

Item 7.**Development Application: 5-15 Dunning Avenue, Rosebery - D/2019/390****File No.:** D/2019/390**Summary**

Date of Submission:	18 April 2019 Amended information submitted 15 November 2019 and 20 January 2020
Applicant:	Stockland Development Pty Ltd
Architect/Designer:	Rothelowman
Developer:	Stockland Development Pty Ltd
Owner:	Stockland Development Pty Ltd
Cost of Works:	\$70,680,328
Zoning:	B4 mixed use
Proposal Summary:	<p>The development application seeks approval for the demolition of existing buildings, site remediation, and construction of 3 x 7 storey residential flat buildings containing 144 apartments and an associated cafe.</p> <p>The application is referred to the Central Sydney Planning Committee as the cost of works exceeds \$50 million.</p> <p>The proposed development is also Integrated Development under the Water Management Act 2000, requiring the approval of Water NSW.</p> <p>The development site is subject to a concept approval including building envelopes for 3 x 22 metre high residential flat buildings (development consent D/2017/1528). The development, as proposed, is considered to be consistent with the concept approval.</p>

The concept approval is attached to an executed Planning Agreement between the applicant and the City of Sydney Council. The Planning Agreement includes the provision of a monetary contribution towards community infrastructure in Green Square and an easement over a through-site link connecting Dunning Avenue and Mentmore Avenue.

The proposed development is also the winner of a competitive design process and is considered to be a building demonstrating design excellence.

The proposal was notified for a 28 day period between 4 May 2019 and 1 June 2019. There were three (3) submissions received which raised concern about construction impacts, loss of outlook and privacy impacts, development density and traffic impacts.

The proposed development is compliant with the floor space ratio (FSR) and height controls applicable under Sydney Local Environmental Plan 2012 (Sydney LEP 2012). The development provides less than the maximum number of car spaces permitted by the Sydney LEP 2012. The development is considered to provide acceptable amenity for future residents with acceptable amenity impacts on neighbouring developments. Recommended conditions of development consent can control any potential construction impacts.

While the development complies with the height control under the Sydney LEP 2012, it exceeds the storeys control within the Sydney DCP 2012. This is acceptable given the development's consistency with adjoining development and the acceptable amenity outcomes.

Subject to the implementation of recommended conditions, as detailed in the report and attachment A, it is considered that the proposed development is generally compliant with the planning controls for the site..

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

Development Controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) Water Management Act 2000
- (iii) Sydney Water Act 1994 No 88
- (iv) Sydney Airport Referral Act 1996
- (v) Commonwealth Airports Act 1996
- (vi) State Environmental Planning Policy No 55 - Remediation of Land
- (vii) State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development
- (viii) State Environmental Planning Policy (Infrastructure) 2007
- (ix) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (x) Sydney Local Environmental Plan 2012
- (xi) Sydney Development Control Plan 2012
- (xii) City of Sydney Development Contributions Plan 2015
- (xiii) Green Square Affordable Housing Program

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings

Recommendation

It is resolved that consent be granted to Development Application No. D/2019/390 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 development complies with the objectives of the B4 mixed use zone pursuant to the Sydney Local Environment Plan 2012.
- (B) The development is consistent with the permitted height and floor space ratio pursuant to clauses 4.3, 4.4, 6.14 and 6.21 of Sydney Local Environmental Plan 2012.
- (C) The development demonstrates design excellence as per clause 6.21 of Sydney Local Environmental Plan 2012.
- (D) The development is consistent with the concept approval consent pursuant to section 4.24(2) of the Environmental Planning and Assessment Act 1979.
- (E) The development, subject to conditions, meets the objectives of the Apartment Design Guide and is consistent with the design quality principles as per State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development.
- (F) The development is consistent with the objectives of the Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. A site visit was carried out by staff on 11 June 2019.
2. The site is legally defined as strata plan 34888 and is approximately 6,168.8m² in area. It is 'L' shaped with a 97.6 metre frontage to Dunning Avenue and a 55.4 metre frontage to Mentmore Avenue. The site is located one (1) lot south of Epsom Road and two (2) lots north of Cressy Street. A two storey concrete panel building used as a warehouse and offices is currently contained within the site.
3. Surrounding land uses are a mix of older warehouse and office buildings to the west along Dunning Avenue, and newer mixed use and residential flat buildings to the north, south and east of the site.
4. The site contains 36 trees. There are also 8 trees in the road reserve on Dunning Avenue and 5 trees in the road reserve on Mentmore Avenue. The site is currently accessed from two driveways located on Dunning Avenue, and one driveway located on Mentmore Avenue.
5. The site is not in a heritage conservation area, but it is located adjacent to Mentmore House, which is a locally listed heritage item (item number I1378) under Sydney Local Environmental Plan 2012.

6. Photos of the site and surrounds are provided in the figures below.



Figure 1: Aerial image of subject site and surrounding area. The subject site is outlined in red, Mentmore House is outlined in blue, recently developed and approved mixed use buildings are outlined in green.



Figure 2: Site viewed from Dunning Avenue



Figure 3: Site viewed from Dunning Avenue



Figure 4: Opposite side of Dunning Avenue (west of the subject site)



Figure 5: Building to the north of subject site on Dunning Avenue



Figure 6: Building to the north of subject site on Epsom Road



Figure 7: Corner of Mentmore Avenue and Epsom Road



Figure 8: Looking east across Mentmore Avenue along Epsom Road



Figure 9: Looking east across Mentmore Avenue



Figure 10: Looking south along Mentmore Avenue



Figure 11: Site viewed from Mentmore Avenue including Mentmore House to the south



Figure 12: Mentmore House, locally listed heritage item, located south of the subject site



Figure 13: Looking south along Mentmore Avenue



Figure 14: Residential development located south of the site on the corner of Mentmore Avenue and Cressy Street



Figure 15: Existing carpark and residential development located on opposite of Mentmore Avenue

Concept Consent - D/2017/1528

7. A concept development application for the site, known as D/2017/1528, was approved by the Chief Executive Officer under delegation by the Central Sydney Planning Committee (CSPC) on 12 July 2018. The approval was subject to deferred commencement conditions, relating to the execution of the associated planning agreement which were satisfied on 24 September 2018.
8. The concept consent granted approval for 3 x 22 metre building envelopes for residential development, vehicular access from Dunning Avenue and a through site link connecting Dunning Avenue and Mentmore Avenue. This is shown in the figure below

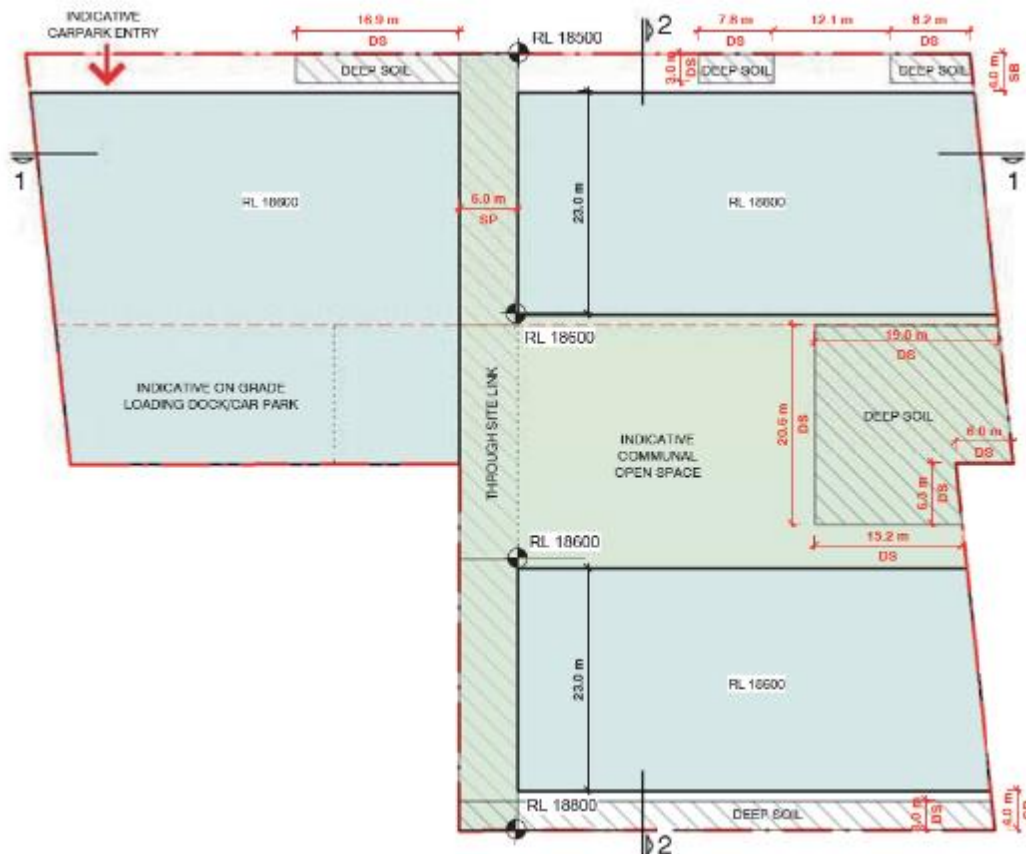


Figure 16: Approved level 1 envelope plan.

Planning Agreement

9. The concept consent was also subject to a voluntary planning agreement (VPA). The VPA was executed on 18 September 2018. The VPA included a public access easement over 482m² the through site link with a value of \$96,400 and a monetary contribution of \$1,368,690 towards community infrastructure in Green Square.

Design Competition

10. A competitive design process was held in relation to the site from November to December 2018. The selection panel nominated Rothelowman as the project architects and their scheme, as the design most capable of achieving design excellence.
11. A competition report was prepared which includes elements of the Rothelowman scheme which need to be retained, and elements which require further amendment. This report has been considered in the assessment of the proposal.

History Relevant to the Development Application

12. A pre DA meeting was held with the applicant following the design competition. The pre DA raised a number of issues including height, solar access, natural cross ventilation and separation distances. These issues have been satisfactorily addressed as part of the amended proposal.
13. The subject application was lodged on 18 April 2019.
14. Following notification, review of information submitted and based on comments received from the Design Advisory Panel (DAP), an issues letter was sent to the applicant. This issues letter raised a number of concerns, including;
 - (a) natural cross ventilation;
 - (b) separation distances between the apartments and communal areas;
 - (c) natural ventilation and privacy;
 - (d) tree loss including a request exploratory root investigations;
 - (e) deep soil areas;
 - (f) landscape plans;
 - (g) driveway cross over;
 - (h) bicycle parking;
 - (i) transport impact study;
 - (j) height;
 - (k) land remediation;
 - (l) BCA compliance and fire stairs;
 - (m) waste; and
 - (n) BASIX.

15. The applicant met with City Planning staff and submitted two rounds of amended plans and information. These changes addressed the issues raised and where relevant are discussed further in the issues section below.

Proposal

16. The amended application seeks consent for demolition and construction of three (3) residential flat buildings containing 144 apartments and one cafe. The three (3) buildings described in this report are numbered buildings 1, 2 and 3. This is shown in the figure below.



Figure 17: Site plan showing 3 buildings, through site link, driveway location and communal areas

17. The buildings include heights of 22 metres and 7 storeys. Proposed communal open space is located centrally between building 2 and 3, and on podium between building 1 and Mentmore House.
18. The proposal includes a 6 metres wide through site link, with a public access, that traverses the centre of the site between Dunning Avenue and Mentmore Avenue. A small café is located centrally within the site along the through site link.

19. The proposal also includes two levels of shared basement which is accessed from Dunning Avenue. Loading and garbage collection occurs onsite, and is at grade located behind building 1 and beneath the podium.
20. The proposal retains all trees along the Mentmore Avenue and Dunning Avenue road reserves. The proposal also seeks consent to remove 25 existing trees on site.
21. The proposed finishes include aluminium balustrades, bronze and charcoal profiled metals, bricks, and white and charcoal applied external wall and metal finishes.
22. In particular, the proposal includes the following:

(a) Lower basement level

- (i) car parking for 126 residential spaces, 5 visitor spaces and 2 car share spaces
- (ii) motorbike parking for 13 bikes/scooters
- (iii) bike racks for 39 bicycles
- (iv) storage cages for 94 bicycles
- (v) 94 storage rooms for residential apartments
- (vi) garbage and bulky waste rooms; and

(b) Upper basement

- (i) 18 resident storage rooms
- (ii) storage cages for 18 bicycles
- (iii) loading dock and service vehicle space
- (iv) garbage and bulky waste holding rooms
- (v) main switch room

(c) Ground floor

- (i) 24 residential apartments (5 x one bed, 16 x two bed and 3 x three bed); and
- (ii) driveway entry from Dunning Avenue
- (iii) communal open space
- (iv) café
- (v) through site link connecting Dunning Avenue and Mentmore Avenue
- (vi) managers office
- (vii) visitor bike parking

(d) Level 1

- (i) 16 residential apartments (3 x one bedroom, 9 x two bedroom and 4 x three bedroom)
- (ii) communal open space on podium above the loading dock and waste rooms
- (iii) music room

(e) Level 2

- (i) 24 residential apartments (3 x one bedroom, 16 x two bedroom and 5 x three bedroom)

(f) Level 3

- (i) 24 residential apartments (3 x one bedroom, 16 x two bedroom and 5 x three bedroom)

(g) Level 4

- (i) 23 residential apartments (2 x one bedroom, 17 x two bedroom and 4 x three bedroom)

(h) Level 5

- (i) 33 residential apartments (1 x one bedroom, 27 x two bedroom and 5 x three bedroom)

(i) Level 6

- (i) Second floor of 32 residential apartments (27 x two bedroom and 5 x three bedroom)
- (ii) plant and lift overrun

23. Plans of the proposed development are provided below.



Figure 18: Existing/demolition plan



Figure 19: Proposed site plan

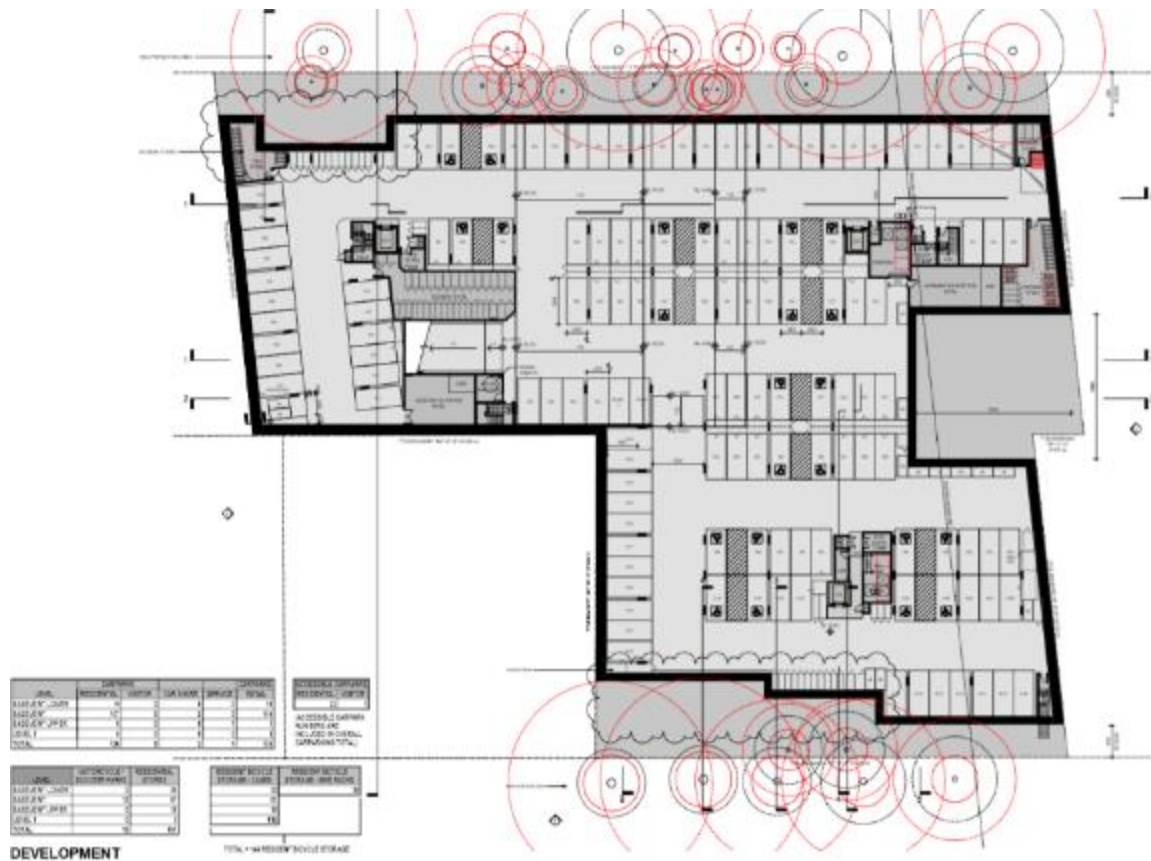


Figure 20: Proposed lower basement

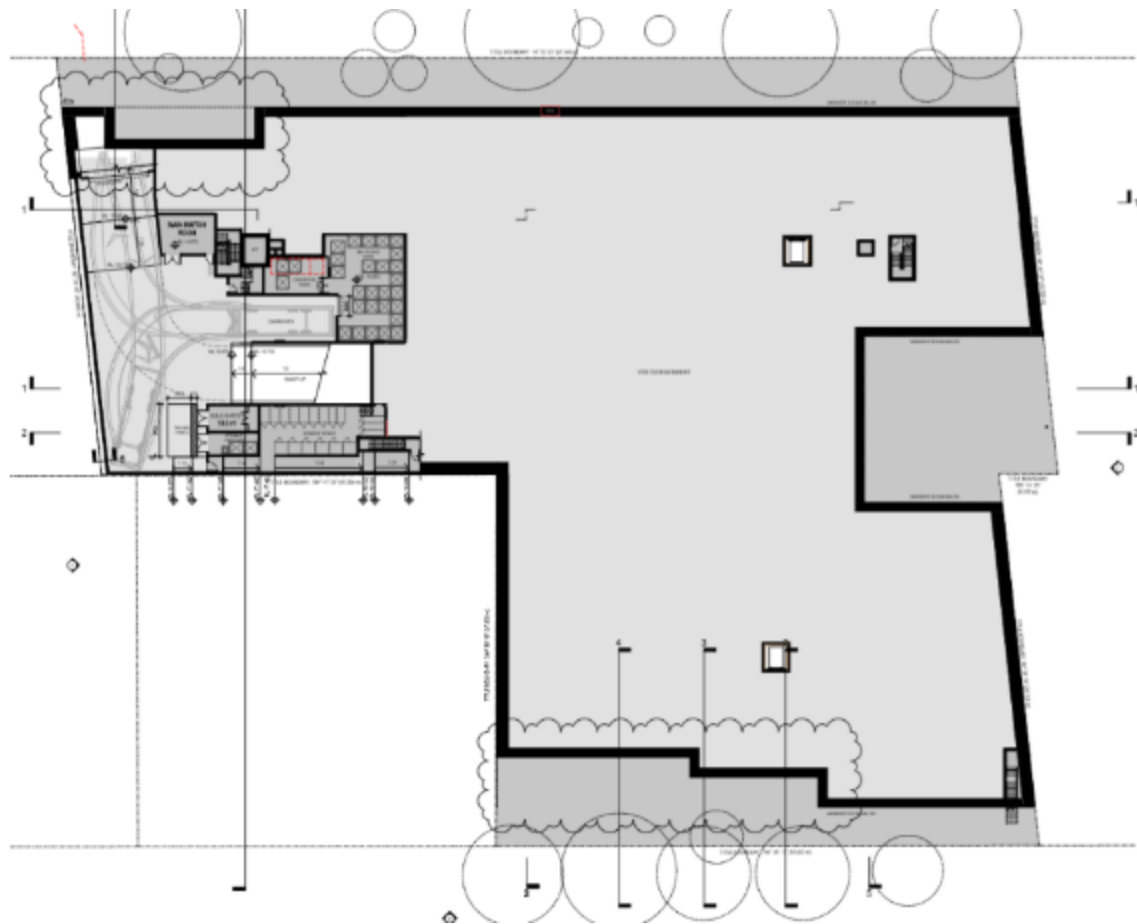


Figure 21: Proposed upper basement



Figure 22: Proposed ground floor/level 1

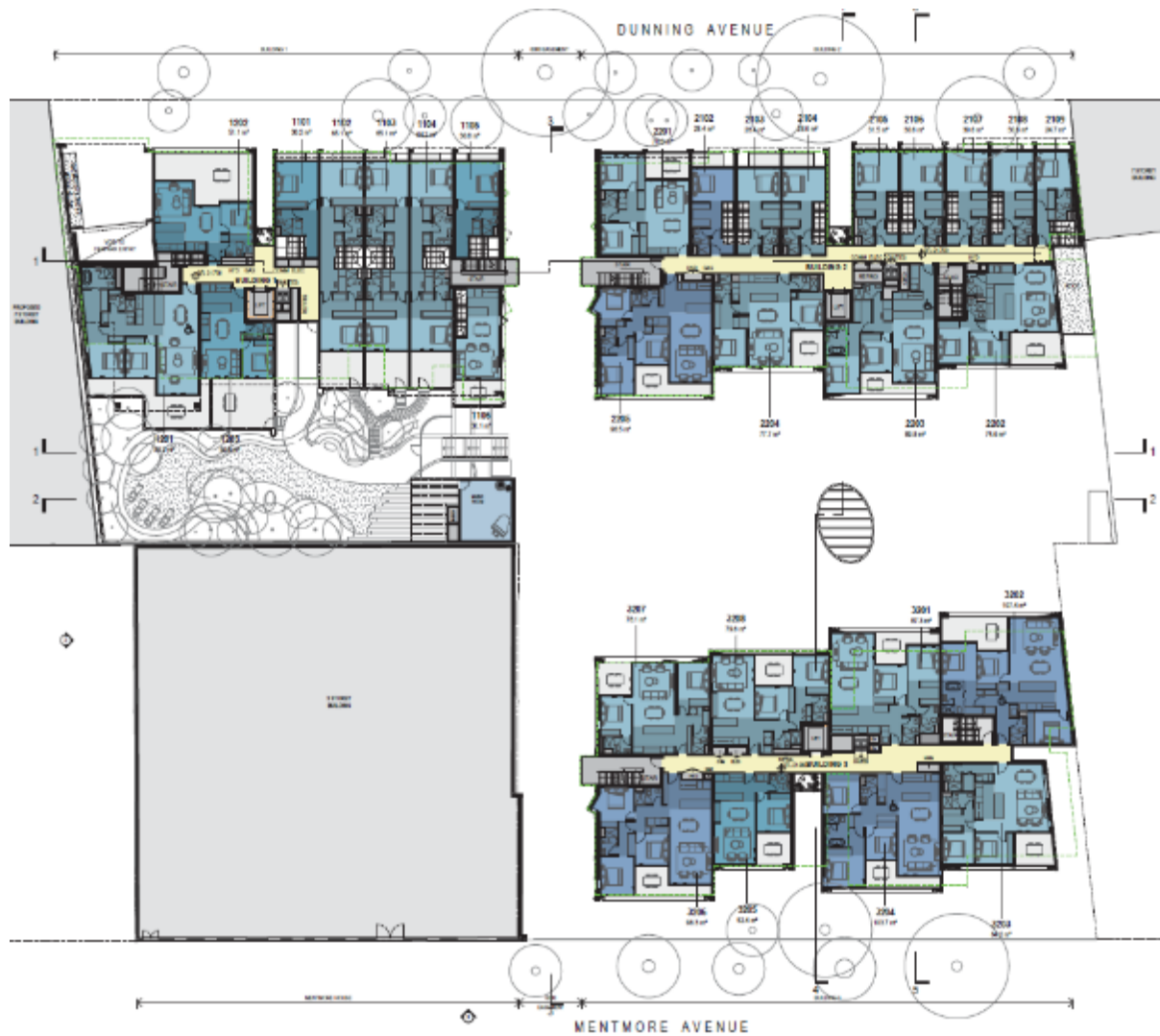


Figure 23: Proposed level 1/level 2

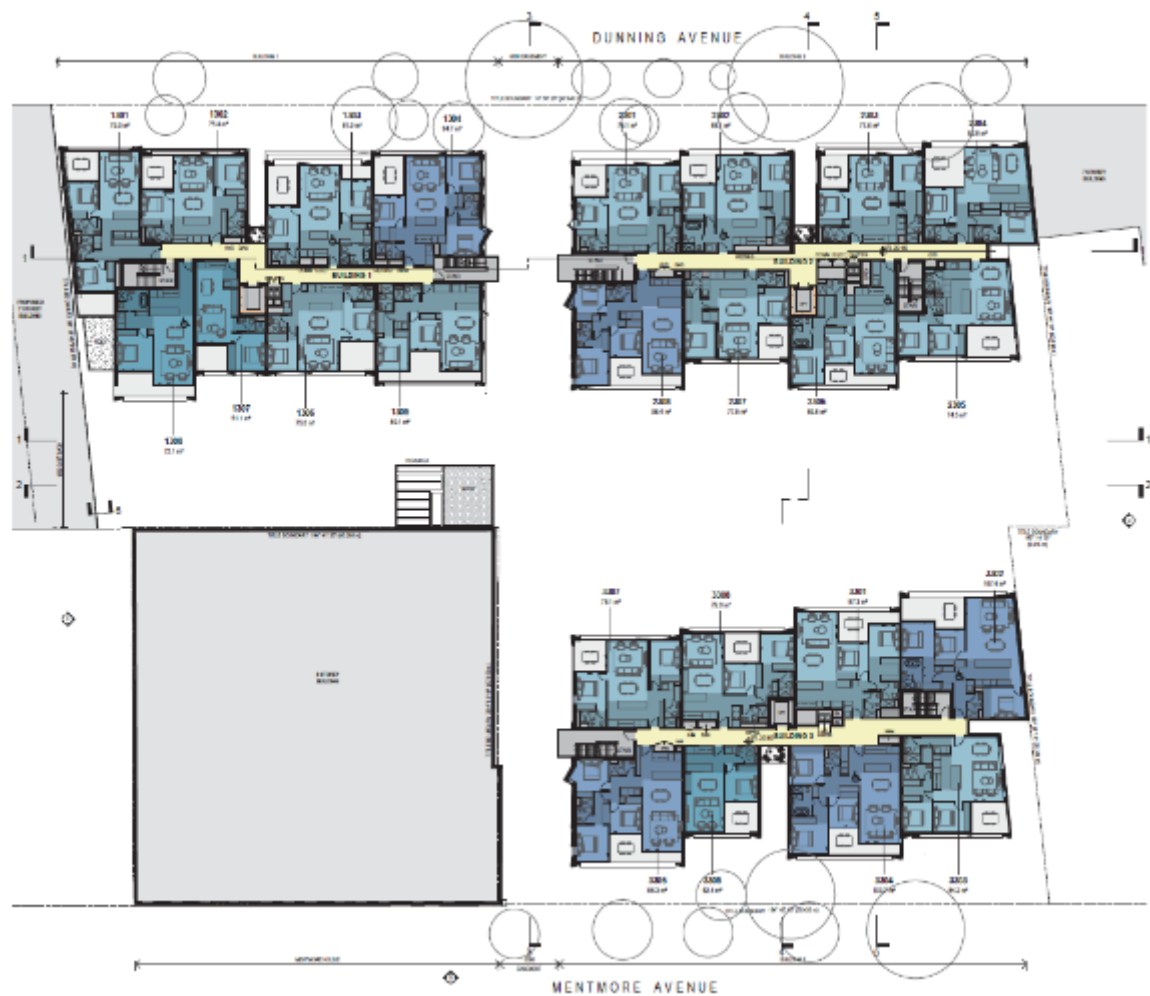


Figure 24: Proposed level 2/3

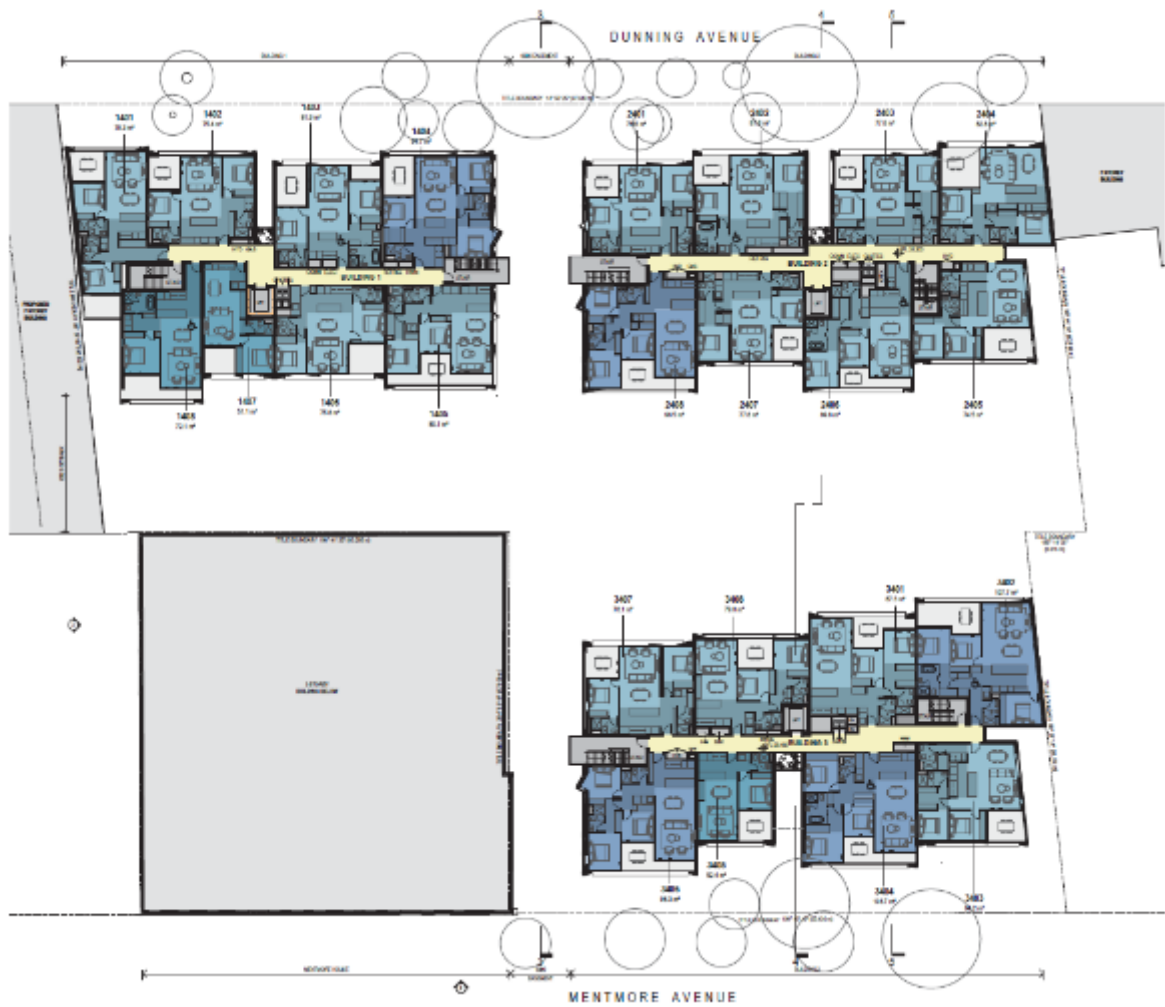


Figure 25: Proposed level 3

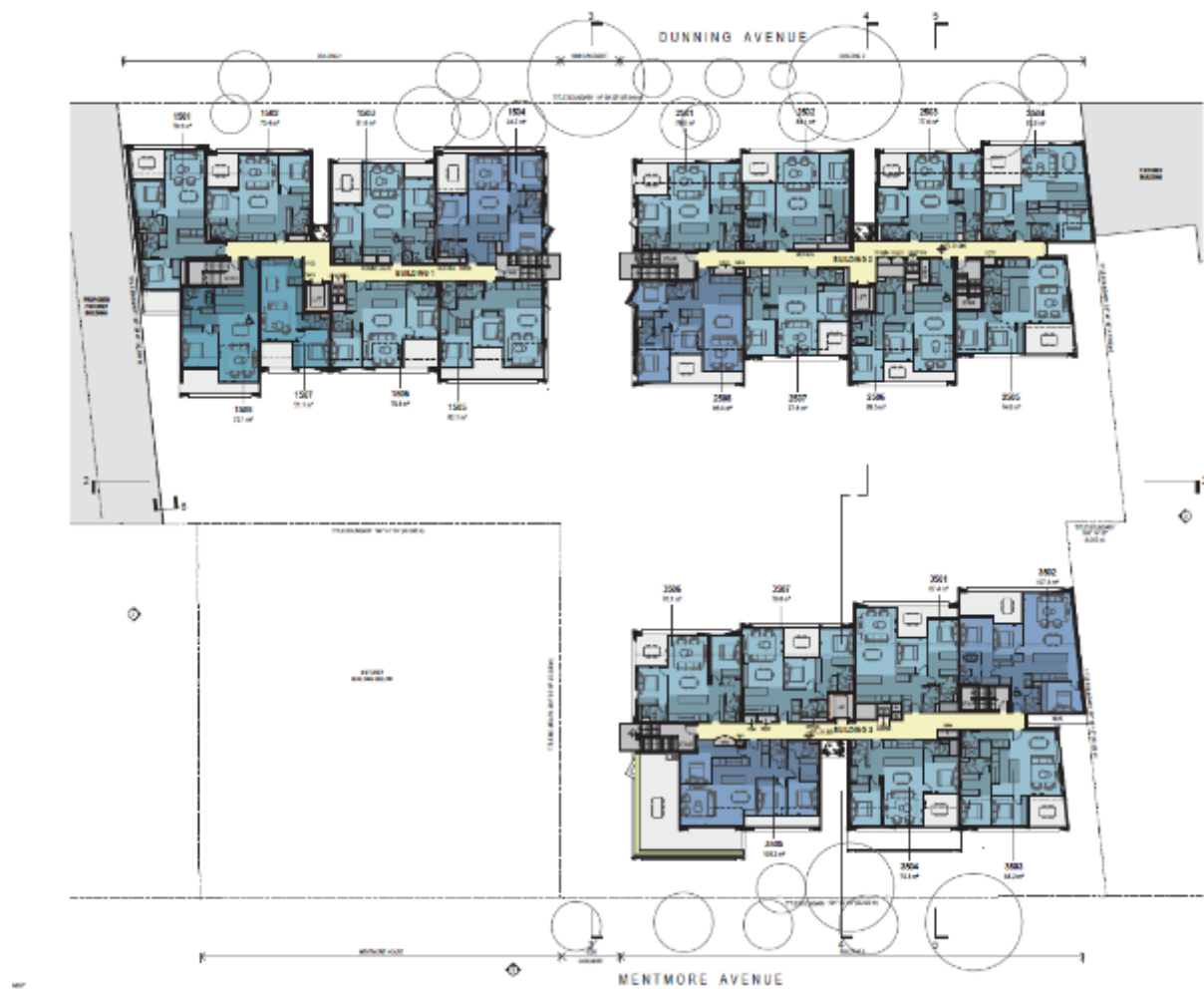


Figure 26: Proposed level 4

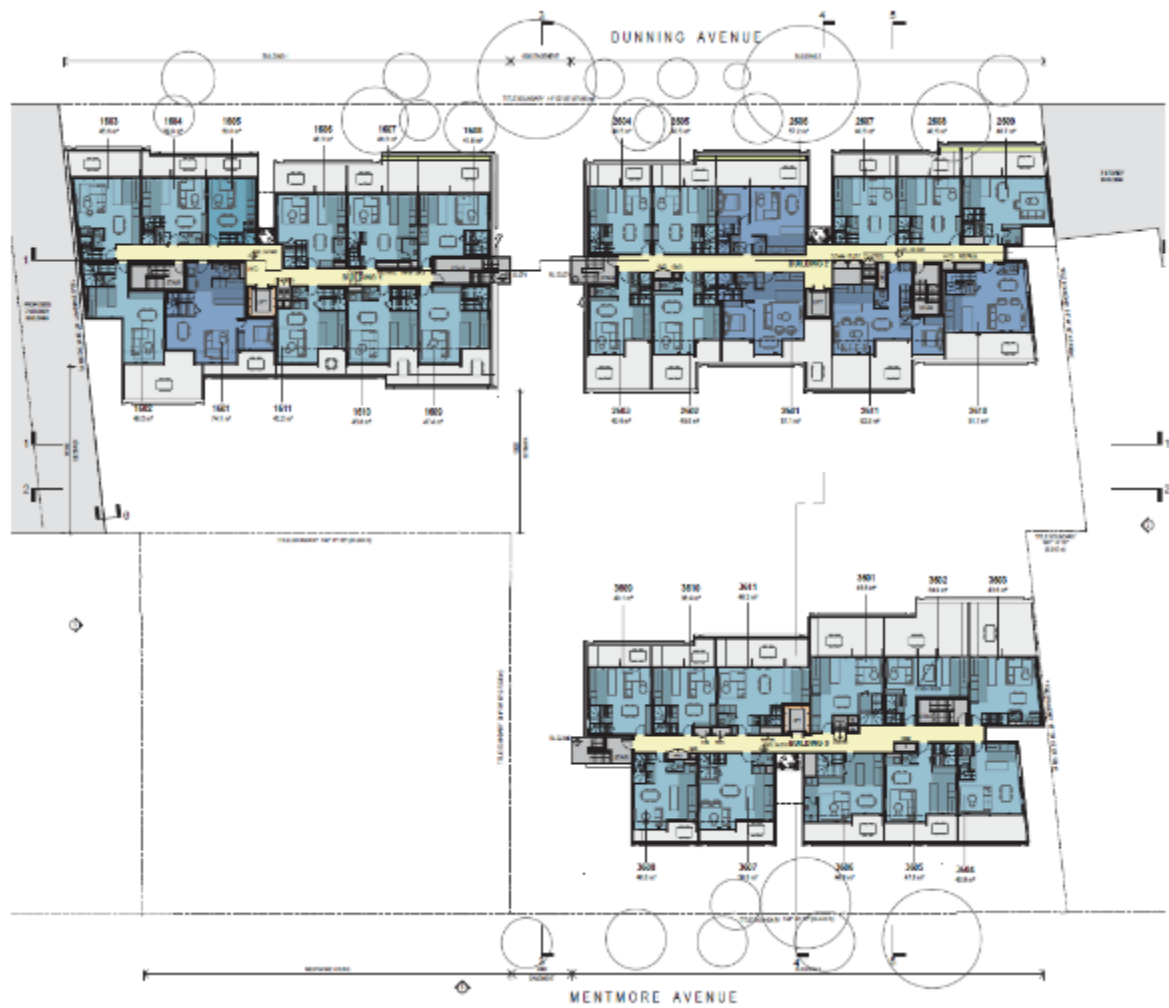


Figure 27: Proposed level 5



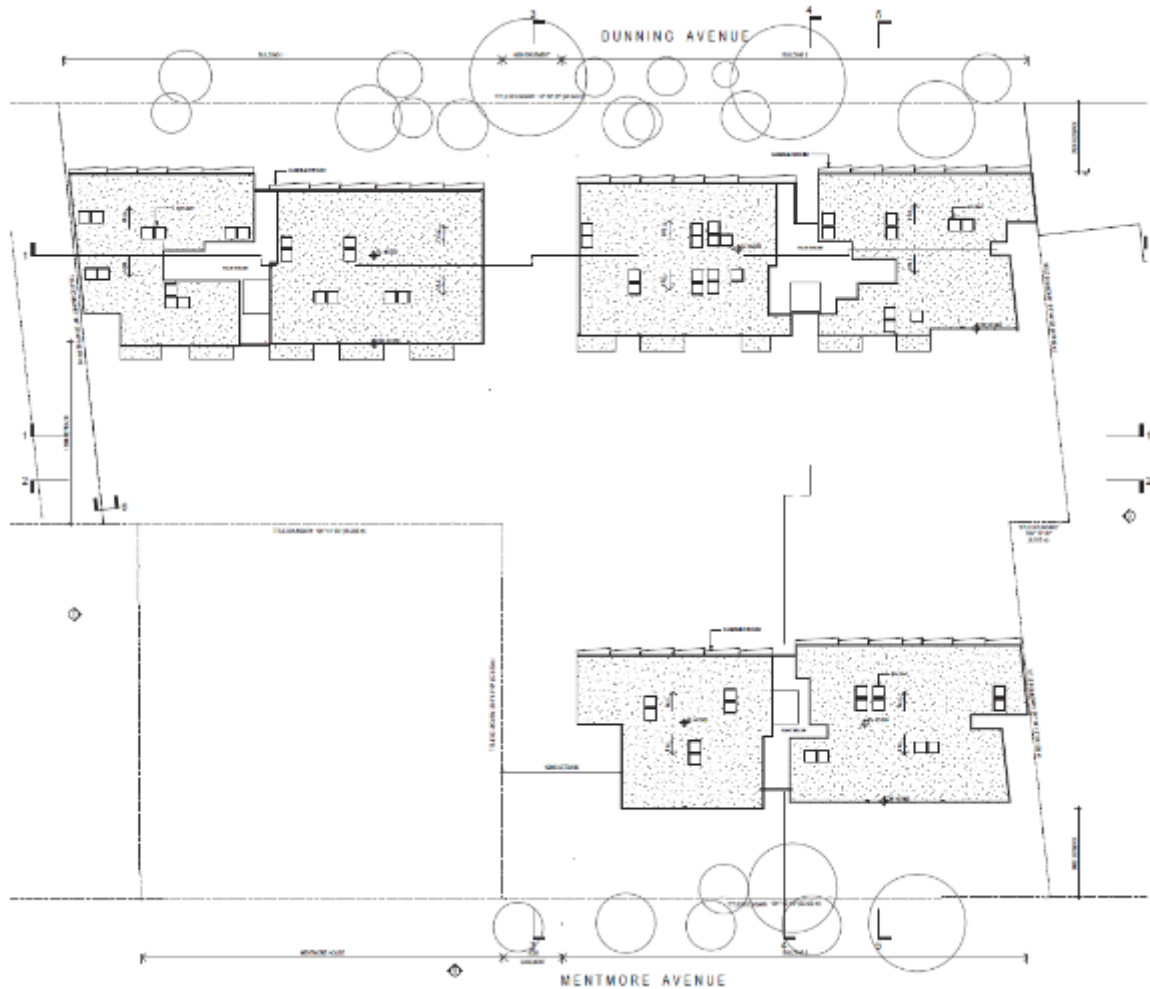


Figure 29: Proposed roof level



Figure 30: Proposed building 3 fronting Mentmore Avenue - east elevation

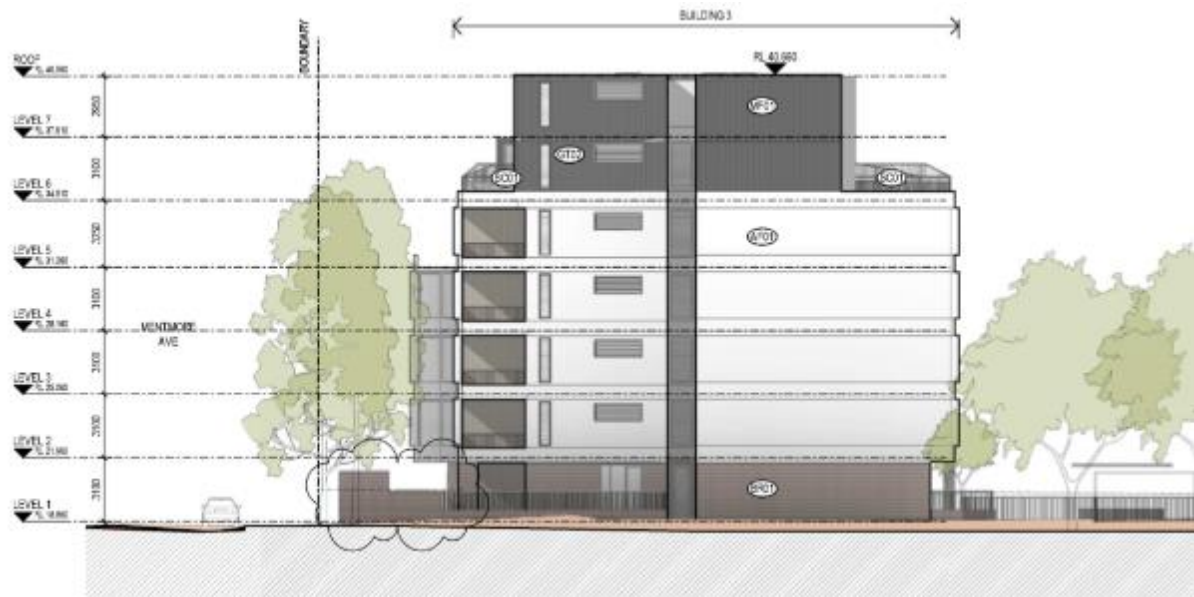


Figure 31: Proposed building 3 - north elevation



Figure 32: Proposed building 2 - north elevation



Figure 33: Proposed building 1 - south elevation



Figure 34: Proposed building 3 - south elevation



Figure 35: Proposed building 2 - west elevation



Figure 36: Proposed building 1 - west elevation



Figure 37: Proposed building 1 - north elevation



Figure 38: Proposed building 1 and 2, east elevation



Figure 39: Proposed section 1 through buildings 1 and 2



Figure 40: Section 2 through building 1

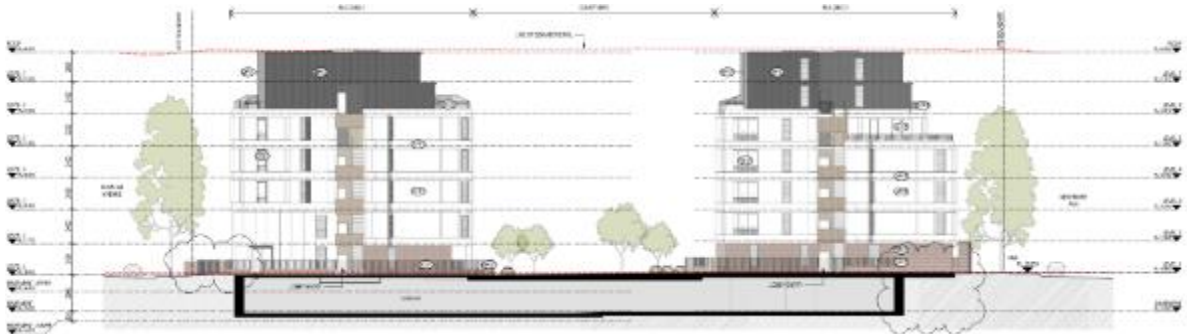


Figure 41: Section 3 through buildings 2 and 3



Figure 42: Section 4 through buildings 2 and 3

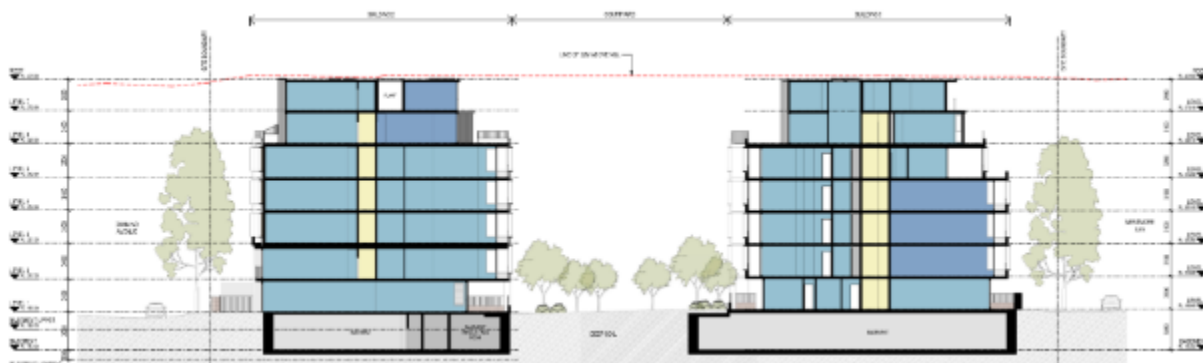


Figure 43: Section 5 through buildings 2 and 3

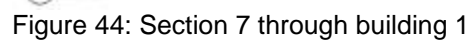


Figure 45: Photomontage building 1 - west elevation



Figure 46: Photomontage building 2



Figure 47: Photomontage building 2 - Dunning Avenue



Figure 48: Photomontage building 3 - Mentmore Avenue

Economic/Social/Environmental Impacts

24. 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.
 - (b) The Voluntary Planning Agreement entered into on 18 September 2018.

Water Management Act 2000

25. The development proposed is integrated development under the Environmental Planning and Assessment Act 1979. This is because the development will encounter groundwater during the excavation process, and is subject to a requirement to obtain a Water Supply Work Approval under the Water Management Act 2000.
26. As such, the application was referred to Sydney Water on 3 May 2019 who provided General Terms of Approval on 7 June 2019. These are included at Schedule 3 of the Notice of Determination, at Attachment A.

Sydney Water Act 1994

27. In accordance with section 78 of the Sydney Water Act 1994, the application was referred to Sydney Water on 2 May 2019. This is because, pursuant to section 78(1)(a), the development may increase the demand for water supplied by the Sydney Water Corporation. No response was received from Sydney Water. Standard Sydney Water requirements are included as conditions at Attachment A.

Airports Act 1996 (Cth)

28. 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.
29. Regulation 6(1) of the Airports (Protection of Airspace) Regulations 1996 declares the airspace above any part of either an OLS (Obstacle Limitation Surface) or PAN-OPS (Procedures for Air Navigation Systems) prescribed airspace.
30. 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).
31. Regulation 5 and Schedules 3 and 5 of the Civil Aviation (Building Control) Regulations 1988 prohibit the construction of buildings more than 15.24 metres above existing ground level in this area without prior approval.
32. The Application was referred to CASA. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, advised that the height of the prescribed airspace in this location is 51 metres above AHD and approved the erection of the development to a maximum height of 41 metres AHD inclusive of "all lift overruns, vents, chimneys, aerials, aerials, TV antennae, construction cranes, etc."
33. The applicant has agreed to add photovoltaic panels to the roof of the development. However, the details of these are not shown on the plans and may sit above the 41m AHD limit. This issue has been discussed with Sydney Airports who has advised that they need to see elevations with the panels in-situ. Sydney Airport has advised that this can be done by the developer at a later date. This is addressed by condition at attachment A.

Section 4.24 of the Environmental Planning and Assessment Act 1979

34. The proposed development is considered to be consistent with the concept consent, as required clause 4.24(2) of the Environmental Planning and Assessment Act 1979.
35. The concept consent included "Stage 1 concept development application for concept approval of 3 x 22 metre building envelopes for residential development, vehicular access from Dunning Avenue and a through site link".
36. The subject development is consistent with the development description, with the exception of the addition of a 10m² café located centrally adjacent to the through site link within the development. Given the size of the café, relative to the overall size of the development (that is, 10m² or 0.07% of the gross floor area), it is considered that the café does not change the predominant use of the development, that being for 'residential' purposes.
37. The subject DA includes elements of the building which are outside the concept envelopes. These encroachments occur as a result of a push and pull of the envelope to capture more sunlight and break up the scale of the buildings. The encroachments are located within the courtyard area and primarily relate only to balcony areas. Given the minor nature of these breaches, the development is considered to be consistent with the concept consent.

38. A comparison of the relevant concept consent conditions and the proposal are included in the table below. This comparison demonstrates how the subject detailed DA remains consistent with the concept consent.

Condition number	Compliance	Comment
<p>Condition 9 - ESD</p> <p>The development must comply with the sustainability initiatives and environmental performance measures set out in the approved design excellence strategy.</p>	Yes	<p>As a minimum, paragraph 2.8 of the approved strategy requires a BASIX score of plus 5 above the state mandated minimum for both BASIX energy and water.</p> <p>The submitted BASIX certificate, certificate number 988683M_04 provided a score of 45 for water (which has a target pass of 40) and 30 for energy (which has a target pass of 25).</p>
Condition 11 - Public art	Yes	A public art plan has been submitted with the subject development application and is discussed further in the tables below.
<p>Condition 13 - Acid sulphate soils</p> <p>Provide evidence that acid sulphate soils management plan is not required, or submit a management plan</p>	Yes	A preliminary acid sulphate soils management plan has been submitted. This is discussed further in the table below.
Condition 14 - Transport impact study	Yes	A transport impact study has been submitted with the application. This is discussed further below.
Condition 16 - Car share spaces	Yes	There are two (2) car shares spaces provided within the development and the submitted statement of environmental effects says preliminary discussions have been had with car share provider.
Condition 18(b) and 19(c) - driveway location and retention of street trees	Yes	No street trees, including tree 5 are proposed to be removed as part of this development application.

Condition number	Compliance	Comment
Condition 21 - Structural verification for Mentmore House	Yes	A structural verification statement has been submitted as part of the application. Further structural verification will be required as a condition.
Condition 22 - Acoustic report	Yes	An acoustic report has been submitted with the application.
Condition 23 - Ausgrid Consultation with Ausgrid regarding a substation is required and whether the development will impact on street lighting.	Yes	A letter has been submitted with DA and a substation included on the ground floor plan.

State Environmental Planning Policy No 55—Remediation of Land

39. 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.
40. The following documentation was included as part of the development application:
- (a) Remediation Action Plan, 5-15 Dunning Avenue, Rosebery, reference number E23535.E06_Rev3, prepared by EI Australia and dated 10 April 2019 ("RAP").
 - (b) Interim letter of advice, reference number E010, prepared by Julie Evans (NSW EPA accredited site auditor 1003) and dated 10 January 2019; and
 - (c) Further letter of advice from EI Australia dated 7 November 2019.
41. The proposed remediation strategy is bulk excavation and off-site disposal. The RAP states that all other methods of remediation are not considered suitable for this development. This RAP will be approved as part of the development consent, and any changes or variations from this RAP are required to be approved by the site auditor and Council.
42. The RAP has also been reviewed by a NSW EPA accredited site auditor. The site auditor in the interim letter of advice says at paragraph 10 that:

"Contamination investigations conducted to date have not identified significant gross or widespread contamination, but indicate that some contamination may be present. Access during the investigation was limited and full characterisation was not possible. The RAP defines a process to be followed after demolition of the site buildings and removal of surfacing to ensure that any contamination is fully delineated prior to the remediation work commencing. There is a low risk of failure of the remediation strategy as the site is to be excavated for a basement level and sources of contamination will be removed during this process. "

43. The auditor then concludes that *"the remediation process described in the RAP is acceptable, subject to the following conditions:*
- (a) Stage 1 Additional investigations to be completed following demolition of the buildings on site must be completed prior to bulk earthworks being undertaken for redevelopment of the site. The investigations must address, but not be limited to:- Updated site history to include outstanding council records and Safework NSW records (dangerous goods licencing);*
 - (b) -Review of potential contaminants of concern for dye works (including PFAS) and inclusion of an appropriate sampling and analysis program to address them;*
 - (c) -Contingency to delineate the depth of hydrocarbon impact (i.e. sampling below 5mbgl);*
 - (d) -Full characterisation of fill material in areas where refusal was encountered during the initial investigations. This will require removal of a second concrete slab under the existing buildings.*
 - (e) -Use of test pits to characterise fill material, to facilitate visual inspection for the presence of asbestos containing material (ACM).*
44. *The results of the investigations must be reported and (if required) the RAP revised prior to stage 2 commencing. The reporting from Stage 1 must be endorsed by a NSW EPA accredited site auditor.*
45. *Stage 2 Remedial excavations to be completed in conjunction with the basement excavation work. Final validation must include areas to be retained as deep soil zones outside the basement area. "*
46. The conditions recommended by the site auditor are included in the draft notice of determination within attachment A.
47. Conditions are also recommended to ensure that the site is not subject to any environmental management plans.

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

48. SEPP 65 provides that in determining an application for a residential flat building, the consent authority take into consideration advice from a Design Review Panel, the design quality, including 9 design quality principles, and the Apartment Design Guide (ADG).

Design Advisory Panel

49. The Design Advisory Panel (DAP) were presented with the application, as originally lodged, on 20 June 2019. DAP identified the following positive elements of the proposal including:
- (a) The 5:2 proportions of the building and the proportions between the lower and upper levels.
 - (b) The consolidated deep soil areas and communal open space areas, the general retention of setbacks established in the concept consent and the proposed height as it relates to Mentmore House.

50. DAP raised concerns with cross ventilation, the thickness of the roof plate, visual and acoustic privacy and retention of the quality of the design from the design competition.
51. These issues were raised with the applicant and the application has been amended accordingly. That is;
- (a) Cross ventilation has been resolved and is now compliant with the ADG.
 - (b) Visual and acoustic privacy has been improved and is now considered to be acceptable.
 - (c) Concern was raised with fitting in 7 storeys within the 22 metre height limit. In response, further detail has been submitted about the thickness of the roof plate and a detailed section. This will be subject to further design development and subject to the provisions of the BCA. A letter was also submitted from ADP consulting engineers which states that the mechanical, hydraulic, fire protection and electrical services will be able to be located within the 22m height limit.
 - (d) The fire stairs to the through site link are 'hold open doors' which only close in a fire emergency. This will enable passive surveillance of the through site link and improve light and ventilation to the corridors.
52. A detailed comparison of the facades from the design competition scheme and the proposed development. Overall, the proposed development retains the proportions, colour scheme and detail of the winning competition scheme.

Design Quality Principles

53. The development has been designed by Rothelowman and a design verification statement prepared by Ben Pomroy, Principal, who is a registered architect. This statement verifies that the development has met SEPP 65 design quality principles
54. Assessment of the proposal illustrates that the development meets the design principles of SEPP 65. This is detailed as follows:
- (a) Principle 1 Context and Neighbourhood Character and Principle 2 Built Form and Scale
- The proposed scale and massing of the building is contextually appropriate. The proposal respects the adjoining heritage item at 5-11 Mentmore Avenue and retains the existing street trees. The proposal also provides a positive relationship between the ground floor apartments and through site link.
- The height, bulk and proportions of the envelope were also supported by the selection panel in the design excellence competition and by DAP. The height and number of storeys reflect the height, bulk and massing of the surrounding area.

(b) Principle 3 Density and Principle 6 Amenity

The density is commensurate with the density anticipated by the planning controls. That is, the proposal results in an FSR of 2.2:1 which is consistent with the permitted FSR under Sydney LEP 2012. The development also meets the minimum standards set for solar access, that being (71.5% for solar access and 60.4% for natural cross ventilation).

While the development does not meet minimum separation distances in some instances, these numeric non-compliances are considered acceptable as the windows are offset. The depth of some of the apartments exceed the maximum limit, however on balance this can be supported as the habitable/usable parts of the room are within 8m of the windows, and the apartments have good access to light and air and excessive amounts of private open space.

(c) Principle 4 Sustainability and Principle 5 Landscape

The proposal provides a large area of consolidated deep soil which is co-located with the deep soil of the site to the north. While, further coordination of the landscape plan with other service plans is required, the amount of deep soil area and communal open space exceed the numeric requirements of the ADG. The stepped building form also allows for the retention of all existing street trees which contribute to the urban canopy and amenity of Rosebery.

The development meets the minimum requirements for natural cross ventilation and solar access. The proposal also exceeds the minimum targets for BASIX energy and water, and photovoltaic panels will be included on the roof (as a condition of consent).

(d) Principle 7: Safety

The proposal provides good passive surveillance of the communal areas and corridors. All communal spaces have apartments facing onto them and all communal corridors have openings at each end. Conditions are recommended to ensure that all communal open space areas provide accessible access.

(e) Principle 8: Housing Diversity and Social Interaction

The proposal includes 12% 1 bedroom apartments, 70% 2 bedroom apartments and 18% 3 bedroom apartments. The proposal also includes a wide variety of different size 2 bedroom apartments, with some meeting the minimum size, while others are in excess of the minimum standards. The apartment typology includes single level and two storey apartments throughout the complex. The proposal includes two areas of communal open space, a music room and centrally located café (off the through site link).

(f) Principle 9: Aesthetics

The proposal, on balance, demonstrates good design. The proportion, height and setbacks of the building respond well to the street context, including the neighbouring heritage item and street trees. The internal layout achieves a reasonable level of amenity, and the overall design and materiality of the buildings match the design and materiality of the design competition winning scheme.

55. The development is considered generally acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). 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. A detailed assessment of the proposal against the ADG is provided below.

Apartment Design Guide

2F Building Separation 3F Visual Privacy	Compliance	Comment
Up to four storeys (approximately 12 metres): <ul style="list-style-type: none"> 12m between habitable rooms / balconies 9m between habitable and non-habitable rooms 6m between non-habitable rooms 	Partial compliance Partial compliance	The majority of the development exceeds the minimum separation distances. Buildings 1 and 2 have openings across the through site link. These openings are separated by less than the 12metres required by parts 2F and 3F of the ADG. The proposal also includes habitable openings 3m from side boundaries, which are less than the 6metres required.
Five to eight storeys (approximately 25 metres): <ul style="list-style-type: none"> 18m between habitable rooms / balconies 12m between habitable and non-habitable rooms 9m between non-habitable rooms 	Partial compliance Partial compliance	The openings across the through site link are offset and have window hoods to minimise overlooking and noise transfer. These issues are discussed further in the 'issues' section of this report.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	The site provides 25% communal open space (approximately 1,540m ²), which excludes the area covered by the through site link.

3D Communal and Public Open Space	Compliance	Comment
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	The principal usable part of the communal open space receives full solar access from 10am to 12pm in midwinter.

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m6m	Yes	The development provides 15% of the site area as deep soil.

4A Solar and Daylight Access	Compliance	Comment
70% of apartments to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	Of the 144 apartments proposed, 103 apartments achieve a minimum of 2 hours direct sunlight during midwinter. This equates to 71.5% of the apartments within the development.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	Of the 144 apartments, 5 do not receive direct sunlight in midwinter. This equates to 3.5% of the apartments within the development.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	Of the 144 apartments, 87 are naturally cross ventilated. This equates to 60.4% of the development.

4B Natural Ventilation	Compliance	Comment
<p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p> <p>(this replicates part 2E building depth which requires maximum apartment depths to be between 12-18m)</p>	Assessed as acceptable	<p>There are 10 two storey, cross through apartments which have a maximum depth of 18.2m to 19.3m.</p> <p>The 19.3m depth (3 apartments) only relates to levels which have bedrooms on both ends and non-habitable rooms and stairs on the inside.</p> <p>The 18.2m depth (7 apartments) results in a living area with a depth of 10.6m from the glass line.</p> <p>While the room exceeds the minimum depth, the useable, habitable part of the room is within 8m of the window and door, and the open stair risers will assist in maximising the light reaching the rear of the room.</p>

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	All habitable rooms have a minimum floor to ceiling height of 2.7metres.
Non-habitable rooms: 2.4m	Yes	Non-habitable areas within the apartments have a floor to ceiling height of 2.4m.
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	<p>The lower level two storey apartments have minimum 2.7m floor to ceiling heights, other than in non-habitable areas.</p> <p>The two storeys apartments located on levels 5 and 6 have a minimum floor to ceiling height of 2.7m for the main living areas and the upper levels have floor to ceiling heights above 2.4metres.</p>

4C Ceiling Heights	Compliance	Comment
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Assessed as acceptable	While the development is located in the B4 mixed use zone, the development itself is all residential, aside from a 10m ² café which is in a separate building. The café is not subject to the ADG and the floor to ceiling height is considered under the Sydney DCP 2012.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum apartment sizes:</p> <ul style="list-style-type: none"> • Studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p>	Assessed as acceptable	<p>The proposal provides 3 x 3 bedroom apartments which are 94.7m².</p> <p>There are also 4 x 2 bedroom apartments which are 74.5m².</p> <p>The minimum apartment sizes as per the ADG is 70m² and 90m².</p> <p>These apartments have a laundry/secondary bathroom and therefore an additional 5m² should be added to the apartment sizes.</p> <p>As such, these apartments should be 75m² (as opposed to 74.5m²) and 95m² (as opposed to 94.7m²). When both of these apartment sizes are rounded to the nearest whole number, they comply with the size requirements.</p> <p>Further, these are both corner apartments with a functional layout with good outlook and amenity, the apartment sizes are considered acceptable.</p>

4D Apartment Size and Layout	Compliance	Comment
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.	Subject to condition	Every habitable room has access to a window. There is a secondary window proposed on the boundary in building 1, which is required to be deleted by condition. There is also a secondary bedroom with an inboard window in building 3. A design modification is recommended for this room to improve the amount of light and air available to that window. This is discussed further in the 'issues' section of this report.
Habitable room depths are to be no more than 2.5 x the ceiling height. 8m maximum depth for open plan layouts.	Yes	The cross through apartments are discussed above under part 4B. The depth of the remainder of the apartments are acceptable.
Minimum area for bedrooms (excluding wardrobes): <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	All bedrooms achieve the minimum size and dimension.
Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m 4m minimum width for cross over and cross through apartments.	Yes	All rooms achieve the minimum widths.

4E Private Open Space and Balconies	Compliance	Comment
<p>One bed apartments are to have a minimum balcony area of 8m² with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m² with a minimum depth of 2.4m.</p> <p>Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m² and a minimum depth of 3m.</p>	Yes	The proposal achieves the minimum required private open space to all apartments.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	<p>Building 1 has a maximum of 8 apartments off the core.</p> <p>Building 2 has 13 apartments off level 2, however 8 of these are two storey apartments with direct access from the ground floor. Level 6 has 11 apartments off a single core, however all of these are two storey apartments. The remainder of the levels have a maximum of 8 apartments off the core.</p> <p>Building 3 has 11 apartments on level 6 off a single core, however all of these are two storey apartments.</p> <p>The ADG provides that where the design criteria requiring no more than 8 apartments per level off a single core, no more than 12 apartments should be provided off a circulation core on a single level.</p>

4F Common Circulation and Spaces	Compliance	Comment
		Given more than 8 apartments off a core only occurs where two storey apartments are proposed, and the quality of the corridor is considered high (that being well lit and ventilated by having 3 openings), this is considered acceptable.
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.	Subject to conditions	Some minor design conditions are recommended to address the location of bedroom windows relative to corridor openings. This is discussed in the issues section below.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Ventilation and daylight are provided to all circulation spaces.

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ <p>(Minimum 50% storage area located within apartment)</p>	Yes	The proposal provides the minimum amount of storage as required by part 4G.

State Environmental Planning Policy (Infrastructure) 2007

56. The provisions of SEPP (Infrastructure) 2007 (ISEPP) have been considered in the assessment of the development application.
57. As the development is within the vicinity of overhead power lines and will involve the penetration of the ground near power lines, the application was referred to Ausgrid under the provisions of clause 45 of the ISEPP.

58. Ausgrid provided a response on 30 June 2019. It provided consent to the development subject to conditions about conduit installation, street lighting, and proximity to existing network assets including underground cables. These conditions are recommended to be included in the notice of determination at attachment A.

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

59. The BASIX Certificate has been submitted with the development application.
60. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

Sydney Local Environmental Plan 2012

61. The site is located within the B4 mixed use zone. The proposed uses are defined as residential accommodation and café, and are both permissible with consent.
62. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	A maximum height of 22m is permitted. A height of 22m is proposed.
4.4 Floor Space Ratio 6.14 Community infrastructure floor space at Green Square 6.21(7) Design Excellence	Yes	<p>An FSR of 1.5:1 is permitted for the site as per clause 4.4 of Sydney LEP 2012.</p> <p>An additional 0.5:1 bonus FSR is permitted pursuant to clause 6.14 of Sydney LEP 2012.</p> <p>This additional 0.5:1 bonus FSR is available as a planning agreement was executed as part of the concept consent ensuring community infrastructure will be provided as required under the LEP. This community infrastructure included a monetary contribution earmarked for community infrastructure in Green Square and an easement over a through site link.</p> <p>An additional 0.2:1 FSR is also permitted as per clause 6.21(7) of Sydney LEP 2012. This is because the subject development is a 'building demonstrating design excellence' and as such is eligible for an additional 10% floor space.</p> <p>Overall an FSR of 2.2:1 is permitted. A FSR of 2.199:1 is proposed.</p>

Development Control	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The subject site does not have any heritage contribution to the streetscape or immediate locality.</p> <p>The subject site adjoins the northern and western boundaries of Mentmore House, which is a locally listed heritage item under Sydney LEP 2012. The proposed design, setback, location, articulation and materials of the new buildings will not have a negative impact on the heritage item.</p> <p>A structural verification letter prepared by Weber Design Consulting Engineers (dated 9 April 2019) was also submitted with the application. It provided comments and recommendations to ensure that Mentmore House is not impacted during construction. Further structural assessment will be required prior to the issue of any construction certificate, and conditions are also recommended including dilapidation reports, vibration monitors, and photographic archival documentation. These conditions are included at attachment A.</p>
6.21 Design Excellence	Yes	<p>The proposal is considered to exhibit design excellence as required by clause 6.21 of Sydney LEP 2012.</p> <p>The proposal is the winner of a competitive design process and has retained the key elements of the winning proposal.</p> <p>The development will improve the quality of the public domain by providing a through site link between Mentmore Avenue and Dunning Avenue.</p> <p>The height, proportion and setbacks of building 3 respect and complement the adjoining heritage item, Mentmore House.</p>

Development Control	Compliance	Comment
		<p>The bulk, massing and modulation of the buildings, in particular the 5:2 proportions were considered favourably by the selection panel at the design competition and by DAP.</p> <p>The development has been well designed to overcome environmental impacts; including achieving compliance the ADG for solar access and cross ventilation.</p> <p>Subject to minor design changes, the development will achieve adequate visual and acoustic privacy.</p> <p>The development also exceeds in the minimum level of compliance for BASIX and will include photovoltaic panels on the roof (by condition), subject to approval from CASA.</p> <p>The development retains all street trees and a number of trees on the site, exceeds the minimum amount of deep soil area as required by the Sydney DCP 2012 and communal open space as required by the ADG. Further coordination of the landscape design is required as a condition of the consent</p>
<p>Division 1 Car parking ancillary to other development</p> <p>7.5 Residential flat buildings</p>	Yes	<p>A maximum of 141 residential car spaces are permitted and there are 126 residential car spaces proposed.</p> <p>A maximum of 16 visitors spaces are permitted and there are 5 visitors spaces proposed.</p> <p>The proposed also includes 2 car share spaces and 1 service space. However, as per clause 7.2(1)(b) and (e), these spaces are not included in the definition of car parking space.</p>
7.13 Contribution for the purpose of affordable housing	Yes	The development is subject to an affordable housing contribution. This is discussed further in the contributions section below.

Development Control	Compliance	Comment
7.14 Acid Sulphate Soils	Yes	<p>The site is identified as containing class 5 acid sulphate soils. However given the excavation and dewatering required, a preliminary Acid Sulfate Soils statement was provided.</p> <p>This report concluded that the development will not adversely affect neighbouring premises and there is no known occurrence of Acid Sulfate soils on the site.</p>
7.15 Flood planning	Yes	<p>The site is not affected by flooding however the application is accompanied by an assessment to ensure compliance with the general flood protection control of floor levels being 300mm above adjoining invert of gutter.</p> <p>The application is also accompanied by a detailed storm water management report addressing storm water quantity and quality management.</p>
7.16 Airspace operations	Not applicable	The proposed development does not penetrate the Obstacle Limitation Surface for the Sydney Airport.
7.17 Development in areas subject to airport noise	Not applicable	The proposed development is located within 15 ANEF and is not subject to this clause.
7.20 Development requiring preparation of a development control plan	Yes	The site is subject to a concept consent. Pursuant to section 4.23 of the Environmental Planning and Assessment Act 1979, the approval of a concept consent satisfies this requirement.

Sydney Development Control Plan 2012

63. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

2. Locality Statements – Beaconsfield

The subject site is located in the Beaconsfield locality. The proposed development is considered to be consistent with the surrounding character of the locality in that it will provide denser urban development on the eastern edge of the locality, and provides a through site link to improve connectivity.

3. General Provisions	Compliance	Comment
3.1.2.2 Through site links	Yes	The proposal provides a through site link which crosses centre of site connecting Dunning Avenue to Mentmore Avenue. It has a width of 6m, provides a clear line of sight between Dunning Avenue and Mentmore Avenue, is fully accessible and includes landscaping to assist in guiding people along the through site link. There is also a 'hole in the wall' café proposed directly adjacent to the through site link which will help activate the through site link and improve passive surveillance.
3.1.5 Public Art	Subject to condition	A public art plan was submitted and approved as part of the concept consent. A further revised preliminary public art plan was submitted as part of the subject application, and conditions are recommended to require a detailed updated public art plan prior to issue of a construction certificate.
3.1.6 Sites greater than 5,000sqm	Yes	The proposal includes a through site link which will improve the pedestrian connectivity between Mentmore Avenue and Dunning Avenue, and help break up the large street block. Each building has a clear entrance from the street and the through site link and the indicative locations of the public art are in accessible open spaces.

3. General Provisions	Compliance	Comment
3.2.2 Addressing the street and public domain	Yes	<p>As above, each building has a direct street address and direct line of sight from the public domain to the building common entries. The building also has entries off the through site link.</p> <p>The building is setback to retain the existing street trees and a number of existing onsite trees along Mentmore Avenue and Dunning Avenue.</p> <p>Building 1 and 2 fronting Dunning Avenue have ground floor apartments which are designed as two storey terraces.</p> <p>These dwellings have direct entries from the street. They are setback between 4.8 and 6metres from the public domain. Brick and aluminium fencing is setback 1m from the public domain and deep soil landscaping is proposed on either side of the fence.</p> <p>The ground floor dwellings have a floor level of approximately 200mm - 600mm higher than the adjacent public domain.</p> <p>Building 3 fronting Mentmore Avenue has ground floor apartments which have direct entries from the street.</p> <p>These dwellings are setback a minimum of 4.3m to 7m from the public domain. Brick and aluminium fencing is proposed between 2.9m and 5.8m from the public domain, which enables sufficient space for deep soil landscaping on either side of the fence. The ground floor sits approximately 200mm above the adjacent public domain level.</p> <p>The massing and stepped building form provides areas for landscaping and trees, and is considered to assist in modulating the building façade.</p>

3. General Provisions	Compliance	Comment
		A condition is recommended to ensure that the first floor balustrade is sufficiently solid so as to protect the privacy of those occupants.
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The development underwent a competitive design process which was undertaken in accordance with the City of Sydney Competitive Design Policy. The design excellence strategy was endorsed as part of the concept consent and the ESD targets set in that strategy (being an additional 5 point for energy and water for BASIX) have been carried through to the subject proposal.</p> <p>As a consequence of the competitive design process, the development is considered to be a 'building demonstrating design excellence' as discussed above under clause 6.21 of Sydney LEP 2012, and is recommended to be awarded up to an additional 10% floor space.</p>
3.5 Urban Ecology	Assessed as acceptable	There are 49 trees on the site and in the adjacent public domain. The development proposes to retain 24 trees, including all existing street trees. This is discussed further in the issues section below.
3.6 Ecologically Sustainable Development	Yes	The proposal exceeds the minimum BASIX targets by 5 points for both water and energy. The applicant has also agreed to install photovoltaic panels on the roof which will improve the energy efficiencies for the development.
3.7 Water and Flood Management	Yes	This is discussed under clause 7.15 above.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	Strata subdivision will occur as a consequence of the proposal. The communal facilities, visitor parking and loading will remain within common property.

3. General Provisions	Compliance	Comment
3.9 Heritage	Yes	This is discussed under clause 5.10 of the Sydney LEP 2012 above.
3.11 Transport and Parking	Subject to condition	The proposed development provides less than the maximum car parking spaces permitted, which is consistent with the Sydney LEP 2012. The development does not apportion a sufficient number of spaces to visitors and this is discussed further in the issues section below.
3.12 Accessible Design	Yes	<p>There is no equitable access accessible access provided (other than an internal lift in building 1) to the communal open space on podium or the music room. A condition is recommended to ensure that accessible access is provided to these areas.</p> <p>There are 22 (15%) adaptable apartments, which is consistent with the adaptable dwelling mix requirement in 3.12.2 of the Sydney DCP 2012.</p>
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Assessed as acceptable	The proposed waste management plan is generally acceptable. The Guidelines for Waste Management in New Developments at 3.2 says that if a chute system is used in a building less than nine storeys, a waste chute plus space for recycling bins in chute rooms must be provided in case of chute break down. While there is some space in front of the chutes, there is not enough space for a 240L bin. It is considered that in the event that the chute break down, residents can take the rubbish down to the holding rooms in the basement.

3. General Provisions	Compliance	Comment
3.15.4 Trading hours and trial periods	Yes	The proposed café is considered to be a category B premises and it is not located in any designated late night trading areas. As such, the base indoor hours of 7am to 10pm are recommended for the café. This is included as a condition of consent.
3.16 Signage and Advertising	Subject to condition	Wayfinding and signage was requested from the applicant, however the applicant advised that they wanted to develop this in consultation with the project architect and be dealt with as a condition of consent. Given this development is residential, and there is only a 10m ² café, this is considered acceptable and can be addressed by condition.

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.1 Building height	Assessed as acceptable	The permitted height in storeys control is six (6) storeys for the subject site. The development proposes seven (7) storeys. This is discussed further in the issues section below.
4.2.1.2 floor to ceiling heights and floor to floor heights	Assessed as acceptable	This café has a floor to ceiling height of 2.6m. However, given it is only 10m ² , and it is intended to be a 'hole in the wall' along the through site link, the floor to ceiling height is considered acceptable. Any additional height would increase the height of the music room and this would result in additional overshadowing of the communal open space.

4. Development Types	Compliance	Comment
4.2 Residential flat, commercial and mixed use developments		
4.2.2 Building setbacks	Yes	The development generally retains the setbacks established by the concept envelope. The setbacks within the development and between neighbouring properties are generally considered acceptable, subject to conditions, and are discussed further in the issues section below.
4.2.3 Amenity	Yes	The proposal will result in an acceptable level of amenity. Privacy and landscaping is discussed further in the issues section below.
4.2.4 Fine grain, architectural diversity and articulation	Yes	The scale, modulation and articulation of the facade responds appropriately to the surrounding urban context.
4.2.5.4 Residential uses on the ground and first floor	Yes	The proposal includes residential uses on the ground and first floor. The design of the ground and first floor level are considered acceptable, and are discussed above at 'section 3.2.2 Addressing the street and public domain.'
4.2.6 Waste and Recycling Management	Assessed as acceptable	This issue is discussed above under 3.14 Waste.
4.2.7 Heating and Cooling Infrastructure	Yes	All heating and cooling infrastructure are centrally located in each building and are accessible if need be for maintenance.
4.2.8 Letterboxes	Yes	The proposed letter boxes are located behind a gate, but in front of the door to the building entry for each building. This location is considered appropriate.
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	The proposed 10m ² café will not detract from the surrounding residential amenity.

5. Specific Areas Green Square	Compliance	Comment
5.2.3 Community infrastructure	Yes	The concept development included a planning agreement, which provided a monetary contribution towards community infrastructure and an easement over a through site link.
5.2.5.2 Through site links	Yes	The proposed development includes a 6m wide through site link. As required by clause 5.2.5.2(6), windows, doors and balconies on the ground level front the through site link. There are no blank walls on the subject site which front the through site link.
5.2.7 Stormwater management and waterways	Yes	This issue is discussed under clause 7.15 of the Sydney LEP 2012.
5.2.9 Building design	Yes	The subject buildings are compatible with the surrounding area, has a cohesive architectural expression, and the provision of the through site link provides a visual connection between Mentmore Avenue and Dunning Avenue.
5.2.10 Setbacks	Yes	The proposed setbacks retain the existing street trees, ensures a positive relationship between the buildings, the public domain and the adjoining heritage item, and creates an adequate level of privacy between the street and ground floor residential uses.

Issues

Height in storeys

64. Section 4.2.1.1 of the Sydney DCP 2012 permits a maximum of six (6) storeys. The development proposes seven (7) storeys. This is shown in the figure below.

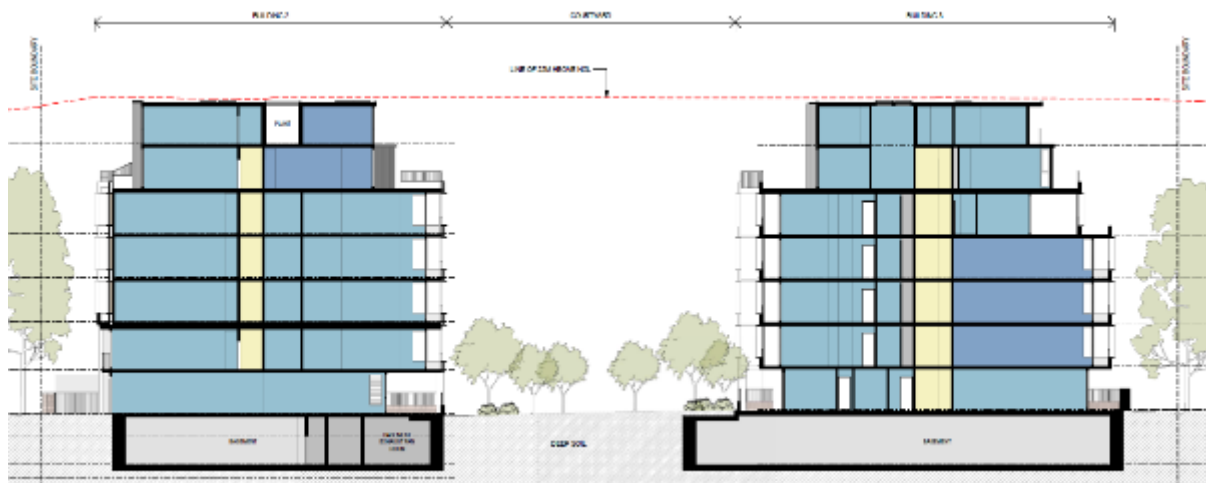


Figure 49: Section through buildings 2 and 3, showing height in storeys and 22m height limit

65. This numeric non-compliance is considered acceptable for the following reasons:
- The development is setback a minimum of 4.8-5 metres from the public domain, and the upper two storeys are setback an additional 2 metres. These setbacks reduce the perceptible bulk of the additional upper level.
 - The seven (7) storey form, in particular the 5:2 proportions the building were considered to be a positive element of the design competition winning scheme and were commended by DAP.
 - The development meets the minimum floor to ceiling heights as required by the ADG. This is achieved by including two sets of two-storey apartments in building 1 and 2, and one set in building 3.
 - The proposal development sits within the permitted 22 metre height limit and includes spaces within level 7 for plant and services so they don't protrude above the height limit.
 - A review of the surrounding context shows that the buildings to the south of the site are built or approved as seven (7) storeys or up to 22metres. The aerial in the figure below shows the locations of these sites.
 - For example, the building at 31-21 Mentmore Avenue has 6 storey street wall height and setback seventh storey, and is built to the boundary. The subject development is setback from the public domain. This makes the upper levels of the subject development appear more recessive than the neighbouring developments.



Figure 50: Aerial showing sites on same block with 7 storeys approved

Relationship between the buildings and boundaries

Building 1

66. The proposal includes a secondary window on the southern side boundary in apartment 1201. This is shown in the figure below. This window is required to be deleted by condition. There is no easement proposed over this window to protect light and air, and the neighbouring development is proposed to be built to the boundary. As such, this window is recommended to be deleted by condition.

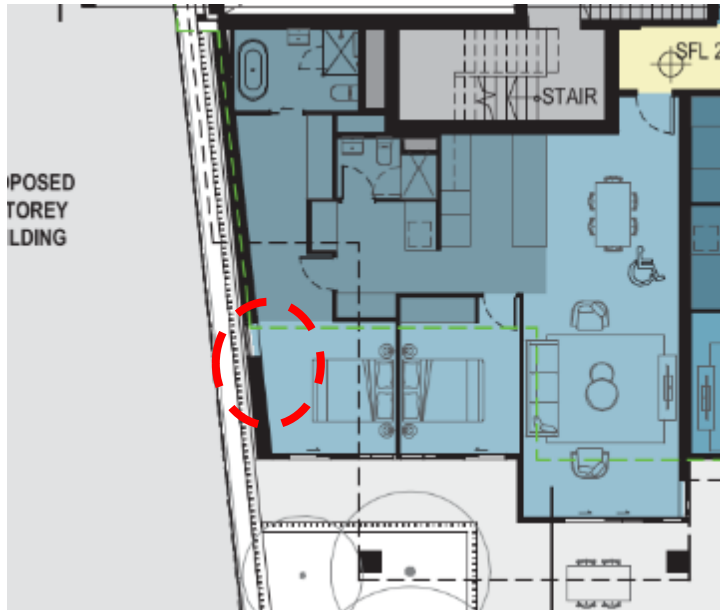


Figure 51: Apartment 1201

67. The proposal includes bedroom openings within in close proximity to each other in building 1. These openings are shown in red in the figure below and occurs on levels 2 to 5. A blade wall or hood which does not obstruct natural cross ventilation is required to be added to the secondary bedroom window in typical apartment 08.



Figure 52: Typical apartment 08 in building 1

68. The development includes windows 3.6 metres from the south boundary. The ADG recommends a minimum setback of 6 metres for habitable openings. This is shown in the figures below.

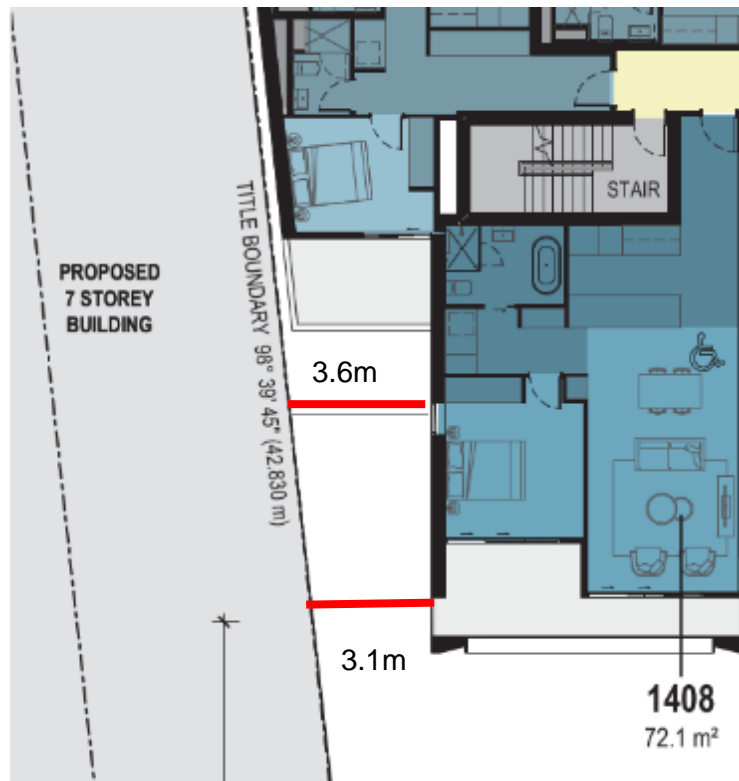


Figure 54: Southern facing apartment on levels 2 to 5 showing setback

69. Given the building to the south is proposed to be built to the boundary, it is likely this will be a blank wall and therefore have no openings. In addition to this, the window will be required to have a covering (hood or blade wall) which will further obstruct overlooking. The balcony is principally orientated towards the courtyard, subject to a condition requiring operable louvres being installed on the southern end of the balcony, this setback is considered acceptable.

Building 2

70. The proposed development also includes a window which is located close the external fire stairs in apartment 2201. This is shown in the figure below. A blade wall or hood which does not obstruct natural cross ventilation is required to be added to this window to provide improved visual and acoustic privacy.



Figure 53: Apartment 2201

71. Building 2 includes windows and balcony openings 3 metres from the north boundary. This is shown in the figures below.

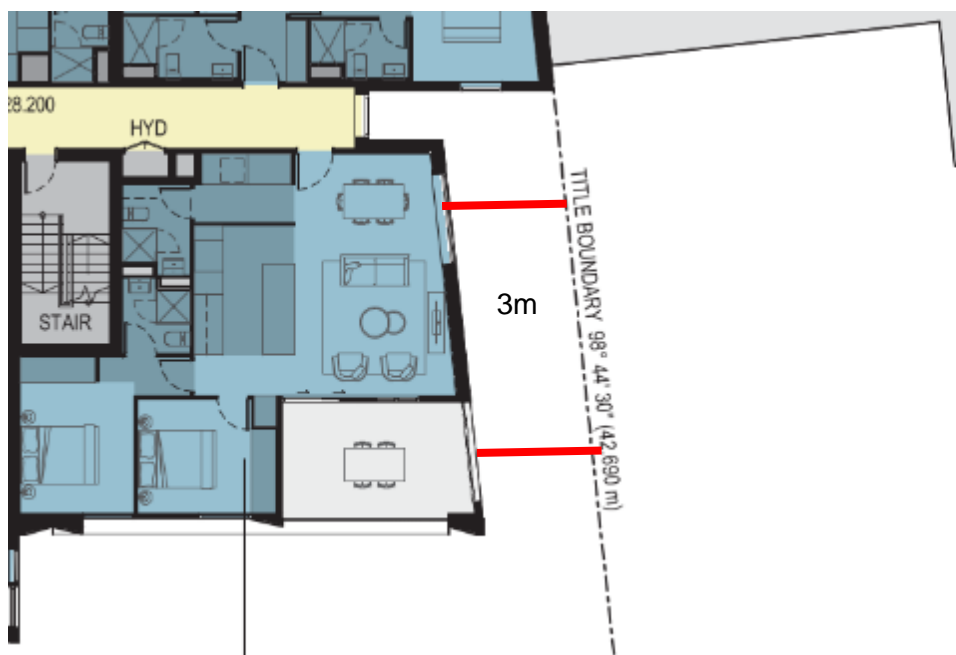


Figure 54: Northern setback to boundary on levels 1 to 5 of building 2



Figure 55: Northern setback to boundary on level 7 of building 2

72. The ADG recommends a minimum setback of 6 metres for habitable openings.. On balance, these setbacks are considered acceptable for the following reasons:
- (a) All larger windows facing north have a sill height at 1.8m above the finished floor level which will obstruct overlooking and mitigate noise transfer.
 - (b) The openings to the private open space which face north are secondary openings, as the private open space is principally orientated towards the communal open space. However, the development to the north is built to the southern boundary on the western side of the site. This is shown in the figures below.
 - (c) The northern balcony openings to building 2 are acceptable subject to operable louvres being installed to mitigate any acoustic and visual impacts.



Figure 56: Aerial photograph showing relationship between subject site and northern neighbouring property. The east of the northern site is setback approximately 14m from the southern boundary. The western side of the development is built to the southern boundary and has windows facing east.



Figure 57: Photograph from northern neighbouring site showing the interface of western part of site which is built to the southern boundary.

Building 3

73. The proposal includes a bedroom window on levels 1 to 3 of building 3 which is setback from the street. This is shown in the figure below. The design of this apartment needs to be adjusted so that the rear bedroom has access to light and outlook. This can be done by increasing the bedroom size to accommodate an outward facing window and increase the size of raised planters to minimum 4 metre length (to match the bedroom), 1.5 metres wide and 800mm depth.

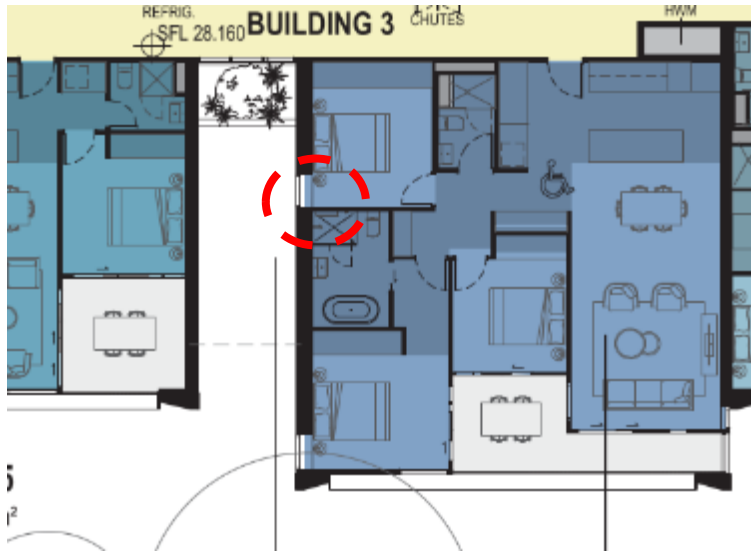


Figure 50: Setback/inboard bedroom window in building 3

74. The increase in bedroom size will increase the GFA of the development by approximately 6m², which is still within the permitted FSR for the development. This additional floor area will also be added to the TFA amount for the affordable housing contribution.
75. Building 3 includes habitable openings and balcony openings 3 metres from the northern boundary. The ADG recommends a minimum setback of 6 metres for habitable openings.



Figure 51: Building 3 showing setbacks to northern boundary

76. On balance, these setbacks are considered acceptable for the following reasons:

- (a) All larger windows facing north have a sill height at 1.8m above the finished floor level which will obstruct overlooking and mitigate noise transfer.
- (b) The smaller windows facing north only occur on building 3, are secondary windows, are 600mm wide and are located at the very eastern end of the room (as opposed to in the middle of the habitable, usable part of the rooms). The existing site to the north has been recently developed and is setback from this boundary by approximately 14 metres. An aerial image and photographs showing these relationship are included above below. Given the size of these windows and location within the apartment, and the setback of the neighbouring development, these windows are considered acceptable.



Figure 52: Photograph from eastern side showing setback of northern neighbour from southern boundary.

- (c) The openings to the private open space which face north are secondary openings, as the private open space is principally orientated towards Mentmore Avenue. The development to the north is setback from the southern boundary on the eastern side by approximately 14metres. On this bases, the balcony openings to the building 3 are considered acceptable as the building to the north is setback.

Trees

- 77. There are 49 trees on the site and in the adjacent public domain. The development proposes to retain 24 trees, including all street existing street trees.

78. According to the submitted Arboricultural impact assessment, version 9, prepared by Ecological Australia and dated 19 January 2020, two of the high retention value trees, trees 11 and 44 are only proposed to be removed because they are at either end of the through site link and they obstruct access.
79. Given the significance of these trees (that being eucalypts with a height of 11m and 16m) and the through-site link is 6metres in wide, Council staff do not think these trees need to be removed to provide access to the through site link.
80. As such, the proposal will result in the removal of 23 of trees. Of these 23 trees to be removed, 3 are dead or dying, 3 are high retention value, 3 are medium retention value and 14 are low retention value.
81. It is considered acceptable that the remainder of the trees on site are removed, as the development has setback from the public domain to maximise the number of trees retained. The proposal also introduces a large amount of deep soil and will enable significant replanting to offset any urban canopy loss. In addition three large driveway crossovers will be removed from the site enabling additional planting in the road reservation on Dunning Avenue and Mentmore Avenue.
82. Concern was raised about the proposed location of construction waste as detailed in the submitted construction waste management plan, and site access proposed in the construction traffic management plan. These issues will be addressed by conditions as these plans are not approved as part of the development application.

Landscaping

83. The development provides extensive deep soil areas and retains a number of trees which contribute to the amenity of the area and the development. The proposed landscaping is supported in principle, but is subject to conditions which require the following items to be resolved prior to issue of the first construction certificate:
 - (a) Coordinate services to minimise impacts on retained trees, ensure all paved areas in private open space areas are permeable and laid on flexible sand base and ensure the landscaping provides a high amenity, quality and privacy between the private open space and public domain / street edge.
 - (b) Rationalise the stormwater design and location of junction pits and pipes to OSD tank on Dunning and Mentmore Avenue.
 - (c) Provide details which demonstrate that the landscape features located on the edges of the TSL comply with the Sydney Landscape Code.
 - (d) Resolve level change and provide equitable access between Level 1 and 2 common open space.
 - (e) Review the design of all private courtyard terraces to ensure privacy and landscaping with adequate soil depth for trees and shrubs.
 - (f) Amend common open space design to accommodate access consultant recommendations to include seating and table seating with an area that has no built in seating so that a person using a wheelchair can use it.
 - (g) Design planters on balconies to Level 2-6 planters ensure planting suitable for shaded microclimate

- (h) Review rainwater tank size and confirm increase capacity of rainwater harvesting reuse for irrigation purposes.

Car parking and bike parking

- 84. The proposal includes 128 residential car parking spaces and 5 visitor spaces. This is inconsistent with section 3.11.4 (6) which specifies that where a residential development proposes less than the maximum number of car parking spaces permissible under the Sydney LEP 2012, the reduction in the number of spaces should be shared proportionally between resident parking spaces and visitor parking spaces.
- 85. As such, this will result in a reduction of residential car parking number by 8 spaces and an increase in visitors' parking by 8 spaces. This is discussed is addressed by condition at attachment A.
- 86. The proposal includes bike parking, however the following details are required and are addressed by conditions:
 - (a) A breakdown of bicycle parking showing the number of class 1, class 2 and class 3 bicycle spaces.
 - (b) Confirmation that the that the bike parking meets the Australian Standards or Sydney DCP 2012; and
 - (c) Visitor bike parking is provided as class 3 at grade bike parking.

Other Impacts of the Development

- 87. The proposed development is capable of complying with the BCA.
- 88. 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

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

Internal Referrals

- 90. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Licenced Premises; Public Domain; Safe City; Surveyors; Transport and Access; Social Planning; Tree Management; Waste Management. Relevant conditions are included in the notice of determination at attachment A.

External Referrals

- 91. The application constitutes integrated development and as such the application was notified and advertised for 28 days between 4 May 2019 4 May 2019 and 1 June 2019 1 June 2019 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification, there were three (3) submissions received.

- (a) Traffic impacts of the development and adequacy of documentation
 - (i) Response - Further traffic documentation was submitted during the course of the assessment, which was reviewed by the City's transport planner and is considered acceptable.
- (b) Density of the development
 - (i) Response - The density is consistent with the permitted floor space ratio controls of the site as per Sydney LEP 2012.
- (c) Dilapidation reports
 - (i) Response - These will be required as a condition of consent.
- (d) Construction management plan - liaise with neighbours
 - (i) The relevant construction management plans will be developed as part of the construction certificate. The developer will be required to comply with these plans as conditions on the consent.
- (e) Relationship to western side boundary of Mentmore House.
 - (i) This has been provided and forms part of the approved document set and considered acceptable as it adjoins the blank rear facade.
- (f) Privacy to the apartment block to the north
 - (i) This issue is discussed in the issues section, and is considered to be acceptable subject to conditions.
- (g) Impact on outlook to northern apartment building given height
 - (i) The development complies with the permitted height control of 22m, as set by the Sydney LEP 2012. Photovoltaic panels are also proposed to go on the roof, which will sit above this height limit however are considered to be a positive addition to the development. Any loss of district views to the south as a consequence of this proposal are not unreasonable.

Public Interest

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

Affordable housing contribution

93. Pursuant to clause 7.13 of Sydney LEP 2012 and the Green Square affordable housing program, the development is subject to an affordable housing contribution (to be indexed at the time of payment). This figure totals \$4,278,078.60, and is broken down as follows:
- (a) \$4,277,299.40 (\$233.86 per square metre, with a total area of 18,290m² for residential floor area);
 - (b) \$779.20 (\$77.92 per square metre, with a total area of 10m² for non-residential floor area).

S7.11 Contribution

94. 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 population increase.
95. Credits have been applied for the most recent past use(s) of the site. Survey information was provided by the applicant which verified the floor area of the commercial premises which were previously used as warehouses and offices.
96. The following monetary contribution is required towards the cost of public amenities:
- | | |
|---------------------------|----------------|
| (a) Open Space | \$1,705,084.00 |
| (b) Community Facilities | \$344,253.73 |
| (c) Traffic and Transport | \$320,786.94 |
| (d) Stormwater Drainage | \$126,891.56 |
| Total | \$2,497,016.23 |

Relevant Legislation

97. Environmental Planning and Assessment Act 1979.
98. Water Management Act 2000.
99. Sydney Water Act 1994.
100. Airports Act 1996.

Conclusion

101. The proposal seeks approval for demolition of existing buildings, remediation, and construction of 3 x 7 storey residential flat buildings containing 144 apartments and an associated cafe.
102. The proposal has been amended during the course of the assessment to address cross ventilation, visual and acoustic privacy, tree loss, deep soil and landscaping, remediation, waste and basement access and layout.
103. The site is subject to a concept consent approval and this detailed DA is consistent with the approved envelopes and conditions.
104. The proposed development is compliant with the FSR and height permitted under Sydney LEP 2012. The development meets the objectives of the ADG, including achieving a compliant amount of solar access and natural cross ventilation, and demonstrates good design when considered against the design principles in SEPP 65. The development retains all street trees and provides quality deep soil area which exceed the minimum requirements. The development responds to and respects the adjoining heritage item, Mentmore House.
105. Subject to the implementation of conditions, as detailed in the report and attachment A, it is considered that the proposed development is generally compliant with the planning controls for the site. In the instance where numeric compliance is not achieved, for example height in storeys control, there is considered to be reasonable justification to support the variations.

ANDREW THOMAS

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