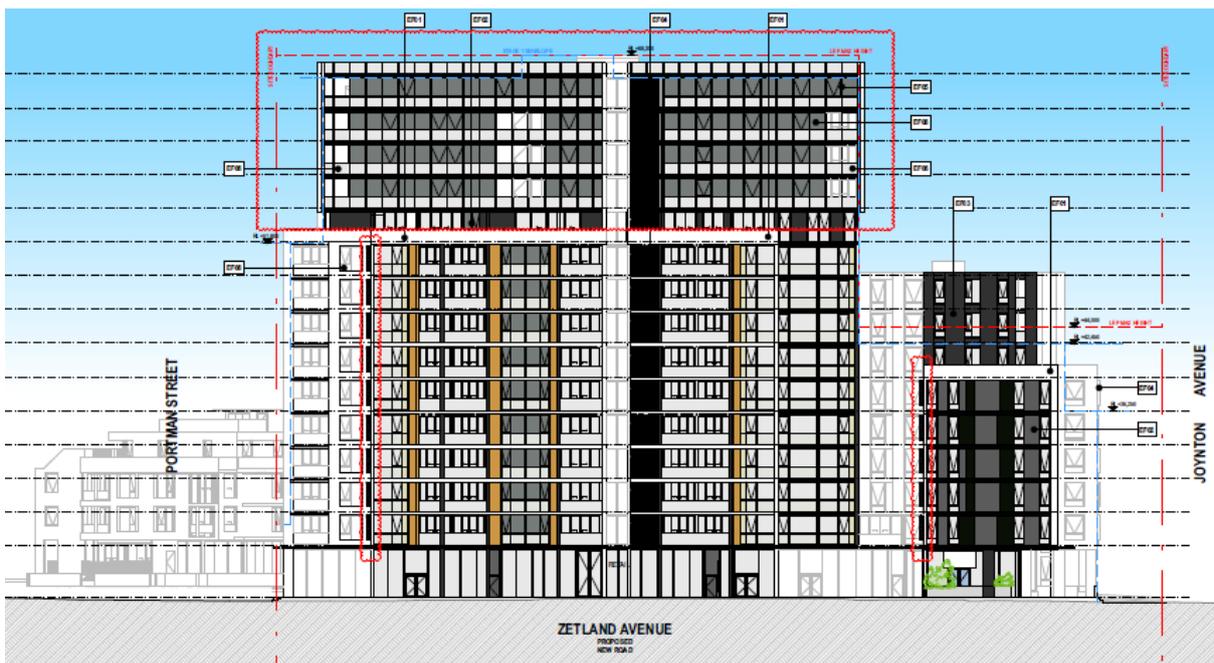


Figure 37: Proposed Zetland Avenue elevation of Building A

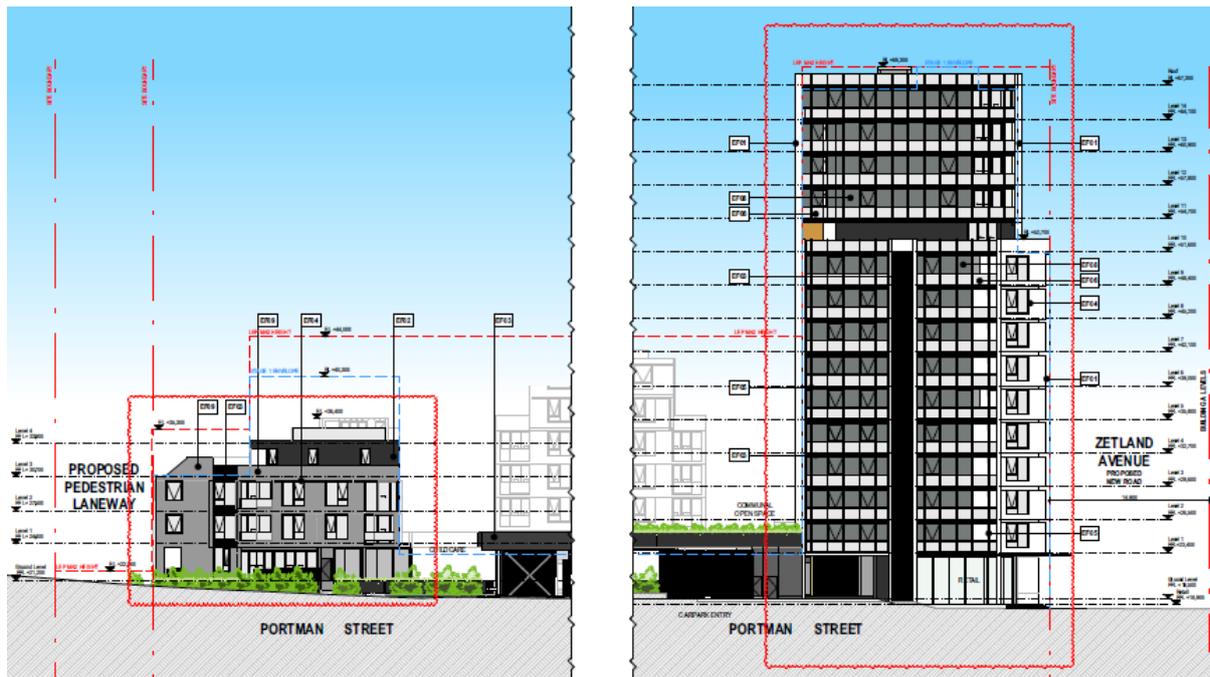


Figure 38: Proposed Portman Street elevations of Buildings A and C

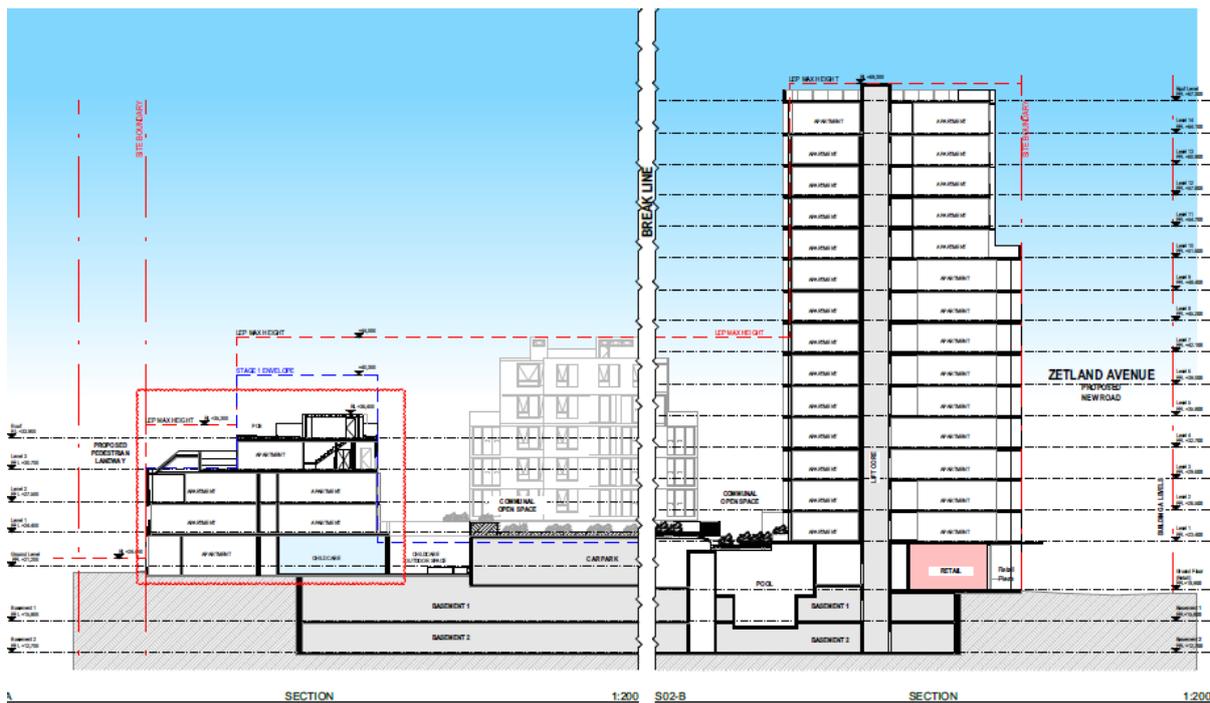


Figure 39: Proposed sections through the development

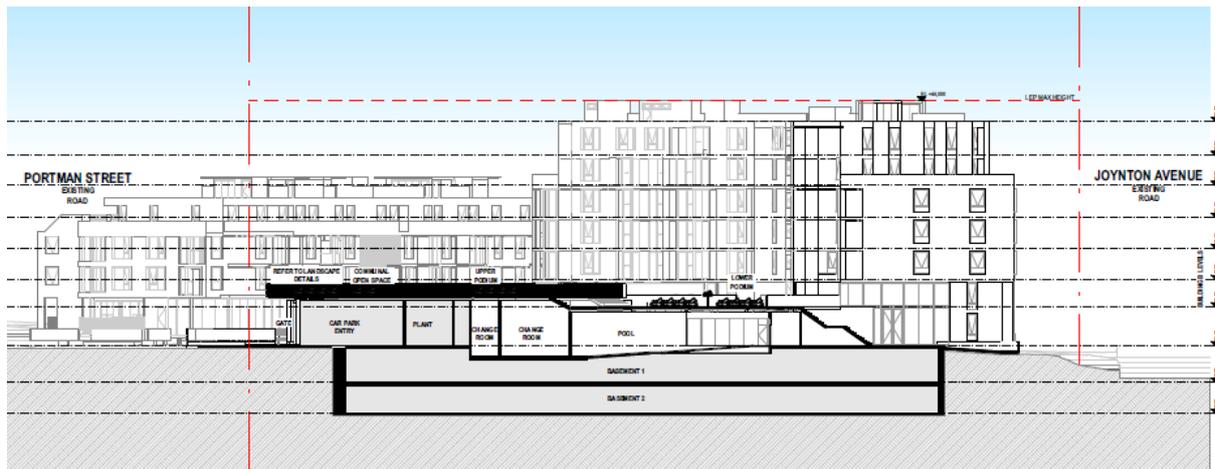


Figure 40: Proposed sections through the development

## History Relevant to the Development Application

### GSTC Infrastructure - D/2012/1175

11. On 8 March 2013, development consent was granted by the Central Sydney Planning Committee for the provision of essential infrastructure for the Green Square Town Centre, and new roads, including the future Zetland Avenue.
12. This consent has been amended numerous times (Amendments A to F), with no direct impact on the subject proposal.

### Concept Development Approval - D/2017/1201

13. The subject site has both site-specific controls (the Green Square Town Centre DCP 2012) and a concept development consent in place.
14. Concept Development Application D/2017/1201 was approved by the Land and Environment Court on 29 June 2018 providing a building envelope for future development. The envelope was approved to contain a mixed use development and provided for future subdivision. Associated land dedications are attached to this approval as discussed in the 'Planning Agreement' section below.
15. A Section 4.56 modification of consent was lodged on 17 September 2019 to incorporate variations to the building envelope. This was approved on 27 November 2019 under delegation. The full assessment of the acceptability of each variation is addressed in the planning assessment report for D/2017/1201/A. The proposal complies with the amended envelope and conditions of consent, which is discussed in further detail under the heading 'Compliance with the Concept Approval'.
16. The approved section of the concept envelope is provided below.

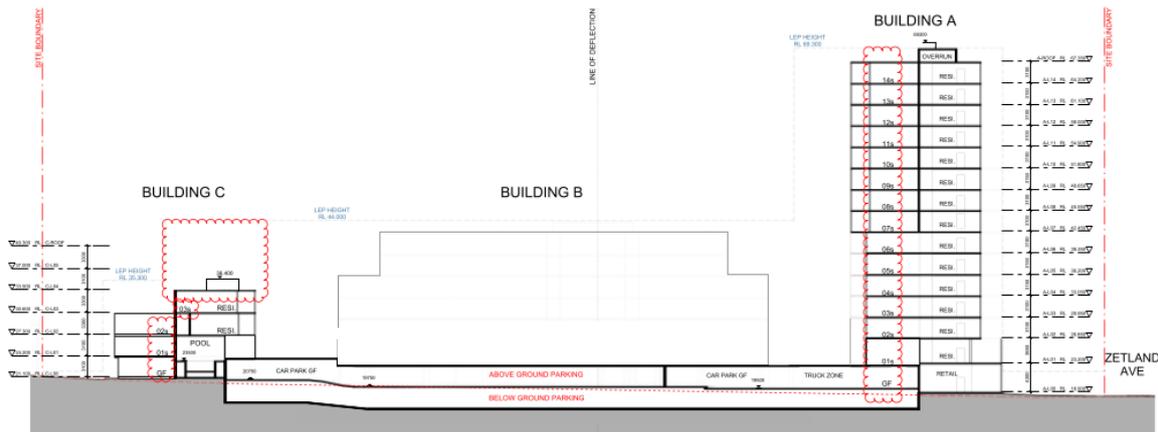


Figure 41: Approved section through the concept building envelope approved under D/2017/1201/A

### Planning Agreement

17. The site is subject to a planning agreement attached to Concept approval D/2017/1201, which was executed on 13 December 2017 and registered on the title of the land on 22 December 2017. The planning agreement includes the following public benefits:
- (a) A monetary contribution of \$3,080,000 towards community infrastructure in Green Square. This contribution is payable prior to the issue of the first Construction Certificate for the subject development;
  - (b) A 9m wide, 613.1sqm pedestrian laneway is to be provided at the north-western boundary of the site. The strip of land is to be remediated and the laneway is to be constructed by the Developer. The laneway is to be transferred to the City prior to the issue of the first Occupation Certificate for the final building for the subject development;
  - (c) A 14.92m wide, 1,220sqm strip of land is to be provided at the southern boundary of the subject site for the future Zetland Avenue. This portion of Zetland Avenue is to be constructed by the Developer, and the land is to be transferred to the City prior to the issue of the first Occupation Certificate for the final building of the subject development;
  - (d) Green Infrastructure to be delivered for the development prior to the relevant Occupation Certificate for the subject development comprising:
    - (i) Non-potable recycled water system to be provided for all buildings;
    - (ii) Hot water and cooling/heating systems to be provided for all buildings (including residential and retail);
    - (iii) Air conditioning refrigerant;

- (iv) The residential buildings are to achieve a BASIX Energy score of:
  - Building A - 25;
  - Building B - 30; and
  - Building C - 45.
- 18. The VPA does not affect Section 7.11 contributions applicable under the City of Sydney Development Contributions Plan 2015 or contributions for affordable housing required under SEPP 70, the Sydney LEP (GSTC - Stage 2) 2013 and the Green Square Affordable Housing Program.
- 19. The land to be dedicated to Council has been included in the plans submitted for assessment. Whilst the schematic diagrams for Frog Park Lane are provided, final details, such as ground level RLs, any plant species, treatment of the laneway etc. is to be finalised as part of the public domain plan submission for the DA.

### **Competitive Design Alternatives Process**

- 20. Following the Concept Development Approval, the applicant commissioned a competitive design alternatives process for the site. Four architectural firms were invited to submit a design proposal in August 2018. The four selected architectural firms were:
  - (a) Turner;
  - (b) SJB;
  - (c) PTW; and
  - (d) DKO.
- 21. Presentations were given to the Selection Panel on 15 October 2018. The Selection Panel resolved that the scheme prepared by DKO was preferred. The Panel requested DKO increase the density on the site and further resolve the design. This request is detailed below:
  - (a) The scheme must closely align with the target yield of 253 dwellings, and should be revised to demonstrate ability to achieve Apartment Design Guide (ADG) compliance for natural cross ventilation;
  - (b) The three storey terraces should be replaced by a higher yield of more compact, preferably single level units. It is likely that the height and bulk of the building will need to be increased to meet the objective of achieving greater yield. Solar access impacts are to be considered in the revision;
  - (c) The setback to the proposed Frog Park Lane could also be reduced to meet the objective of achieving greater yield, thereby becoming a landscaped widening of the lane;
  - (d) The location of the child care centre (at level 1 adjoining the communal open space area) should be reconsidered;
  - (e) The supermarket to Zetland Avenue denies opportunities for smaller individual retail tenancies to occupy the street front, and to activate the ground floor;

- (f) The building form and articulation of Building A should align more rigorously with the broader envelopes and setbacks proposed for Zetland Avenue. The 10 storey parapet datum should be stronger and more cohesive in its expression, by extending around the southwest corner to Portman Street. This element should be clearly distinguishable in character from the upper setback element; and
  - (g) The 'elbow' area of Building B could be redesigned in order to assist in achieving the target unit yield.
22. DKO further developed the scheme and submitted refined plans to the Selection Panel on 29 October 2018. The terraces of Building C were replaced with a three storey street wall height to the laneway, and a 5 storey building behind. The Selection Panel advised that the series of improvements and refinements made to the scheme addressed the above matters, and subject to some further development, that the Panel were now of the view that the scheme was capable of achieving design excellence.
23. The DKO scheme was lodged with the subject development application. Amendments have since been made to align more closely to the original scheme presented to the Selection Panel on 15 October 2018. This was in response to the DAP and Council officers concerns about the bulk and scale of Building C, and its interface with the adjoining conservation area. This is discussed in further detail under the heading 'Design Amendments'.
24. Images relating to the original scheme (presented 15 October 2018) are provided below. No images or elevations were prepared for the amended scheme presented to the Selection Panel on 29 October 2018, however a sketch of the proposed section of Building C is provided.



Figure 42: DKO's original design competition scheme looking south-east along Portman Street towards the subject site.



Figure 43: DKO's original design competition scheme looking west from Joynton Avenue.



Figure 44: DKO's original design competition scheme looking south-east to the corner of Elizabeth Street and Joynton Avenue.

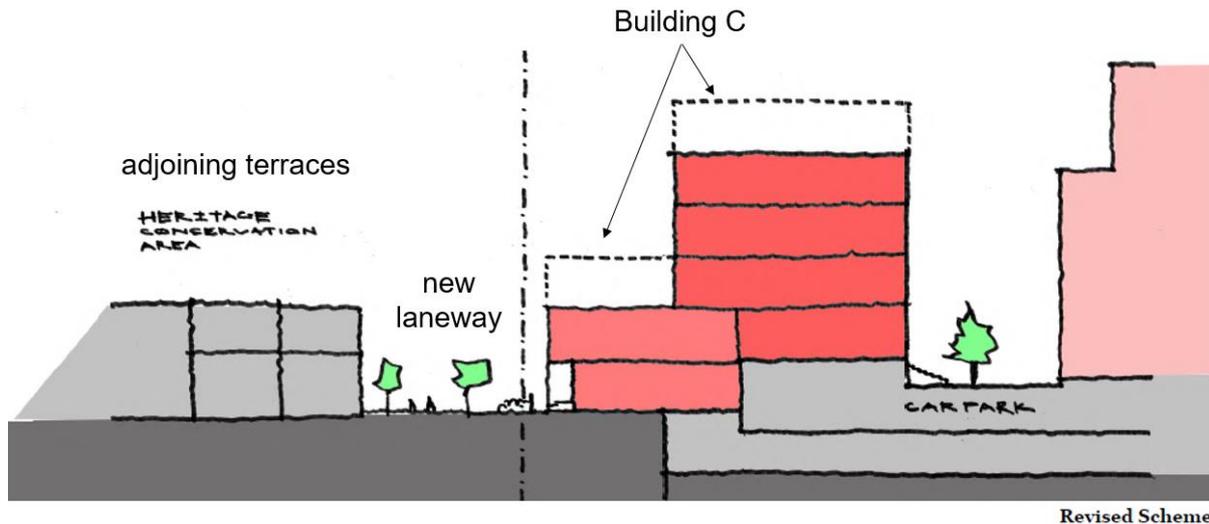


Figure 45: Sketch of the proposed section of Building C, submitted to the Selection Panel on 29 October 2018, in response to the Selection Panel's request for increased density on the site.

25. A copy of the competitive design alternatives report, including the Selection Panel's final recommendations, is provided at attachment D, and is discussed in further detail within this report in the Issues section.

#### Demolition of structures - D/2018/571

26. Development consent D/2018/571 was approved by Council on 27 August 2018 for the demolition of all existing buildings and structures on-site, excluding ground based slabs. The application did not involve any remediation of the site.
27. The ground floor slab was later demolished during February 2019 in order to carry out Category 2 (exempt) remediation works under the State Environmental Planning Policy No. 55 - Remediation of Land. These works are discussed in further detail under SEPP 55.

#### Excavation of the site - D/2018/1196

28. On 6 September 2019, development consent D/2018/1196 was issued for excavation and shoring works, and site remediation for the basement associated with the redevelopment of the site.

#### Design Amendments

29. During the assessment, Council officers requested design amendments and further information to address concerns raised by internal experts and Council's Design Advisory Panel. Recommendations largely focused on reducing the scale of Building C to improve its interface with the adjoining heritage conservation area. Requests were also made in regard to, deep soil, natural cross ventilation, relocation of the child care centre, and the materiality of the development. These issues are discussed in greater detail within this report.

30. Modifications by the applicant include, but are not limited to:
  - (a) Removal of bulk (1 level) from Building C, and refined presentation to the proposed laneway. This creates a 3-4 storey masonry brick building facing the heritage conservation area;
  - (b) Relocation of the child care centre from the corner of Portman Street and the new laneway to the rear of Building C (within the site). The new location is proposed to address concerns with the amenity of the outdoor play area and minimise adverse noise impacts to the development and nearby residential terraces along Elizabeth and Portman Streets;
  - (c) Provision of cross through apartments at the corner junction of Building B, in order to provide the slots/building breaks approved as part of the Concept Development envelope;
  - (d) Relocation of the bulk of Building C to the south-east corner of Building A, providing a taller podium (1.5 storeys). Overall height of Building A remains unchanged; and
  - (e) Refinement of bronze screen to the western facade of Building A to align more closely to the winning scheme of the design competition.
31. The applicant submitted amended drawings on 18 September 2019, which were re-notified for a period of 14 days.
32. Further amendments were submitted on 15 November and 20 November 2019 to address natural ventilation concerns for habitable rooms of apartments facing Joynton Avenue.

### **Sydney Airport Referral Act 1996**

33. 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.
34. Regulation 6(1) of the Airports (Protection of Airspace) Regulations 1996 specifies that airspace above the Obstacle Limitation Surface (OLS) for Sydney Airport is prescribed airspace.
35. 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.
36. The subject site has an OLS of 51m (AHD). Building A proposes a height of 69.3m AHD.
37. The delegate of the Secretary of the Commonwealth Department of Infrastructure and Regional Development has previously provided approval for the controlled activity on 25 January 2018 to a height of 69.3m AHD.

## Water Management Act 2000

38. The proposed construction of the basement will have an impact on the ground water levels within the site, with first ground water occurrence expected at depths between 2m and 5m below ground level. In accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, the application was forwarded to Water NSW as Integrated Development, and again as part of the re-notification process.
39. Water NSW provided their general terms of approval on 22 November 2019, which have been included in attachment A of this report.

## Economic/Social/Environmental Impacts

40. 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

41. 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.
42. The subject site, until recently, operated as an automotive workshop with car showrooms, a vehicle repair station and at-grade car parking. The site contained oil and chemical storage areas, as well as underground storage tanks for petrol (and possibly waste oil).

### *Contamination within the subject site (excluding land to be dedicated / transferred to Council)*

43. A Remedial Action Plan (RAP), endorsed by a NSW Accredited Site Auditor has been submitted with the application. The investigations into soil quality on-site identified contamination within the shallow fill material across parts of the site, the majority of which fall within the footprint of the basement excavation approved under D/2018/1196. The RAP recommends that the contaminated infill be excavated and removed to an off-site location for disposal (which is currently being carried out under the excavation DA).
44. The RAP confirms that the site can be made suitable for the proposed uses, subject to the successful implementation of the measures detailed in the report.
45. The land has been subject to Category 2 remediation works under Clause 14 of the SEPP, where such works do not require consent if certain conditions are met. The underground fuel tanks identified in the RAP have already been removed. It is not clear however, whether the site has been fully remediated and validated in accordance with the submitted RAP, as no site audit statement has been provided by the applicant.
46. The City's Health and Building Unit has reviewed the documentation submitted, and has recommended that a Part A Site Audit Statement be submitted to, and approved by Council, prior to any construction works being carried out on-site. Other standard conditions are to be imposed to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.

47. The City's Health and Building Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.

*Land to be dedicated / transferred to Council*

48. Frog Park Lane and Zetland Avenue are to be dedicated to the City as part of this development application and the VPA that applies to the site. Because of this, the City is required to be satisfied that the dedicated land can be delivered in a suitable state, without the need for long term maintenance (i.e. environmental management plans). The RAP has been reviewed by the City's Public Domain Unit, who advised that contaminated soil to Frog Park Lane be removed to a depth of 1.5m, and capped. A site audit statement is to be submitted after remediation (similar to that for the subject site itself) to confirm the land has been suitable for its intended use.
49. Removal of contaminated soil to Zetland Avenue is dealt with under the broader Green Square TC Infrastructure consent D/2012/1175 (as amended), and the requirements of the RAP. Appropriate conditions for the dedicated land have been imposed, as per attachment A to comply with the recommendations of both RAPs (i.e. Frog Park Lane and Zetland Avenue).

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

50. 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, and the objectives of the Apartment Design Guide (ADG).
51. The applicant has submitted a design verification statement and SEPP 65 design report with the application, in accordance with Clause 50(1A) and Schedule 1, Part 2, Clause 5 of the Environmental Planning and Assessment Regulation 2000, addressing the design quality principles and the ADG.
52. An assessment of the proposal against the design quality principles and the relevant objectives of the ADG is provided as follows:

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

The site is located within the B4 - Mixed Use zone which permits mixed commercial, retail and residential developments, and is in close proximity to Green Square Railway Station and bus routes along Elizabeth Street. The site is approximately 4.5km to the south of the Sydney CBD.

The proposal provides appropriate land uses within the B4 zone, and is consistent with the City's strategic vision for the Green Square Town Centre. The development responds well to the context of the area, minimising impact on the amenity of neighbouring dwellings and urban character of the surrounding area, as discussed elsewhere in this report.

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

The proposal complies with the overall height limits that apply to the site under the Sydney LEP (GSTC - Stage 2) 2013, with the exception of the south-eastern corner of Building A (Joynton Avenue and Zetland Avenue). The proposal meets the maximum FSR of 2.54:1.

The area is currently in transition from industrial and warehouse uses to a mixed use town centre, with the redevelopment of sites within the GSTC currently being undertaken in close proximity to Site 14. The development, by way of its form and scale is generally consistent with the GSTC controls and the Concept development consent. An assessment of the non-compliant south-eastern portion of Building A has been carried out and the additional height is acceptable in this instance. This is due to the site context and the improved planning outcome achieved by relocating bulk and floor space from Building C to Building A thereby improving the development's relationship with the adjoining heritage conservation area. The non-compliance does not affect overall height transitions across the site, being 15 storeys to 7 storeys from GSTC to Elizabeth Street / Joynton Avenue, with a further transition to 3 storeys at the boundary of the heritage conservation area. The height non-compliance is at the south-east corner of the site and does not result in any significant adverse amenity impacts to the surrounding locality. Refer to height discussion under the heading Issues.

(c) **Principle 3: Density**

The proposal complies with the maximum FSR development standard, and the development provides a suitable number and variety of apartment types, with appropriate amenity for occupants.

The proposed density is considered appropriate in the GSTC given its proximity to established and proposed infrastructure, public transport and community and recreation facilities. The proposed density responds to the future context and does not result in unacceptable amenity impacts to neighbouring properties or future residents.

(d) **Principle 4: Sustainability**

The proposal is compliant with the requirements of BASIX in terms of thermal comfort, and meets water and energy targets as required by the planning agreement for the development. A condition is recommended to ensure that the development complies with the commitments contained in the BASIX documentation.

(e) **Principle 5: Landscape**

The proposal incorporates landscaped areas within the new laneway, and within the front setbacks of Building C and Building B along Elizabeth Street and Joynton Avenue at ground floor. At first floor, landscaped areas and tree plantings on slab are provided to the communal open space, and as a buffer to private terrace areas that face the communal areas.

Deep soil areas are generally provided in the same location as landscaped areas at ground floor and are equal to 627sqm or 7.9% of the site, exceeding ADG requirements (being 7%).

Tree plantings at ground level within the deep soil zones and on slab at level 1 are to be of an appropriate species and height to contribute to tree canopy targets. Additionally, it is recommended that synthetic turf areas at rooftop (of Buildings A and C) be replaced with inaccessible green roofs, and a green wall be provided at ground floor to the child care centre. As such, additional details are required to ensure that the proposed landscape component of the scheme is a success. Information is to be submitted relating to green walls, roofs, soil profiles and detailed landscape conditions have therefore been recommended for imposition.

(f) **Principle 6: Amenity**

The proposal provides a reasonable level of amenity for the residential occupants of the development and neighbouring properties. Compliance with the amenity controls are detailed in the ADG assessment table below.

(g) **Principle 7: Safety**

The safety and security of the public domain and the site itself is enhanced by increased activity within the site and casual surveillance of the surrounding streets from the residential apartments.

The residential entries are clearly defined with individual and lobby entries located on Frog Park Lane, Elizabeth Street and Joynton Avenue. Retail tenancies are accessed on Zetland Avenue, and the child care centre is accessed via Elizabeth Street. In all instances security and safety for residents is maximised.

The proposal is considered to be designed in accordance with the principles of Crime Prevention through Environmental Design (CPTED) and is consistent with this design quality principle.

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

The proposal has the following unit mix:

- (i) 96 x 1 bedroom (38%);
- (ii) 120 x 2 bedroom (47%);
- (iii) 30 x 3 bedroom (12%); and
- (iv) 8 x 4 bedroom (3%).

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

(i) **Principle 9: Aesthetics**

The buildings utilise varying tones of brick that reference the adjoining heritage conservation area, bronze metalwork screening, and painted pre-cast concrete in shades of white, grey and black.

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

The competition winning scheme was considered by the selection panel to be the scheme most capable of demonstrating design excellence. The amended design is considered to maintain the overall integrity of the competition winning scheme, whilst improving upon Building C's scale and presentation at its interface with the adjoining conservation area to the north.

53. The development is considered generally acceptable when assessed against the above stated principles and the SEPP generally, which are replicated in large part within Council's planning controls.

Apartment Design Guide

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	No, but acceptable	<p>The development proposes varying building depths, in part due to the curved form of Building B as it transitions from Elizabeth Street to Joynton Avenue; and to accommodate child care and commercial uses at ground floor of Buildings A and C.</p> <p>This results in a glass to glass depth of between 20m and 22m at its greatest extent.</p> <p>The development however, is well within the Concept building envelope, and the GSTC DCP 2012. Despite non-compliance with the building depth guidelines, the scale of the development is appropriate to the site, and provides an acceptable level of residential amenity. Accordingly the aims of the building depth provisions of the ADG have been met.</p>

2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul>	No, but acceptable	<p>The development provides a separation of 9m between the habitable rooms and balconies of Buildings B and C, and there are oblique sightlines of 9-10m between Buildings A and B. Screening and highlight windows are provided to bedrooms to mitigate privacy impacts, and there is adequate clearance between the buildings to provide natural cross ventilation.</p> <p>A separation of 9-18m is provided to the side walls of adjacent terraces across the new laneway which complies.</p>
<p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul>	No, but acceptable	<p>At levels 4 to 6, the development provides a separation of 12m to 15m between Buildings A and B. Screening and highlight windows are provided to bedrooms to mitigate privacy impacts.</p> <p>The development has been designed to comply with GSTC DCP building envelopes and the Concept development approval.</p>
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> <li>• 24m between habitable rooms / balconies</li> <li>• 18m between habitable and non-habitable rooms</li> <li>• 12m between non-habitable rooms</li> </ul>	Yes	The proposal complies with this requirement.

2F Building Separation	Compliance	Comment
<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>	<p>No, but acceptable</p>	<p>The subject site is zoned B4 - Mixed Use, and directly adjoins an R1 - General Residential zone to the north on Portman Street, Elizabeth Street and Christies Lane, which contains low scale residential (1-2 storeys). A 3m setback to the northern and eastern boundaries is required.</p> <p>Buildings B and C have been designed to respond to the Concept approval and GSTC building envelopes, whereby a setback of 4m is provided to the Elizabeth Street site boundary. Nil setback is provided at ground to level 2 of Building C, however a setback of 9m is provided from the site boundary of Building C to the edge of the laneway.</p>

3D Communal and Public Open Space	Compliance	Comment
<p>Communal open space has a minimum area equal to 25% of the site.</p>	<p>No, but acceptable</p>	<p>The application proposes 2,437.7sqm of communal open space at ground floor and level 1, with a minimum dimension of 3m equalling 24.9% of the site. The communal open areas contain deep soil landscaping, a swimming pool and gym, and direct, equitable access is provided to all areas.</p> <p>The minor non-compliance is a shortfall of 5sqm, which on balance is considered acceptable given that the areas are designed to be used by a variety of age groups for different activities, and meet the intent of Objective 3D-1.</p>

<b>3D Communal and Public Open Space</b>	<b>Compliance</b>	<b>Comment</b>
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	The proposal provides solar access to 50% of the communal open space at level 1 between 10am and 1pm at the winter solstice as per ADG requirements.

<b>3E Deep Soil Zones</b>	<b>Compliance</b>	<b>Comment</b>
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Yes	The application proposes 627sqm of deep soil, unencumbered by structures either below or above, and equal to 7.9% of the site area.

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

<b>3F Visual Privacy</b>	<b>Compliance</b>	<b>Comment</b>
Up to four storeys (12 metres):	Yes	The development provides a separation of 9m between the habitable rooms and balconies of Buildings B and C, and there are oblique sightlines of 9-10m between Buildings A and B.
<ul style="list-style-type: none"> <li>• 6m between habitable rooms / balconies</li> <li>• 3m between non-habitable rooms</li> </ul>		
Five to eight storeys (25 metres):		
<ul style="list-style-type: none"> <li>• 9m between habitable rooms / balconies</li> <li>• 4.5m between non-habitable rooms</li> </ul>		
Nine storeys and above (over 25m):		
<ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 6m between non-habitable rooms</li> </ul>		

<b>3F Visual Privacy</b>	<b>Compliance</b>	<b>Comment</b>
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	The proposal complies.

<b>4A Solar and Daylight Access</b>	<b>Compliance</b>	<b>Comment</b>
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	No, but acceptable	The application proposes solar access to 70.1% (174 of 254 apartments). It is noted however, that the proposal relies on skylights to Buildings A and B (3 apartments in total) to achieve solar access and does not demonstrate if these skylights obtain direct sunlight as per ADG requirements. This reduces solar access compliance to 67.3% (171 of 254 apartments).  Notwithstanding, solar access is acceptable in this instance as the development complies with GSTC DCP and Concept approval building envelopes with regard to siting of buildings and floorplate depths.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	14.2% of apartments (36/154) receive no direct sunlight at the winter solstice.

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
All habitable rooms are naturally ventilated.	Acceptable, subject to conditions	All habitable rooms are provided with windows capable of providing adequate natural ventilation.  The bedrooms and living areas of each apartment facing Joynton Avenue and Elizabeth Street are affected by external noise.

4B Natural Ventilation	Compliance	Comment
		<p>The acoustic assessment submitted with the application concludes that internal noise levels within apartment bedrooms/living areas can only be met via the installation of plenums in Building B.</p> <p>A condition is recommended addressing the design detail and acoustic verification of the proposed plenum arrangement.</p> <p>Refer to further discussion in the Issues section of this report.</p>
<p>Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.</p>	<p>No, but acceptable</p>	<p>122 of the 208 apartments located within the first 9 storeys of the development are naturally cross ventilated, being 58.6%.</p> <p>The non-compliance generally pertains to Building A, due to the modulation of the facade. There is one apartment on every level that does not allow for adequate crossflow to the main living area, and it has not been counted as naturally cross ventilated.</p> <p>Refer to Issues section for further discussion.</p>
<p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>Yes</p>	<p>Cross-through apartments have a maximum depth of 13m which complies.</p>

Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows in the table below.

4C Ceiling Heights	Compliance	Comment
<p>Habitable rooms: 2.7m</p>	<p>Yes</p>	<p>Floor to floor heights of between 3.1m and 3.2m are proposed, allowing for 2.7m floor to ceiling heights within habitable rooms.</p> <p>The proposal complies.</p>

<b>4C Ceiling Heights</b>	<b>Compliance</b>	<b>Comment</b>
Non-habitable rooms: 2.4m	Yes	The proposal complies.
Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.	Yes	Two storey apartments are proposed at ground floor and level 1 of Building B. All apartments provide a floor to ceiling height of 2.7m which complies.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	No, but acceptable	The application proposes floor to floor heights of between 3.3m and 4.5m at ground floor, and 3.1m at first floor. The GSTC DCP and the Concept approval anticipate retail/commercial uses at ground floor only. The non-compliance with floor to ceiling/floor to floor heights is minor in this instance and is considered acceptable.

<b>4D Apartment Size and Layout</b>	<b>Compliance</b>	<b>Comment</b>
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35m<sup>2</sup></li> <li>• 1 bed: 50m<sup>2</sup></li> <li>• 2 bed: 70m<sup>2</sup></li> <li>• 3 bed: 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p>	Yes	All apartments meet or exceed the minimum size requirements, including where an additional bathroom is provided.
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	All habitable rooms (including studies where provided) have access to an external window as required by the ADG.

4D Apartment Size and Layout	Compliance	Comment
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	All apartments provide habitable areas within 8m of a window.
8m maximum depth for open plan layouts.	Yes	All apartments provide habitable areas within 8m of a window.
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• master bedroom: 10m<sup>2</sup></li> <li>• all other bedrooms: 9m<sup>2</sup></li> </ul> <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	The development provides compliant bedroom sizes.
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>	No, but acceptable	<p>In some instances, two bedroom apartments provide living/dining room widths of 3.9m rather than 4m. The majority of apartments are compliant.</p> <p>Despite the minor non-compliance, the proposal has demonstrated that the rooms are all satisfactory in terms of their utility, with furniture layouts provided to demonstrate this.</p> <p>The proposal is acceptable.</p>
4m minimum width for cross over and cross-through apartments.	No, but acceptable	<p>Cross-through apartments are proposed to the "corner" Elizabeth Street and Joynton Avenue, resulting in a curved facade at this junction. The majority of the apartment layout complies with the 4m minimum width with the exception of the entry, where 3m is proposed. The proposed non-compliant width occurs in two apartments per floor across 6 levels, and still allows for a variety of furniture arrangements and/or removal. The proposal is acceptable.</p>

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
<p>Studio apartments are to have a minimum balcony area of 4m<sup>2</sup> with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8m<sup>2</sup> with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m<sup>2</sup> with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m<sup>2</sup> with a minimum depth of 2.4m.</p>	Yes	<p>All apartments are provided with the required area of private open space.</p> <p>Some apartments have balconies with variable depths or are split into two (i.e. an area of 14sqm at ground floor and 8qm at first floor for a 2 bedroom apartment that requires 10 sqm total) to meet overall area requirements of the ADG.</p> <p>All apartments however, provide sufficient area to meet the minimum depth requirements, an in all instances provide usable balcony areas.</p>
<p>Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m.</p>	No, but acceptable	<p>The majority of apartments fronting the laneway or Elizabeth Street/Joynton Avenue provide terrace areas of at least 15sqm with a minimum depth of 3m. In some instances along Elizabeth Street however, terraces with an area of 10sqm are provided. It is noted however, that these apartments have generous balconies at first floor that when combined, exceed the 15sqm requirement.</p>

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
<p>The maximum number of apartments off a circulation core on a single level is eight (8).</p>	No, but acceptable	<p>Building C proposes 12 apartments on levels 2 and 3 utilising 1 lift core. This is considered acceptable given that the building is 4 storeys in height, and otherwise complies at ground and level 4.</p> <p>Buildings A and B are provided with between 2 and 3 lift cores per floor, with no more than 5 apartments accessing the lift core which complies.</p>

4F Common Circulation and Spaces	Compliance	Comment
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	No, but acceptable	Building A contains 3 lifts and 154 apartments, meaning that 51 apartments will share a single lift. This is a minor non-compliance with no significant impact on occupants within Building A.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	The proposal has been amended to ensure that bedroom windows do not open directly onto common circulation spaces, or the child care centre at ground floor.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	All common circulation spaces have access to natural light.

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> <li>• Studio: 4m<sup>3</sup></li> <li>• 1 bed: 6m<sup>3</sup></li> <li>• 2 bed: 8m<sup>3</sup></li> <li>• 3 bed: 10m<sup>3</sup></li> </ul> <p>(Minimum 50% storage area located within unit)</p>	Yes	Adequate storage is provided for each apartment in accordance with ADG requirements.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	<p>The site is not located on a noisy road, however the bedrooms and living rooms to each apartment facing Joynton Avenue and Elizabeth Street (within Building B) are affected by external noise.</p> <p>The acoustic assessment submitted with the application concludes that internal noise levels within apartment bedrooms and living rooms can only be met with an alternative form of ventilation and acoustic attenuation treatment.</p> <p>Refer to further discussion in the Issues section of this report.</p>

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

54. The BASIX Certificate has been submitted with the development application.
55. The BASIX certificate lists measures to satisfy BASIX requirements, DCP and planning agreement requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

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

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

#### Clause 45

57. 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 will require a substation, and involves penetration of ground within 2m of an underground electricity power line.
58. The proposal provides a substation at the corner of Building A and the driveway to Portman Street. In accordance with the Clause, the application was referred to Ausgrid for a period of 21 days during each notification period. In correspondence received 16 November 2019, Ausgrid advised that they had no objection to the application, and recommended conditions relating to the connection of the development to adjacent electricity infrastructure, maintaining clearances from overhead power lines and underground cables during construction. These conditions are recommended for imposition.

#### Clause 104

59. The application is subject to Clause 104 of the SEPP as the proposal involves traffic generating development.

60. In a response dated 3 June 2019, Roads and Maritime Services (RMS) advised that they had no objection to the application, and recommended conditions to be imposed. These conditions relate to:
- the layout of the proposed car parking areas complying with the Australian Standards,
  - for landscaping on Portman Street to be located so that it does not hinder sight lines to and from the vehicular crossing to motorists, pedestrians and cyclists, and
  - for a Construction, Pedestrian Traffic Management Plan (CPTMP) to be submitted to the City for approval in consultation with Transport for NSW (TfNSW) and RMS, prior to the issue of a Construction Certificate.
61. RMS, Transport for NSW and the City's Transport and Access team have recommended similar a CPTMP condition to be imposed. A condition requiring all three parties to endorse the CTMP prior to approval by the City is recommended.
62. The conditions have been included within the recommended conditions of consent in attachment A.

**State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017**

63. The proposed centre-based child care facility is subject to the provisions of the above SEPP.
64. Clause 23 of the SEPP requires all applications for development to take into consideration any applicable provisions of the Child Care Planning Guideline. The relevant matters to be considered under Section 3 of the Guideline for the proposed development are outlined below.

<b>3. Matters for Consideration</b>		
<b>Consideration</b>	<b>Compliance</b>	<b>Comment</b>
3.1 Site selection and location	Yes	<p>The subject site will accommodate residential and retail uses once construction is completed. This and the surrounding, residential and recreational uses are compatible with the proposed child care centre use.</p> <p>The child care centre is located directly opposite a future community facility and school on Zetland Avenue, recreational areas such as the Drying Green to the west, Woolwash Park to the east and the Gunyama Park Aquatic Centre and playing fields.</p>

<b>3. Matters for Consideration</b>		
		<p>The site is also located in close proximity to bus routes on Elizabeth Street and Green Square Railway Station, as well as local businesses, shops and services within the Green Square Town Centre.</p> <p>The proposal is not accompanied by a detailed fit-out (such as hours of operation, number of children, general layout etc.). Whilst the use in principle is supported, the fit-out and general operation is to be subject to a separate development application.</p>
3.2 Local character, streetscape and the public domain interface	Yes	The child care centre is accessed from Elizabeth Street, away from any driveways or vehicular conflict. Windows within the child care centre face Elizabeth Street to provide passive surveillance and visual connection between the facility and the street.
3.3 Building orientation, envelope and design	Yes	The proposed child care centre is located at ground floor, with no direct access to residential apartments within the site. There is a bridge at first floor that connects the residential apartments with communal open space, which is located above the outdoor area of the child care centre. The bridge however, has been designed to provide a landscape buffer, and apartments have been designed so that overlooking of the child care centre is minimised.
3.4 Landscaping	Yes, subject to conditions	The child care centre is able to provide adequate landscaping, which will be subject to further detail as part of a separate development application for fit-out.

<b>3. Matters for Consideration</b>		
3.5 Visual and acoustic privacy	Yes	<p>The proposal is accompanied by an acoustic report that recommends a number of mitigation measures to minimise noise impact to occupants of the site and surrounding development. These recommendations include:</p> <ul style="list-style-type: none"> <li>• the construction of a 2.1m high solid (masonry) boundary fence around the perimeter of the outdoor area with dense planting,</li> <li>• for the underside of the slab soffit above the ground floor play area to be treated with absorptive material, and</li> <li>• the use of artificial turf.</li> </ul>
3.6 Noise and air pollution	Yes	<p>As discussed above, the proposal is accompanied by an acoustic report outlining recommendations with regard to the construction and fit-out of the child care centre that are to be complied with.</p> <p>It is noted however, that given the subject proposal does not include fit-out or general operation of the child care centre, these measures are to be expanded upon further as part of a separate development application.</p> <p>The development is not located on a major road, and an air quality assessment is therefore not required.</p>
3.7 Hours of operation	N/A	<p>The proposal is not accompanied by a detailed fit-out (such as hours of operation, number of children, general layout etc.). Whilst the use in principle is supported, the fit-out and general operation is to be subject to a separate development application.</p>

<b>3. Matters for Consideration</b>		
3.8 Traffic, parking and pedestrian circulation	Yes	Four pick-up and drop-off spaces are provided at ground floor within the development, accessed via Portman Street. The site is also located in close proximity to bus routes on Elizabeth Street and the Green Square Railway Station.

65. In addition to the matters of consideration under Section 3 of the Guideline, Section 4 of the Guideline requires developments to be considered against the provisions of the Education and Care Services National Regulation. The proposal however, does not include details regarding the fit-out, number of children, hours of operation and general layout of the child care centre. Whilst the proposal is considered to be able to meet the requirements of the Education and Care Serviced National Regulation, it is to be subject to a detailed assessment as part of a future development application.
66. The development is considered generally acceptable when assessed against the above stated provisions and the SEPP generally, which are replicated in large part within Council's planning controls.

### **Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013**

67. The site is located within the B4 - Mixed Use zone. The proposed uses are defined as residential accommodation, a centre-based child care centre and retail premises and is permissible in the zone with consent.
68. The relevant matters to be considered under Sydney LEP (GSTC - Stage 2) 2013 for the proposed development are outlined below.

#### Compliance Tables

<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.3 Height of Buildings	No	<p>Clause 4.3 of the Sydney LEP (GSTC - Stage 2) 2013 permits the following buildings heights across the site:</p> <ul style="list-style-type: none"> <li>• RL22.00 at the ground level of the proposed pedestrian laneway at the northern boundary of the site;</li> <li>• RL35.30 to Building C for a width of 12m measured from the site's northern boundary;</li> <li>• RL44.00 across the majority of the site (fronting Elizabeth Street, Joynton Avenue and Portman Street) encompassing Buildings A, B and C;</li> </ul>

Development Control	Compliance	Comment
		<ul style="list-style-type: none"> <li>• RL69.30 at the south-west corner of the site; and</li> <li>• RL22.00 at the ground level of the future Zetland Avenue at the southern boundary of the site.</li> </ul> <p>The proposal exceeds the RL44.00 building height at the south-eastern corner of Building A, proposing a building height of RL48.40 to the roof, and a height of RL50.90 to the top of the lift overrun. The non-compliances range from 4.4m to 6.9m above the height limit, or 17.5% to 27.5%.</p> <p>A Clause 4.6 variation to the maximum height development standard has been submitted, and is supported.</p> <p>Refer to Issues section for further discussion.</p>
4.4 Floor Space Ratio	Yes	<p>Clause 4.4 of the Sydney LEP (GSTC - Stage 2) 2013 permits a base floor space ratio (FSR) of 2.31:1.</p> <p>The proposal seeks to utilise the design excellence provisions pursuant to Clause 6.9, where up to a further 10% FSR is possible. This is applicable where the design is the result of a competitive design process and is considered by the consent authority to exhibit design excellence.</p> <p>This proposal is eligible for up to an additional 10% design excellence bonus for FSR, being 2.54:1.</p> <p>The application proposes an FSR of 2.54:1 (24,821sqm), which complies.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standards prescribed under Clause 4.3 (Height of Buildings).</p> <p>See discussion under the heading Issues.</p>

Development Control	Compliance	Comment
5.10 Heritage Conservation	Yes	<p>The subject site adjoins the Zetland Estate Heritage Conservation Area (C73) to Elizabeth Street and Portman Street.</p> <p>The proposal has been amended to reduce the bulk and scale of Building C, which fronts the heritage conservation area, and improve its interface with surrounding terraces with its use of varying tones of brick. Building C is now 3-4 storeys in height, with an angled parapet at level 3 that references the roof form of adjacent terraces.</p> <p>The proposal at the northern boundary of the site has been designed so that it complements the adjoining heritage conservation area.</p>
6.1 Acid Sulphate Soils	Yes	<p>The application is accompanied by an Acid Sulfate Soils Management Plan outlining that whilst there are no Coastal Acid Sulfate Soils present, there are soils with reduced inorganic sulphides that need to be managed during excavation and/or dewatering works.</p> <p>Treatment requirements, and compliance with the management plan have been addressed as part of D/2018/1196 for the excavation of the site and no further assessment as part of this proposal is necessary.</p>
6.2 Flood Planning	Yes	<p>The site is identified as being flood affected, and the proposal has therefore been designed to the flood planning level.</p> <p>Conditions relating to the management of stormwater are included in the recommended conditions of consent.</p>

Development Control	Compliance	Comment
6.3 Airspace Operations	Yes	The proposed development breaches the OLS of the Sydney Airport. As detailed elsewhere in this report, the delegate of the Secretary of the Commonwealth Department of Infrastructure and Regional Development has previously provided approval for the development to reach a height of 69.3m (AHD), on 25 January 2018. The proposal complies with the height limit specified.
6.5 Affordable Housing	Yes	An affordable housing contribution is required and a condition is recommended to address this.
6.6 Active Street Frontages	Yes	<p>The LEP requires the site to provide an active street frontage along Zetland Avenue at the southern boundary of the site, and as it turns the corner to Portman Street.</p> <p>The proposal provides retail tenancies along the southern boundary in accordance with the clause, with a retail tenancy to the corner of Portman Street and Zetland Avenue that opens out onto both frontages as required.</p>
6.8 Car parking ancillary to other development	Yes, subject to conditions	<p>The development contains a mix of land uses, with maximum parking rates specific to each use as follows:</p> <p>Residential (maximum):</p> <ul style="list-style-type: none"> <li>• 188 car spaces;</li> <li>• 26 visitor car spaces;</li> </ul> <p>Retail (maximum):</p> <ul style="list-style-type: none"> <li>• 14 car spaces;</li> </ul> <p>Child Care (Maximum):</p> <ul style="list-style-type: none"> <li>• 10 car spaces.</li> </ul> <p>The development provides 145 residential, 15 retail, 4 child care and no visitor car spaces.</p>

Development Control	Compliance	Comment
		<p>The proposal does not comply with the maximum for retail car spaces. It is recommended that a condition be imposed allocating the additional retail car space to child care (as these car spaces are grouped together at ground floor).</p>
6.9 Design Excellence	Yes	<p>The applicant elected to carry out a competitive design process as per Clause 6.9(5) of the Sydney LEP (GSTC - Stage 2) 2013.</p> <p>A competitive design alternatives process was held in October 2018. The scheme prepared by DKO was preferred, however the selection panel were of the opinion that further design refinement was required. Amended plans were submitted to the selection panel on 29 October 2018, whereby DKO was named as the winning scheme.</p> <p>Pursuant to the provisions of Clause 6.9(7), where the proposal is the winner of a competitive design process and is considered to exhibit design excellence, up to a further 10% FSR may be awarded.</p> <p>The selection panel, in the competitive design alternatives report dated 8 November 2018, concluded that they were of the view that the scheme was able to demonstrate design excellence and was worthy of being awarded the additional FSR.</p>

Development Control	Compliance	Comment
		<p>Whilst the selection panel were of the opinion that the proposal exhibited design excellence, it was concluded during the assessment that the proposal required amendment. This was largely to provide a more appropriate transition to the heritage conservation area, commensurate with the scale of the surrounding 1-2 storey terraces in close proximity at the northern boundary of the site. As such, the scheme has further evolved, but is still considered to retain the overall features, and design intent of the winning scheme.</p> <p>In addition to the above matters, the proposal responds appropriately to the planning controls where required, and achieves the principles of ecologically sustainable development. The development has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The overall materiality, articulation and architectural contribution of the development to the GSTC and adjoining heritage conservation area is considered to achieve design excellence, as per Clause 6.9 of the Sydney LEP (GSTC - Stage 2) 2013.</p>
6.10 Essential Services	Yes	<p>Utility, drainage and road services are available to the site and are being delivered by the City in its rollout of essential infrastructure for the GSTC.</p> <p>The City has entered into a VPA with the developer to construct the essential infrastructure around the site at the same time as the construction of the development.</p>

**Green Square Town Centre Development Control Plan 2012**

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

**2. Locality Statements – Green Square Town Centre**

The subject site is located in the Green Square Town Centre. The GSTC is a large scale urban renewal project and will be the residential, commercial, retail and cultural centre for the Green Square Urban Renewal Area.

The proposed redevelopment of Site 14 for residential, retail and child care purposes is considered to be in keeping with the unique character of the area and design principles in that it contributes to the GSTC in achieving its potential to become a planned major centre. The development provides retail development of an appropriate scale at ground floor to create interest and activity in the outer edges of the precinct, and has designed high quality public domain areas (i.e. the shared laneway to the northern boundary, and Zetland Avenue) that are highly accessible and safe. The new buildings respond appropriately to the GSTC, and provide a suitable transition to the adjoining heritage conservation area.

3. General Provisions	Compliance	Comment
3.3 Street Network	Yes	<p>The proposal broadly aligns with the street network and the corresponding reservation width envisaged by the DCP. The delivery of Zetland Avenue forms part of a separate development consent (D/2012/1175/F) to be led by the City.</p> <p>A shared zone with a width of 9m at the northern boundary of the site has been provided in accordance with the DCP, and is part of the VPA for the development.</p> <p>It is noted however, that the DCP requires the subject site to locate its vehicular access within the shared zone which is not considered appropriate in this instance. Refer to Issues for further discussion.</p>
3.4 Flooding and Stormwater Management	Yes	<p>The site is identified as being flood prone.</p> <p>The proposal is generally compliant with the City's Interim Floodplain Management Policy.</p>

4. Land Uses	Compliance	Comment
4.1 Location of Desired Activities	Yes	<p>The DCP identifies the site's desired activity as retail at ground floor to Zetland Avenue, with residential, retail or commercial uses at all other frontages. Residential, retail and commercial uses are permissible across the entire site at first floor and above.</p> <p>The proposal complies with these requirements.</p>
4.2 Retail Uses	Yes	<p>The subject site is not located on a primary retail street, however provides retail premises to Zetland Avenue that open onto the public domain.</p>
4.3 Active frontages	Yes	<p>The proposal provides at active retail frontage to Zetland Avenue, as required by the DCP.</p>

6. Building layout, form and design	Compliance	Comment
6.1 Competitive Design Process	Yes	<p>The proposed development has been the subject of a competitive design process. The selection panel deemed the entry of DKO has the design most capable of achieving design excellence.</p> <p>As discussed under Clause 6.9 of the Sydney LEP (GSTCC - Stage 2) 2013, the development has been assessed as exhibiting design excellence and has sought to utilise the additional 10% FSR under the controls.</p>

6. Building layout, form and design	Compliance	Comment
6.2 Design and Architectural Diversity	Yes	<p>The proposal comprises 3 buildings of varying scale - low scale (Building C), mid-rise (Building B) and high-rise (Building A). Building C takes its cues from the heritage conservation area and is clad in masonry. Building B is constructed of concrete panels with the upper two storeys clad in metal; and Building A takes on features of the mid-scale building (i.e. concrete panels with some metal cladding), and provides a glass form for the upper levels.</p> <p>All buildings within the site have a frontage of more than 45m and all three have been designed to provide distinct building components in the form of breaks to create frontages of between 35m and 37m.</p>
6.3 Building Layout	Yes	<p>The DCP identifies Site 14 as containing perimeter block buildings. The development as amended complies with this requirement and steps down in height to the north to transition appropriately to existing lower scale development within the heritage conservation area.</p>
6.4 Height in Storeys and Street Frontage	Consistent with Concept building envelope	<p>Height</p> <p>The following DCP controls apply in relation to height and height in storeys:</p> <ul style="list-style-type: none"> <li>• Building A: 10-12 storeys, 36.5-43m to top of plant and 35-41m to top of parapet;</li> <li>• Building B: 6 storeys, 23.5m to top of plant and 22.5m to top of parapet; and</li> <li>• Building C: 4-6 storeys, 16-23.5m to top of plant, and 15.5-22.5m to top of parapet.</li> </ul>

6. Building layout, form and design	Compliance	Comment
		<p>The application proposes:</p> <ul style="list-style-type: none"> <li>• Building A: 9-15 storeys, with an overall height of 49.8m to top of plant;</li> <li>• Building B: 7 storeys, with a height of 24.5m to the top of plant; and</li> <li>• Building C: 3-4 storeys, with a height of 11.12-15.2m</li> </ul> <p>Building C complies with DCP requirements with regard to the 4-6 storey building heights that are specified across the site.</p> <p>Although Buildings A and B are not compliant with DCP requirements, the development is consistent with the approved Concept building envelope under D/2017/1201, and as amended under D/2017/1201/A (with regard to the south-eastern corner of Building A).</p> <p>Refer to Issues section for further discussion.</p> <p>The proposal provides floor to floor heights in compliance with the DCP.</p>
6.5 Building Alignments and Setbacks	Consistent with Concept building envelope	<p>Ground floor residential uses within Site 14 are to be provided with:</p> <ul style="list-style-type: none"> <li>• a minimum of 1.5m full height setback along Elizabeth Street, and a 4m landscape setback at ground and first floor;</li> <li>• a minimum 6m landscape setback to Joynton Avenue at ground floor; and</li> <li>• a 2m wide deep soil landscape setback at street level.</li> </ul>

6. Building layout, form and design	Compliance	Comment
		<p>The proposal provides a 4m landscape setback to Elizabeth Street, and a 6m deep soil and landscape setback to Joynton Avenue. Building C provides a 1.5m setback for landscaping.</p> <p>The proposal is consistent with the setbacks approved as part of the Concept building envelope under D/2017/1201, which is acceptable.</p>
6.6 Roof Form	Yes	<p>The proposal generally complies with setback requirements for rooftop plant with the exception of Building A. The DCP however, allows for non-compliances where the plant is architecturally integrated with the building and where sun access to surrounding buildings and the public domain is unaffected.</p> <p>The proposed plant is screened and setback and would not be readily visible in the streetscape. The rooftop plant areas comply with overall building heights and do not result in additional overshadowing to the public domain or surrounding buildings. In consideration of the dispensations permitted by the DCP, the proposal complies.</p>
6.7 Maximum floorplate of tall buildings	N/A	<p>Building A is 15 storeys in height, however Site 14 is not identified in Table 6.3 'Maximum average floorplate for buildings over 14 storeys'. Accordingly, the provisions are considered not to apply.</p>
6.8 Flexible Housing and Dwelling Mix	Yes	<p>The proposal has the following unit mix:</p> <ul style="list-style-type: none"> <li>• 96 x 1 bedroom (38%);</li> <li>• 120 x 2 bedroom (47%);</li> <li>• 30 x 3 bedroom (12%); and</li> <li>• 8 x 4 bedroom (3%).</li> </ul>

6. Building layout, form and design	Compliance	Comment
		The unit mix is consistent with that envisaged by the GSTC DCP 2012 and is acceptable.
6.9 Adaptable dwelling mix	Able to comply	<p>The DCP requires 20% of apartments to be adaptable.</p> <p>The application proposes 38 adaptable apartments or 15.2%, across 1 and 2 bedroom configurations.</p> <p>The proposal is required to provide at least 50 adaptable apartments across all unit sizes, and this is to be conditioned accordingly.</p>
6.10 Amenity		<p>Many of the relevant provisions of 6.10 are superseded by the ADG, pursuant to the provisions of Clause 6A of SEPP 65.</p> <p>6.10.2 Sun access</p> <p>The proposal does not result in any additional overshadowing to sites adjacent to the GSTC at the winter solstice. The proposal will result in minor additional overshadowing to the former South Sydney Hospital site (the location of the new community facility and school) within the GSTC at 9am, however by 12 midday the adjacent site is left unaffected.</p> <p>Reflectivity</p> <p>A condition of consent is recommended to ensure light reflectivity from building materials used for the facade of Building A does not exceed 20%.</p>

6. Building layout, form and design	Compliance	Comment
		<p>Wind effects</p> <p>The proposal is accompanied by a wind report which concludes that the majority of trafficable outdoor locations within and around the development will be suitable for their intended uses as a result of the proposed development. The report recommends that the proposed tree planting at level 1, and throughout the development as a whole be retained, and for the southern awning to Zetland Avenue to have a width of 3m.</p> <p>The awning has been designed so that it has a width of at least 3m across the entire southern frontage of the development. It is also recommended that the consent include detailed landscape conditions to retain, and improve upon, proposed tree plantings and landscaped areas.</p> <p>Acoustic privacy</p> <p>The City's Health and Building Unit is satisfied that the acoustic conditions of the development are able to comply with DCP criteria, subject to standard noise conditions.</p>
6.11 Accessible Design	Yes	The proposal provides access to all lobbies, and retail areas at ground floor. A condition has been recommended for the proposed access and facilities for persons with disabilities to comply with the DCP and BCA.
6.12 Safety and Design	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with CPTED principles.
6.13 Landscaping and Open Space	Able to comply	Amended landscape plans have been submitted with the application, proposing planters, as well as tree plantings at ground and first floor, some of which will be on concrete slab.

6. Building layout, form and design	Compliance	Comment
		Additional details are required to ensure that the proposed landscape component of the scheme is a success. Information is to be submitted relating to soil profiles and detailed landscape conditions have therefore been recommended for imposition.
6.14 Footpath Awnings and Colonnades	Yes	The development provides a continuous awning to Zetland Avenue, as required by the DCP.

7. Signage and Advertising 4.3 Industrial developments	Compliance	Comment
7.1 Signage Strategy	Able to comply	<p>The application does not include a signage strategy. Given that the site will contain more than four retail tenancies, a signage strategy is required for the site, as per Clause 7.1 of the DCP.</p> <p>An appropriate condition is therefore recommended to ensure that one is submitted to and approved by Council prior to any Occupation Certificate being issued for the development.</p>

8. Environmental Management	Compliance	Comment
8.2 Energy	Yes	A BASIX certificate has been submitted demonstrating that in all instances the building meets targets for water, thermal comfort and energy.
8.3 Materials	Yes	The proposed materials are considered to be suitably durable and adaptable in accordance with the DCP.

8. Environmental Management	Compliance	Comment
8.4 Waste	Able to comply	<p>The Waste Management Plan accompanying the proposal is not supported, and waste management requires further resolution with regard to the location of bulky waste storage, adequate area for chute rooms and identification of the path of access for residents and commercial tenants.</p> <p>Appropriate conditions have been recommended for an amended Waste Management Plan.</p>
8.5 Water	Yes	<p>Water efficient fixtures and fittings are to be installed and the BASIX requirements are met.</p> <p>Appropriate stormwater and Water Sensitive Urban Design conditions have been recommended.</p>
8.7 Tree Management	Yes, subject to conditions	<p>The proposal includes street trees that are to be removed as part of the Green Square Public Domain works to be undertaken by Council. These street trees are to be shown on the plans as being retained by the applicant, until such time that they are removed by the City.</p> <p>The applicant is otherwise required to obtain consent from the City to prune any other street trees in close proximity, and appropriate conditions relating to the above, have been included in the recommended conditions of consent contained in attachment A.</p> <p>The application proposes a Hackberry tree within Frog Park Lane, which is not supported. Rather, the tree should be replaced with a tree that will reach a minimum mature height of 12m that is shade tolerant. This is to be conditioned as part of the public domain plan for the development.</p>

10. Transport and Parking	Compliance	Comment
10.1 Managing transport demand	Yes	<p>The proposal is accompanied by a traffic report with a swept path analysis for the proposed vehicular entry on Portman Street being left in/out only.</p> <p>Vehicular access is discussed in further detail in the Issues section.</p>
10.3 Vehicle parking	Able to comply	<p>The proposal provides the following allocation of car spaces and bike parking:</p> <ul style="list-style-type: none"> <li>• 145 residential car spaces</li> <li>• 0 visitor car spaces</li> <li>• 4 residential car share spaces;</li> <li>• 38 residential accessible spaces;</li> <li>• 15 retail spaces;</li> <li>• 1 retail car share space;</li> <li>• 4 child care drop-off/pick-up spaces;</li> <li>• 6 motorcycle spaces;</li> <li>• A loading bay at ground floor; and</li> <li>• Bicycle storage at ground floor for retail/visitor and at basement levels 1 and 2 for residential.</li> </ul> <p>The car parking at ground floor is screened by retail and residential uses in accordance with Clause 10.3(7).</p> <p>Car parking is generally allocated in accordance with LEP and DCP requirements, with the exception of retail, and accessible car spaces.</p>

10. Transport and Parking	Compliance	Comment
		<p>With regard to retail, an additional car space is provided. This is to be allocated to child care given its location at ground floor. Servicing needs can be accommodated at ground floor within the loading dock, subject to a Loading Dock Management Plan being prepared and submitted to the City for approval.</p> <p>The development also does not provide 50 adaptable apartments in accordance with Clause 6.9 of the DCP, and is required to allocate 1 x accessible car space to each adaptable unit. It is therefore recommended that 50 accessible spaces be provided, rather than 38. The loading dock management plan and accessible car spaces are to be conditioned.</p> <p>Whilst areas of bike parking have been annotated on the plans, individual racks/storage cages have not been indicated. The development is also required to provide 254 residential bicycle spaces, 25 visitor and 29 retail spaces. It is anticipated that these spaces can be provided at basement and ground level with minimal modification. The bicycle spaces are to be conditioned accordingly.</p>
10.4 Vehicle access and footpaths	Able to comply	<p>The DCP requires vehicular access to be provided at the northern boundary of the site, within the future shared zone. The proposal however, anticipates this shared zone being used for pedestrian and cyclists only, which is considered to be a more appropriate use of the laneway in light of the volume of cars using the development; and the close proximity to residential terraces. Vehicular access is therefore provided on Portman Street.</p> <p>Refer to Issues section for further discussion.</p>

10. Transport and Parking	Compliance	Comment
		The proposal otherwise provides adequate clearance for a 9.25m Council garbage truck for residential waste collection as per Clause 10.4.1 of the DCP.

12. Other development types and uses 12.4 Child Care Centres	Compliance	Comment
12.4.1-12.4-7 Child care centres	Able to comply	<p>The proposed child care centre is located at ground floor, within Building C and accessed via one entry on Elizabeth Street.</p> <p>The proposed use is not located within sight of injecting rooms, sex industry premises, drug clinics or any such uses; and is not located in close proximity to any cooling towers.</p> <p>The application is accompanied by an acoustic report recommending noise mitigation measures to ensure that residential apartments within the development and adjacent to the site are not adversely impacted upon by the general operation of the child care centre. It is noted however, that given the subject proposal does not include fit-out or general operation of the child care centre, these measures are to be expanded upon further as part of a separate development application.</p> <p>The indoor and outdoor areas have been designed so that they have access to sunlight, natural ventilation, with clear sightlines internally and externally. The residential apartments above, and access to the communal open space at level 1 have been designed as such, so that objects cannot be easily dropped down onto the outdoor area of the child care centre.</p>

12. Other development types and uses 12.4 Child Care Centres	Compliance	Comment
		The proposal is not accompanied by a detailed fit-out (such as hours of operation, number of children, general layout etc.). Whilst the use in principle is supported, the fit-out and general operation is to be subject to a separate development application.

## Issues

### Clause 4.6 request to vary a development standard

70. Clause 4.3 of the Sydney LEP (GSTC - Stage 2) 2013 prescribes 5 building heights across the site:
- (a) RL22.00 to the proposed pedestrian laneway at the northern boundary of the site;
  - (b) RL35.30 to Building C for a width of 12m from the northern boundary;
  - (c) RL44.00 across the majority of the site (fronting Elizabeth Street, Joynton Avenue and Portman Street) encompassing Buildings A, B and C;
  - (d) RL69.30 at the south-west corner of the site with a frontage to Zetland Avenue; and
  - (e) RL22.00 to the future Zetland Avenue at the southern boundary of the site.
71. An extract of the Height of Buildings' map, depicting maximum building heights under the Sydney LEP (GSTC - Stage 2) 2013 is provided below.

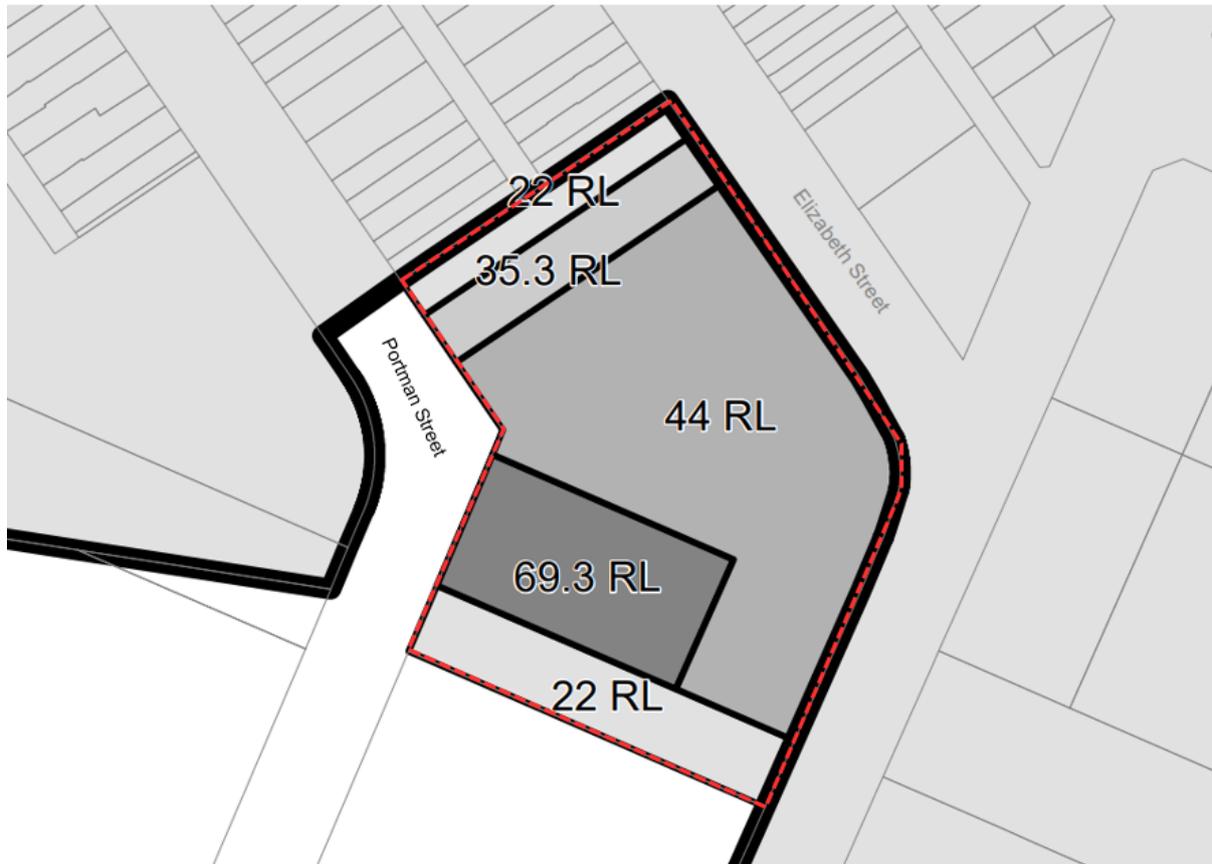


Figure 46: Extract of the 'Height of Buildings' map with site outlined in red.

72. The proposal exceeds the RL44.00 building height at the south-eastern corner of Building A. The development proposes a building height of RL48.40 to the roof of Building A, and a height of RL50.90 to the top of the lift overrun.
73. The non-compliances range from 4.4m to 6.9m above the height limit, or 17.5% to 27.5%.
74. The non-compliances with the 'Height of Buildings' development standard are depicted in the site plan and building envelope below.

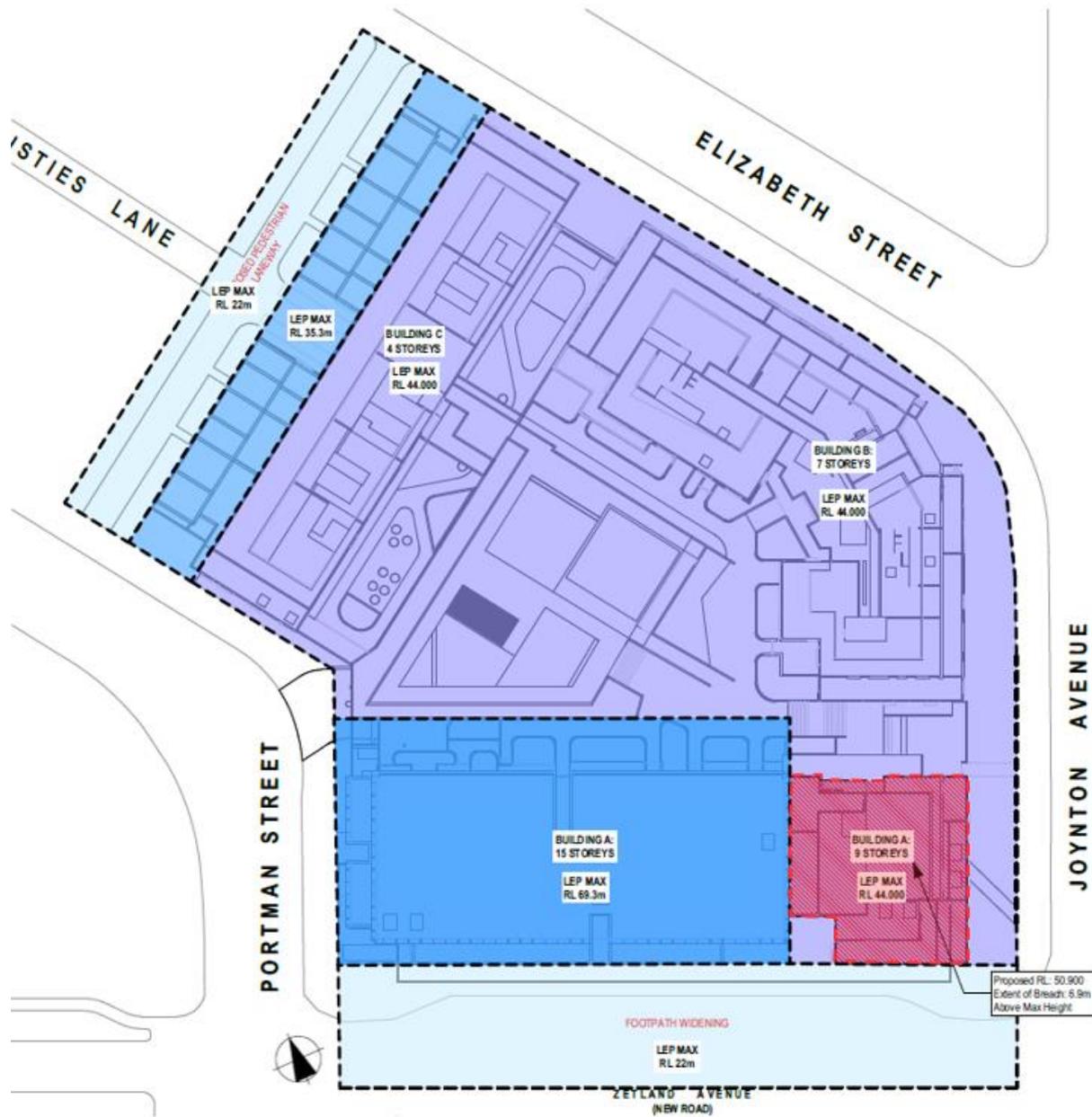


Figure 47: Site plan of the permitted and proposed maximum building heights for the development. The proposed non-compliance (relating to the south-east corner of Building A) is outlined in red hatched lines.

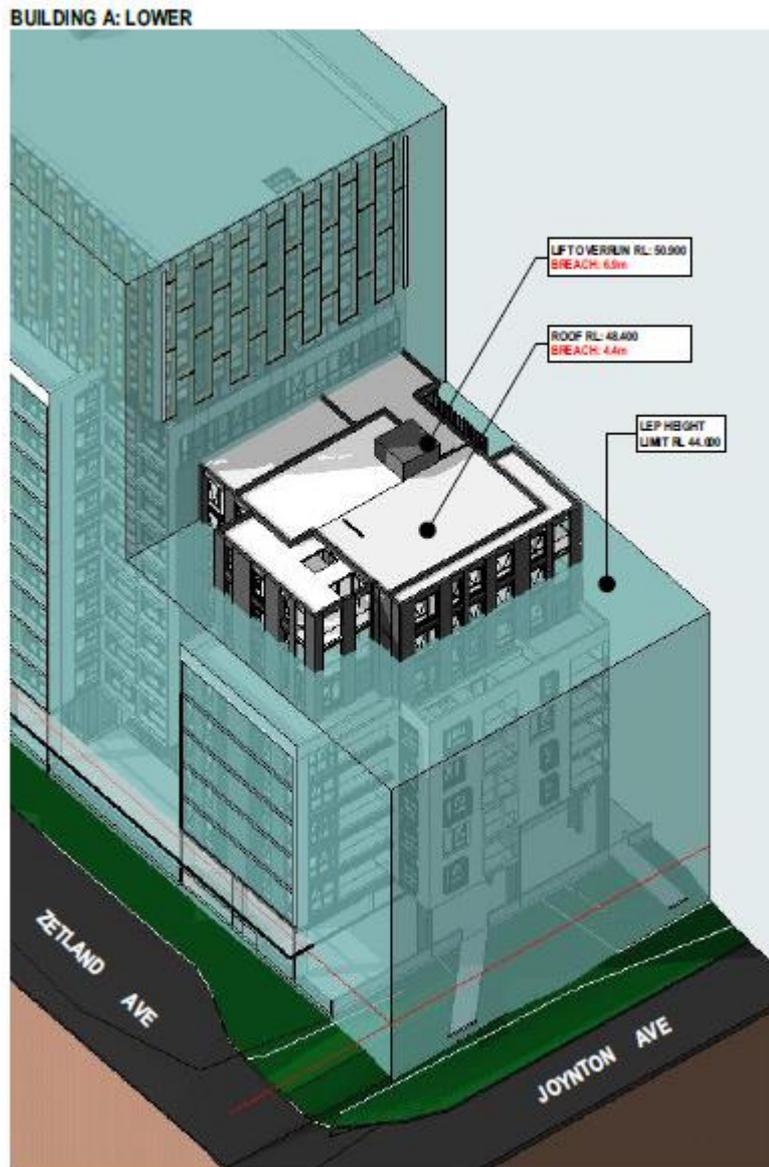


Figure 48: Proposed building envelope of Building A, depicting the non-compliance above the maximum 'Height of Buildings' development standard.

75. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard.
76. A copy of the applicant's written request is provided at attachment C.

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

77. 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 statement has referred to the first, third and fourth methods of the five part test established in *Webhe v Pittwater* [2007] NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The tests seek to demonstrate that the objectives of the standard are achieved notwithstanding non-compliance with the numerical standard; the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable; and that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and reasonable.

(ii) A summary of the applicant's assessment against the objectives of the control (first method) are provided below:

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

(iii) The height exceedance relates to a discrete element of the building form, allowing for the transference of building bulk from the west of the site (where the site adjoins the Zetland Estate Heritage Conservation Area), to the less sensitive southern part of the site.

*Objective (b): to ensure sharing of views*

(iv) The applicant states that no additional view impacts are anticipated from the elements of the proposal that exceed the controls, as the upper floor windows and balconies of neighbouring buildings are typically located below this level. There would be no difference in views when compared to a fully compliant development.

*Objective (c): to ensure acceptable height transition from the Green Square Town Centre to adjoining areas*

(v) The proposed additional height will not have any adverse impact on the transition of heights from the Green Square Town Centre to adjoining areas.

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

- (vi) The departure from the RL44 height limit at the south-eastern frontage will have little or no visual impact on the surrounds as the additional height relates to a section of the building that is set back from the main building form.

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

- (vii) The site occupies a prominent position within the Green Square Town Centre, with the form of the development helping to define the street edge. The incorporation of a recessed upper level to Building A through the inclusion of additional height for this part of the site adds greater definition to the Joynton Avenue/Zetland Avenue junction.
- (viii) A summary of the applicant's assessment against the third method, where the object or purpose would be defeated or thwarted if compliance was required is summarised below:
- (ix) The applicant states that the departure from the development standard is the result of design modifications to shift the overall bulk of the development away from the more sensitive western section of the site where the development adjoins the Zetland Estate Heritage Conservation Area to the less sensitive southern section of the site.
- (x) A summary of the applicant's assessment against the fourth method, where the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard are provided below:
- (xi) The applicant has cited 5 development consents in close proximity to the site that have been determined within the 3 years:

DA	Site Address	Date of Determination	Extent of Departure
D/2014/1757	501-509 Botany Road, Zetland (Site 10A)	11 May 2017	8%
D/2016/824	132-140 Joynton Avenue, Zetland (Site 13A)	11 May 2017	50%
D/2017/324	906 Bourke Street, Zetland	26 June 2017	83%
D/2015/913	106 Epsom Road, Zetland	27 July 2017	30%
D/2018/508	62 Epsom Road, Zetland	5 December 2018	12.5%

- (xii) The applicant states that consent has been granted to other buildings within the immediate area for heights which in some instances considerably exceed the maximum building height control. Given the nature of the departure proposed in this instance, relating to additional building elements that are well integrated into the overall design and setback from the street edge, it would be unreasonable for strict compliance to be applied in this case.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The statement considers 5 environmental planning grounds to justify contravening the standard:
- Improved heritage interface*
- (ii) The applicant states that the proposed increased height is acceptable, and does not result in additional overshadowing or greater visual impact on the conservation area.
- Intensity in use of the site is consistent with a compliant scheme*
- (iii) The minor increase in building height achieves a density consistent with the LEP controls, noting that compliance with the maximum FSR of 2.54:1 is achieved. The height increase has no unreasonable impacts on surrounding properties.
- Additional height is offset by a reduction in height elsewhere within the site*
- (iv) The redistribution of massing to Building A achieves a better streetscape outcome and amenity outcome for the public domain, as well as a better residential amenity outcome.
- Additional height contributes to building articulation*
- (v) The uppermost element of Building A is well thought out and has been successfully integrated into the overall design of the southern building. The tallest (non-compliant) elements of the building are setback to assist in reducing the dominance of the 15 storey building element when viewed from the west, thereby providing a more gradual transition in height across the site.
- No additional amenity impacts*
- (vi) The proposed height variation will not result any demonstrable detrimental impact to any sensitive land uses. The additional height is generously setback so that the proposal provides high levels of visual privacy. Additionally, the shadows cast by the development fall predominantly within the roadway to the south (Zetland Avenue). At 9am of the winter solstice, some overshadowing will occur over the proposed community facility and school immediately to the south, however this shadow disappears by 12 midday and beyond.



Figure 49: Proposed shadow diagrams depicting the impact of a compliant scheme on the proposed community facility and school to the south of the subject site

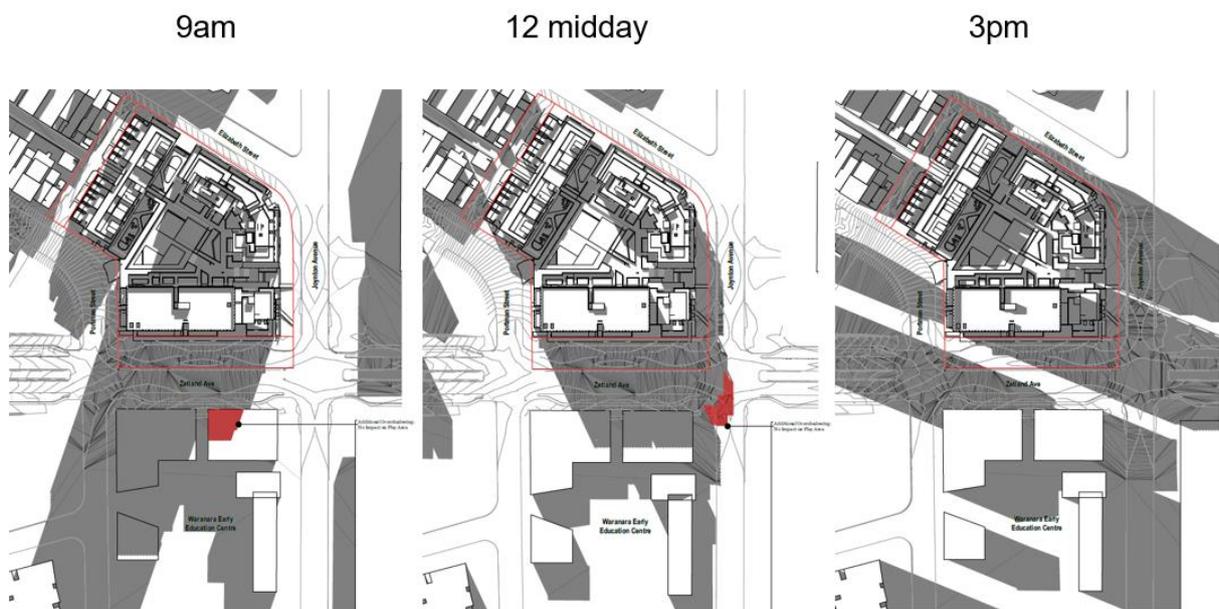


Figure 50: Proposed shadow diagrams depicting impact to the proposed community facility and school to the south of the subject site.

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

78. Development consent must not be granted unless the consent authority is satisfied that:
- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
  - (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

79. The applicant has correctly referred to the test established by Preston CJ in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. Specifically, the applicant has addressed the first part of the test by demonstrating that the development meets the objectives of Clause 4.3, notwithstanding non-compliance with the numerical standard.
80. A detailed discussion of the applicant's submission with regard to the objectives of the height standard has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the 'Height of Buildings' development standard, to the extent of the variation proposed, is unreasonable and unnecessary.

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

81. The statement provides environmental planning grounds specific to the circumstances of the site to justify the extent of non-compliance with the 'Height of Buildings' development standard.
82. Particular attention was given to the minimal overshadowing cast by the proposed building envelope compared to a compliant scheme on adjoining sites.
83. The applicant has therefore demonstrated that there are sufficient environmental planning grounds to support the extent of the variation proposed.

## Is the development in the public interest?

84. With regard to varying development standards, the public interest is conceived as being protected where a development meets the objectives of the zone and the development standard sought to be varied. As discussed in this report, the development is consistent with the objectives of Clause 4.3 notwithstanding the variation to the numerical standard.
85. The objectives of the B4 - Mixed Use zone are provided below:
- (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.

86. With regard to the objectives of the B4 Mixed Use zone, the development will contribute to the local supply of housing and associated services within the newly emerging Green Square suburb. The proposal facilitates the transference of building bulk away from the interface with the adjoining heritage conservation area to the less sensitive portion of the site. The incoming population will provide opportunities for increased patronage of public transport infrastructure as well as the shops and facilities of Green Square Town Centre, thereby assisting in supporting the viability of these uses.

#### Conclusion

87. 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 (Green Square Town Centre - Stage 2) 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.

#### Compliance with the Concept Approval

88. Pursuant to Section 4.24 of the Environmental Planning and Assessment Act 1979, where a Concept development application for a site remains in force, a determination of any further development application in respect to that site cannot be inconsistent with the Concept development consent.
89. The Concept approval relating to this proposal is D/2017/1201/A. The table below, provides an assessment of the proposed development against the key conditions imposed on the Concept development consent.

No.	Condition	Comment
2	Approved Development	<p>The proposal seeks variation to the overall height of the approved building envelopes for Buildings A and C.</p> <p>In order to ensure consistency of the proposal with the Concept approval, a concurrent Section 4.56 application was lodged to D/2017/1201 to vary the approved envelope, providing a part 9/15 storey building envelope for Building A, and a part 3/4 storey for Building C. D/2017/1201/A was approved on ## November 2019. The proposal is consistent with this approval.</p>
4	Competitive Design Process	<p>In accordance with parts (a) and (b) of this condition, following determination of the Concept approval, the applicant undertook a competitive design alternatives process in October 2018.</p> <p>DKO was named the winning scheme on 29 October 2018.</p>

No.	Condition	Comment
		<p>The condition requires that the proposal exhibit design excellence. The Selection Panel were of the opinion that the design was capable of achieving design excellence, however made a series of recommendations that have been addressed within this report.</p> <p>Amendments have been made to the height, bulk and scale of Building C in response to concerns raised by City staff about the development's interface with the adjoining heritage conservation area. The modifications ultimately retain the intent of the design winning scheme.</p> <p>The overall materiality, articulation and architectural contribution of the development is considered to achieve design excellence, as discussed elsewhere in this report.</p>
5	Voluntary Planning Agreement	<p>The proposal includes the provision of the future Zetland Avenue at the southern boundary, and the pedestrian laneway at the north-east boundary. In addition to this, ESD measures have been provided in accordance with VPA requirements.</p> <p>A condition is recommended to ensure the terms of the VPA (in terms of the delivery of works/contributions) are complied with, in accordance with the staging specified.</p>
6	Detailed Design of Buildings	<p>Condition 6(a) requires building breaks to be provided to create separate building components in accordance with the approved drawings. Each building component is to be designed to have its own architectural character and expression as per Clause 6.2 of the GSTC DCP 2012.</p> <p>The proposal comprises 3 buildings of varying scale, each with their own architectural character.</p> <p>All three have been designed to provide distinct building components in the form of breaks to create frontages of between 35m and 37m, as per the Concept approval.</p> <p>Condition 6(b) specifies that Building C must have regard to maintaining privacy to the properties fronting Elizabeth Street and</p>

No.	Condition	Comment
		<p>Portman Streets to the north-west of the site, via the use of landscaping and architectural treatments.</p> <p>Building C has been redesigned to reduce its bulk, scale and presentation to the adjacent Elizabeth/Portman Street terraces. Privacy is maintained to these properties via the use of a mostly solid masonry facade, installation of screening to windows of habitable rooms, and the siting of the 9m wide laneway between the site and the affected terraces.</p> <p>Condition 6(c) has been amended to reference the modified building envelope, where the top storey of Building C is to address the heritage conservation area. The central section of Building C at the top floor has been designed to provide articulation that responds to the building break below. Building C also has a solid masonry parapet (painted concrete), and delivers acceptable proportions as per Condition 6(d).</p> <p>A 4m setback is provided from the site boundary to the glass line of apartments facing Elizabeth Street and Portman Street. Additionally, a deep soil landscape setback with a width of 2m is located along the majority of the Elizabeth Street and Joynton Avenue frontage, in accordance with Condition 6(e).</p> <p>A chamfered setback of 3 x 3 metres is provided at all corners as per Condition 6(f) at ground and first floor.</p> <p>Natural cross ventilation is provided to 58.6% of apartments rather than 60%, and is acceptable as discussed in further detail within this report.</p> <p>The site provides at least 7% deep soil with a minimum dimension of 6m, as required by Condition 6(h).</p>

No.	Condition	Comment
		<p>A consolidated area of planting with a minimum area of 100sqm, and minimum dimension of 10m is provided at first floor within the communal open space as per Condition 6(i). Visual connectivity between the communal open space and Portman Street to the west, and Joynton Avenue to the east is provided to address Condition 6(j).</p> <p>Plant and lift overruns have been set in and screened from the street within all buildings as per DCP requirements and Condition 6(k).</p>
7	Floor Space Ratio	The proposal does not exceed the maximum FSR for the site.
8	Residential Land Use	The condition specifies the objectives and design criteria of the ADG (communal open space, maximum building depths, solar access, cross ventilation etc.); and the GSTC DCP 2012 in terms of dwelling mix, and floor to floor heights. These matters are addressed in detail within this report under the 'Apartment Design Guide' and the GSTC DCP 2012.
9	Residential Acoustic Amenity	An acoustic impact assessment has been submitted with the DA. Refer to 'Natural ventilation and acoustic privacy' discussion below.
10	Sun Access Modelling	Detailed overshadowing diagrams have been submitted with the application demonstrating that the proposal will have no significant adverse impact to the public domain, community facilities or public open space within the GSTC.
11	Ecologically Sustainable Development	The proposal meets ESD targets contained in the VPA, as demonstrated by the BASIX certificate accompanying the application. Compliance with BASIX requirements has been conditioned.

No.	Condition	Comment
12	Public Art	A public art plan has been submitted with the detailed design application, however a number of the requirements specified in Condition 12 have not been incorporated, such as the budget. A condition is to be imposed for the plan to be revised to meet the requirements of the City of Sydney Public Art Strategy and Policy, and the Interim Guidelines for Public Art in Private Development.
13	Landscaping	The proposal is accompanied by a Landscape concept plan, and statement by Urbis. As discussed elsewhere in this report, detailed landscape conditions have been recommended to ensure that the proposed landscaping is viable and can be maintained by and for future occupants of the development.
14	Communal Open Space	Communal open space equal to 24.9% of the site area is provided at ground floor and level 1.
15	Signage Strategy	A signage strategy has not been submitted with the detailed design development application. A condition is recommended to ensure the strategy is submitted to, and approved by Council prior to the issue of an Occupation Certificate.
16	Wind Assessment	<p>The proposal is accompanied by a wind report which concludes that the majority of trafficable outdoor locations within and around the development will be suitable for their intended uses as a result of the proposed development. The report recommends that the proposed tree planting at level 1, and throughout the development as a whole be retained, and for the southern awning to Zetland Avenue to have a width of 3m.</p> <p>The awning has been designed so that it has a width of at least 3m across the entire southern frontage of the development, and detailed landscape conditions are to be imposed to retain, and improve upon, proposed tree plantings and landscaped areas.</p>

No.	Condition	Comment
17	Reflectivity	A condition of consent is recommended to ensure light reflectivity from building materials used for the facade of Building A does not exceed 20%.
18	Land Contamination	Land contamination is adequately addressed as part of the excavation approval D/2018/1196, and as discussed under SEPP 55 - Remediation of Land within this report.
21 22	Street Trees Trees Proposed for Removal	Conditions are recommended to address the protection of street trees during construction, and for all street trees proposed for removal to be annotated as retained on the proposed plans, given that they will later be removed by the City as part of the public domain upgrade works within GSTC.
23 24 25 26 27 28 33 36	Parking Design Adaptable Parking Location of Visitor Parking Accessible Car Parking Spaces Location of Accessible Car Parking Spaces Motorcycle Parking Bicycle Parking and Facilities Car share Spaces	The proposal is capable of providing car parking and bicycle parking in accordance with LEP and DCP requirements. As discussed elsewhere in this report, conditions are recommended to ensure that these car spaces are allocated to particular uses (i.e. accessible residential), and for the number of bicycle parking cages/spaces to be accurately depicted in plan.
30 31	Vehicle Access Service Vehicle Size Limit and Swept paths	The application proposes vehicular access to Portman Street which is considered to be the most appropriate location given site constraints and the general nature of surrounding development. This is discussed in further detail under the heading 'Transport and Access'.

No.	Condition	Comment
32	Waste Collection and Servicing	<p>Waste collection by a 9.25m Council garbage truck can be undertaken within the site.</p> <p>Waste storage requirements, such as bulky waste rooms and access to these garbage rooms has been conditioned.</p>
34	Traffic Impact Study	The proposal is accompanied by a Traffic Impact Study, with satisfactory trip analysis being provided, and a shift towards active and public transport.
37	Loading Dock Management Plan	The applicant is required to prepare a loading dock management plan, and an appropriate condition is recommended.
38	Transport for NSW	A draft Construction Pedestrian and Traffic Management Plan (CPTMP) has been submitted with the application, and has not been approved. The applicant will be required to provide a final CPTMP endorsed by TfNSW to the City for review and approval, prior to any construction works associated with this development proposal being carried out.
39	Ausgrid	A substation is proposed to Portman Street, close to the vehicular entry of the development. Whilst no details of consultation have been provided with the application, the application was referred to Ausgrid for comment in accordance with Clause 45 of the Infrastructure SEPP 2007. Ausgrid have recommended conditions that have been incorporated into attachment A.
40	Sydney Water	Sydney Water has recommended conditions relating to the servicing needs of the development. The applicant is also required to remove disused stormwater pipes located within the site, or take ownership of these pipes and extinguish the related easements as part of the Section 73 application to Sydney Water. Appropriate conditions have been imposed.

No.	Condition	Comment
41	Public Domain Concept Plan	Conditions have been recommended by the City's Public Domain Unit to address the need for public domain plans, and alignment levels to be determined prior to the issue of a Construction Certificate for the development.
44	Concept Alignment Levels - Major Development	
42	Flooding	The proposal has been designed in accordance with the flood planning levels specified in the flood assessment report. The report has been reviewed by the City's Public Domain Unit, who are satisfied that the proposal complies with the City's Interim Floodplain Management Policy.
43	Stormwater and Drainage - Major Development	An appropriate condition has been imposed to address stormwater and drainage requirements for the development.
45	Essential Infrastructure Co-ordination	The proposal includes indicative schemes of Zetland Avenue and the shared zone at the northern boundary of the site. The design and construction of Zetland Avenue is dealt with under D/2012/1175/F. The construction of the shared zone will be undertaken as part of the VPA for the site.
46	Existing Easements	As discussed above, Sydney Water in their correspondence during the assessment of this application have requested that easements be addressed as part of a Section 73 application. A condition has been imposed.

### Competitive Design Alternatives Process

90. Following the approval of the Concept development application, the applicant commissioned a competitive design alternatives process for the site.
91. Presentations were given to the Selection Panel on 15 October 2018. The Selection Panel resolved that the scheme prepared by DKO was preferred, however requested an increased density that would affect the bulk and scale of Building C, and noted a number of matters that required further resolution:
- (a) The scheme must closely align with the target yield of 253 dwellings, and should be revised to demonstrate ability to achieve Apartment Design Guide (ADG) compliance for natural cross ventilation;
  - (b) The three storey terraces should be replaced by a higher yield of more compact, preferably single level units. The height and bulk of the building will need to be increased to meet the objective of achieving greater yield. Solar access impacts are to be considered in the revision;

- (c) The setback to the proposed Frog Park Lane could also be reduced to meet the objective of achieving greater yield, thereby becoming a landscaped widening of the lane;
  - (d) The location of the child care centre (at level 1 adjoining the communal open space area) should be reconsidered;
  - (e) The supermarket to Zetland Avenue denies opportunities for smaller individual retail tenancies to occupy the street front, and to activate the ground floor;
  - (f) The building form and articulation of Building A should align more rigorously with the broader envelopes and setbacks proposed for Zetland Avenue. The 10 storey parapet datum should be stronger and more cohesive in its expression, by extending around the southwest corner to Portman Street. This element should be clearly distinguishable in character from the upper setback element; and
  - (g) The 'elbow' area of Building B could be redesigned in order to assist in achieving the target unit yield.
92. DKO further developed the scheme and submitted refined plans to the Selection Panel on 29 October 2018. In particular, the terraces of Building C were replaced with a two storey street wall height to the laneway, and a 5 storey building behind. The Selection Panel advised that the series of improvements and refinements made to the scheme addressed the above matters, and that the Panel were now of the view that the scheme was capable of achieving design excellence.
93. The Selection Panel identified a number of items to be retained throughout design and development and recommended further design refinement, provided in attachment D.
94. Whilst the Selection Panel were of the opinion that the proposal exhibited design excellence, the proposal has required amendments to provide a more appropriate transition to the heritage conservation area, commensurate with the scale of the surrounding 1-2 storey terraces in close proximity at the northern boundary of the site. As such, the scheme has further evolved, but is still considered to retain the overall features, and design intent of the winning scheme. This is discussed in further detail under the heading 'Changes to Buildings A and C'.
95. The relevant comments provided by the Selection Panel with regard to further design refinement are addressed below:

*Panel Comment - Natural Cross Ventilation/ Privacy*

*The revised dwelling yield is acceptable. The revised scheme has increased the number of naturally cross ventilated units, claiming 59%. There appears to be potential to achieve full compliance based on the City of Sydney interpretation of the AGD, however this should be resolved to Council's satisfaction. The Panel notes that the location of windows for natural cross ventilation between adjacent units must also take cross visual and aural privacy into consideration.*

## DA Response

96. The application proposes 135/208 apartments achieving natural cross ventilation within the first 9 storeys, being 64.9%. City staff have assessed the proposal as providing 122 of 208 apartments being naturally cross ventilated, or 58.6%. The non-compliance generally pertains to Building A, due to the modulation of the facade, and one apartment at each level being counted as naturally cross ventilated when a clear flow path through the majority of the living area is not provided.

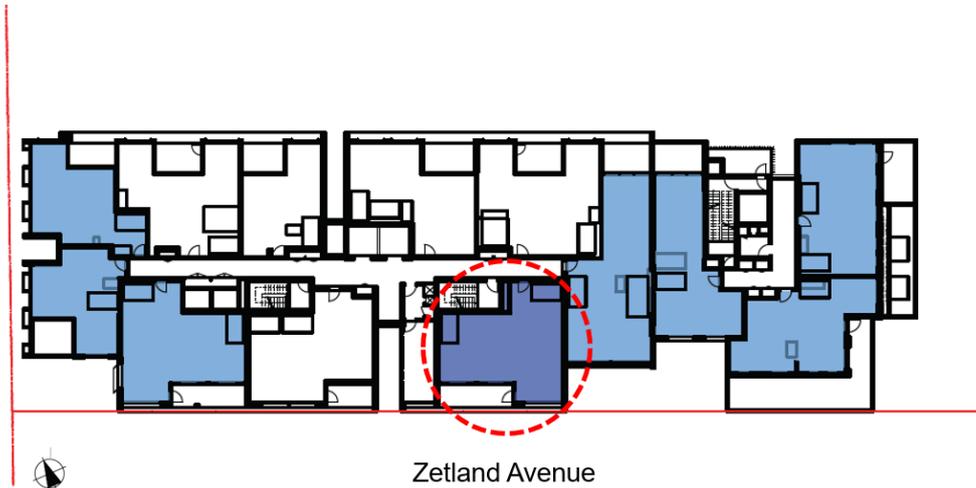


Figure 51: Cross ventilation diagram for a typical floor in Building A. Apartment crossflow highlighted by red dashed circle does not achieve ADG natural cross ventilation requirements.

97. Whilst natural cross ventilation compliance is not achieved, on balance, the proposal is acceptable given that the development otherwise provides acceptable amenity to Building A, and complies with Concept approval envelopes with regard to building depth. The apartment described above, as well as any other apartment not naturally cross ventilated, are to be conditioned to provide a fanlight window above any sliding doors/windows to allow for adequate ventilation, safety and security.
98. Visual and aural privacy has been addressed via the use of screens and highlight windows.

*Panel Comment: Building C setback at upper levels*

*The lane setback above level 2 could be further reduced in preference to increasing height along the southern edge of Building C. The building indent on the alignment of the lane to the north could be occupied by a large tree, requiring the deletion of car spaces for deep soil.*

## DA Response

99. As discussed elsewhere in this report, the scale of Building C has been reduced, thereby negating the need to reduce height along the southern edge. The plans have been amended to provide a tree within the indent of Building C to the north, with a deep soil zone of 75sqm.

*Panel Comment: Street level interface of Building A*

*Further design work is to be carried out in relation to the street level interface of the built form and use with Zetland Avenue (Building A). Transitions to footpath levels will need to be carefully designed to allow a seamless and inviting sense of universal access, good sightlines into the retail tenancies, and an appropriate landscape setting for the south facing frontage.*

DA Response

100. The ground floor of Building A has been revised to provide direct sightlines into each tenancy from Zetland Avenue. Accessible ramps are provided on the southern corner of Portman Street (next to Retail tenancy 1), and at the southern corner of Joynton Avenue. A condition is recommended to provide a section depicting details of the proposed interface between the property boundary and footpath.
101. Landscaping is not provided to the Zetland Avenue frontage, nor is it required under the GSTC DCP. Adequate landscaping in accordance with DCP requirements is provided to other areas of the site.

*Panel Comment: Integrated Access to common areas*

*The integrated access from Zetland Avenue/Joynton Avenue corner to Building A and B lobbies together with the pool and communal courtyard is a key feature of the proposal and should be retained. Natural light to the top of the swimming pool and main lobbies/lift core areas should be provided, as well as the rationalisation of the awkward triangular spaces flanking the courtyard stair.*

DA Response

102. The integrated access to the swimming pool, communal open space and lobbies of Buildings A and B has been retained as part of this proposal. It is noted however, that the swimming pool has been relocated so that it no longer receives natural light. The main lobbies and lift core areas have been sited so that they receive light and ventilation as required. The awkward spaces flanking the courtyard stair to first floor have been deleted. A condition is recommended to ensure a gate is provided to the communal open space from Joynton Avenue, securing access at the top of the stairs.

*Panel Comment: Retention of trees and new plantings*

*Units facing east (Elizabeth Street / Joynton Avenue) should address the setback objectives of a green and active street frontage with retention of existing trees and capacity for new large street tree plantings.*

DA Response:

103. The landscape setback provided to Elizabeth Street and Joynton Avenue complies with DCP requirements. Ten trees are proposed within this landscaped setback to achieve the objectives of a green and active street frontage, as recommended by the Selection Panel. Appropriate conditions are to be imposed to ensure these trees are viable and can be maintained to maturity.

*Panel Comment: Natural light to common corridor*

*The western end of Building A retains the indented 1 bedroom unit at each level, blocking capacity for the common corridor to obtain natural light and should be removed.*

DA Response:

104. The proposal has retained the 1 bedroom apartment at the western end of Building A. The plans have been amended however, to provide an indent to express the vertical articulation of the competition winning scheme, and create more modulation of the street wall this boundary that reduces the perceived bulk and scale of the building. This is considered to be a positive planning outcome despite not strictly addressing the recommendation. The common corridor otherwise obtains natural light from the northern and southern facades.



Figure 52: Portman Street photomontage of Building A depicting the proposed indent at the western facade.



Figure 53: Proposed typical floor plan (Levels 1-8) depicting the indent at the western facade.

*Panel Comment: Cross-through apartments*

*The pair of cross-through apartments at the corner elbow of Building B are supported. The architectural resolution of this transition can be resolved in design development.*

DA Response

105. The plans have been amended during the assessment of the application to provide the cross-through apartments at the corner elbow of Building B. The building break at this junction has been modified, and achieves compliance with ADG requirements (i.e. apartment and building depth, cross ventilation).

**Changes to Buildings A and C**

*Interface with the Heritage Conservation Area*

106. During the assessment, Council officers requested design amendments to Building C to address the site's transition to the heritage conservation area to the north.
107. The Zetland Estate Heritage Conservation Area (C73) includes Elizabeth Street and Portman Street, and ends at the northern boundary of the subject site. The site itself is not located within the heritage conservation area.
108. Development to the north of the site generally consists of 1 and 2 storey Victorian and Federation-era terrace houses and infill interwar-era commercial buildings.
109. The original proposal provided a 3-5 storey painted metal and concrete residential flat building at the interface to the heritage conservation area, which was over-scaled and unsympathetic in terms of its bulk and materiality.



Figure 54: Laneway elevation of Building C, depicting a 3-6 storey form as originally lodged.

110. The lodged proposal was presented to the Design Advisory Panel on 20 June 2019, with an option for a 3-4 storey residential flat building to the shared laneway, thereby removing a storey from the development. The floor space removed from Building C was proposed to be relocated to the south-east corner of Building A over 1.5 storeys.
111. The Design Advisory Panel commented that the reallocation of floor space and height to address the scale of development adjacent to the heritage conservation area was supported, and considered to produce a better outcome.
112. Amendments to the proposal reflecting the reduced scale of Building C were submitted to Council on 18 September 2019. The 3-4 storey building now responds appropriately to the adjacent heritage conservation area, with a masonry brick facade of varying tones (white, grey and brown) to reference the terraces to the north of the site. At ground floor, the glass line is set in to provide terrace areas, however in some instances this results in party walls not coming right down to ground level.
113. A condition is to be imposed requiring a detailed section (1:10) through the balconies and cantilevered elements of Building C at ground floor, to demonstrate how these elements work with each other.



Figure 55: Amended laneway elevation of Building C, depicting a 3-4 storey form.



Figure 56: Proposed perspective of Building C viewed from the laneway, with Building A in the background

#### *Materiality and presentation of Building A*

114. The Design Advisory Panel reviewed the changes to Building A, and were of the opinion that whilst the reallocation of floor space from Building C to the south-east portion of the development was considered acceptable, the overall materiality and presentation of the building required further refinement.

115. The Design Advisory Panel recommended:

*The originally lodged scheme does not demonstrate design excellence, with significant alterations and compromises to the vertical and horizontal articulation of Building A. The design should be amended to revert to the design competition winning scheme with deeper and more vertical articulation to the upper levels, breaking down the scale and visual impact of the building. The vertical articulation currently proposed across the full height of the building negatively exaggerates the height and scale of Building A.*

116. The proposal has been amended to address the concerns of the Panel. The articulation of the bronze screening at upper levels has been further refined to provide the depth and visual interest expressed in the design winning scheme. An indent has been introduced to the lower levels of the western facade to break down the scale and visual impact of Building A, and a clear distinction between the upper and lower levels has been provided via the introduction of vertical panels.



Figure 57: Photomontage of original proposal - Portman Avenue elevation of Building A.



Figure 58: Photomontage of current proposal - Portman Avenue elevation of Buildings A and C (without trees).

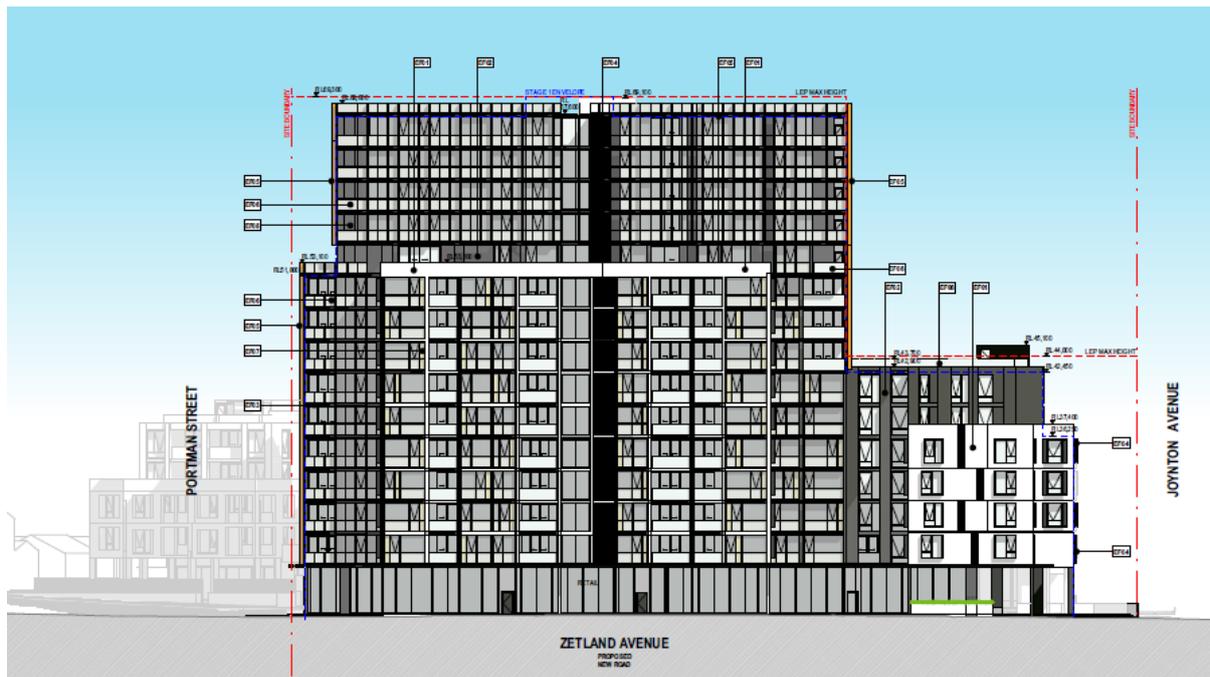


Figure 59: Zetland Avenue elevation of Building A as originally lodged.

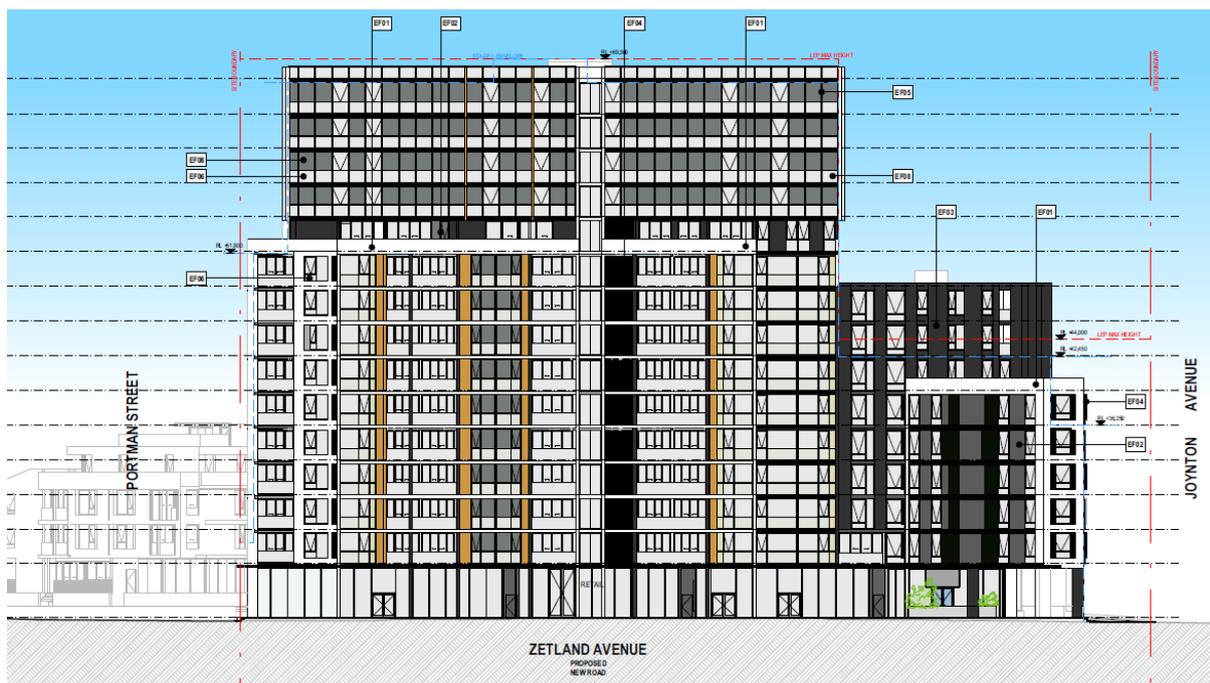


Figure 60: Amended Zetland Avenue elevation of proposal.

117. Building A, and the development as a whole, is now generally consistent with the intent of the winning scheme, and has been designed so that it achieves a standard of architectural design, materiality and detailing that meets the provisions of design excellence in accordance with Clause 6.9 of the Sydney LEP (GSTC - Stage 2) 2013.

### Natural Ventilation and acoustic privacy

118. Section 6.10.8 of the GSTC DCP 2012 requires the repeatable maximum LAeq (1 hour) level to not exceed 45dB for bedrooms in residential buildings between 10pm and 7am, and 55dB in the main living area 24 hours. The DCP references Clause 102(3) of the SEPP Infrastructure 2007 which nominates the desired noise criterion for residential development. The subject site however, does not have a frontage to any classified roads, and therefore does not trigger any noise requirements under SEPP Infrastructure 2007.
119. Objective 4B-1 of the ADG and the Building Code of Australia require that all habitable rooms are naturally ventilated and the accompanying design guidance requires that the area of unobstructed window openings should be equal to at least 5% of the floor area served.
120. The acoustic assessment report submitted with the application indicates that the bedrooms and living areas of all apartments of Building B that face Joynton Avenue and Elizabeth Street (approx. 8 apartments at each level) do not achieve this criterion, and cannot be naturally ventilated. The report recommends an alternative in the form of a plenum solution to each bedroom and living room.

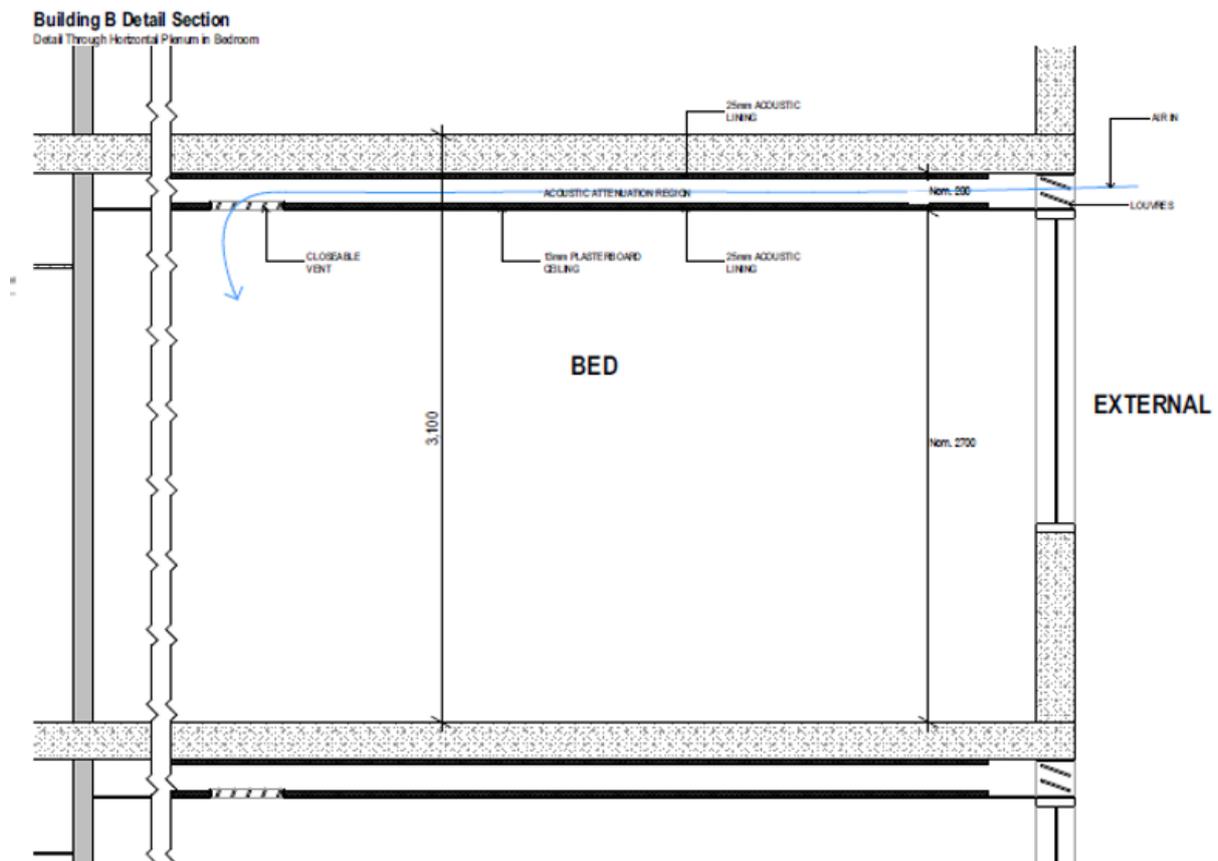


Figure 61: Proposed typical apartment floor plan within Building B depicting location of plenums

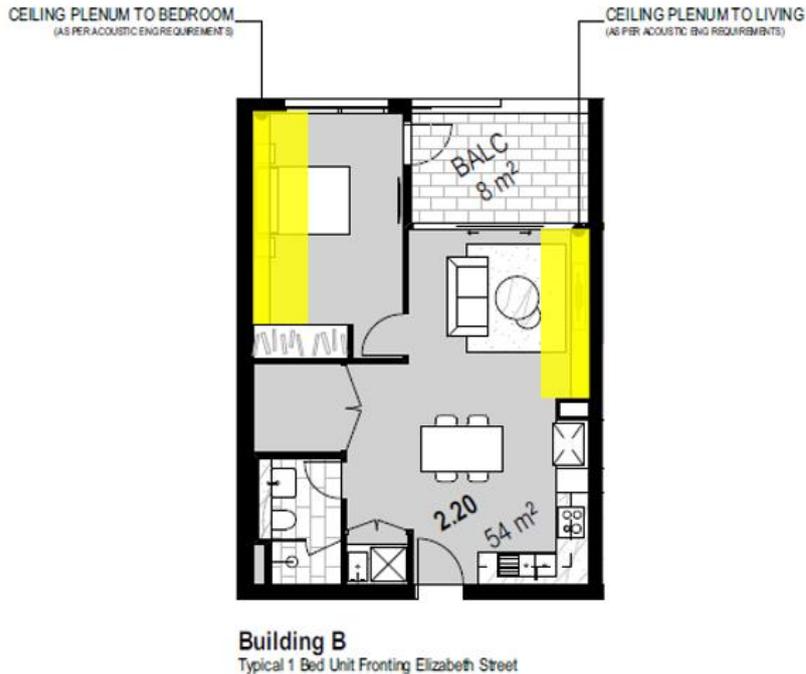


Figure 62: Proposed section through typical bedroom depicting horizontal plenum

121. The section and plan above allow for 2700mm floor to ceiling height in all habitable areas.
122. Whilst the design has the capability to accommodate such an arrangement that does not rely solely on mechanical ventilation, advice from a ventilation expert is required. This is to confirm that the proposed solution can provide natural ventilation to all bedrooms and living rooms, achieving the requirements of the ADG and DCP acoustic privacy criterion.
123. An appropriate condition requiring further design detail and verification of the proposed horizontal plenum arrangement to each bedroom is recommended to be imposed.

#### **Driveway location and driveway design**

124. The development proposes vehicular access from Portman Street, as per the ground floor plan below:

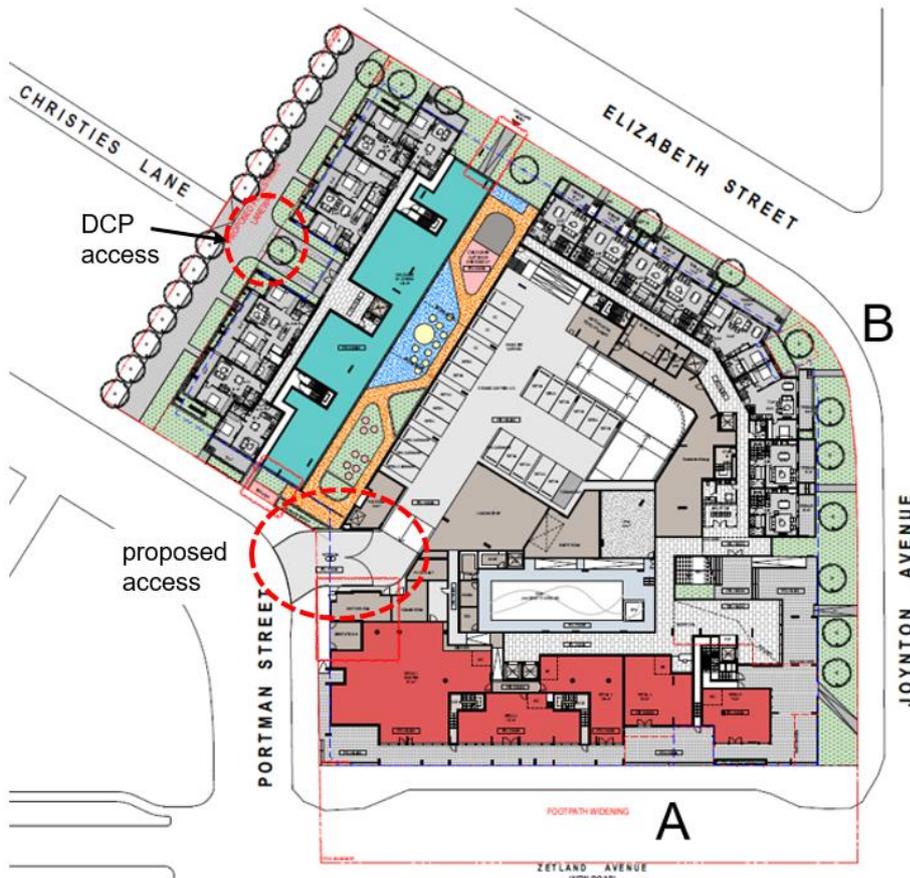


Figure 63: Proposed Ground Floor plan depicting proposed vehicular access on Portman Street, and location of DCP recommended access within shared zone.

125. Clause 3.3 of the GSTC DCP 2012 requires vehicular access to be provided at the northern boundary of the site, within the future shared zone. The concept development approval requires this shared zone to be used for pedestrian and cyclists only, which is considered to be a more appropriate use of the laneway in light of the volume of cars using the development; and the close proximity to residential terraces (as per Condition 30(j)).
126. The Traffic Report submitted with the amended application carried out traffic surveys for surrounding streets, indicating that most vehicles travel along Elizabeth Street and Joynton Avenue during peak periods (8am - 9am and 5pm - 6pm). The report also identified that there were a number of constraints for the site, particularly relating to:
- (a) No vehicular access being permitted from the Zetland Avenue frontage;
  - (b) The proximity of the pedestrian crossing on Elizabeth Street / Joynton Avenue; and
  - (c) The neighbouring terraces and commercial developments that access Christies Lane to the north west of the site.
127. Portman Street is therefore considered to be the most appropriate location for vehicular access. Whilst it is noted that the curve of Portman Street as it meets Zetland Avenue to the south limits ability for sightlines, vehicles travelling along Portman Street will only have clear sight to the driveway if it is located directly on the curve compared to any other location along the frontage.
128. Further details regarding swept path and sight distance analysis be provided, as the current documentation does not clearly demonstrate swept path movements. It is anticipated however, that all vehicles can be accommodated within the site. An appropriate condition is recommended.

#### **Other Impacts of the Development**

129. The proposed development is capable of complying with the BCA.
130. 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**

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

#### **Internal Referrals**

132. The conditions of other sections of Council have been included in the proposed conditions.
133. The application was reviewed by the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Safe City; Surveyors; Transport and Access; Landscape; Planning Agreements; Tree Management; and Waste Management; who advised that the proposal is acceptable subject to the recommended conditions.

**Design Advisory Panel**

134. The original scheme was presented to the City's Design Advisory Panel (DAP) on 20 June 2019. Key issues raised by DAP, and the manner in which they have been addressed, are summarised below:

Recommendation:

135. Most of the concerns previously raised by the Selection Panel have been addressed, with the exception of the lack of light and air to the corridors of Building A at the western elevation.

Response:

136. The corridors of Building A have access to light and air at the northern and southern elevations, which is considered appropriate in this instance.

Recommendation:

137. The proposed material palette is primarily painted finish, metal or concrete. The Panel supports the use of integrated colour e.g. white precast rather than painted finish.

Response:

138. The application has replaced the painted finishes of Building B with pre-cast concrete in varying tones of white, black and grey; and Building C has been amended to provide a masonry brick facade in tones of white, grey and brown.

**External Referrals**

139. The application was referred to external authorities in accordance with legislation requirements, which have been discussed in further detail within this report.

140. In addition to the above, the application was referred to Sydney Water, who advised on 17 May 2019 that they had no objection to the proposal subject to the imposition of conditions relating to the servicing needs of the development, and the removal of the disused stormwater pipes/easements within the site. In particular, the applicant is required to either remove these pipes or take ownership of these pipes, and extinguish the easements relating to these pipes as part of the Section 73 application to Sydney Water. Appropriate conditions have been imposed.

141. The application was also referred to Transport for NSW (TfNSW) for comment, and in a response dated 10 July 2019, recommended a condition to prepare a Construction, Pedestrian and Traffic Management Plan (CPTMP), similar to that proposed by RMS. It is recommended that a condition be imposed requiring endorsement of all relevant external parties (TfNSW and RMS), and is to be approved by Council prior to any works being carried out. The recommended condition is provided in attachment A.

142. NSW Police advised in correspondence dated 2 October 2019, that CCTV be installed to address security concerns, as well as adequate lighting for the development and swipe access to residential mailboxes.

143. Appropriate conditions regarding CCTV and public domain lighting are recommended. Secure access to the mailbox room is provided within the main lobby of Buildings A and B.

#### **Notification, Advertising and Delegation**

144. The application constitutes integrated development and as such the application was notified and advertised for 28 days between 3 April 2019 and 2 May 2019 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification 17 individual submissions, and 2 pro-forma responses submitted by 8 objectors were received.
145. Amended plans were submitted on 18 September 2019, and the application was re-notified for a period of 14 days between 24 September 2019 and 9 October 2019. Five additional submissions were received.

#### *Height, bulk and scale*

- (a) The upper levels of Building C exceed the approved building envelope, with adverse impact on the heritage conservation area.
- (b) Townhouses are a great solution to provide a transition to the conservation area, e.g. 82-84 Portman Street.
- (c) There should be a diversity of dwellings, not just apartments.
- (d) The heritage conservation area has not been considered in the proposal.

*Officer Response:* Building C has been amended to provide a 3-4 storey interface with the adjoining heritage conservation area. This is considered to be a positive outcome for the site and surrounding development, by providing a sympathetic transition to the adjacent heritage terraces.

A Section 4.56 application of the Concept development approval (D/2017/1201/A) for the site proposed a reduced building envelope consistent with the detailed design of Building C. This application was approved on 27 November 2019.

Residential apartments are permissible within the B4 Mixed Use zone. The development proposes a variety of apartments that comply with flexible dwelling mix requirements of the DCP, contributing to residential population targets in the Green Square Town Centre.

- (e) Cross ventilation is questionable as a result of the additional gross floor area proposed.

*Officer Response:* The proposal complies with floor space ratio requirements. Cross ventilation, whilst non-compliant, is acceptable as discussed within this report.

- (f) 15 storeys alongside small single storey terraces creates too much of a contrast in the streetscape.

- (g) The scale of Building B should be less than 6 storeys to provide an appropriate transition.

*Officer Response:* The proposal complies with the overall height of the Sydney LEP (GSTC - Stage 2) 2013, and is consistent with the amended Concept development approval with regard to overall height in storeys. The GSTC DCP 2012 requires buildings to step down in height toward the east of the town centre (i.e. Elizabeth Street) to provide an appropriate transition, and this has been provided in the design of all three buildings.

#### *Design Competition*

- (h) The proposal varies considerably from the design competition winning scheme.

*Officer Response:* The proposal has since been amended to align more closely with the intent and presentation of the design competition winning scheme, as discussed within this report.

- (i) The revised proposal does not provide an adequate setback to the new lane, as per the original design competition scheme.

*Officer Response:*

- (j) The Selection Panel shouldn't make comments about the commercial aspects of the proposal or economic feasibility for the Developer.

*Officer Response:* The submission is noted. The relevant planning recommendations made by the Selection Panel have been reviewed as part of this proposal.

#### *Design Advisory Panel*

- (k) The proposal should be reviewed by DAP.

*Officer Response:* The proposal has been reviewed by DAP, and their advice is discussed in further detail within this report.

#### *Shadow diagrams*

- (l) The diagrams do not show the extent of overshadowing to Zetland Avenue or the future community facility and school opposite the site to the south.

*Officer Response:* The amenity provisions of the GSTC DCP 2012 (Clause 6.10.2) only require development sites and neighbouring dwellings adjacent to the GSTC to be considered in terms of overshadowing. Neither the future community facility and school, nor Zetland Avenue are nominated as public domain/public open areas under the DCP to be protected. The shadow diagrams provided have been assessed as acceptable in light of the DCP provisions.

#### *Child Care Centre*

- (m) The child care centre on the corner of Portman Street and the shared laneway will result in noise impacts to residents in close proximity.
- (n) The acoustic report does not demonstrate whether the noise from the child care centre can be managed.

- (o) The child care centre is poorly detailed.

*Officer Response:* Amended plans have been submitted relocating the child care centre further within Building C, and away from the laneway or neighbouring residential terraces. The applicant has indicated that the proposal is for in-principle use as a child care centre only, and fit-out/operation details will be the subject of a separate application. The in-principle use as a child care centre has been assessed as acceptable as detailed within this report. Noise mitigation measures will be determined as part of the future fit-out of the child care centre.

#### *Contamination reports*

- (p) A final site audit report should be submitted with the current proposal considering remediation works have already been undertaken.

*Officer Response:* A condition is recommended for a Part A (final) site audit statement to be submitted to, and approved by Council, prior to any construction works being carried out.

#### *Inconsistency in RLs*

- (q) Natural ground level at the site is RL 19, however the plans depict RL 22. The additional 3m would permit extra height in the form of another level of units.

- (r) There is a 2m variance between Elizabeth Street, Christies Lane and the laneway that isn't indicated on the plans.

*Officer Response:* Natural ground level varies across the site. The submitted plans and modelling for the development depict the proposal's compliance with the LEP height controls and the Concept development approval, with the exception of the south-east corner of Building A, which is discussed in further detail within this report.

All relevant heights are to be conditioned, and confirmed by the certifier and Registered Surveyor. Additionally, a condition is to be imposed for all footings, walls and floor slabs to be set out by the Registered Surveyor and a detailed survey plan is to be prepared.

#### *Retail tenancies (street activation)*

- (s) The retail component of the proposal should be required to comply with street activation controls.

*Officer Response:* The ground floor tenancies to Zetland Avenue have been designed to comply with LEP and DCP requirements with regard to street activation, and have addressed comments raised by the Selection Panel with regard to sightlines to the street.

- (t) The plans indicate a bar/pub, however no details are provided about hours of operation.

- (u) A supermarket is an inappropriate use in this development.

*Officer Response:* The use and fit-out of the tenancies are not approved as part of this application. Separate approval is to be obtained, and an appropriate condition has been imposed.

#### *Frog Park Lane and Christies Lane*

- (v) The shared zone will encourage the use of Christies Lane as a pedestrian thoroughfare, when it is actually used for vehicle access. Council needs to take into consideration the safety of pedestrians.

- (w) Christies Lane should also be a share way.

*Officer Response:* The current application covers the boundaries of the subject site only. The proposed laneway falls within the site boundaries, and has been designed to be used only by pedestrians and cyclists. Christies Lane is not part of the subject site and cannot be upgraded as part of this proposal.

- (x) Frog Park Lane has been reduced to a footpath with planter boxes in lieu of the green open space envisaged.

- (y) The plan indicates a walled garden built up against the walls of the existing terrace adjacent to the new lane. This terrace has access to the laneway, and it is not shown on the plans. The garden beds should be moved away from the terraces.

*Officer Response:* The final design details of Frog Park Lane are part of the public domain plan submission by the applicant, which has been conditioned to ensure that the new laneway accurately depicts the terraces sharing a boundary.

#### *Flooding*

- (z) The volume of water flowing down Christies Lane during storms causes flooding. This issue has not been addressed in the current plans.

*Officer Response:* A flood report has been submitted with the application, which has been reviewed by the City's Public Domain Unit as acceptable. The development is required to be designed at certain flood planning levels which have been incorporated into the proposal. Additionally, a condition has been imposed for the development to comply with stormwater and drainage management requirements.

#### *Landscape*

- (aa) The landscape plans do not comply with the concept approval requirements.
- (bb) The proposed tree plantings should be consistent with those used in the area.

- (cc) Trees should be provided along Zetland Avenue, and garden beds be provided along Elizabeth and Portman Streets.

*Officer Response:* An appropriate condition is recommended for detailed landscape plans to be submitted depicting tree plantings and garden beds within the site. Given that public domain works to Zetland Avenue (including tree planting/removal) are part of a separate infrastructure application (D/2012/1175), trees are not proposed to this frontage as part of the subject DA.

- (dd) More screening vegetation should be included in the proposal to provide privacy to the terraces to the north of the site.

*Officer Response:* Building C proposes adequate separation in accordance with ADG requirements. Notwithstanding, screening is provided to windows and balconies that assist with privacy.

#### *Traffic impacts of the development*

- (ee) The proposed drop-off area on Portman Street is dangerous.

- (ff) The proposed car park entrance presents safety and traffic issues.

*Officer Response:* The child care drop-off area has since been relocated within the ground floor loading area.

A condition is recommended for additional swept path analysis and sight distance analysis be provided to confirm assumptions made in the traffic impact study/report. The car park entrance however, is considered to be provided in an appropriate location given surrounding traffic and site constraints.

- (gg) There's no visitor parking. There is currently insufficient parking available for residents in the area.

- (hh) 206 car spaces for 254 apartments is inadequate given the site's location.

- (ii) There are currently not enough transport options to support this development.

*Officer Response:* Residential and visitor and car parking rates specified in the LEP are a maximum. The proposal complies with this control.

The site is serviced by current and future public transport (i.e. trains and buses) in close proximity, and is able to provide compliant bicycle parking facilities within the site to promote sustainable transport options, for residents, visitors, staff and customers of the development.

- (jj) Greater traffic calming measures on Portman Street are required.

*Officer Response:* Any traffic calming measures for Portman Street, or parking/traffic arrangements to the public road relating to the subject site are part of a separate approval process determined by the Local Pedestrian, Cycling and Traffic Calming Committee. A condition to this effect has been imposed.

- (kk) No detailed traffic impact study has been submitted addressing the concept DA and how the proposal will impact upon the local street network.

*Officer Response:* A traffic impact study has been submitted with the amended DA. The study is discussed in further detail within this report.

#### *Construction Impacts*

- (ll) Dilapidation reports for surrounding properties should be carried out prior to construction.

- (mm) The dilapidation reports to be carried out should include sub walls and foundations as they are most likely to suffer movement and damage.

*Officer Response:* A condition is recommended for properties in close proximity to have dilapidation reports carried out prior to construction works, and after construction works have ceased. The condition has been modified to specify that sub walls and foundations are to be included.

- (nn) The hours of work proposed are unfair and unreasonable. The proposal should be consistent with other sites within the GSTC.

*Officer Response:* The standard condition relating to hours of work and noise during construction is to be imposed. Construction works can only be carried out between 7.30am and 5.30pm Mondays to Fridays, and 7.30am to 3.30pm Saturdays. Safety inspections are permitted at 7.00am on work days. No works are to be carried out on Sundays or public holidays.

- (oo) Council should impose strict conditions on environmental controls e.g. ongoing monitoring of noise, vehicle movements, dust, use of barricade etc.

*Officer Response:* Appropriate conditions are to be imposed relating to the preparation and compliance with reports dealing with construction noise, traffic, vibration impacts and other environmental matters, as well as the use of hoardings/scaffoldings to barricade the site.

- (pp) The CTMP should be amended to avoid trucks travelling through the residential section of Zetland.

*Officer Response:* The suitability of the CTMP and the proposed construction vehicle routes will be determined by the City's Traffic Operations Team at post-determination. Compliance is to be achieved with the City's standard requirements, and is to be prepared in consultation with RMS and TfNSW before approval of the CTMP is granted, and this is to be conditioned.

Additionally, the Developer will be required to establish a construction liaison committee (with parties representing affected properties adjacent to the development and other interested groups), to ensure that construction related impacts can be dealt with expeditiously and cooperatively.

### Signage

- (qq) Signage plans have not been submitted with the proposal.

*Officer Response:* A condition is to be imposed requiring a signage strategy to be submitted to Council for review and approval prior to the installation of any signage for the development.

### Public Interest

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

### Affordable Housing Contribution

147. An affordable housing contribution is payable in accordance with Clause 6.5 of the Sydney LEP (GSTC - Stage 2) 2013.
148. The contribution amount is \$6,853,529.1 based on a Total Floor Area calculation of 28,806sqm of residential floor space, 1,501sqm of non-residential floor space and 30,307sqm of total floor space.
149. A condition requiring payment of the affordable housing contribution has been imposed.

### S7.11 Contribution

150. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015. This contribution is calculated on the basis of the development's net increase in resident, worker and/or visitor populations.
151. Credits have been applied for the most recent past uses of the site, being 2,163sqm for vehicle sales/showroom; and 2,182sqm for vehicle repair/general industry.

152. The following monetary contribution is required towards the cost of public amenities:

(a) Open Space	\$2,954,385.98
(b) Community Facilities	\$592,483.71
(c) Traffic and Transport	\$650,100.58
(d) Stormwater Drainage	\$257,123.33
Total	\$4,454,093.60

153. The applicant has requested the payment of the contribution be staged, however this is not supported. The monetary contribution is to be paid prior to the issue of any Construction Certificate. An appropriate condition has been recommended and is provided in attachment A.

### Relevant Legislation

154. Environmental Planning and Assessment Act 1979;

155. Sydney Airport Referral Act 1996; and

156. Water Management Act 2000.

### Conclusion

157. The proposal seeks consent for the redevelopment of the site for residential, retail and child care purposes across 3 buildings, with 254 residential apartments, 2 levels of basement car parking and 204 car spaces.

158. The development has been the subject of a competitive design process with DKO being selected as the winning entry. The proposal is generally consistent with the intent of the winning scheme, with further refinements being made to improve the scale, transition and materiality of Building C.

159. The application seeks Integrated Development approval under the Water Management Act 2000 for dewatering. General terms of approval granted by Water NSW are included in the list of recommended conditions.

160. A written request seeking to vary Clause 4.3, the 'Height of Buildings' development standard, has been submitted. The variation relates to the south-east corner of the site, (being Building A), where the development exceeds the height by 4.4m and 6.9m (parapet and lift overrun) or 17.5-27.5%. The non-compliance is due to the relocation of bulk from Building C to Building A to address the development's interface with the low scale terraces to the north of the site.

161. The proposed request to vary the height development standard is well founded. The statement provided demonstrates that compliance with the 'Height of Buildings' development standard is unnecessary in this instance, and that there are sufficient environmental planning grounds to justify the variation. The height variation to the development is consistent with the objectives of Clause 4.3, and the B4 - Mixed Use zone, and therefore in the public interest.
162. The site is permitted a maximum FSR of 2.54:1, subject to an additional design excellence bonus of up to 10%. The proposal complies, with an FSR of 2.54:1.
163. The development is generally consistent with the design quality principles of the State Environmental Planning Policy No. 65 and the objectives of Part 3 and 4 of the Apartment Design Guide. 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.
164. The proposal achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.
165. The proposal is consistent with the amended Concept approval for the site, being D/2017/1201/A.
166. Overall, the materiality, articulation and architectural contribution of the development to the Green Square Town Centre and adjoining heritage conservation area exhibits design excellence, as per Clause 6.9 of the Sydney LEP (GSTC - Stage 2) 2013.
167. As a result of notification, 22 individual submissions, and 2 pro-forma responses submitted by 8 objectors were received. The submissions raised concerns with the height, bulk and scale of the development, traffic and construction impacts, landscaping the design of the new Frog Park Lane, the design competition process and the location of the child care centre. The concerns are addressed within this report.
168. Subject to conditions, the development is in the public interest and is recommended for approval.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Jessica Symons, Senior Planner