

Item 5.**Section 4.55 Application - 57 Ashmore Street Erskineville****File No.:** D/2015/966/C**Summary****Date of Submission:** 22 May 2019

(Amended plans were received on 20 January 2020)

Applicant/Developer/Owner: Greenland Golden Horse Investment Pty Ltd**Architect/Designer:** Architectus**Cost of Works:** \$636,739,189**Zoning:** B2 - Local Centre zone. The development is permissible with consent.

Proposal Summary: This Section 4.55(2) application seeks to modify the concept approval for a mixed use precinct including residential, commercial and recreation uses, including building envelopes for nine (9) development blocks ranging in height between two (2) and eight (8) storeys and concept design for public domain works including new streets, a 7,446m² park, and new trunk drainage.

The proposed modifications principally involve altering the approved building envelopes to be consistent with the detailed design development applications for Block A (D/2019/393) and Block D (D/2019/291). The detailed design development application for Block A is presented to the CSPC concurrently for approval, while Block D will be presented to the Local Planning Panel for determination consistent with the relevant delegations.

The scope of the proposed modifications include:

Block A

- A01 - increase the height of the building from seven to eight storeys, extend westward along Ashmore Street to exceed the 15 metre height standard by 11.85 metres (79%) and exceed the maximum 27 metre height standard by up to 0.5 metres (1.9%).
- A02 - increase part of the building from three to four storeys, accommodate roof top communal terrace structures and lift overrun.

Block D

- Increase the overall height of the building envelope by 2.75 metres

The proposed modifications to the approved building envelopes will ensure consistency between staged development applications for the site, as required under Section 4.24 of the Environmental Planning and Assessment Act, 1979. The application is presented to the CSPC to ensure consistency with the determination of the detailed design development applications.

The application was notified for 14 days between 29 May and 13 June 2019. Nine submissions were received as a result of this modification raising the following concerns:

- Overshadowing
- View loss
- Building height
- Scale and character
- Density

The concerns are addressed in the body of the report.

As modified, the proposed building envelopes are contextually appropriate, responding to the site and surrounding development. The plans have been amended to reflect changes to the detailed design development applications. These amendments reduce the scale of the modifications originally proposed and as such will not result in greater impacts. The amended plans were therefore not exhibited.

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

Development Controls:

- (i) State Environmental Planning Policy 55 - Remediation of Land
- (ii) State Environmental Planning Policy (Infrastructure) 2007
- (iii) State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development
- (iv) Apartment Design Guide 2015
- (v) Sydney Local Environmental Plan 2012
- (vi) Sydney Development Control Plan 2012

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Block D Drawings
- D. Block D Clause 4.6 Statement

Recommendation

It is resolved that consent be granted to Section 4.55 Application No. D/2015/966/C subject to the amendment of the following conditions (with modifications shown in ***bold italics*** (additions) and ~~striketrough~~ (deletions), as follows:

(1) APPROVED STAGE 1 DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2015/966 dated 9 July 2015 and the following drawings:

Drawing Number	Architect	Date
DD01-02 Issue M R S	Architectus	07/04/2017 13/11/2017 16 January 2020
DA01-03 Issue M	Architectus	07/04/2017
DA01-04 Issue L	Architectus	07/04/2017
DA01-05 Issue M R S	Architectus	07/04/2017 13/11/2017 16 January 2020
DA01-06 Issue M T U	Architectus	07/04/2017 13/11/2017 16 January 2020
DA01-07 Issue T V W	Architectus	10/10/2017 13/11/2017 16 January 2020
DA01-10 Issue L	Architectus	07/04/2017
DA01-11 Issue U Y AA AB	Architectus	10/10/2017 17/11/2017 15/06/18 16 January 2020

Site Locality and Indicative Phasing Plan	AECOM	22/09/2016
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and as amended by the conditions of this consent and amended plans provided as required under deferred commencement condition (1).

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

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development as modified is substantially the same as that originally approved and is in accordance with the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act 1979.
- (B) The proposed modifications ensure that the detailed design development applications are consistent with the concept approval to satisfy Section 4.24 of the Environmental Planning and Assessment Act 1979.
- (C) The increased height and bulk of the building envelopes for Blocks A and D are in keeping with the desired future character of the area and will not adversely impact the amenity of the surrounding area. Variations to the height standard are reasonable and justified with regard to the detailed design development applications.
- (D) The development as modified is in the public interest.

Background

The Site and Surrounding Development

1. The site is located within a former light industrial estate known as the 'Ashmore Estate' in Erskineville. The majority of sites within the Ashmore Estate are in the process of transitioning to a mixed use, predominantly residential area. 57 Ashmore Street (legally known as Lot 23 DP 849857) is located within the eastern half of the former estate and has frontages to both Ashmore Street and Mitchell Road. The area of the site is 37,249sqm.
2. The application relates to a portion on the northwest of the site fronting Ashmore Street, Coppersmith Lane and Metters Lane, having an area of 8,249sqm.
3. The surrounding area is mixed in built form and land use. To the west, the site directly adjoins various sites that form part of the 'Ashmore Estate'. Some of the sites are still in light industrial use, some have been developed for predominantly residential use, and others are construction sites for future predominantly residential uses. Directly adjacent to the north western corner of the site on Ashmore Street is a row of houses, which are predominantly single storey and of a workers cottage typology. Directly to the north of the site is the Erskineville Public Housing Estate, the Alexandria Erskineville Bowling Club and Erskineville Oval. To the east are approved but not yet constructed mixed use and residential flat buildings (known as Buildings B and C). Directly to the south, at 165-175 Mitchell Road, the site remains in use for light industrial and commercial uses, however a public park, to be known as MacPherson Park, is proposed in this location.
4. The site is not a heritage item nor is it located in a heritage conservation area. Notwithstanding this, the Malcolm Estate Conservation Area (C24) is located to the west and the Erskineville Estate Conservation Area (C22) to the north. There are several street trees adjoining the site.
5. In the wider Sydney context, the site is located 2.25km south west of the Sydney Central Business District. The northern frontage of the site is located 590m walking distance from Erskineville Railway Station. The site is approximately 1km north-east of the proposed WestConnex interchange at St. Peters. Sydney Park is in close proximity to the south.
6. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area.



Figure 2: The application regards Blocks A and D which are located at the northern end of the site fronting Ashmore Street and Metters Street.

Proposal

7. The application proposes modifying D/2015/966/B to reflect the detailed design applications for Buildings A and D. Building A is presented to this CSPC meeting for consideration, while Building D will be presented to the Local Planning Panel, reflecting their respective delegations.

Block A

8. Block A is proposed to increase in height and scale as follows:
- (a) A01 - increase the height of the building from seven to eight storeys, extend westward along Ashmore Street and increase the overall height of the envelope from RL 33.72 to RL 36.43 (2.71 metres). The development will exceed the maximum 27 metre height standard by up to 0.5 metres (1.9%) and, as a result of the lateral extension, exceed the maximum 15 metre height standard by 11.85 metres (79%).
 - (b) A02 - increase part of the building from three to four storeys, accommodate roof top communal terrace structures and lift overrun. In addition to the lateral extension described above, the modifications will increase the height of A02 from RL 21.32 to RL 23.70 which is below the 15 metre height limit.



Figure 3: Approved maximum height in storeys diagram



Figure 4: Proposed maximum height in storeys diagram

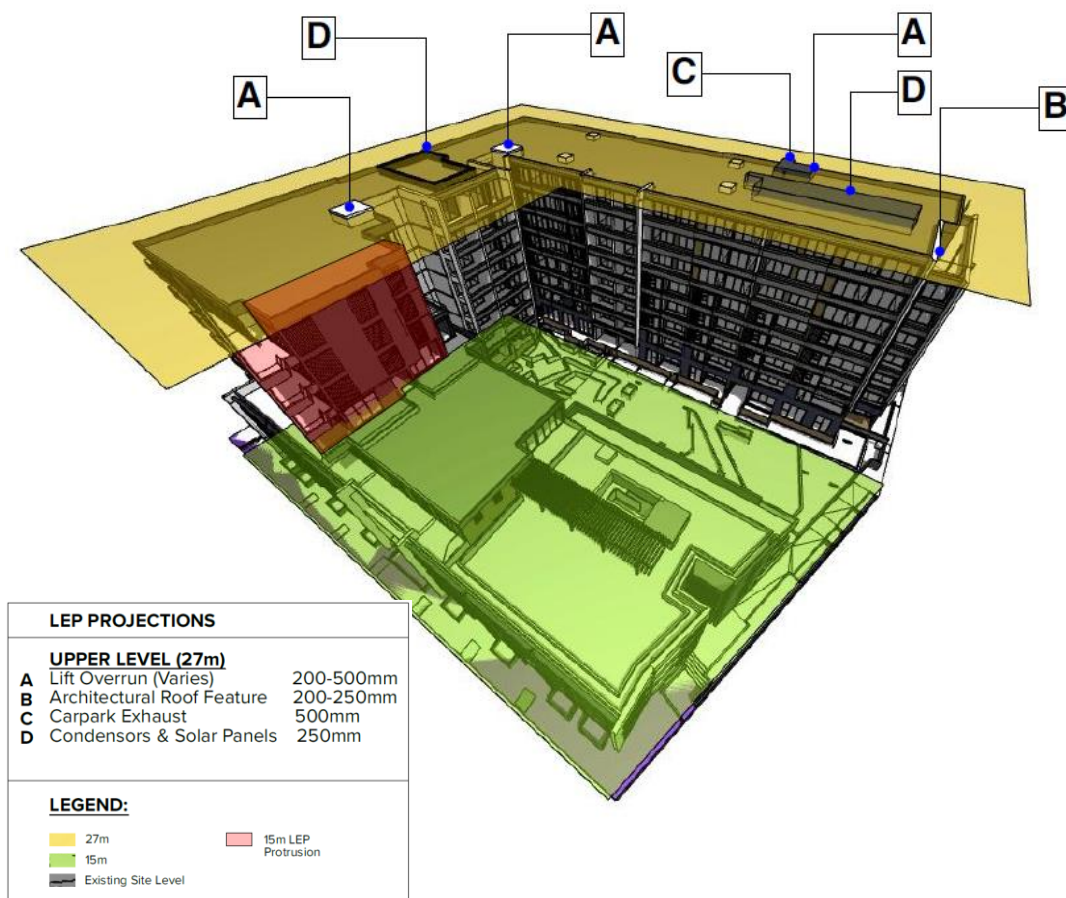


Figure 5: An axonometric diagram of the building illustrating the extent of non-compliances.

Block D

9. Block D is proposed to increase in height as follows:

(a) Increase the overall height of the building envelope by 2.75 metres

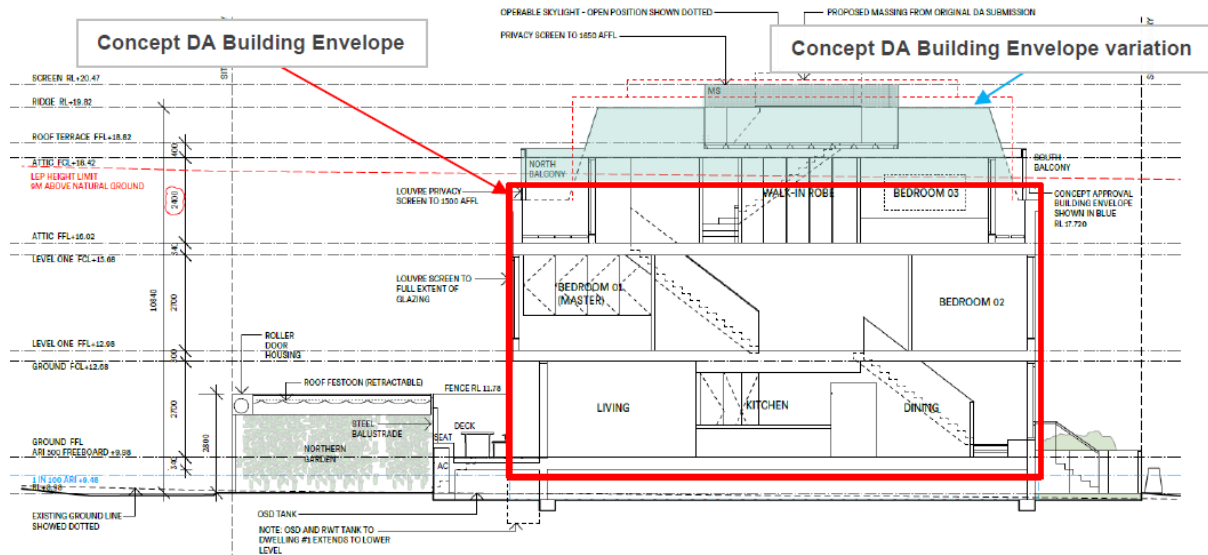


Figure 6: A section plan highlighting the approved building envelope in red with the portion of the building exceeding the envelope in light blue.

10. The proposed axonometric diagram is shown in figure 7 below:

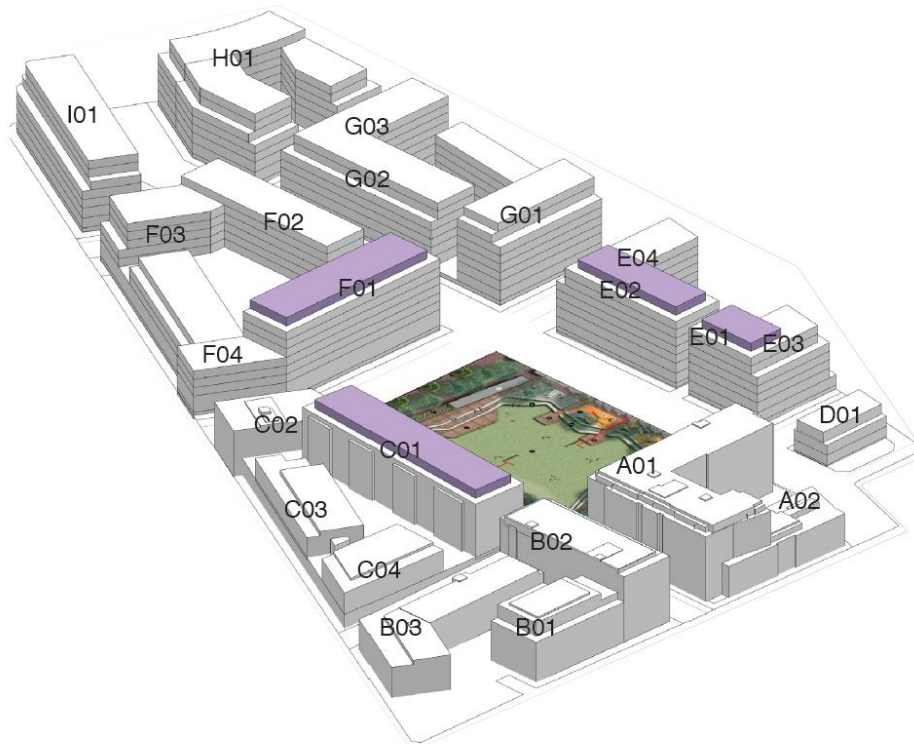


Figure 7: Proposed axonometric concept plan. The changes relate to Blocks A01, A02 and D01.

History Relevant to the Development Application

Concept Approval

11. On 17 November 2016, development consent D/2015/966 was granted by the Central Sydney Planning Committee for concept approval regarding the redevelopment of the eastern portion of the Ashmore Estate, as a mixed use precinct including residential, commercial and recreation uses.
12. The proposal included building envelopes for nine development blocks ranging in height between two and eight storeys and concept design for public domain works including new streets, a 7,446sqm park, and new trunk drainage. These works are subject to a Voluntary Planning Agreement (VPA).
13. The CSPC delegated authority to the Chief Executive Officer (CEO) to determine the application following the completion of the public exhibition of the VPA. The CEO determined the application on 3 March 2017, subject to deferred commencement conditions requiring the VPA to be registered on title and for the building envelopes to be modified.
14. The deferred commencement conditions were satisfied on 18 October 2017, and the development consent is now active.
15. The application has subsequently been amended (Modifications A and B) including the following:
 - (a) Increase the height in storeys of Block B from five and seven storeys to six and eight storeys, and increase the street wall fronting Ashmore Street from three to four storeys.
 - (b) Increase the height in storeys and building envelopes of Block C fronting Stovemaker Lane and Mitchell Road from three storeys to four storeys.
 - (c) Increase the overall height in metres of Buildings B and C to accommodate lift overruns.

Buildings B and C

16. On 22 December 2017, development consent D/2017/1425 was granted for early works including demolition and excavation to accommodate one level basement.
17. On 15 February 2018, deferred commencement consent D/2017/681 was granted by the CSPC for construction of a four to eight storey residential flat building (Block B) providing 157 dwellings, construction of a four to eight storey mixed use development (Block C) providing 171 dwellings, ground floor retail, and centre-based childcare facility, and construction of one shared basement level, landscaping and public domain works. The consent was made active on 5 December 2019 and construction has commenced.
18. The development has subsequently been amended however these amendments are of little significance to the subject application.

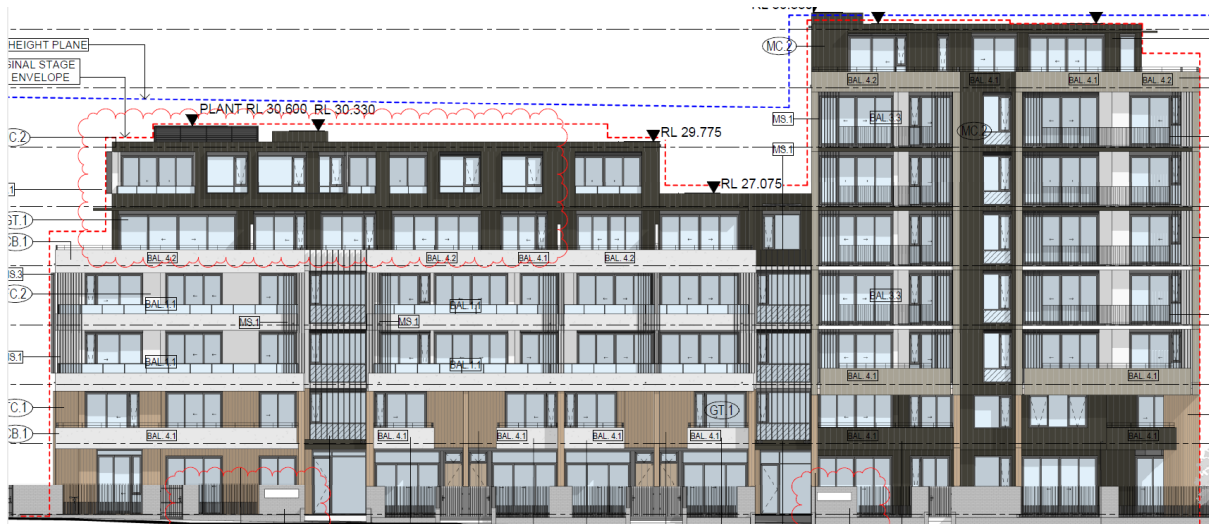


Figure 8: An elevation plan of Building B fronting Ashmore Street.



Figure 9: An artist's render of Building C viewed from McPherson Park.

Building A

19. Development application D/2019/393 is concurrently presented to the CSPC and proposes staged construction of a residential flat building comprising 173 units with one basement level accommodating 115 car parking spaces, loading areas, storage and services. The proposal includes roof top terraces, landscaping, tree removal, subdivision, and public domain works. The application is recommended for approval.



Figure 10: Artist's render of the north and east elevations from Fox Avenue and Ashmore Street looking southwest.



Figure 11: Artist's render of the south elevation viewed from the future McPherson Park and Foundry Street.

Building D

20. Development application D/2019/291 proposes construction of six x three storey terrace dwellings and public domain works including construction of Metters Street, Coppersmith Lane and Kooka Walk north. The application is due to be presented to the Local Planning Panel.



Figure 12: An artist's render of the terraces fronting Metters Street.

Economic/Social/Environmental Impacts

21. Besides the matters discussed in this report, the assessment against the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, contained in the report to the CSPC as its meeting on 17 November 2016 are still relevant.
22. A copy of the original planning assessment report for DA D/2015/966 is provided at Attachment B.

Threshold Test

The development as proposed to be modified is substantially the same as that originally approved.

In accordance with Section 4.55(3), an assessment against the relevant provisions of Section 4.15(1) of the Act are provided under the following headings. There were no reasons provided on the original Notice of Determination for the decision, however, the following reason was provided for the previous modification:

- *The proposed modifications will have negligible impacts in the locality.*

The proposed modifications will similarly not adversely impact the locality.

Issues

Building A - Height and Bulk

23. Block A is subject to two height of buildings development standards: a 15 metre height standard fronting Ashmore Street and Kooka Walk, and a 27 metre height standard fronting Ashmore Street Foundry Street and Stovemaker Lane. The current concept approval permits three storeys within the area covered by the 15 metre height standard and seven storeys in the area covered by the 27 metre height standard.

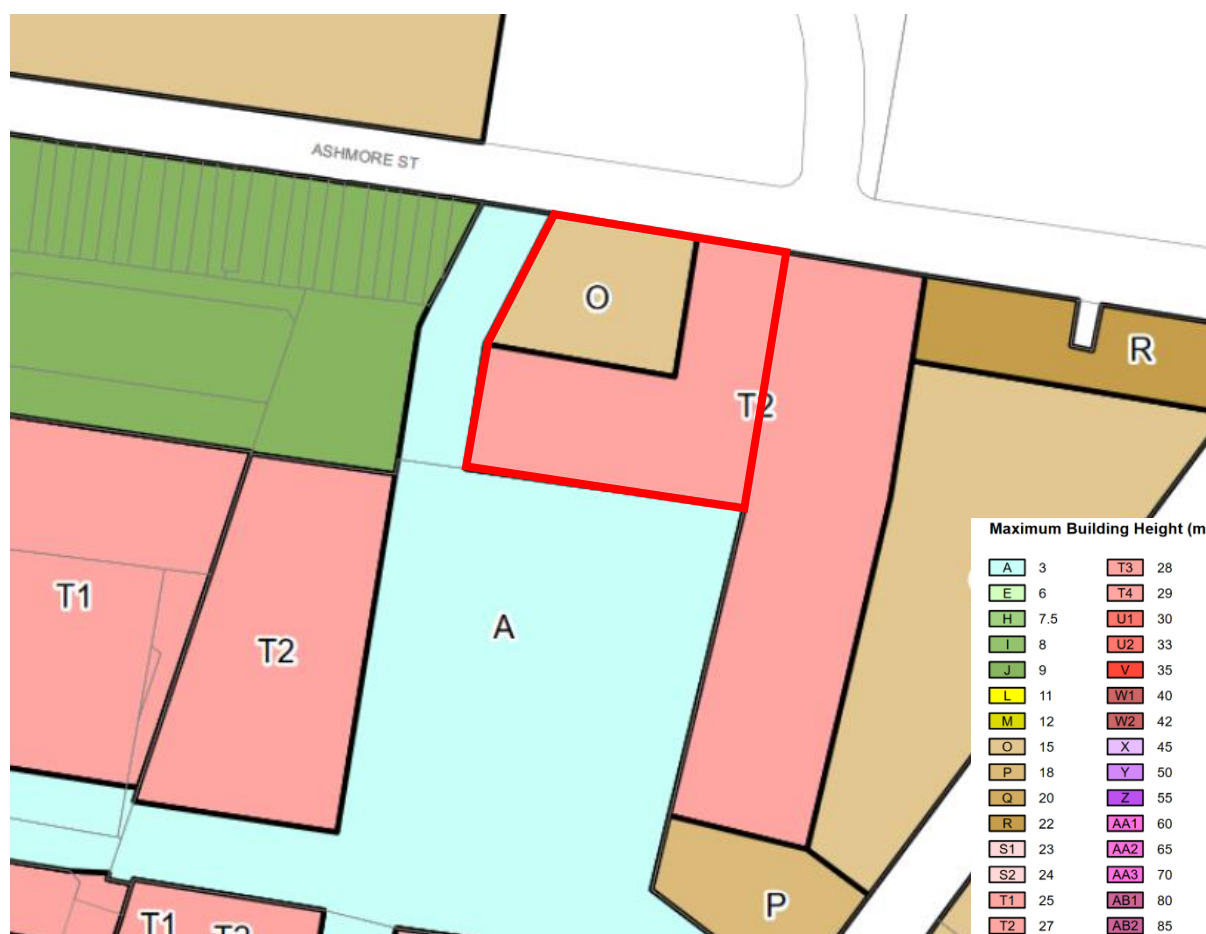


Figure 13: An extract from the height of buildings map with the site outlined in red.

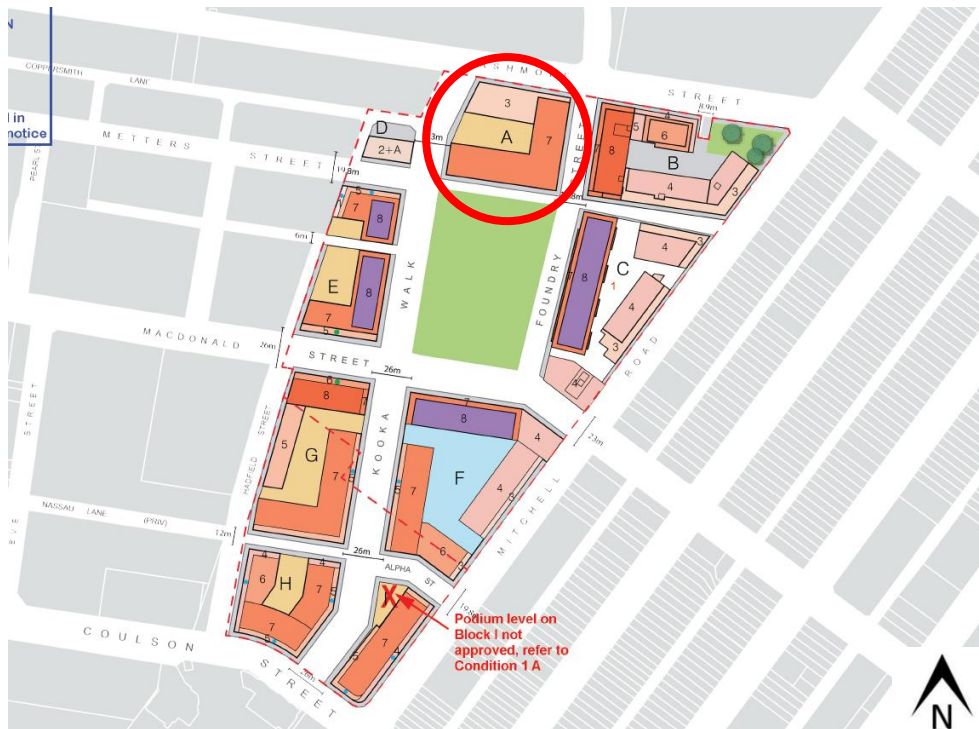


Figure 14: Approved maximum height in storeys diagram with Block A circled.

24. The application proposes increasing the height in storeys as shown in the figure below. The building envelope will rise from three to four storeys fronting Ashmore Street and then up to a seven storey street wall with an eighth storey setback fronting Foundry Street, Stovemaker Lane and adjoining Kooka Walk to the southwest.



Figure 15: The proposed height in storeys reflects the detailed design development application.

25. The application proposes exceeding the maximum 27 metre height of buildings development standard by up to 0.5 metres (1.9% variation). This is to accommodate lift overruns, architectural roof features, car exhaust and plant (condensers and solar PV) as shown in the detailed design development application.
26. The application proposes exceeding the maximum 15 metre height of building development standard by up to 11.85 metres (79% variation). This is due to the lateral extension of the eight storey section west along Ashmore Street.

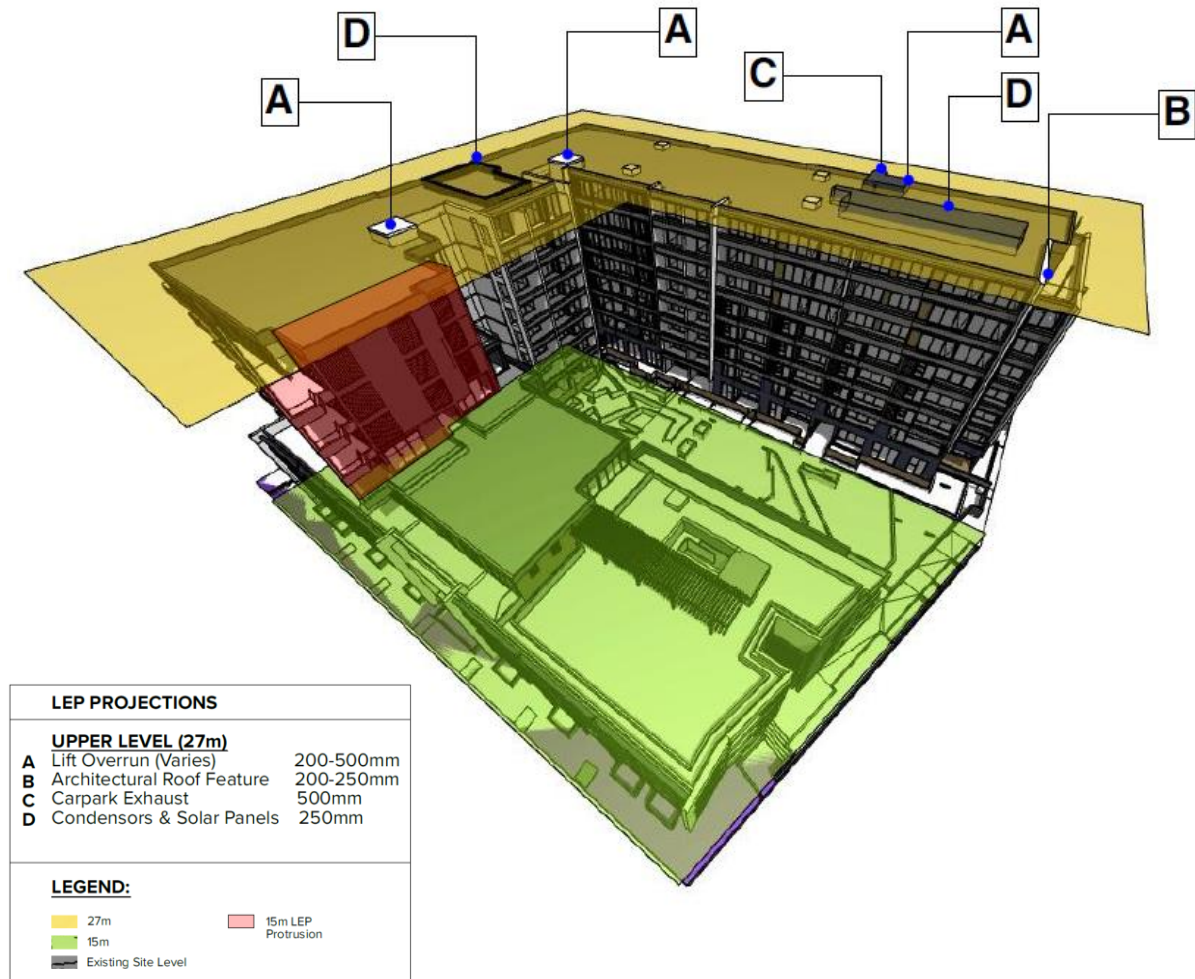


Figure 16: An axonometric diagram of the building illustrating the extent of non-compliances.

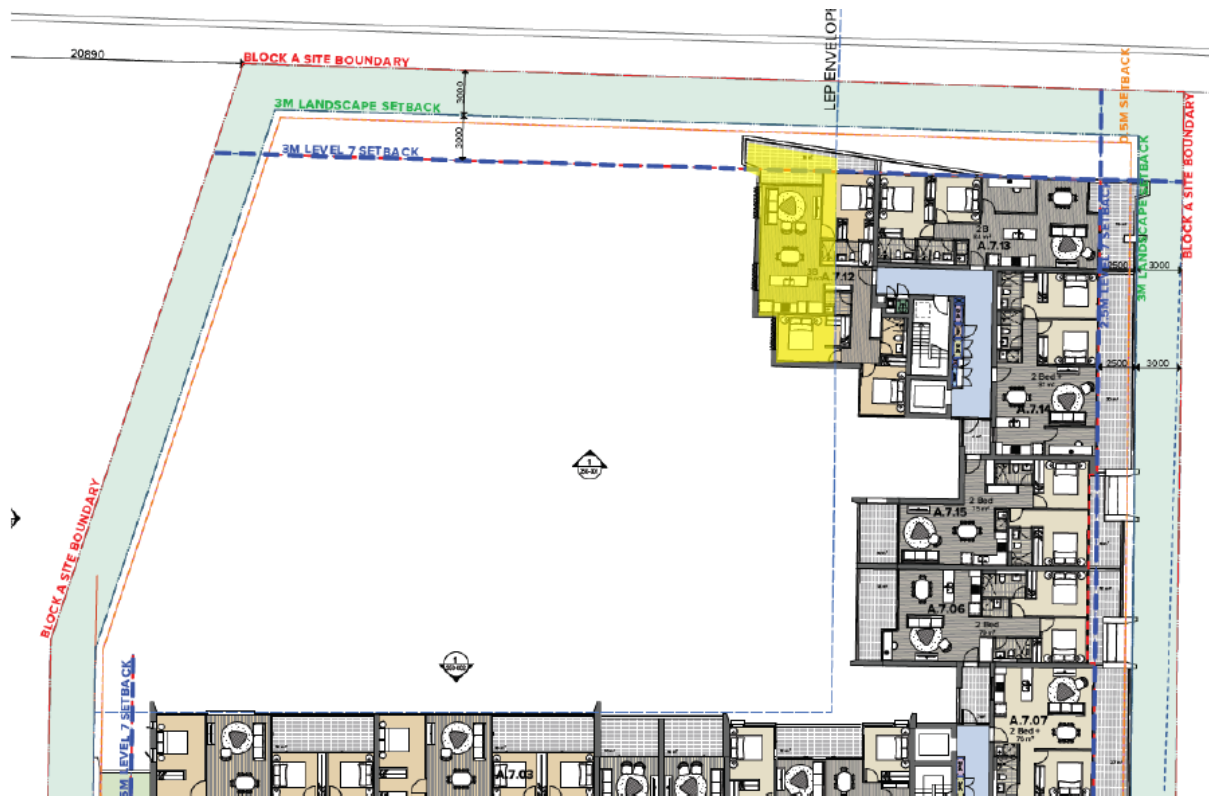


Figure 17: An extract of a typical upper level floor plan, demonstrating the extent of the non-compliance with the 15 metre height standard and three storey street wall to Ashmore Street.

27. A revised statement seeking to vary the height of building development standards accompanies the detailed design development application D/2019/393 and is supported. The changes proposed to the building envelope under the concept approval are consistent with the extremities of the proposed building and are therefore equally supported.
28. Note: A request to vary a development standard under Clause 4.6 of the Sydney LEP 2012 is not applicable to modification applications.
29. In summary, the additional height is appropriate for the conditions of the site and surrounding context, with the height along Ashmore Street transitioning from the lower scale conservation area to the west and north. The site is flood affected, with the ground floor raised above the public domain to comply with the City's Interim Floodplain Management Policy. The eighth storey has been setback from Foundry Street and Stovemaker Lane to maintain a seven storey street wall, similar to Blocks B, C, E and F. The additional height will not adversely overshadow McPherson Park in accordance with Section 5.5.4.2 of the Sydney DCP 2012 and will not compromise the amenity of future residents within Block A and to surrounding buildings. The building will also be below the approved height of Block F and as such will not impact on views of the City skyline from Sydney Park or properties to the south.

Building D - Height and Bulk

30. Block D is subject to two height of building development standards: the portion of the site forming Kooka Walk has a maximum three metre height limit, while the area consisting of Coppersmith Lane, Metters Street and the terraces has a maximum nine metre height limit. The terraces are permitted a maximum two storeys with an attic.

31. The application proposes increasing the height of the building envelope to 11.49 metres, 2.49 metres above the maximum 9 metre height plane (27.7% variation). This will accommodate the proposed roof top privacy screens. The ridge line of the roof will be 10.84 metres high (20.4% variation).

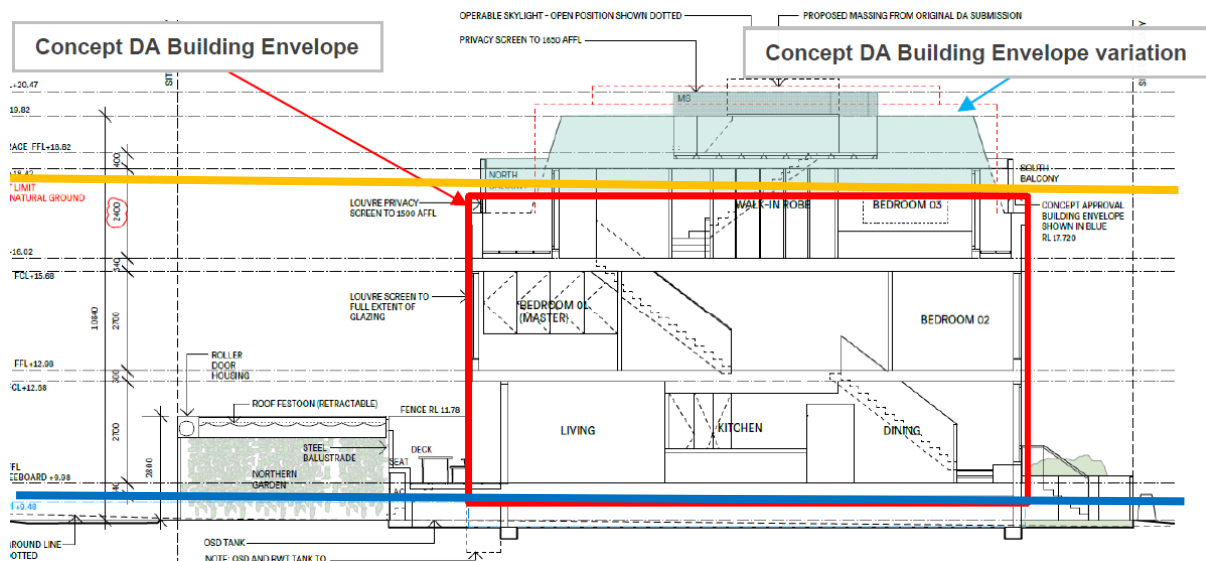


Figure 18: A section plan highlighting the approved building envelope (red), the maximum nine metre height standard (orange) and the flood planning level (blue) with the portion of the building exceeding the envelope in light blue.

32. A revised statement seeking to vary the height of building development standards accompanies the detailed design development application D/2019/291 and is supported, see Attachment D. The changes proposed to the building envelope under the concept approval are consistent with the extremities of the proposed building and are therefore equally supported.
33. Note: A request to vary a development standard under Clause 4.6 of the Sydney LEP 2012 is not applicable to modification applications.

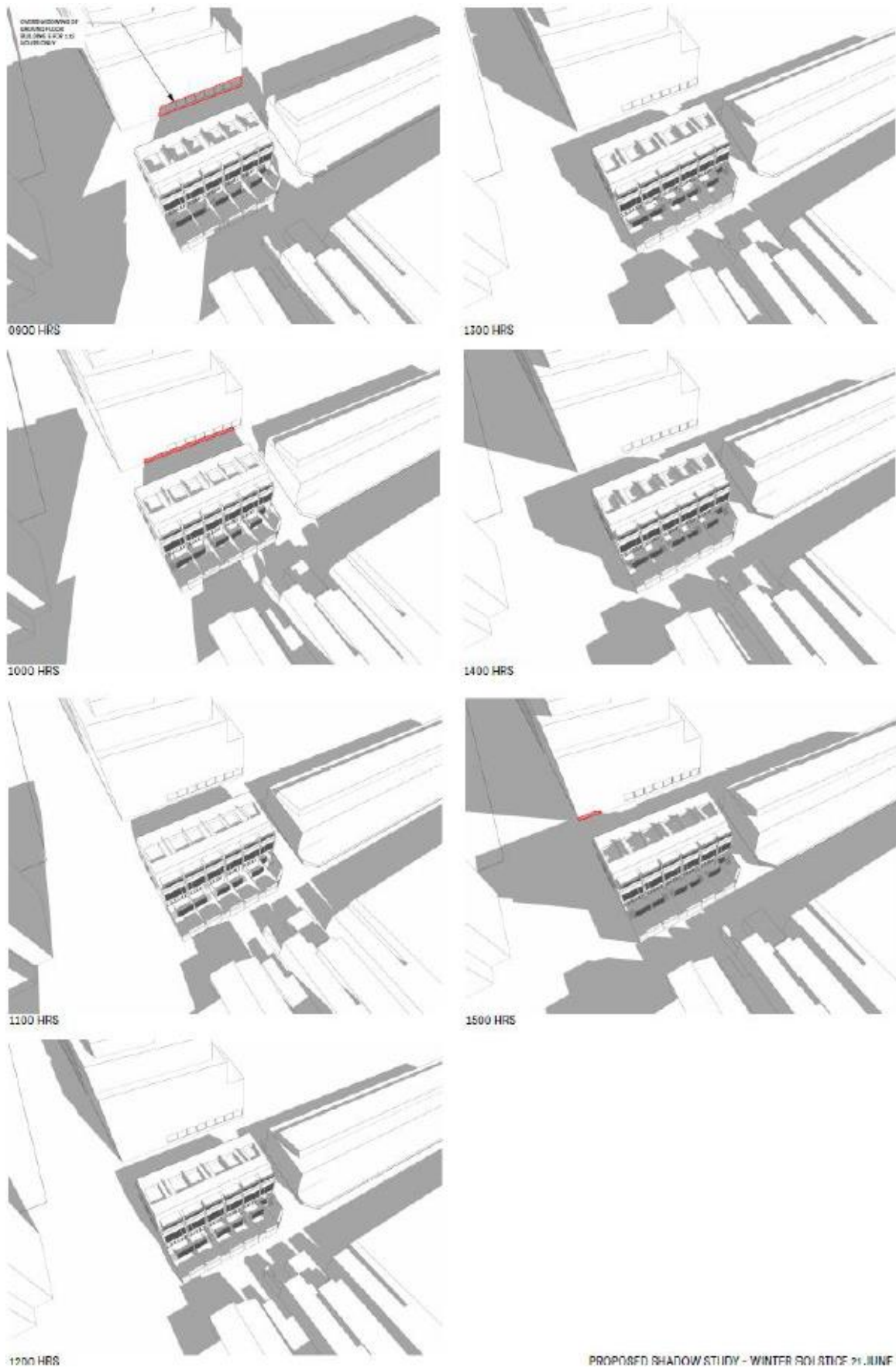


Figure 19: Shadow diagrams demonstrating that the development will not adversely overshadow neighbouring properties.

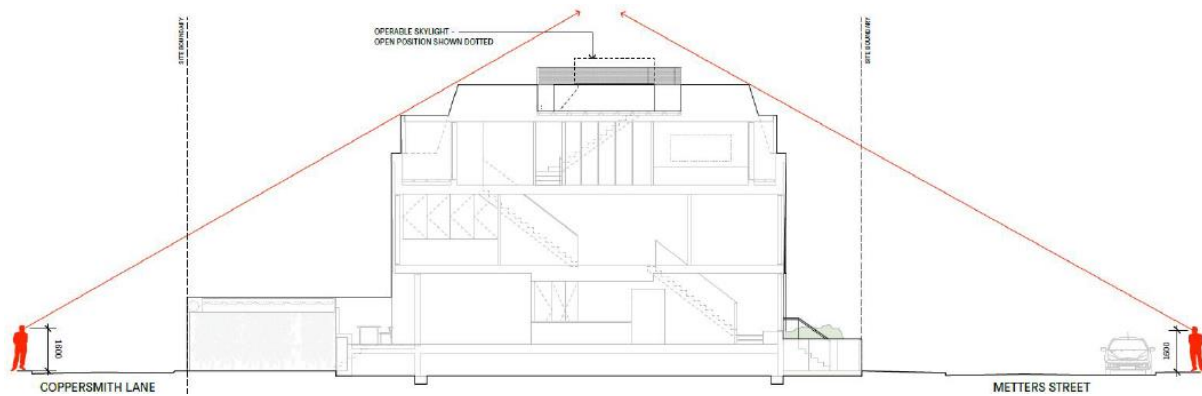


Figure 20: The roof top privacy screens are set back such that they will not be readily visible from the public domain.

34. In summary, the additional height above the height of building development standard and the approved building envelope is predominantly caused by the flood planning level, which requires the ground floor level to be raised 1.1 metres above the existing ground level. The development maintains the two storey plus attic scale and uses a contemporary terrace typology in keeping with the planning controls for the site. The development will not adversely overshadow neighbouring properties and is appropriate in the context of existing and future buildings in the surrounding area. Importantly, the competitive design panel recommended that the ceiling heights of the living areas be increased to 2.7 metres, further contributing to the overall height non-compliance. As such, the development will provide good amenity and safety for occupants without adversely affecting the character and appearance of the surrounding area.

State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development

35. SEPP 65 provides that in determining an application for a residential apartment 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 at Schedule 1. Block A is a residential apartment development and as such is subject to the SEPP.
36. A design verification statement prepared by Ray Brown of Architectus (NSW registration 6359) was submitted on 28 January 2020 to address the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement therefore satisfies Clause 115(3A) of the Environmental Planning and Assessment Regulation 2000.
37. In particular, the additional height and bulk is compatible with the context and neighbourhood character and will facilitate good design to achieve the desired future character for the Ashmore estate. The building will provide an adequate transition in scale to the conservation areas to the west and north and maintains the seven storey street wall surrounding McPherson Park and on Foundry Street. The additional bulk will not adversely impact building separation with other blocks in Ashmore.
38. The development as modified does not diminish or detract from the design quality and intent of the original concept approval.

39. These controls are generally replicated within the apartment design controls under the Sydney DCP 2012. Consequently compliance with the SEPP generally implies compliance with Council's own controls.

Sydney Local Environmental Plan 2012

40. The provisions of the LEP have been taken into consideration in the assessment of the proposal. Compliance with Clause 4.3 the height of the building development standard has been discussed above, while the detailed design development application demonstrates that the revised building envelope can accommodate compliant floor space in accordance with Clause 4.4 the floor space ratio development standard.
41. The development is not inconsistent with other relevant provisions.

Other Impacts of the Development

42. 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

43. The proposal is of a nature in keeping with the overall function of the site.

Internal Referrals

44. The conditions of other sections of Council have been included in the proposed conditions.

External Referrals

Notification, Advertising and Delegation

45. In accordance with the former Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified. As such the application was notified for a period of 14 days between 29 May 2019 and 13 June 2019. As a result of this notification a total of 2,255 properties were notified and there were nine submissions received.

- (a) The development will increase overshadowing of properties located outside the Ashmore Estate redevelopment site.

Response - The additional height will not result in additional overshadowing beyond the Ashmore estate.

- (b) The development will adversely impact views from neighbouring properties.

Response - Block A is located below the maximum height of Block F and as such will not adversely impact views of the city skyline from Sydney Park or from residents of Sydney Park Village.

- (c) The increase from three to four storeys in height fronting Ashmore Street is incompatible with the scale of the conservation area to the west.

Response - The application has been modified to reduce the extent of the fourth storey and maintain an acceptable transition to the adjacent conservation areas.

- (d) The increased height is incompatible with the scale and character of the surrounding area and the desired future character.

Response - The additional storey to Block A is compatible with the approved built forms for other buildings surrounding McPherson Park and for Block B opposite on Foundry Street. The design of Block D is compatible with the terrace typology on Metters Street and within the conservation area to the north, with the additional height adequately setback and not overbearing.

- (e) The City should not support applications to increase the scale of development.

Response - The modifications have been assessed with regards to relevant planning controls for the site and are reasonable.

- (f) The modifications will increase the building heights of Block B and increase overshadowing of approved apartments.

Response - The proposed modifications do not relate to Block B.

- (g) The proposed modifications will increase density and exceed the capacity of services in the surrounding area.

Response - The development complies with the maximum permitted gross floor area and as such are commensurate with the anticipated demand for services and infrastructure.

Sydney Airport Referral Act 1996

46. 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.
47. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify the subject site is subject to a prohibition of the construction of buildings more than 50 feet in height (15.24m) above existing ground height.
48. 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. The relevant approval body is the Civil Aviation Safety Authority (CASA).
49. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, provided approval for the controlled activity on 13 May 2019.

Sydney Water Act 1994

50. Sydney Water have advised that no amendments are required to comments and conditions previously recommended.

Water Management Act 2000

51. The proposed modifications do not regard to extent of excavation and as such the existing conditions do not require modification.

Public Interest

52. The proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

Relevant Legislation

53. Environmental Planning and Assessment Act 1979.
54. Sydney Airport Referral Act 1996.
55. Sydney Water Act 1994.
56. Water Management Act 2000.

Conclusion

57. This Section 4.55(2) application proposes altering the approved building envelopes to be consistent with the detailed design development applications for Block A (D/2019/393) and Block D (D/2019/291). The detailed design development application for Block A is presented to the CSPC concurrently for approval, while Block D will be presented to the Local Planning Panel.
58. The scope of the proposed modifications include:

Block A

- A01 - increase the height of the building from seven to eight storeys, extend westward along Ashmore Street and exceed the maximum 27 metre height standard by up to 0.5 metres (1.9%).
- A02 - increase part of the building from three to four storeys, accommodate roof top communal terrace structures and lift overrun.

Block D

- Increase the overall height of the building envelope by 2.75 metres

59. The proposed modifications to the approved building envelopes will ensure consistency between staged development applications for the site, as required under Section 4.24 of the Environmental Planning and Assessment Act, 1979. The application is presented to the CSPC to ensure consistency with the determination of the detailed design development applications.
60. The application was notified for 14 days between 29 May and 13 June 2019. The concerns raised are addressed within the report.
61. The proposed modifications are in the public interest and recommended for approval.

ANDREW THOMAS

Acting Director City Planning, Development and Transport

David Zabell, Senior Planner