

Attachment A

<p>Independent Assessment Report (Planning Ingenuity)</p>
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Development Application: 94-104 Epsom Road, Zetland - D/2019/976**File No.:** D/2019/976**Summary**

Date of Submission:	3 September 2019. Several iterations of amendments were submitted up until 15 June 2020.
Applicant:	Karimbla Construction Services (NSW) Pty Ltd
Architect/Designer:	SJB Architects
Developer:	Karimbla Construction Services (NSW) Pty Ltd
Owner:	City of Sydney Council - to be purchased by Karimbla Properties (No.48) Pty Ltd
Cost of Works:	\$108,279,464
Zoning:	The site is zoned B4 Mixed Use under the Sydney Local Environmental Plan 2012 (the LEP). The proposed uses comprise residential apartment buildings, shop top housing and commercial premises, all of which are permissible with consent in the B4 zone.
Proposal Summary:	<p>The application seeks consent for excavation, remediation, and the staged construction of a mixed-use development of three buildings ranging from 4 to 13 storeys in height, comprising:</p> <ul style="list-style-type: none">• 271 residential apartments, retail and commercial land uses;• associated landscaping and public domain works;• provision of 184 car parking spaces and services;• public benefits, including the construction of new roads, including a portion of Rose Valley Way and George Julius Avenue, Epsom Road footpath widening, and construction of part of the Green Square Trunk Drain; and• staged subdivision of development lots and road dedication. <p>The application is Integrated Development requiring approval by Water NSW under the Water Management Act 2000.</p>

As Integrated Development, the application was notified and advertised for 30 days between 11 September 2019 and 11 October 2019 in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000. Ten (10) submissions were received raising concerns regarding traffic and parking, excessive height and density, lack of infrastructure, overshadowing, visual and acoustic privacy, construction noise and dust, lack of deep soil and loss of trees. These concerns are addressed within the report.

During the assessment the scheme was amended and additional information was submitted to address the concerns of the City's Design Advisory Panel and Council officers. These concerns primarily related to:

- contamination and remediation;
- public domain interface;
- building expression;
- natural ventilation;
- solar access;
- traffic and parking;
- waste management;
- landscaping, communal open space and deep soil;
- visual and acoustic privacy;
- environmentally sustainable design; and
- public art strategy.

These issues have generally been addressed and/or justified by the applicant in the amended plans and documentation. Subject to the recommended conditions of consent, the proposal is considered to achieve an acceptable degree of compliance with the relevant planning controls, provides an adequate level of residential amenity and reasonable impacts on surrounding development and the locality.

The amended application was not required to be renotified, as it was considered that the amendments were not significant and did not result in any further impacts.

The proposed development is generally consistent with the core development standards and zone objectives contained in the LEP with the exception of the Height of Building and Floor Space Ratio development standards. The proposed maximum heights are 23m and 25.5m (Building A) and 46.5m (Building C) which exceeds the respective 22m, 25m and 45m maximum heights prescribed under Clause 4.3. A floor space ratio of 2.48:1

is proposed which exceeds the maximum floor space ratio of 2.25:1 prescribed under Clause 4.4 (inclusive of a 0.5:1 community infrastructure bonus pursuant to Clause 6.14).

Written Clause 4.6 requests to vary the height of building and floor space ratio standards have been submitted by the applicant and are supported in this instance.

The development has been the subject of a competitive design process, with the SJB design selected as the winning scheme. The proposal is generally consistent with the design that was selected as the winner of the competitive design process and has adequately addressed the recommendations of the competitive design process selection panel.

The site is subject to the specific area controls for Epsom Park contained in section 5.3 of the Sydney DCP 2012 (the Epsom Park DCP). The Epsom Park DCP sets out planning objectives and controls for the precinct and subject site including indicative building envelopes, setbacks, building height in storeys and street wall heights, new streets and public domain requirements. In this instance of indicative building envelopes having already been established, it is recommended that the requirement for a site specific development control plan or a concept (stage 1) DA is unnecessary in the circumstances of this application.

The development performs well against the relevant built form and amenity controls in the Sydney DCP 2012 and SEPP 65. Where the proposal departs from controls, it is considered that urban design and amenity objectives have been achieved and addressed.

The future owner of the site has made a formal public benefit offer to enter into a voluntary planning agreement (VPA) for land dedication (3,126sqm) and construction of portions of Rose Valley Way and George Julius Avenue, for dedication of a 1.4m wide strip of land along the Epsom Road frontage of the site for footpath widening, and for construction of part of the Green Square Trunk Drain.

Overall, the proposal responds satisfactorily to its context, and achieves a high standard of architectural design that is considered to demonstrate design excellence and satisfy Clause 6.21 of the LEP.

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

- Development Controls:**
- (i) Environmental Planning and Assessment Act 1979
 - (ii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
 - (iii) State Environmental Planning Policy No. 55 - Remediation of Land
 - (iv) State Environmental Planning Policy (Infrastructure) 2007
 - (v) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
 - (vi) State Environmental Planning Policy 70 Affordable Housing (Revised Schemes)
 - (vii) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
 - (viii) Apartment Design Guide 2015
 - (ix) Sydney Local Environmental Plan 2012
 - (x) Sydney Development Control Plan 2012
 - (xi) City of Sydney Development Contributions Plan 2015

Attachments:

- B. Recommended Conditions of Consent
- C. Selected Drawings
- D. Clause 4.6 Variation Request - Building Height
- E. Clause 4.6 Variation Request – Floor Space Ratio
- F. Voluntary Planning Agreement
- G. Competitive Design Process Report

Recommendation

It is resolved that:

- (A) the variations requested to Clauses 4.3 'Height of Building' and 4.4 'Floor Space Ratio' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) the requirement under Clause 7.20 of the Sydney Local Environmental Plan 2012 requiring the preparation of a development control plan is unreasonable or unnecessary in the circumstances; and
- (C) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2019/976 subject to the conditions set out in Attachment B to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The applicant's written requests have adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the 'Height of Building' and 'Floor Space Ratio' development standards is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clauses 4.3 and 4.4 of the Sydney LEP 2012; and
- (B) The proposal is in the public interest because it is consistent with the objectives of the B4 - Mixed Use zone and the 'Height of Building' and 'Floor Space Ratio' development standards.
- (C) The proposal has been assessed against the aims and objectives of the relevant planning controls including SEPP 65, the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012. Where non-compliances exist, they have been demonstrated to be acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent.
- (D) The development is consistent with the design intent of the winning scheme of a competitive design process. The scale, form, articulation, materiality and architectural contribution of the proposed development is consistent with the Sydney DCP 2012 provisions for the Epsom Road precinct and the proposed development is consistent with the desired future character of the locality. The development satisfies design excellence provisions pursuant to Clause 6.21 of Sydney LEP 2012.
- (E) The proposed development is considered to be appropriate within its setting and is a mixed-use development comprising compatible uses that will support the vitality of the Epsom Park precinct, consistent with the desired future character for the locality.

Background

The Site and Surrounding Development

1. The site is legally described as [insert lot and DP] and is commonly known as 94-104 Epsom Road, Zetland.
2. The site is generally rectangular in shape with a frontage to Epsom Road of 84.78m, an eastern side boundary of 130.845m, a western side boundary to Fuse Street of 120.785m, and a northern boundary to the future Gunyama Park of 84.26m. The total site area is 10,590sqm.
3. The site has a gradual fall from south to north of approximately 3m, with the lowest point being in the northern corner (RL 18.49) and its highest point in the southern corner (RL 21.78). The site also falls from west to east by approximately 1.6m.
4. The site previously accommodated warehouse buildings that formerly operated as the City of Sydney Depot. Previous buildings have been demolished and the site is currently being used as a construction compound and storage area associated with the development of Gunyama Park and Aquatic Centre adjoining to the north.
5. The site is located within the Epsom Park precinct which is part of the Green Square Urban Renewal Area. The immediate surrounding context comprises mixed use development, including a mixture of residential, industrial and commercial land uses.

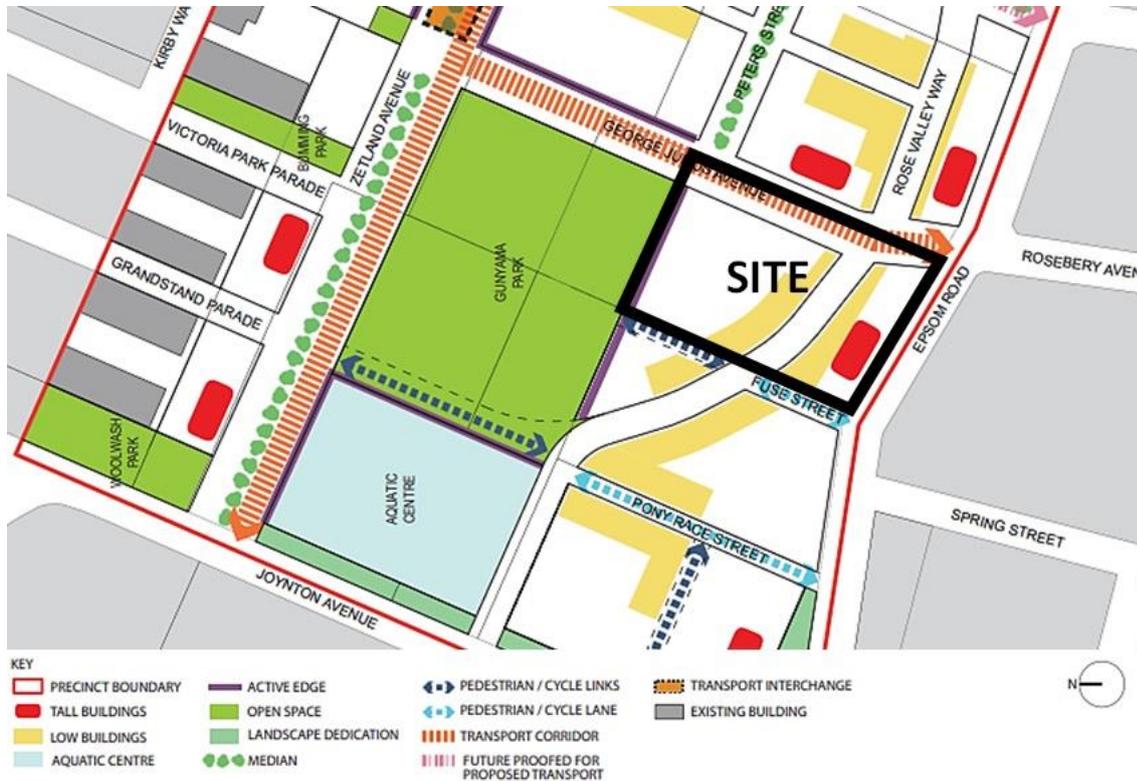


Figure 1 Extract from Epsom Park Strategy - Figure 5.44 under Part 5.3 of DCP (site outlined black)

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6. Adjacent to the west, on the opposite side of Fuse Street is another Meriton development at 84-92 Epsom Road known as the Symphony development and which was approved in September 2015 (D/2014/1928). The Symphony development is spread over two street blocks and comprises townhouse and residential apartment buildings ranging between 2 and 11 storeys in height (215 residential apartments), commercial floor space and basement parking for 223 cars. The development was not the subject of a Stage 1 concept application. It included community infrastructure through the construction of Fuse Street, parts of Rose Valley Way and Pony Race Street, and part of the Green Square Trunk Drain.
 7. To the east is a two storey commercial/office building at 106-116 Epsom Road. This site benefits from development consent (D/2015/913) for a development described as "demolition of the existing structures and removal of trees on site for the construction of a mixed use development comprising 5 buildings ranging between 5 and 14 storeys, accommodating 555 residential apartments and 840sqm of retail premises and the excavation of 2-4 levels of basement to accommodate 516 cars. The application also proposes landscaping, public domain works and subdivision to create 6 new lots". This is known as the 'Lincon' development. The development was subject to a Stage 1 concept application. It incorporates community infrastructure, including the construction of parts of Rose Valley Way, George Julius Avenue, Peters Street and Letitia Street, construction of part of the Green Square Trunk Drain, and dedication of land to from part of Gunyama Park. The approval was issued subject to deferred commencement consent and is yet to become operational.
 8. Opposite the site, on the southern side of Epsom Road is a two storey commercial building at 45-55 Epsom Road. The site contains the former "Moffat Virtue" warehouse and office building and which is identified as a local heritage item (I1379) under Sydney LEP 2012.
 9. No. 146–158 Joynton Avenue, located west of No. 84-92 Epsom Road is also identified as a local heritage item (I2280), known as former Joseph Lucas office, stairs and showroom including interiors and building setback.
 10. Directly adjacent to the north is the site of the future Gunyama Park Aquatic and Recreation Centre. Approved on 22 June 2016 (D/2016/824) this is currently under construction.
 11. The subject site does not contain any heritage items and is not within a heritage conservation area.

12. Photos of the site and surrounds are provided below:



Figure 2: Aerial image of subject site and surrounding area



Figure 3: Site viewed looking east along Epsom Road towards the site.



Figure 4: View north along Fuse Street.



Figure 5: View east across the site. The site is currently used for storage of construction equipment and materials associated with Gunyama Park and Aquatic Centre



Figure 6: View north-west across the site.



Figure 7: Site viewed from Epsom Road, looking west.



Figure 8: Local heritage item (I1379) located opposite the site known as "Moffat Virtue" warehouse.



Figure 9: Six (6) storey street frontage height for the "Symphony" building at No. 84-92 Epsom Road, adjacent to the west of the site.

Background to the Development Application

Competitive Design Process

13. A competitive design process was conducted in accordance with a Brief, which was endorsed by the City of Sydney on 19 December 2018. The Brief was issued to all invited competitors on 14 January 2019. Four (4) architectural firms - Fox Johnston, Turner, DKO, and SJB - submitted entries.
14. The competitive design process resulted in the SJB design being selected as the winning scheme. The Selection Panel resolved that the SJB design best demonstrated the ability to achieve design excellence and addressed the requirements of the competitive design process Brief.
15. The Selection Panel identified the following key elements of the SJB scheme and which were identified to be retained as part of any subsequent detailed design development application:
 - (a) the publicly accessible through-site link in the location proposed;
 - (b) the alignment of the through-site link with the gap between the towers on Epsom Road;
 - (c) the asymmetry of the façade facing Gunyama Park;
 - (d) the strength and consistency of the whole architectural expression, and particularly the depth of blades and their general distribution on the facades;
 - (e) the proposed selection and quality of materials;
 - (f) the quality and extent of the landscape proposition, including the planted rooftops; and,
 - (g) the level of residential amenity of the competitive design process scheme.
16. The Selection Panel also noted matters that required further attention prior to lodgement of a detailed design development application, as follows:
 - (a) ensure no habitable space breaches the LEP height limit;
 - (b) refine the building expression to the Epsom Road façade;
 - (c) refine facade design and achieve a clear two-storey street wall;
 - (d) address the length of the George Julius Avenue façade with distinctive breaks in the massing;
 - (e) improvements in the layout and amenity of the pool and gym;
 - (f) reconsideration of driveway locations;
 - (g) ensuring that each block is self-contained with regard to car parking and servicing;
 - (h) adjustment of unit layouts to improve outlook;
 - (i) provide terraces with individual connections to the podium car park;

- (j) ensure ground floor dwellings on the south side of Rose Valley Way have dedicated commercial space without compromising living rooms; and,
- (k) investigate opportunities for deep soil.

17. The proposal has retained those design elements identified as being integral to the SJB design being selected as the winner of the competitive process. Refer to the Issues section in this report for a discussion of how the proposal has addressed those items identified as requiring further work to achieve design excellence.

Early works development application D/2019/1159

18. A development application, D/2019/1159, was lodged on 18 October 2019 for tree removal, excavation, remediation, shoring and piling to facilitate the future construction of the development proposed under the subject application.

19. Development application D/2019/1159 is being assessed by Council officers and is to be determined by the Local Planning Panel.

History of the subject development application

20. During the assessment the application was amended, and additional information was submitted to address the concerns of the City's Design Advisory Panel and Council experts. A summary of the history of the application is as follows.

21. A letter requesting further information was sent to the applicant on 19 December 2019. The letter outlined a number design amendments and matters to be addressed, including:

- (a) Design changes
- (b) Improvements to solar access and cross ventilation for apartments;
- (c) Improvements to the public domain and Gunyama Park interfaces;
- (d) Increased internal building separation between blocks for Building A and towers for Building C;
- (e) Refinement of the building expression for the Epsom Road façade of Building C;
- (f) Increased and consolidated deep soil zones;
- (g) Enhancements to communal open space; and
- (h) Relocation of driveways.

Additional information

- Justification for not providing a site specific DCP;
- Clause 4.6 variation relating to FSR;
- Transport and parking amendments, including further details of traffic generation and reduction in car parking numbers;

- Updated waste management plan;
- Further details of land contamination, including a site audit statement;
- Updated Arborist Report;
- Updated ESD Report and BASIX/NatHERS stamped plans;
- Provision of a public art strategy.

22. A meeting between the applicant's project team, the assessing planner and City staff was held on 4 March 2020 to discuss the expected design changes and additional information required.

23. An amended proposal was provided to the City on 17 April 2020 and which incorporated the following design modifications and additional information.

Design modifications

24. Building separation between towers on Building C were increased to 10.1m and separation between blocks in Building A was increased to 5.6m.

25. Design of the development was amended, addressing comments from the Design Review Panel. Building C was refined, with changes to the appearance of the Epsom Road façade detailing and street wall.

26. Apartment layouts were reconfigured to incorporate privacy treatments and address concerns relating to cross ventilation and solar access.

27. Deep soil was increased, including a consolidated area of deep soil on the northern parcel.

28. Communal open space was amended.

29. Car and bicycle parking configuration was amended, including relocation of the driveway and basement to the northern parcel.

Additional information provided

30. Justification relating to the requirement to provide a site specific DCP pursuant to Clause 7.20 of SLEP 2012;

- a) Clause 4.6 variation request relating to FSR;
- b) Updated landscape plans;
- c) Updated Acoustic Report;
- d) Updated Waste Management Plan;
- e) A contamination site audit statement was submitted;
- f) Updated Arborist Report;
- g) A Public Art Strategy was provided; and
- h) Total Floor Area plans were provided.

31. A further request for additional information was sent to the applicant on 21 May 2020, requesting the following information:
- (a) Updated Clause 4.6 variation request pertaining to amended building heights;
 - (b) Amended Acoustic Assessment relating to the acoustic impacts of the Gunyama Park on the development;
 - (c) Updated NatHERS and BASIX Assessment addressing inconsistencies in the submitted documentation and the provision of BASIX / NatHERS stamped plans; and
 - (d) Clarification on whether winter gardens are proposed to the northern façade of Building A.
32. Further information was provided by the applicant on 28 May 2020, 9 June 2020 and 12 June 2020 relating providing additional information as requested on 21 May 2020.

Proposal

33. Tree removal, excavation, remediation and construction of a mixed use development comprising three buildings (A to C) ranging from 4 to 13 storeys in height, comprising:
- (a) Building A - 7 storeys in height fronting Gunyama Park to the north and George Julius Avenue to the east;
 - (b) Building B - 4 storeys in height containing townhouses fronting Fuse Street and Rose Valley Way;
 - (c) Building C - a 2 storey podium with two, 11 storey towers above (13 storeys in total), fronting Epsom Road, George Julius Avenue, Fuse Street and Rose Valley Way.
34. The development will contain a total of 271 residential apartments, and 582sqm of retail floor space fronting Epsom Road and Gunyama Park;
35. Provision of car parking and services:
- (a) Excavation of one (1) consolidated basement level under Buildings A and B, including ground level (Level 1) parking, car parking and loading/servicing areas;
 - (b) Excavation of two (2) basement levels under Building C for car parking, storage and servicing areas; and
 - (c) Provision of bicycle parking and end of trip facilities at Level 1 for Buildings A, B, and C.
36. A total of 151 resident car parking spaces, 24 visitor spaces, 3 retail spaces, 2 car share spaces, 2 service vehicle spaces, 2 car wash bays, 16 motorcycle spaces and 315 bicycle parking spaces.

37. Landscaping, deep soil and communal open space, including:
 - (a) Provision of deep soil and podium communal open space at Level 2 and rooftop communal open spaces at Level 7 for Buildings A and B;
 - (b) Communal open space at Level 3 and rooftop level of eastern tower for Building C;
 - (c) Amenities facilities, including swimming pool and gym at Level 2 in Building C;
38. Provision of deep soil zones and landscaping within building setbacks.
39. Civil works, including construction of parts of George Julius Avenue, Rose Valley Way, Epsom Road footpath widening, installation of stormwater, sewer and lighting infrastructure, new pedestrian footpaths and street tree planting.
40. Torrens title subdivision in 3 stages for road dedication of the parts of George Julius Avenue, Rose Valley Way, and Epsom Road footpath widening within the site and land.

Northern Parcel (Buildings A and B)

41. Building A comprises two separate blocks (joined by the basement below) located on the northern parcel of land, separated by a through site link. One block is 6 storeys in height and located on the northernmost part of the site and the other is 7 storeys in height and spans the eastern boundary of the northern parcel, adjacent to George Julius Avenue. Communal open space is located on both blocks at Level 7.
42. The building will contain a total of 112 apartments and 430sqm of retail floor space at ground level along the northernmost side of the site.
43. The northernmost part of Building A incorporates a 6m setback to the northern boundary at Level 1 with a 3m wide covered retail promenade. This will provide access to the proposed retail tenancies and space for future outdoor dining. Planters are provided along the northern side of the walkway, with pedestrian access points provided to Gunyama Park, which is currently under construction.
44. Three (3) residential lobbies are provided to Building A from street level; one (1) located off Fuse Street, one (1) off Rose Valley Way, and one (1) off George Julius Avenue.
45. Building B comprises of a part 3, part 4 storey L-shaped building in the southwest corner of the northern parcel. The building will contain 11 townhouse apartments, each with their own separate pedestrian access. Some of the apartments will be accessed directly from Fuse Street and Rose Valley Way, with some accessed via the Level 2 communal open space.
46. Both Buildings A and B will be located around a large central communal courtyard which incorporates deep soil landscaped area for the planting of large trees. It will also include outdoor furniture and play space.

47. Vehicular access to the northern parcel is provided from Rose Valley Way and accesses a loading dock at Level 1. A vehicular ramp provides access to a single level of basement parking below.
48. An electricity substation is proposed at Level 1 in the southwest corner of the northern parcel. Building services, and residential and retail waste storage is also proposed at Level 1.

Southern Parcel (Building C)

49. Building C comprises a 13 storey mixed use building, containing two 11 storey towers over a two storey podium. The building has street frontages to Epsom Road, Fuse Street, Rose Valley Way and George Julius Avenue.
50. The building contains 148 residential apartments and 153sqm of retail floor space. At Level 2 is 310sqm of amenities, including a gym and swimming pool for use of the entire development.
51. The retail floor space fronts onto and is accessed from Epsom Road at Level 1. A residential lobby is provided in both corners of the building, also accessed from Epsom Road. Split level apartments along George Julius Avenue and Rose Valley Way are accessed directly from the street.
52. A pedestrian through site link is located at Level 1 and broadly aligns with the through site link on the northern parcel.
53. Vehicular access to the site is provided from Rose Valley Way and provides access to two levels of basement car parking area. The basement levels also include servicing, residential storage, bicycle parking and refuse storage.

Civil Works

54. The applicant has put forward a Voluntary Planning Agreement that includes community infrastructure works with an attributed value of \$5,550,929.70, being:
 - (a) Construction of parts of Rose Valley Way (1,813sqm) and George Julius Avenue (1,201sqm);
 - (b) Dedication of 1.4m wide strip of land along Epsom Road (111.2sqm) for footpath widening;
 - (c) Construction of part of the Green Square Trunk Drainage system underneath Rose Valley Way; and
 - (d) Dedication of 3,125.2sqm of land for new roads and footpath widening, with an attributed value of \$625,240.

Staging

55. The development is proposed to be constructed in three (3) separate stages:
 - Stage 1 - construction of Building A (northern parcel)
 - Stage 2 - construction of Building B (northern parcel)

Stage 3 - construction of Building C (southern parcel)

Subdivision

56. The proposed development is to be subdivided in the following stages:

Stage 1

57. Subdivision of existing land to create five lots:

- (i) Lot 11 - Southern development lot with frontages to Epsom Road, Fuse Street and George Julius Avenue - 2,267sqm;
- (ii) Lot 12 - Northern development lot with frontage to Rose Valley Way, George Julius Avenue and Fuse Street - 5,201sqm;
- (iii) Lot 13 - Retained for future widening of Epsom Road footpath - 111.2sqm;
- (iv) Lot 14 - Retained for future creation of public road (Rose Valley Way) - 1,813sqm; and
- (v) Lot 15 - Retained for future creation of public road (George Julius Avenue) - 1,201sqm.

Stage 2

58. Subdivision of 2 lots:

- (i) Lot 23 - Dedication of land for footpath widening (Epsom Road) - 111.2sqm; and
- (ii) Lot 24 - Creation and dedication of public road (Rose Valley Way) - 1,813sqm.

Stage 3

59. Subdivision of 1 lot:

- (i) Lot 35 - Creation and dedication of public road (George Julius Avenue) - 1,201sqm.

60. Drawings and perspectives of the proposed development are provided below.



Figure 10: Photomontage of proposed Building A viewed from Gunyama Park



Figure 11: Photomontage of northeast corner of proposed Building A.



Figure 12: Photomontage of south-east corner proposed of Building A viewed from the intersection of George Julius Avenue and Rose Valley Way.



Figure 13: Photomontage of proposed Building C viewed from the intersection of Fuse Street and Epsom Road.



Figure14: Photomontage of proposed Building B viewed from the intersection of Fuse Street and Rose Valley Way.

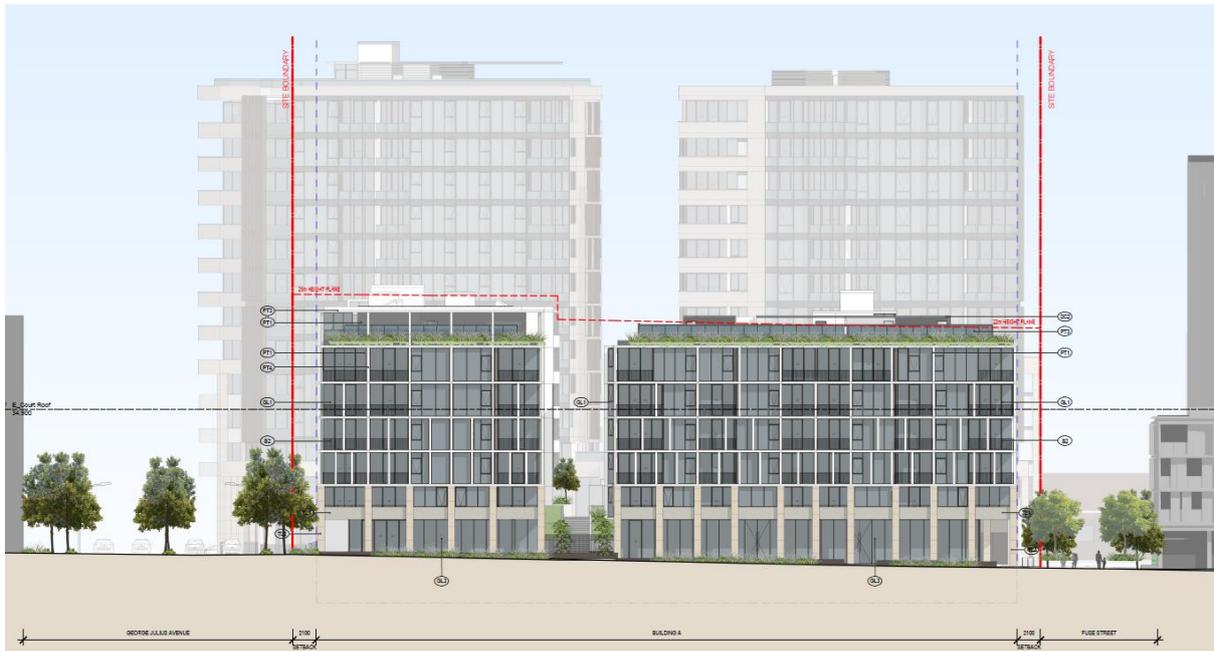


Figure15: Proposed north elevation of Building A (Building C in the background)



Figure 16: Proposed east George Julius Avenue elevation of Building A (right) and C (left)



Figure17: Proposed south Epsom Road elevation of Building C



Figure 2: Proposed west Fuse Street elevation of Building A (left and background), Building B (central) and Building C (right)



Figure 39: Proposed south Rose Valley Way elevation of Building B (left) and Building A (right and background)



Figure 20: Proposed north Rose Valley Way elevation of Building C



Figure 21: Proposed west section through development



Figure 22: Proposed south section through northern parcel

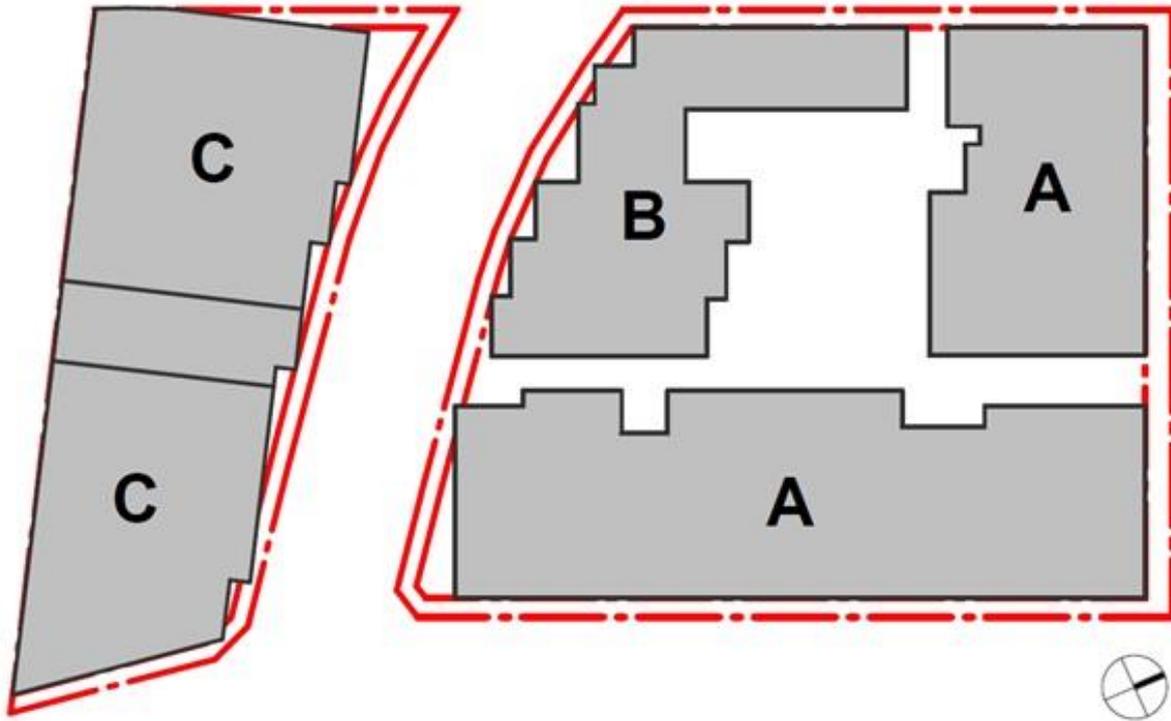


Figure 23: Proposed site building key



Figure 24: Proposed basement 2



Figure 25: Proposed basement 1

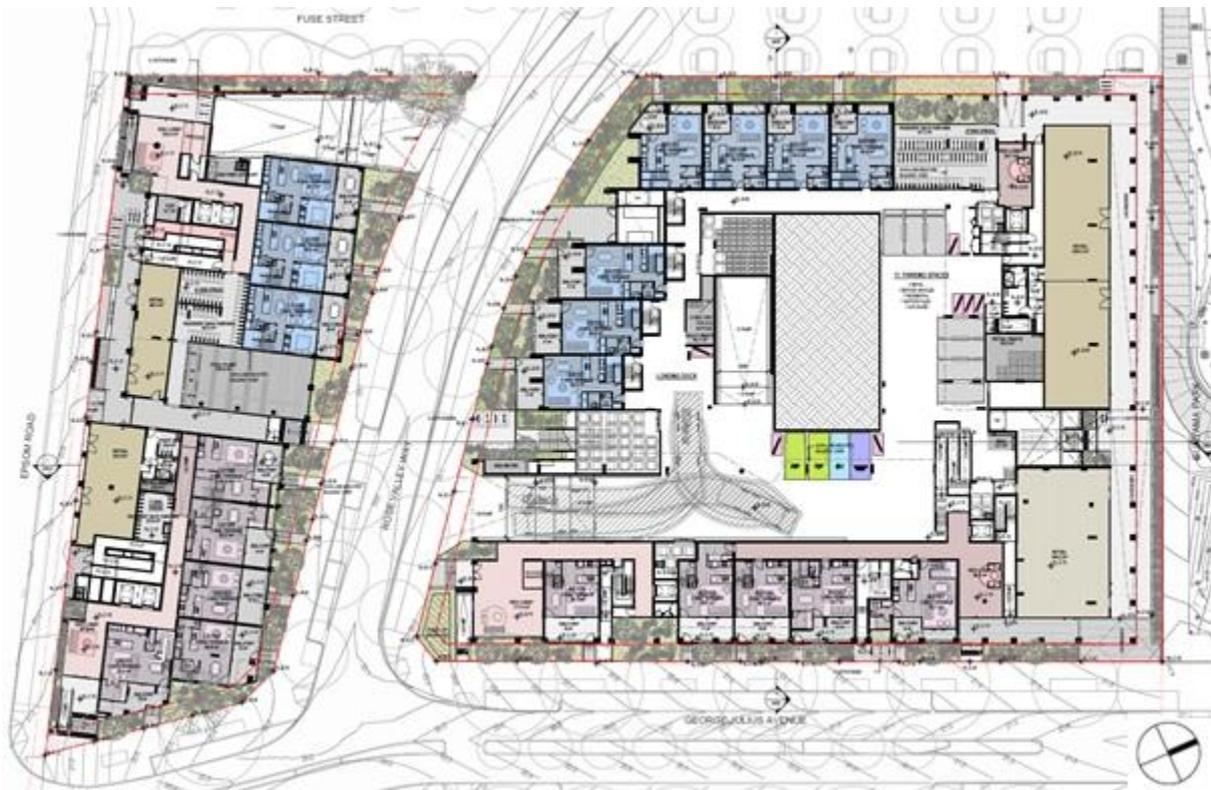


Figure 26: Proposed ground floor (Level 1) plan



Figure 27: Proposed Level 2 plan



Figure 28: Proposed Level 3 plan



Figure 29: Proposed Level 4 plan



Figure 30: Proposed Level 5 plan



Figure 31: Proposed Level 6 plan



Figure 32: Proposed Level 7 plan

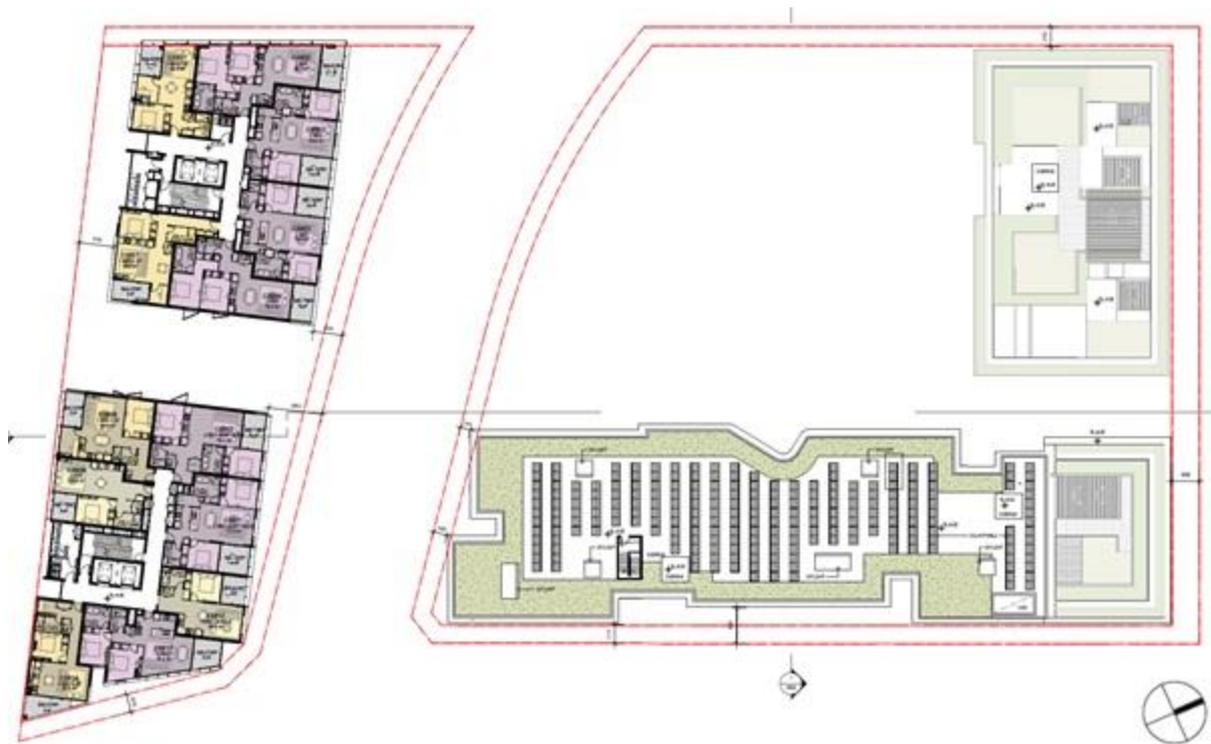


Figure 33: Proposed Level 8 plan

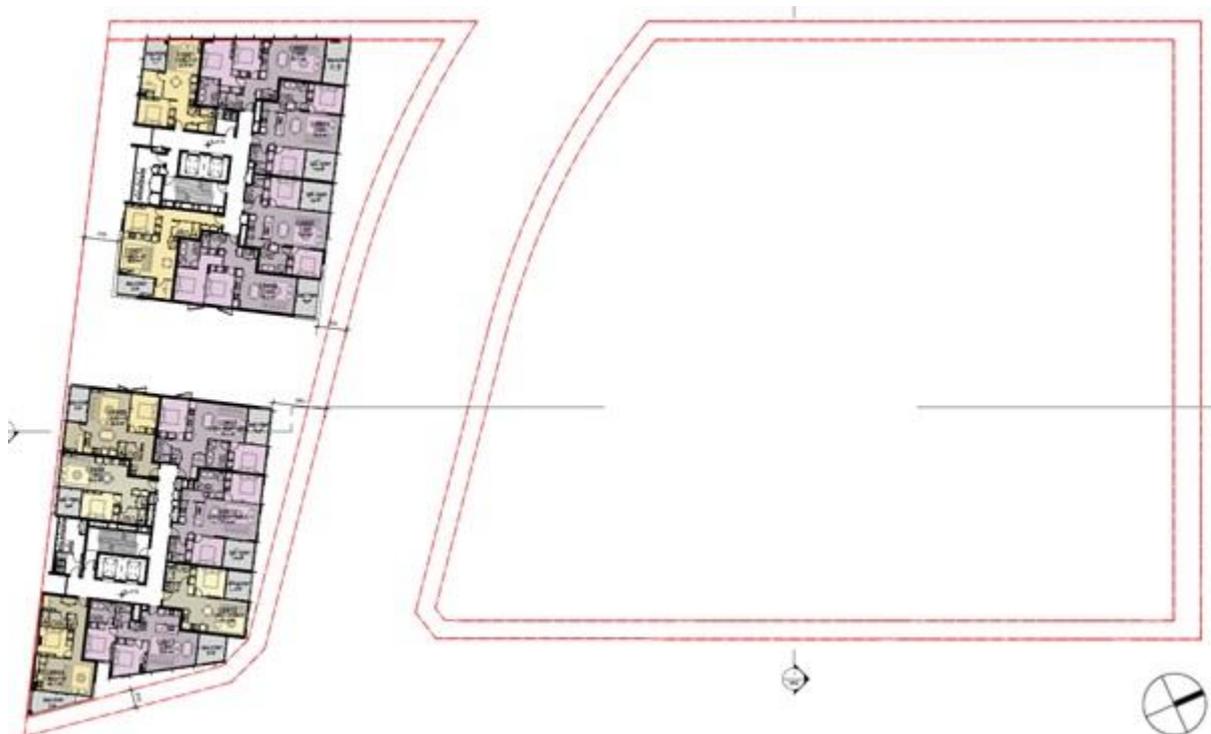


Figure 34: Proposed Levels 9-10 plans



Figure 35: Proposed Levels 11-13 plans

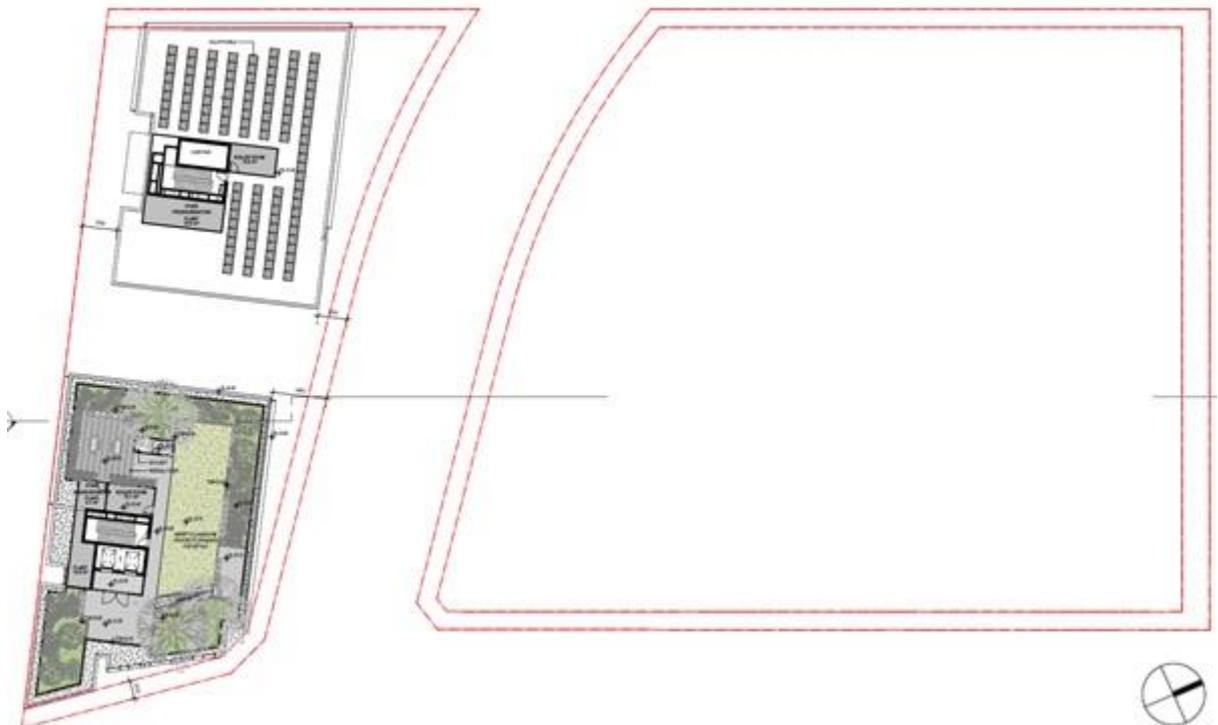


Figure 36: Proposed Level 14 (roof) plan

Economic/Social/Environmental Impacts

61. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

Federal Legislation - Airports Act 1996

62. 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.
63. Regulation 6(1) of the Airports (Protection of Airspace) Regulations 1996 specifies that airspace above the Obstacle Limitation Surface (OLS) for Sydney Airport is prescribed airspace.
64. 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.
65. The OLS is at a height of 51m (AHD) above the subject site. The proposed development has a maximum height of 67.8m AHD, which breaches the OLS and triggers the requirement for a controlled activity approval under the Airports Act 1996.
66. The application was referred to Sydney Airport and the delegate of the Secretary of the Commonwealth Department of Infrastructure, Transport, Cities and Regional Development has provided approval for the controlled activity on 5 November 2019 to a height of 67.8m AHD.
67. Further approval for the use of construction equipment (such as cranes) that may be required to operate at a height above the approved controlled activity height will be required, as per recommended conditions of consent.

Water Management Act 2000

68. The application was referred to the NSW Office of Water as the proposal constitutes Integrated Development under Section 91 of the EP&A Act.
69. The proposed basement excavation will penetrate the groundwater table. The dewatering necessary for the construction of the development is deemed to be an aquifer interference activity and is to be conducted in accordance with the principles of the WaterNSW Aquifer Interference Policy.
70. WaterNSW issued General Terms of Approval ("GTA") appropriate to the proposed aquifer interference activity and which are included at Schedule 3 of the recommended conditions of consent.

Environmental Planning Instruments and DCPs

State Environmental Planning Policy No 55—Remediation of Land

71. 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.
72. A Detailed Site Investigation ("DSI") prepared by ADE Consulting Group was submitted with the development application. The DSI outlined that the site has had a history of commercial and industrial land uses and concludes that there are several areas on the

site with excessive levels of lead, Polyaromatic Hydrocarbons (PAH) and friable asbestos.

73. The DSI recommended for a Remedial Action Plan ("RAP") to be prepared for the site to detail required remedial works which include further investigation of data gaps and the removal of the identified hotspots off-site and/or strategic placement of soils.
74. A RAP prepared by ADE Environmental, dated 12 March 2020 was subsequently submitted with the development application. A Letter of Interim Advice prepared by Coffey Environmental (a NSW Accredited Site Auditor), dated 13 April 2020 was also provided.
75. Following discussions between the City's Environmental Health Specialist, the applicant and the NSW Accredited Site Auditor, an addendum to the Letter of Interim Advice has been provided by the Site Auditor and which confirms:
- (a) the site has a very low risk of PFAS contamination attributable to historical uses of the site; and
 - (b) if PFAS impacted groundwater is found beneath the site, then there are proven methods for remediation of this situation.
76. The City's Environmental Health Specialist concurs with the further advice from the Site Auditor and is satisfied that the site can be made suitable for its future intended use, subject to further investigations being undertaken, as detailed below.
77. The City's Environmental Health Specialist has recommended a deferred commencement condition requiring:
- (a) the preparation and submission of an addendum to the DSI to address the data gaps pertaining to PFAS contamination;
 - (b) the revised DSI must conclude that no further changes are required to the RAP.

State Environmental Planning Policy No. 64 – Advertising and Signage

78. The application does not propose detailed signage. It is recommended that a condition be included should consent be granted to ensure that signage does not form part of the development consent and a new development application is required to be submitted for any new signage (other than exempt or complying signs).

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

79. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 9 design quality principles at Schedule 1.
80. A design verification statement prepared by SJB accompanies the application to address the design quality principles and the objectives of Parts 3 and 4 of the Apartment Design Guide (ADG). The statement therefore satisfies Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000.

81. The 9 design quality principles under Schedule 1 and the relevant objectives of the Apartment Design Guide are discussed below.

Principle 1: Context and Neighbourhood Character

82. The site is within an area that is currently undergoing rapid transformation from industrial to mixed uses and includes Gunyama Park adjoining to the north, which is currently under construction.
83. The development responds to this context through the provision of a retail promenade to the northern edge of the site, activating this edge of the site. The development also includes new roads, footpath widening and public domain enhancements to activate all street edges of the site and respond to the emerging street functions.

Principle 2: Built Form and Scale

84. The scale of the development is largely consistent with the DCP controls that apply to the site. However, variations have been made to successfully break up the built form in key locations.
85. Instead of a part 8, part 12 storey building fronting Epsom Road, the bulk has been broken up by providing a 2 storey podium with two 11 storey towers above. This responds to the emerging context and scale along Epsom Road, including the approved scheme at 106-116 Epsom Road known as the 'Lincon' development, where 14 storey towers were approved along this frontage.
86. The northern parcel provides a more human scale through the provision of townhouses along the Rose Valley Way and Fuse Street, which is generally consistent with the DCP provisions. Building A, fronting George Julius Avenue and Gunyama Park is also consistent with the DCP, being 6 and 7 storeys in height.

Principle 3: Density

87. The development has been designed to maximise the allowable density on the site. The proposed FSR of 2.48:1 benefits from the community infrastructure FSR provisions and incorporates 10% of additional design excellence floor space, which is supported by a satisfactory Clause 4.6 variation request (discussed below).
88. The proposed density is appropriate and anticipated by the controls that apply to the site. The site sits within the Epsom Park locality and as such, will benefit from the provision of emerging community infrastructure, including Gunyama Park adjoining the site to the north.

Principle 4: Sustainability

89. The proposed development incorporates passive design measures to reduce energy consumption.
90. Appropriate conditions are recommended to ensure sustainability measures included in the accompanying NatHERS and BASIX Assessment are implemented at construction.

Principle 5: Landscape

91. The proposal includes 762sqm of deep soil landscaped area, in addition to areas of landscaping on communal areas at Level 3 and rooftop for Building C and Level 7 for Building A.

92. As demonstrated in the accompanying landscape plans, the extensive tree planting is proposed as part of the development, including the provision of new street trees. Green roofing is also proposed to enhance the biodiversity value of the development.

Principle 6: Amenity

93. A reasonable level of amenity will be provided to future occupants of the development. The proposed apartments comply with the minimum size requirements under the ADG and each apartment is provided with well designed, adequately sized private open space. Subject to conditions of consent, all habitable rooms can be naturally ventilated, whilst balancing acceptable levels of internal visual and acoustic privacy. The development is generally compliant with the amenity requirements of the ADG and where there are non-compliances with solar access and cross ventilation, this has been adequately justified and demonstrated that satisfactory amenity can still be provided to future occupants.

94. Communal open spaces and amenities will be accessible for all residents and will receive compliant levels of sunlight during winter months.

Principle 7: Safety

95. The development is consistent with the CPTED principles and public domain surrounding the development will be enhanced by increased pedestrian activation and passive surveillance provided by the development. The transition from public to private domain within the development is clearly legible.

Principle 8: Housing Diversity and Social Interaction

96. The development provides a suitable mix of dwelling types and sizes. The mix of apartment sizes provides 94 (34%) 1-bedroom, 145 (54%) 2-bedroom, and 32 (12%) 3-bedroom units, which is generally compliant with the SDCP 2012 provisions. This will suitably increase housing supply and variety in the locality.

97. Outdoor furniture and active (or passive?) recreation areas are proposed within communal open spaces in order to promote social interaction between future residents.

Principle 9: Aesthetics

98. The proposal has been the subject of a competitive design process and the development provides an appropriate response to the recommendations of the jury. The layout, scale, form and design of the proposed development is generally consistent with the winning design scheme.

99. The proposed development provides a variety of building scales and types to address the provisions of SDCP 2012. A variety of building articulation, design elements and materiality are incorporated into the building facades to enhance the building expression and respond to the site context. Materials proposed are high quality and compatible with surrounding built and approved developments.

100. As such, the proposed development provides an appropriate response to the emerging and desired future character of the Epsom Park locality.

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

Apartment Design Guide

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Partial compliance	<p>The maximum building depth measured at various levels within the proposed buildings is as follows:</p> <ul style="list-style-type: none"> - Building A (east) = 11.9m - 20.7m - Building A (north) = 18.6 - 21.2m - Building B = 10.1m - 18.5m - Building C = 19.2m - 22.3m <p>The submitted plans demonstrate that whilst the building depth is exceeded to parts of the development, the proposed apartments can achieve acceptable amenity by limiting room depths and locating all habitable rooms adjacent to external facades.</p>

2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <p>12m between habitable rooms / balconies</p> <p>9m between habitable and non-habitable rooms</p> <p>6m between non-habitable rooms</p>	Partial compliance	<p>Levels 1 - 4 provide the following building separation of at least the following to neighbouring sites:</p> <ul style="list-style-type: none"> - 9.2m to the halfway point of Fuse Street - 12m to the halfway point of George Julius Way <p>Building separation between proposed buildings is as follows:</p> <ul style="list-style-type: none"> - Building A = 6.3m separation, habitable to habitable (Levels 2 - 4) - Building C = 10.1m between two towers, habitable to habitable (Level 4) <p>Refer to Issues section in this report.</p>

2F Building Separation	Compliance	Comment
<p>Five to eight storeys (approximately 25 metres):</p> <p>18m between habitable rooms / balconies</p> <p>12m between habitable and non-habitable rooms</p> <p>9m between non-habitable rooms</p>	<p>Partial compliance</p>	<p>Levels 5 - 8 provide the following building separation of at least the following to neighbouring sites:</p> <ul style="list-style-type: none"> - 9.2m to the halfway point of Fuse Street - 12m to the halfway point of George Julius Way <p>Building separation between proposed buildings is as follows:</p> <ul style="list-style-type: none"> - Building A = 6.3m separation, habitable to habitable (Levels 5 - 7) - Building C = 10.1m between two towers, habitable to habitable (Levels 5 - 8) <p>Refer to Issues section in this report.</p>
<p>Nine storeys and above (over 25m):</p> <p>24m between habitable rooms / balconies</p> <p>18m between habitable and non-habitable rooms</p> <p>12m between non-habitable rooms</p>	<p>Partial compliance</p>	<p>Levels 9 - 13 provide the following building separation of at least the following to neighbouring sites:</p> <ul style="list-style-type: none"> - 9.2m to the halfway point of Fuse Street - 12m to the halfway point of George Julius Way <p>Building separation between proposed buildings is as follows:</p> <ul style="list-style-type: none"> - Building C = 10.1m between two towers, habitable to habitable (Levels 9 - 13) <p>Refer to Issues section in this report.</p>

3D Communal and Public Open Space	Compliance	Comment
<p>Communal open space has a minimum area equal to 25% of the site.</p>	<p>No, but acceptable</p>	<p>The site area is 10,590</p> <p>The proposal includes communal open space as follows:</p> <p>Northern Parcel</p> <ul style="list-style-type: none"> - Level 2 courtyard = 883.1sqm

3D Communal and Public Open Space	Compliance	Comment
		- Level 7 roof terrace = 425.6sqm Southern Parcel - Level 3 = 180.8sqm - Rooftop = 434sqm This results in a total of 1,923.5sqm of communal open space or 18.2% of the total site area. Refer to Issues section of this Report.
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 total principal usable parts of the communal open space equates to an area of 963.5sqm. 486.7sqm (50%) of the principal usable part of the communal open space will receive 2 hours of direct sunlight between 9am and 3pm on 21 June.

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Partial compliance	762sqm equating to 7.2% of the site area is provided as deep soil landscaped area. 300sqm of this will have a minimum dimension of 10m, with 233sqm having a minimum dimension of 3m and 229sqm having a minimum dimension of 2m. Refer to Issues section of this report.

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

3F Visual Privacy	Compliance	Comment
Up to four storeys (12 metres): 6m between habitable rooms / balconies 3m between non-habitable rooms	Partial compliance	Refer to assessment against separation requirements of ADG objective 2F above and Issues section of this report.

3F Visual Privacy	Compliance	Comment
Five to eight storeys (25 metres): 9m between habitable rooms / balconies 4.5m between non-habitable rooms		
Nine storeys and above (over 25m): 12m between habitable rooms / balconies 6m between non-habitable rooms		
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	The proposal complies with this provision.

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	No, but acceptable	183/271 (67.5%) of the proposed apartments achieves 2 hours of direct sunlight on 21 June. Refer to Issues section of this report.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	34/271 (13%) of apartments do not receive any direct sunlight between 9am and 3pm on 21 June.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes, subject to conditions	All habitable rooms are provided with windows capable of providing adequate natural ventilation. Apartments in Building C facing Epsom Road are affected by external noise. As such, an acoustic treatment is proposed to this façade that will incorporate vertical acoustic plenums into the design of the apartments. The applicant submits that the acoustic plenums will ensure that noise affected apartments are naturally ventilated whilst concurrently

4B Natural Ventilation	Compliance	Comment
		mitigating any adverse external noise impacts. Further details of the design of this acoustic treatment and confirmation that the affected apartments can receive adequate ventilation is required by conditions of consent. Refer to issues section of this report.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	No, but acceptable.	The applicant provides that 123/225 (60%) of apartments on the first nine storeys are naturally cross ventilated. However, this figure includes the aforementioned noise affected apartments (55 in total) that are to be discounted from the calculations. With these 55 apartments discounted, 81/178 (46%) are naturally cross ventilated. Refer to issues section of this report.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	Proposed apartments that rely on cross-over or cross-through natural ventilation do not exceed 18m in depth.

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

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	3.1m floor to floor height is proposed to ensure that minimum 2.7m floor to ceiling heights for habitable rooms can be achieved.
Non-habitable rooms: 2.4m	Yes	The proposal complies.
Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.	Yes	The proposal contains two level apartments that provide adequate floor to floor heights to achieve 2.7m

		floor to ceiling heights in habitable rooms.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Yes	4.5m floor to floor height is proposed for ground floor apartments fronting Rose Valley Way and Epsom Road (Buildings B and C). 3.3m floor to floor heights are proposed for ground floor apartments within Building A fronting George Julius Avenue.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <p>Studio: 35m²</p> <p>1 bed: 50m²</p> <p>2 bed: 70m²</p> <p>3 bed: 90m²</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Yes	All apartments satisfy or exceed minimum internal area requirements.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	All habitable rooms have access to an external window as required by the ADG.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	All habitable room depths are compliant.
8m maximum depth for open plan layouts.	Yes	All open plan layouts are no more than 8m in depth.
<p>Minimum area for bedrooms (excluding wardrobes):</p> <p>master bedroom: 10m²</p> <p>all other bedrooms: 9m²</p> <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	All bedrooms satisfy the minimum area and dimension requirements of this design criteria.

<p>Living and living/dining rooms minimum widths:</p> <p>Studio and one-bedroom: 3.6m</p> <p>Two-bedroom or more: 4m</p>	<p>Yes</p>	<p>All living and dining rooms satisfy the minimum area and dimension requirements of this design criteria.</p>
<p>4m minimum width for cross over and cross through apartments.</p>	<p>No, but acceptable</p>	<p>A0317, A0417, and A0517 are cross-through apartments with a minimum width of 3.9m. Nonetheless, the drawings demonstrate that the apartments are functional and provide satisfactory levels of amenity, despite this numerical non-compliance.</p>

<p>4E Private Open Space and Balconies</p>	<p>Compliance</p>	<p>Comment</p>
<p>One bed apartments are to have a minimum balcony area of 8m² with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m² with a minimum depth of 2.4m.</p>	<p>Yes</p>	<p>All apartments are provided with the required area and minimum dimension for private open space.</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>	<p>No, but acceptable</p>	<p>A number of the ground level apartments have private terraces that are 14sqm and/or between 2.8 - 2.9m in depth.</p> <p>Nonetheless, all of the ground level apartments are split level apartments and the apartments that are non-compliant also benefit from additional private open space in the form of balconies on upper levels. As such, they provide satisfactory private open space and amenity to future occupants.</p>

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 A contains 2 lift cores in the eastern block (fronting George Julius Avenue), with a maximum of 7 apartments per lift core on each level. The northern block (fronting Gunyama Park) contains a single circulation core and has a maximum of 7 apartments per floor.</p> <p>Building C incorporates a single circulation core for each tower. The eastern tower has a maximum of 7 apartments per circulation core and the western tower has a maximum of 7 apartments per circulation core on each level.</p>
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	Each circulation core in Building C contains 2 lifts, so 4 lifts are provided in total. There is a total of 148 apartments in Building C, with 8 having ground floor access directly from the street. Therefore, a maximum of 35 apartments will share a single lift.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	No primary living room or bedroom windows open directly onto common circulation areas. Windows that open towards the through site links are setback behind landscaping or raised above the through site link to protect privacy.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	All common circulation spaces have access to natural light.

4G Storage	Compliance	Comment
Minimum storage provision facilities: Studio: 4m ³ 1 bed: 6m ³ 2 bed: 8m ³	Yes	Adequate space or storage is provided within apartments in accordance with ADG requirements. Resident storage is also provided within basement levels.

3 bed: 10m3 (Minimum 50% storage area located within unit)		
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4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes, subject to conditions	<p>The apartments facing Epsom Road (within Building C) are affected by external noise.</p> <p>As set out above, the acoustic report submitted with the application concludes that internal noise levels within apartment bedrooms and living rooms can only be met with an alternative form of ventilation and acoustic attenuation treatment.</p> <p>Refer to further discussion in the Issues section of this report.</p>

State Environmental Planning Policy (Infrastructure) 2007

104. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.
105. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development requires a substation, which is proposed to be located adjacent to Building B near the intersection of Fuse Street and Rose Valley Way.
106. In accordance with the Clause, the application was referred to Ausgrid for a period of 21 days and no objection was raised, subject to recommended conditions of consent.

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

107. The BASIX Certificate has been submitted with the development application.
108. 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.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

109. The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) commenced on 25 August 2017. The Vegetation SEPP works together with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.
110. A total of 26 trees existing on or directly adjacent to the site will be affected by the proposal. This includes 21 trees located on the site and 5 street trees located on Epsom Road.

111. As illustrated in the Arboricultural Impact Assessment Report (AIA) prepared by Jackson Nature Works that accompanies the application, 13 trees are proposed to be removed as part of the development. This includes 12 trees located on the site and 1 street tree.
112. Four (4) street trees and five (5) neighbouring trees are proposed to be retained. A further four (4) trees are proposed to be retained on site. Consequently, tree protection measures are proposed within the accompanying AIA.
113. Council's Tree Management Unit have undertaken an assessment of the proposal and have raised concerns with the removal of street trees proposed. Consequently, a number of tree management conditions are proposed. These will allow the removal of 12 trees on the site. 14 trees are required to be retained and protected, including 4 trees on the site, 5 street trees along Epsom Road, and 5 neighbouring trees adjacent to the eastern boundary of the site. Further conditions are recommended to ensure new trees are planted on site to mitigate for the loss of existing trees to be removed. These have been incorporated into the recommended conditions of consent.

Sydney Local Environmental Plan 2012

114. The site is located within the B4 Mixed Use zone. The proposed use is characterised as residential accommodation and commercial/retail premises and is permissible with consent in the zone. The development is consistent with the objectives of Zone B4.
115. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	No, but acceptable	<p>Height limits of 3m, 22m, 25m and 45m apply to the site.</p> <p>The 45m height limit is exceeded by a maximum of 1.5m (3.3%).</p> <p>The 25m height limit is exceeded by a maximum of 0.5m (2%).</p> <p>The 22m height limit is exceeded by a maximum of 0.5m (2.3%).</p> <p>The 3m height limit is not exceeded.</p> <p>A Clause 4.6 variation request has been submitted by the applicant and is supported.</p>

Development Control	Compliance	Comment
		Refer to Issues section of this report.
<p>4.4 Floor Space Ratio</p> <p>6.14 Community Infrastructure Floor Space</p>	No, but acceptable	<p>A maximum FSR of 1.75:1 is prescribed for the site.</p> <p>The site is located within 'Area 6' on the FSR Map, which permits an additional FSR of 0.5:1 subject to the provision of community infrastructure, which is proposed as part of the development.</p> <p>A VPA has been executed and registered on title of the land and secures community infrastructure as required by Clause 6.14. An additional 0.5:1 of FSR is thus prescribed for the development.</p> <p>As such, a maximum FSR of 2.25:1 applies to the development.</p> <p>A further additional FSR bonus of 10% can be awarded subject to meeting the design excellence provisions of the LEP and undertaking a competitive design process.</p> <p>It is noted that whilst the subject application was subject to a competitive design process endorsed by the City, a site specific DCP has not been prepared, nor has a concept (stage 1) DA. As such, the development application does not satisfy this requirement of the City's Competitive Design Policy and is not technically eligible for the 10% additional design excellence floor space under this clause.</p> <p>An FSR of 2.48:1 is proposed and is therefore non-compliant with the prescribed maximum FSR. A Clause 4.6 variation request has been submitted with the application.</p> <p>See further discussion under the Issues section of this report.</p>

Development Control	Compliance	Comment
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the height of building and FSR development standards prescribed under Clauses 4.3 and 4.4.</p> <p>See discussion under the heading Issues.</p>
5.10 Heritage conservation	Yes	<p>The subject site is within the vicinity of a local heritage item (I1379) the Former "Moffat-virtue" warehouse and office building, which is located on the opposite side of Epsom Road and, No. 146–158 Joynton Avenue, a local heritage item (I2280) known as former Joseph Lucas office, stairs and showroom including interiors and building setback.</p> <p>The proposed development, being located across the road, is not likely to create adverse effects on the setting of the item and its streetscape presence. The proposed Epsom Road elevation incorporates a two storey podium appearance and rhythmic columns that relate to the scale and design of the heritage item and this is supported. The Epsom Road façade is clad in warm and grey coloured Travertine which is acceptable in the context of the heritage item which has brown brick finish.</p> <p>As such, Council's Heritage Specialist raises no objection to the proposed development on heritage grounds.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.21 Design excellence	Partial compliance	Refer to section under Clause 4.4 above and Issues section of this report.

Part 7 Local Provisions – General	Compliance	Comment
<p>Division 1 Car parking ancillary to other development</p> <p>7.5 Residential flat buildings, dual occupancies and multi dwelling housing</p> <p>7.7 Retail premises</p>	Yes	<p>The site is mapped as "Category C" on the Land Use and Transport Integration Map. As such, a maximum of 256 resident car parking spaces are permitted (231 occupant and 25 visitor).</p> <p>The site is mapped as "Category F" on the Public Transport Accessibility Level Map. As such, a maximum of 12 retail car parking spaces are permitted under SLEP 2012.</p> <p>A total of 181 resident car parking spaces are proposed (151 occupant, 24 visitor, 2 car share, 2 service vehicle, and 2 car wash) and 3 retail car parking spaces.</p> <p>This is compliant with the SLEP 2012 requirements.</p>
7.13 Affordable housing	Yes	The site is located in Green Square and is subject to an affordable housing contribution, which has been included as a condition of consent.
7.14 Acid Sulphate Soils	Yes	The site is located on Class 5 land and is 670m from Class 3 land. An Acid Sulfate Soils Management Plan (ASSMP) was submitted with the application and satisfies the requirements of this control.
7.15 Flood planning	Yes	<p>The site is within the Alexandra Canal catchment and is flood affected.</p> <p>In accordance with the requirements of the DCP and the City's Interim Floodplain Management Policy a detailed site-specific flood assessment was submitted with the application and which recommends flood planning levels (FPLs) for the development.</p> <p>The recommended FPLs are subject to the upgrading of the Green Square Trunk Drain (GSTD) and which is an essential part of the infrastructure works that have been secured in the associated VPA.</p> <p>A condition is recommended for the development to be in accordance with the</p>

Part 7 Local Provisions – General	Compliance	Comment
		FPLs recommended in the submitted site-specific assessment report.
7.16 Airspace operations	Yes	<p>The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport by 16.8m.</p> <p>As such, Sydney Airport were notified and raised no objections, subject to recommended conditions of consent.</p>
7.20 Development requiring preparation of a development control plan	No, but acceptable	<p>As the site is over 5,000sqm, a site specific DCP is required.</p> <p>The site does not benefit from a site specific DCP or Stage 1 concept DA. However, the applicant has provided a justification as to why the provision of a site specific DCP would be unreasonable and unnecessary in the circumstances of the case.</p> <p>It is recommended that it is unreasonable or unnecessary in the circumstances as Epsom Park DCP provides planning objectives and controls for the precinct and subject site including indicative building envelopes, setbacks, building height in storeys and street wall heights, new streets and public domain requirements.</p> <p>Refer to Issues section of this report.</p>

Sydney Development Control Plan 2012

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

Locality Statements – Epsom Park - Green Square

117. The subject site is located in the Epsom Park - Green Square locality.

118. The locality is undergoing a transformation from traditional industrial land uses to a mix of uses including high density residential development and residential-led mixed used developments with commercial and retail uses at ground level.

119. New development in the area is to have a strong urban character and identity built on the quality of the streets and architecture and is to provide a variety of dwelling types and provide equity of access for pedestrians, cyclists and vehicles.

120. The proposed mixed use development includes parts of new roads that will form the new local street network, being Rose Valley Way, George Julius Avenue, and widening of Epsom Road. Public domain enhancements, including the provision of new street trees are also incorporated into the development.
121. The proposed buildings have been designed to activate all street frontages, with new retail or residential uses at ground level, ensuring a human scale to development. The development also activates the northern edge to Gunyama Park with a new retail promenade. This scale is considered appropriate at the pedestrian level and will encourage casual surveillance and a sense of security.
122. For these reasons, the development is considered to be consistent with the desired future character principles for the locality.

3. General Provisions	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>The proposed development will contribute to public domain provision in the form of new roads and footpath widening to Epsom Road..</p> <p>Street trees, public art and through site links are also proposed as are a variety of housing types, including lower scale terraces fronting Fuse Street and Rose Valley Way.</p> <p>Conditions of consent will require further details of the public art strategy for the site.</p>
3.2 Defining the Public Domain	Yes	<p>The proposed development will not adversely overshadow the new Gunyama Park which is to the north.</p> <p>Car parking will either be at basement level or screened behind the proposed buildings, thus not highly visible from the public domain. The difference between public and private domains is also clearly defined by a combination of pathways, building setbacks, landscaping and low level fencing.</p> <p>The proposed building will activate the street edges of the development, through a combination of retail and residential uses to maximise passive surveillance. This includes the activation of Epsom Road through retail uses and residential lobbies. The northern edge of the development will also be activated</p>

3. General Provisions	Compliance	Comment
		<p>through a retail promenade with opportunities for outdoor dining. Both the northern and southern edges of the development will be weather protected using colonnades over the ground floor retail uses which is generally consistent with the DCP.</p> <p>Details of external lighting are to be provided by conditions of consent. Material reflectivity will also be limited by conditions of consent.</p>
3.3 Design Excellence and Competitive Design Processes	Partial compliance	<p>The subject design was selected as the winner of a competitive design process that was endorsed by the City. Refer to the Issues section of this report.</p>
3.4 Hierarchy of Centres, City South	Yes	<p>The site is within the Green Square Town Centre Primary Trade Area and proposes 583sqm of retail floor space fronting Epsom Road and Gunyama Park. The location of the proposed retail is consistent with the mapped active frontages for the site. Further, the scale of retail uses proposed will not have a negative impact on the viability and economic role of the Green Square Town Centre and other planned centres.</p>
3.5 Urban Ecology	Yes	<p>The proposed development involves the removal of 12 trees on site and 1 street tree.</p> <p>The development includes deep soil landscaped areas, including within street setbacks and a large consolidated area within the communal open space for the northern parcel. As detailed within the accompanying landscape concept plans, significant tree planting is proposed across the site and will support local habitats.</p> <p>A condition is recommended requiring detailed landscape plans to be submitted. Subject to the recommended conditions the proposal will not have unacceptable adverse impacts upon the local urban ecology.</p>

3. General Provisions	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements. This includes the provision of solar PV panels and green roofs within the development. Conditions of consent will require environmental commitments to be implemented as part of the development.
3.7 Water and Flood Management	Yes	The proposal satisfies BASIX and environmental requirements in respect of water management. Refer to the assessment against LEP clause 7.15 in the LEP compliance tables above'. Stormwater management plans have also been provided with the application. Proposed works include upgrading of the Green Square Trunk Drainage channel that traverses the site from east to west. The flood assessment and stormwater plans have been reviewed by the City's Public Domain unit who have raised no objections, subject to recommended conditions of consent.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	Lands subdivision is proposed. Appropriate conditions of consent are recommended.
3.9 Heritage	Yes	Refer to the assessment against LEP clause 5.10 in the LEP compliance tables above.
3.11 Transport and Parking	Yes	The development complies with the maximum parking rates under SLEP 2012. This includes the provision of car share and service vehicle spaces within the development. Forty-one (41) accessible residential and 2 accessible visitor parking spaces have also been provided. Tandem parking (15 spaces) is included within the development at basement level, however, the quantum of tandem parking is considered to be acceptable by the City's Transport Unit, and consistent with other approvals in the locality. Conditions of consent will require tandem spaces to be allocated to individual apartments.

3. General Provisions	Compliance	Comment
		<p>Bicycle parking has been provided in excess of the minimum requirements in the SDCP 2012.</p> <p>Conditions of consent will require the following bicycle parking to be provided:</p> <ul style="list-style-type: none"> 271 residential spaces 6 residential visitor spaces 6 non-residential staff spaces 10 non-residential visitor spaces <p>End of trip facilities are also provided for the retail premises.</p> <p>A Traffic and Parking Impact assessment has been submitted with the application. It demonstrates that the proposed development will not give rise to adverse impacts on the local road or transport network.</p>
3.12 Accessible Design	Yes	<p>15% (41 out of 217 apartments) are proposed to be adaptable units.</p> <p>A condition is recommended to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>
3.14 Waste	Able to comply	<p>Residential waste for Building C (southern parcel) will be stored in Basement Level 01 and commercial waste will be stored at ground level. This will be transferred by caretakers to communal waste storage rooms located at Level 1 of Buildings A and B on the northern land parcel. This will then be accessed on collection days via the loading dock at Level 1 within the northern parcel.</p> <p>Conditions are recommended to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>

Note: Some relevant DCP provisions that would otherwise be listed in the table below have not been addressed as they are matters to which clause (6A) of SEPP 65 applies and which renders those provisions to be of no effect.

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.1 Building height	No, but acceptable	<p>The Sydney DCP 2012 has specific area controls for Epsom Park including maximum building height in storeys and street frontage height in storeys.</p> <p>Building A (north parcel) is 6 storeys fronting Gunyama Park and 7 storeys fronting George Julius Avenue, which is consistent with the DCP.</p> <p>Building B (north parcel) is 4 storeys in height, consistent with the DCP.</p> <p>Both Building A and B also comply with the maximum street frontage height limits of 6 and 7 storeys respectively.</p> <p>However, Building C (south parcel) comprises a two storey podium with units addressing Epsom Road, George Julius Way and Rose Valley Way, with two (2) 11 storey towers above. This is inconsistent with the DCP height in storeys map, which prescribes a maximum height in storeys of 4, 8 and 12 storeys for the southern parcel. It is also noted that Building C does comply with the maximum street frontage height of 6 and 8 storeys respectively.</p> <p>The additional storey provided for the towers in Building C is justified given that the building is largely consistent with the LEP height of building standard (other than lift overrun and services) and is consistent with the height of the approved development at 106-116 Epsom Road to the east (approved up to 14 storeys in height adjacent to Epsom Road).</p> <p>Moreover, the proposed height of Building C is consistent with the design scheme selected as winner of the competitive design process.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.2 Building setbacks	Partial compliance	<p>The proposed development generally provides compliant building setbacks, consistent with the DCP provisions. The following setbacks are provided:</p> <p>Northern Parcel</p> <p>3m active northern edge to Gunyama Park</p> <p>Minimum 2m landscaped setback to Fuse Street, Rose Valley Way and George Julius Avenue</p> <p>Southern Parcel</p> <p>Nil setback to Epsom Road</p> <p>Generally 2m landscaped setback to Fuse Street, Rose Valley Way and George Julius Avenue</p> <p>There are some minor encroachments into the setback areas for Building C (southern parcel), however these are not considered to give rise to any adverse impacts in terms of visual appearance, public domain, or road safety. The minor encroachments are thus considered to be acceptable.</p> <p>The proposal does not comply with section 4.2.2.2 of the DCP which requires a 3m setback above the street frontage height. Nonetheless, this is consistent with the design scheme selected as winner of the competitive design process and with other recent developments in the locality, including No. 84-92 Epsom Road. As such, the non-compliance is acceptable on merit and consistent with the objectives of the control.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3 Amenity 4.2.3.1 Solar access	Partial compliance	As previously stated, 183/271 (67.5%) of the proposed apartments achieve 2 hours of direct sunlight between 9am and 3pm on 21 June. Refer to Issues section of this report. The proposed development will not give rise to significant or adverse solar impacts on neighbouring properties.
4.2.3 Amenity 4.2.3.6 Deep soil	No, but acceptable	As previously stated, 762sqm or 7.2% of the site is provided as deep soil. 229sqm of this has a minimum dimension of 2m, below 3m as required by the DCP. Refer to Issues section of this report.
4.2.3 Amenity 4.2.3.9 Ventilation 4.2.3.11 Acoustic privacy	Able to comply	Apartments within Building C that face onto Epsom Road are affected by external noise. Therefore, acoustic treatment is proposed to provide a balance between natural, non-mechanical ventilation and noise mitigation. See further discussion in Issues section of this report.
4.2.3 Amenity 4.2.3.12 Flexible housing and dwelling mix	Yes	The development proposes the following unit mix, which is generally compliant: 1-bedroom = 94 (34%) 2-bedroom = 145 (54%) 3-bedroom = 32 (12%)
4.2.4 Fine grain, architectural diversity and articulation	Yes	The proposal provides a built form that is consistent with the design scheme selected as winner of a competitive design process and provides architectural diversity through a mixture of building scale, form and expression.

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		<p>Building C comprises a two storey podium with two 11 storey towers above, reducing the bulk of built form above street level. Further articulation is provided through a mixture of materials and building expression at street level, utilising setbacks and colonnades to break up the Epsom Road frontage.</p> <p>The northern parcel provides a mixture of lower scale terraces (Building B) alongside the larger 6 and 7 storey Building A. Building A has a street frontage to George Julius Avenue of approximately 79m, however, the building frontage is successfully broken up using articulation through a mixture of increased setbacks at upper levels and a variety of materiality.</p>
4.2.5 Types of development	Yes	<p>Tall buildings</p> <p>The proposed towers to Epsom Road have a maximum height of 46.5m and are thus considered to be "tall buildings". Levels 11-13 of each tower is above 35m and each has a floor plate below 750sqm.</p> <p>Courtyard buildings and perimeter street block buildings</p> <p>The courtyard communal open space to the northern parcel is not publicly accessible. However, a north-south through site link provides a visual break with sightlines through to the courtyard from the public domain.</p> <p>Development on busy roads and active frontages</p> <p>The Epsom Road frontage of the site is mapped as an 'active frontage' and thus section 4.2.5.3 applies to the development. The development is generally consistent with the provisions of 4.2.5.3. An Acoustic Report accompanies</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		<p>the application and has been assessed by the City's Health Unit, who consider that the affected apartments (fronting Epsom Road) can be provided with satisfactory levels of acoustic privacy, subject to recommended conditions of consent relating to acoustic design. Refer to discussion in Issues section below.</p> <p>Residential uses on the ground and first floor</p> <p>Ground and first floor residential uses are provided throughout the development. Private terraces to ground floor apartments are all generally setback from the footpath by at least 2m, with main entrances and windows at least 3-4m from the street. Deep soil landscaped areas have also been incorporated into the street setbacks and provide vegetation planting for additional screening. This ensures that acceptable levels of privacy and security are provided to ground floor apartments.</p>
4.2.6 Waste and Recycling Management	Able to comply	<p>The proposed development provides main waste storage areas (for commercial and residential uses) at Level 1 within the northern parcel. A loading dock is also provided within the northern block which is capable of accommodating waste trucks for collection of waste and recycling.</p> <p>Due to the narrow geometry of the southern parcel, a loading dock is not provided. Instead, waste and recycling will be stored in areas at basement level and Level 1 and will be transferred to the larger holding area within the northern parcel prior to collection days. This arrangement is similar to the existing waste management arrangements on the adjacent site at 84-92 Epsom Road (the Symphony building).</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		<p>Council's Waste Management Specialist has raised concerns with the submitted Waste Management Plan, noting:</p> <ul style="list-style-type: none"> - No bulky waste storage for commercial tenancies; - Further clarification sought on Building C chute discharge rooms and arrangements for the transfer of waste from south to north parcel, and path of travel for waste collections; and - Lack of green waste provision. <p>Conditions are recommended for an updated Waste Management Plan to be provided to address concerns raised by Council's Waste Management Specialist and the requirements of the City's Guidelines for Waste Management in New Developments.</p>
4.2.7 Heating and Cooling Infrastructure	Yes	Plant equipment is generally located in consolidated areas within the basements. The pool plant is located at ground level but integrated into Building C and adequately screened by landscaping.
4.2.8 Letterboxes	Yes	A condition relating to letterboxes is recommended as a condition of consent.
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	<p>The potential amenity impacts of the non-residential uses on adjoining and neighbouring residences are considered to be acceptable.</p> <p>The fitout and use of the non-residential premises does not form part of this application and will be assessed under any forthcoming applications relating to those premises.</p>

5. Specific Areas 5.3 Green Square - Epsom Park	Compliance	Comment
5.3.1 Epsom Park Urban Strategy	Yes	The proposal is consistent with the objectives and urban design strategy for Epsom Park. It provides an appropriate response to the emerging scale of development in the locality, provides a suitable mix of compatible land uses, and enhances the public domain streetscape and pedestrian environment within and around the site.
5.3.2 Urban Design Principles	Yes	The development is consistent with the urban design principles, providing a form of development that is generally compliant with the scale and street wall heights envisaged for the site. Epsom Road and Gunyama Park frontages will be activated by the development.
5.3.3 Local infrastructure and public domain	Yes	<p>The following community infrastructure is provided in accordance with the DCP:</p> <p>Construction of parts of Rose Valley Way and George Julius Avenue and dedication to Council;</p> <p>Dedication of 1.4m strip of land along Epsom Road to Council for footpath widening;</p> <p>Construction of part of the Green Square Trunk Drainage channel underneath Rose Valley Way.</p> <p>Streets have been designed in accordance with the Sydney DCP 2012.</p>
5.3.4 Building form and design	Generally complies	<p>Height in storeys and street frontage height</p> <p>The development generally complies with the prescribed height in storeys and street frontage heights, other than for Building C which has a maximum storey height of 13 storeys (with a 2 storey street wall), where 12 storeys and an 8 storey street wall is prescribed by the DCP.</p>

5. Specific Areas 5.3 Green Square - Epsom Park	Compliance	Comment
		<p>This non-compliance is considered to be acceptable and will assist in breaking up the building form through the provision of two separate towers rather than one continuous block along the Epsom Road frontage of the site. The proposed height is also consistent with the approved development at. 106-116 Epsom Road (the Lincon development).</p> <p>Dwelling types</p> <p>The proposed dwelling types are consistent with the DCP.</p> <p>Ground floor dwellings</p> <p>Individual entries are provided to all ground floor units.</p> <p>Building setbacks</p> <p>Building setbacks are consistent with the DCP provisions.</p> <p>Splay corner</p> <p>Setbacks are provided generally in accordance with the DCP to provide acceptable sightlines.</p> <p>Fences</p> <p>Fencing proposed to ground floor apartments is of a size and transparency that is consistent with the DCP.</p> <p>Active frontages</p> <p>Retail uses are proposed along the Epsom Road and Gunyama Park frontage of the site, in accordance with the DCP.</p>
5.3.5 Staging and implementation	Yes	The applicant has indicated an intent to construct the development in 3 stages, however minimal detail has been provided in respect of how this will be done,

5. Specific Areas	Compliance	Comment
5.3 Green Square - Epsom Park		
		including ensuring that necessary infrastructure will be provided to the site. As such, conditions of consent will not provide any specific reference to staging for construction purposes.

Issues

Site Specific DCP

123. The site is in excess of 5,000sqm and proposed a development with a maximum height greater than 25m. As such, pursuant to Clause 7.20 of the LEP a site-specific development control plan is required to be prepared. The requirements of a site-specific DCP are outlined in subclause (4). However, pursuant to subclause (3) a waiver for this requirement can be granted if it is deemed unreasonable or unnecessary in the circumstances to do so.
124. The applicant seeks a waiver of the requirement to prepare a site-specific DCP for the proposed development and has provided justification as to why this requirement would be unreasonable and unnecessary. Specifically, the site is subject to the specific area controls for Epsom Park contained in section 5.3 of the Sydney DCP 2012 (the Epsom Park DCP). The Epsom Park DCP sets out planning objectives and controls for the precinct and subject site including indicative building envelopes, setbacks, building height in storeys and street wall heights, new streets and public domain requirements. These controls effectively address the requirements listed under Clause 7.20(4) and as such, a site-specific DCP would likely repeat existing controls that already exist under Sydney DCP 2012.
125. In light of the above, the applicant's request for a waiver is justified and it is considered that the requirement for the preparation a site-specific DCP is unreasonable and unnecessary in the circumstances.

Competitive Design Process and Design Excellence

126. As set out in the section above, the size of the site is such that a site-specific development control plan is typically required to be prepared under Clause 7.20 of the Sydney LEP 2012 as detailed above. This requirement in turn triggers the need for a competitive design process to be undertaken under Clause 6.21 of Sydney LEP 2012.
127. In accordance with the City's Competitive Design Policy, the competitive design process is to be undertaken in accordance with a Design Excellence Strategy approved by Council as part of an associated site-specific DCP or concept stage development application (Stage 1 Development Application). No site specific DCP or concept application was undertaken on this site and therefore, the development does not technically satisfy the requirements of the Competitive Design Policy. As such, the development is not technically eligible for the 10% additional design excellence floor space pursuant to Clause 6.21(7) of the SLEP 2012.
128. Nevertheless, the application has gone through a competitive design process and seeks approval of a 10% exceedance of the maximum FSR control. It is supported by a Clause 4.6 variation request, which is discussed in the following section of this report.
129. Furthermore, the proposed development is accompanied by a statement prepared by the applicant which outlines why a site specific DCP, as required by Clause 7.20 of the SLEP 2012 is unreasonable and unnecessary in the circumstances of the case. The

justification is accepted in this instance due to the level of detail provided in the Epsom Park controls under Part 5.3 of the SDCP 2012.

Competitive Design Process

130. A competitive design process was conducted on 19 December 2018. The competitive design process resulted in the SJB design being selected as the winning scheme.

131. The Selection Panel identified the following key elements that were integral to the design quality of the SJB scheme and matters that required further resolution through design development prior to lodgement of a development application, as follows:

132. Ensuring that the LEP height limit is not breached by habitable space.

Comment: The proposed elements of the development that exceed the maximum height prescribed under SLEP 2012 are non-habitable spaces. Principally they comprise lift overruns, rooftop plant, and elements pertaining to rooftop communal open space for Buildings A and C.

133. Further substantiating the architectural approach to the Epsom Road façade.

Comment: The architectural approach to Epsom Road façade of Building C has been refined since the competitive design process. In particular, separation between the two towers has been increased by 1.2m to 10.2m in order to enhance the pronunciation of the towers and create two clearly distinctive and separate tower elements. Varied articulation and materials have also been applied to façades to reduce the visual bulk of the built form fronting Epsom Road.

134. Adjustments of facades to achieve a clear two-storey reading at street level.

Comment: Variation in materials has been incorporated into Building C to provide a clear two storey street wall, other than on the southwest and southeast corners. These corners have been pronounced through their design to read as five storey street walls. This provides an enhanced response to the emerging streetscape, including the existing development at 84-92 Epsom Road (Symphony) to the west and the approved development at 106-116 Epsom Road (the Lincon development) to the east.

Conditions of consent are recommended to ensure that proposed materials and colour palette is consistent with the design competition winning scheme.

135. Address the length of the George Julius Avenue façade with distinctive breaks in the massing.

Comment: The massing of the eastern elevation of Building A, fronting George Julius Avenue has been broken up through a variety of design treatments. A clear visual break has been incorporated through the provision of an increased street setback of between 2m - 4.8m for Levels 3 - 7. This is further accentuated through the use of varying materials, including glazing to provide a more vertical building expression along the eastern façade.

136. Improvements in the layout of the pool and gym to provide greater amenity.

Comment: The pool and gym, located at Level 2 in Building C has been reconfigured and provided with a dual aspect to enhance amenity and usability. The pool and gym will now receive acceptable levels of natural light and ventilation.

137. Reconsideration of driveway locations to avoid conflict and improve the street edge.

Comment: The proposed development has relocated the vehicular access for the northern parcel to the eastern side of the site, closer to the intersection between Rose Valley Way and George Julius Avenue. This reduces the opportunity for conflict between vehicles accessing/egressing each building parcel. Driveway widths have been minimised to enhance the public domain along Rose Valley Way.

138. Ensuring that each block is self-contained with regard to car parking and servicing.

Comment: Each building will have direct access to car and bicycle parking areas, with spaces to be provided for each building as per conditions of consent. Due to site constraints, a single loading dock large enough to accommodate council's waste collection vehicles will be provided in the northern parcel for use of all three buildings. Building C will benefit from a waste storage area at basement level, with bins proposed to be transferred to a larger waste storage area in the northern parcel prior to collection days. This is considered a reasonable response to the site constraints for the southern parcel, in particular the narrow lot configuration that restricts large vehicle access to the southern parcel fronting Epsom Road.

139. Adjustment of unit layouts to improve outlook.

Comment: All of the apartments will be provided with reasonable amenity, including outlook.

140. Providing terraces with individual connections to the podium car park.

Comment: All of the terraces (Building B) fronting Rose Valley Way will have direct access to the podium car parking area.

141. Ensuring ground floor dwellings on the south side of Rose Valley Way have dedicated commercial space without compromising living rooms.

Comment: No commercial space has been provided within the dwellings on the southern side of Rose Valley Way. However, the ground floor of these dwellings has floor to ceiling heights of 3.8m to provide flexibility for conversion to commercial uses should it be required by future occupants.

142. Investigate opportunities for deep soil.

Comment: The amount of deep soil provided on site has been increased since the competitive design process. The proposal now provides 762sqm of deep soil area, equating to 10% of the site area (excluding land for dedication).

143. In light of the above, it is considered that the proposed development maintains consistency with the design scheme selected as the winner of the competitive design process and generally incorporates the recommendations of the Selection Panel.

144. In considering whether the development exhibits design excellence in accordance with Clause 6.21 of SLEP 2012, consideration must be given to the following matters:

- a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved;

Comment: The development achieves a high standard of architectural design, being of a scale, form and design that is consistent with the desired future character of the Epsom Park locality and compatible with other developments in the streetscape. Furthermore, the development is generally consistent with the design scheme selected as winner of the competitive design process, other than the proposed use of external materials and colour palette, as detailed in Figure 9 below. The materials and colours of the competitive design process winning scheme are 'warmer' and provide a more natural palette, which is considered to be exemplary to the proposal. As such, conditions of consent will require materials to be provided in accordance with those presented as part of the competitive design process winning scheme.

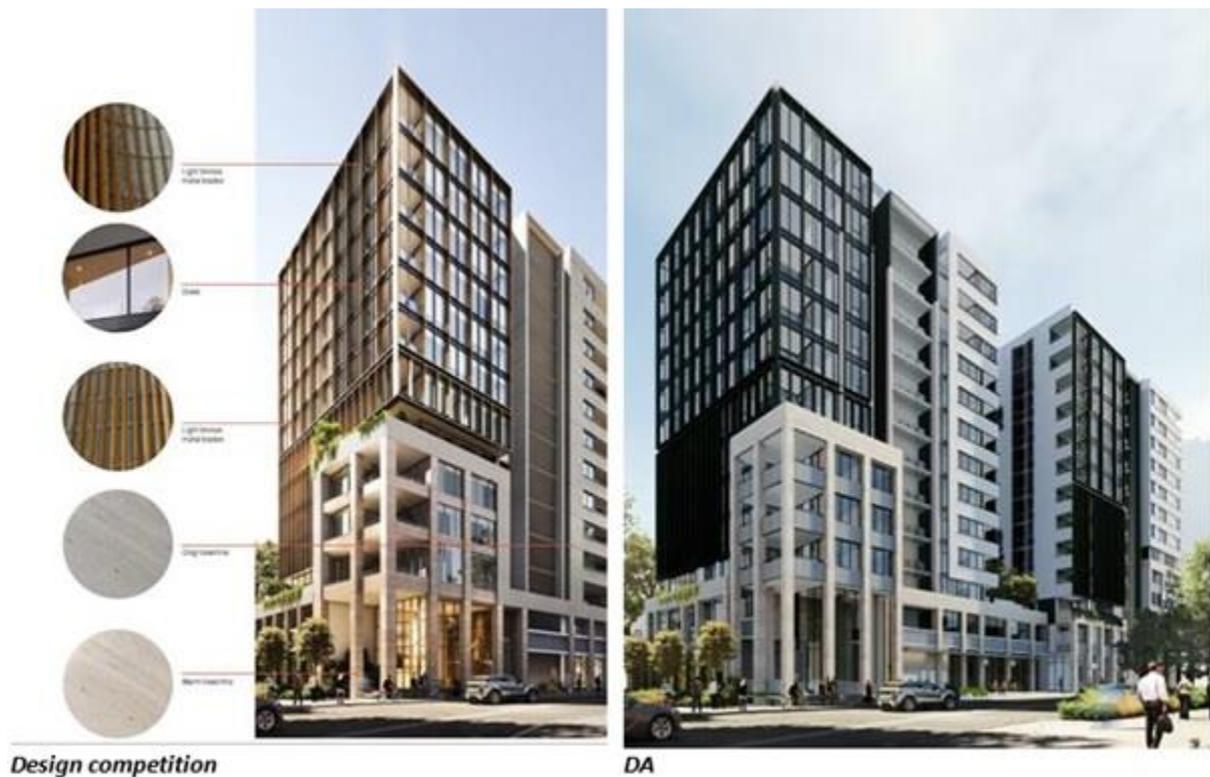


Figure 37 Material palette from the design competition and current proposal.

- b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,

Comment: The proposed development provides a mixture of uses, building scales and typologies to provide a high level of visual amenity and enhance the interface of the development with the public domain. Active street frontages, entrances to buildings and through site links will engage with the new and enhanced local street network and will provide increased passive surveillance of streets.

- c) whether the proposed development detrimentally impacts on view corridors,

Comment: The development incorporates generally compliant street setbacks and, other than minor variations to height prescribed by the SLEP 2012, will be consistent with the building envelope controls that apply to the site. The development is unlikely to adversely affect any significant view corridors.

- d) how the proposed development addresses site suitability, land use, heritage and streetscape, built form and setbacks, environmental impacts, pedestrian, cycle, vehicular and service access and circulation, public domain improvements, public domain interface, and landscape design.

Comment: As set out throughout this report, the proposed development satisfactorily addresses these matters as prescribed by the ADG, SLEP 2012 and SDCP 2012.

145. It is noted that the proposed development has reduced the amount of green roofing provided to Building A and the western roof of Building C. This was considered a fundamental part of the winning design. Solar PVs have been provided at roof level, however it is possible for these to be laid over green roofing so that the two can be provided in unison. Conditions of consent will require green roofing to be increased on Buildings A and C, as envisaged in the design below.



Figure 38: Green roofing required to be reinstated as outlined in red, consistent with the design scheme selected as the winner of the competitive design process.

146. In light of the above assessment and the consistency of the proposed development with the design scheme selected as the winner of the competitive design process, it is considered that the proposed development achieves design excellence, pursuant to Clause 6.21 of SLEP 2012.

Clause 4.6 request to vary a development standard - Floor Space Ratio

147. Under Clause 4.4 of SLEP 2012, the site is prescribed a maximum floor space ratio (FSR) of 1.75:1. An additional 0.5:1 FSR is allowable if the development provides community infrastructure, pursuant to Clause 6.14 of SLEP 2012. As such, the total allowable FSR is 2.25:1 equating to 23,827sqm of GFA.

148. The proposed development has an FSR of 2.48:1 (or 26,235sqm of GFA), which seeks to benefit from the 10% additional design excellence floor space pursuant to Clause 6.21 of the SLEP 2012. However, as outlined in the previous section of this report, the proposed development does not satisfy the preconditions to benefit from the design excellence bonus and as such, a variation under Clause 4.6 is required, and has been submitted by the applicant.

149. The total non-compliance is 2,407.5sqm equating to a variation of 10.1%.

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

Applicant's Written Request - Clause 4.6(3)(a) and (b)

152. The applicant seeks to justify the contravention of the FSR development standard on the following basis:
- a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
153. The statement refers to the first, third and fourth methods of the five part test established in *Webhe v Pittwater* [2007] NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The tests seek to demonstrate that the objectives of the standard are achieved notwithstanding non-compliance with the numerical standard; the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable; and that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and reasonable.
154. A summary of the applicant's assessment against the four objectives of the FSR development standard (first method) is provided below:

(a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future;

The proposal has sought to maximise the floor space potential of the site within the parameters of the existing controls.

(b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic;

The urban density and built form scale permitted under the existing controls allows for more intensive development on the site than currently exists. The existing controls recognise that development on this site will be prominent in terms of scale. No adverse traffic impacts will arise as a result of the proposal.

(c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure;

An additional 10% floor space over and above the base FSR controls that apply to the site is sought (2,407.5sqm). In simple terms this equates to

around 26 additional apartments which would allow for a nominal additional population (around 47 persons) when compared to a development that only achieves the base floor space allowable by the LEP.

(d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality;

The proposed development is entirely consistent, in terms of bulk and scale, with the building envelope controls identified for the site as contained in the Sydney DCP. The height of new buildings is generally consistent with the LEP height control that applies (marginal exceedance relating to roof top plant proposed). The proposed variation to the FSR control does not result in the loss of amenity to the neighbouring properties as a result of overshadowing or visual impact and the proposed FSR is therefore considered to be acceptable particularly when balanced against the considerable benefits of the project.

155. A summary of the applicant's assessment against the third method, where the object or purpose would be defeated or thwarted if compliance was required is summarised below.
156. The applicant states that additional floor space over and above the base floor space ratio allowable for the site is envisaged by the Sydney DCP 2012. Figure 5.68 Epsom Park Building Height in Storeys Map contained within Section 5.3.4 Green Square – Epsom Park of the Sydney DCP 2012 provides indicative building envelopes and locations for the distribution of up to 10% additional floor space, which may be sought through the Competitive Design Alternatives Process.
157. The applicant considers that in view of the particular circumstances in this case, strict compliance with Clause 4.4 of the LEP is considered to be unreasonable. Strict compliance with the base FSR control would result in an inferior design outcome and a considerable reduction in the development yield achievable on the site. This would threaten the viability of the project and would be contrary to the objectives for the FSR control which seek “to provide sufficient floor space to meet anticipated development needs for the foreseeable future.”
158. A summary of the applicant's assessment against the fourth method, where the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard are provided below.
159. The applicant has cited 7 development consents in close proximity to the site that have been determined within the previous 5 years:

DA REF	SITE ADDRESS	DATE	EXTENT OF DEPARTURE
D/2019/391	23 Hansard Street, Zetland	29/11/2019	9.96%
D/2015/533	22 Gadigal Avenue, Zetland	21/05/2015	10%
D/2014/1275	5A Hansard Street, Zetland	25/11/2014	3%
D/2012/1955	5 Link Road, Zetland	10/02/2014	17%
D/2018/210	111 McEvoy Street, Alexandria	13/06/2018	64%
D/2016/989	205 Euston Road, Alexandria	22/06/2017	21%
D/2015/351	9 Power Avenue, Alexandria	10/11/2015	60%

160. The applicant states that given the nature of the departure proposed in this instance, involving additional floor space that is expected and supported by the site specific DCP controls that apply, and relating to an overall development that has been subject to a rigorous design review process, and noting that consent has been granted to other buildings within the immediate area for additional floor space which in some instances considerably exceed the maximum FSR control it would be unreasonable for strict compliance to be applied in this case.
161. That there are sufficient environmental planning grounds to justify contravening the standard. the applicant provides a number of environmental planning grounds to justify contravening the FSR development standard, as outlined below.
162. The departure from strict compliance with the numerical FSR control will not result in bulk or scale that is unacceptable. The proposed development includes the creation of public infrastructure including new roads.
163. Public areas, including Gunyama Park, will not be adversely affected by the proposed FSR of the development. The proposal will have a positive relationship with the new public park and will not have any adverse impacts on its amenity.
164. The proposal will deliver a total of 271 apartments, together with retail uses. This will positively contribute to the economic development and viability of the Epsom Park precinct by:
- Redeveloping a currently under-utilised site;
 - Providing new residential housing stock within walking distance of Green Square Town Centre and rail station; and
 - Providing new retailing to the future residential population.
165. The proposal incorporates green infrastructure works and ESD measures. The floor space variation has no implications on the development's ability to comply with these requirements.
166. The proposed development has been designed to provide for the highest and best use of the land, which ensures that the most efficient use of land is achieved. The approach allows for the yield anticipated by the relevant controls to be achieved on the site (noting that the Sydney DCP anticipates that an additional 10% GFA will be sought

through the competitive design process), thereby providing an opportunity to increase the supply and diversity of residential accommodation within Epsom Park Precinct.

167. The proposal will deliver additional housing stock that will ensure the market supply promotes housing choice and affordability.
168. The subject site is a former industrial site (Council depot) and is largely devoid of vegetation. The proposed development will not result in impacts to threatened flora and fauna, ecological communities or their habitats. Nor would the additional floor space proposed over and above the LEP FSR control affect these matters.
169. The proposed development exhibits good design and has been through a rigorous design assessment process. In their summing up of the winning design, the competition panel identified the proposal exhibited design excellence. Their assessment is summarised in the Design Alternatives Report which comments as follows:
- “The panel considered this scheme to be superb. It is a skilful and elegant proposal which has the potential to become a beautiful backdrop to the public domain, particularly with its civic presence to Gunyama Park.”
170. The selection panel unanimously recommended the SJB submission as the winning scheme for the competition.
171. The Applicant has considerable experience in the construction and the management of buildings and has drawn on this experience in the development of this project. The proposed buildings and additional height will be constructed in accordance with relevant BCA and AS requirements.

Consideration of Applicant’s Written Request - Clause 4.6(4)(a)(i) and (ii)

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

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

173. The applicant has correctly referred to the test established by Preston CJ in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. Specifically, the applicant has addressed the first part of the test by demonstrating that the development meets the objectives of Clause 4.4, notwithstanding non-compliance with the numerical standard. It is not agreed that the applicant has demonstrated that the third and fourth tests of *Wehbe* have been satisfied, though it is noted that only one of the tests must be satisfied.

174. A detailed discussion of the applicant's submission with regard to the objectives of the floor space ratio development standard has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the floor space ratio development standard, to the extent of the variation proposed, is unreasonable and unnecessary.

175. In particular, it is noted that the proposed non-compliance (10%) is generally consistent with the additional design excellence floor space that the development would be eligible for had a site specific DCP or concept DA consent been obtained prior to the competitive design process. As outlined above, it is demonstrated that it would be unreasonable and unnecessary to require the preparation of a site-specific DCP for this site as it would largely replicate the controls specific to Epsom Park that are contained in section 5.3 of the SDCP 2012.

176. Furthermore, the development has been the subject of a competitive design process endorsed by the City and is consistent with the winning scheme prepared by SJB. The proposed development is considered to exhibit design excellence, despite the exceedance of the FSR development standard.

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

177. The statement provides environmental planning grounds specific to the circumstances of the site to justify the extent of non-compliance with the floor space ratio development standard.

178. In particular, the applicant notes that the proposed development is consistent with the SJB design scheme selected as the winner of the competitive design process and which exhibits design excellence. Despite the non-compliance with the FSR control, the proposed development will not have adverse impacts on the surrounding locality or neighbouring properties and will increase housing stock, to the benefit of the local community.

179. The applicant has demonstrated that there are sufficient environmental planning grounds to support the extent of the variation proposed.

Is the development in the public interest?

180. As discussed above and within this report, the development is consistent with the objectives of Clause 4.4 Floor Space Ratio, notwithstanding the variation to the numerical standard.

181. Despite the non-compliance with the numerical standard, the development achieves the objectives of the B4 Mixed Use zone. The development will provide a compatible mix of uses, including housing and retail floor space within Epsom Park, without adversely impacting the viability of nearby centres. The proposed development incorporates significant community infrastructure and public domain enhancements, to benefit the local pedestrian and cycling environment. As such, the development will encourage sustainable modes of transport in the future.

Conclusion

182. For the reasons provided above the requested variation to the floor space ratio development standard is supported the applicant's written request has adequately addressed the relevant matters in clause 4.6 Exceptions to Development Standards of the SLEP 2012 and the proposed development is in the public interest because it is consistent with the objectives of the floor space ratio development standard and the B4 Mixed Use zone.

Clause 4.6 request to vary a development standard - Building Height

183. Clause 4.3 of SLEP 2012 prescribes maximum building heights of 3m, 22m, 25m, and 45m for the site. An extract of the Height of Buildings map, outlining the prescribed heights under SLEP 2012 is provided below.

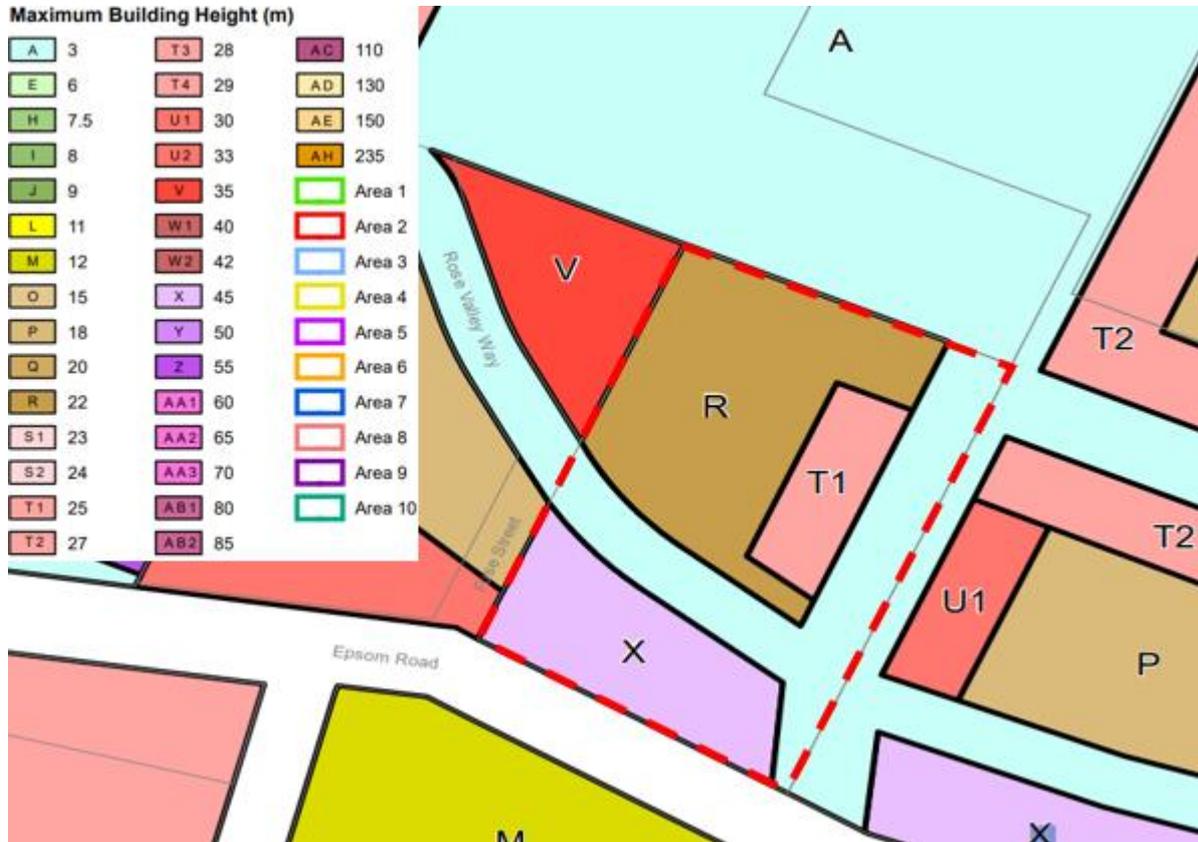


Figure 39 Extract from SLEP 2012 Height of Buildings map with site outlined in red.

184. The proposed development exceeds the prescribed building heights as follows:
- 23m (RL 45.80) is proposed for Building A on the northern side of the site, which exceeds the 22m height limit by a maximum of 1m (4.5%).
 - 25.5m (RL 46.30) is proposed for Building A on the eastern side of the site, which exceeds the 25m height limit by a maximum of 0.5m (2%).
 - 46.5m (RL 67.80) is proposed for Building C in the southern parcel, exceeding the 45m height limit by a maximum of 1.5m (3.3%).

185. Therefore, the maximum non-compliance ranges from 0.5-1.5m, equating to a variation of between 2% and 4.5%.



Figure 40 Section through the development showing the varying height non-compliances.

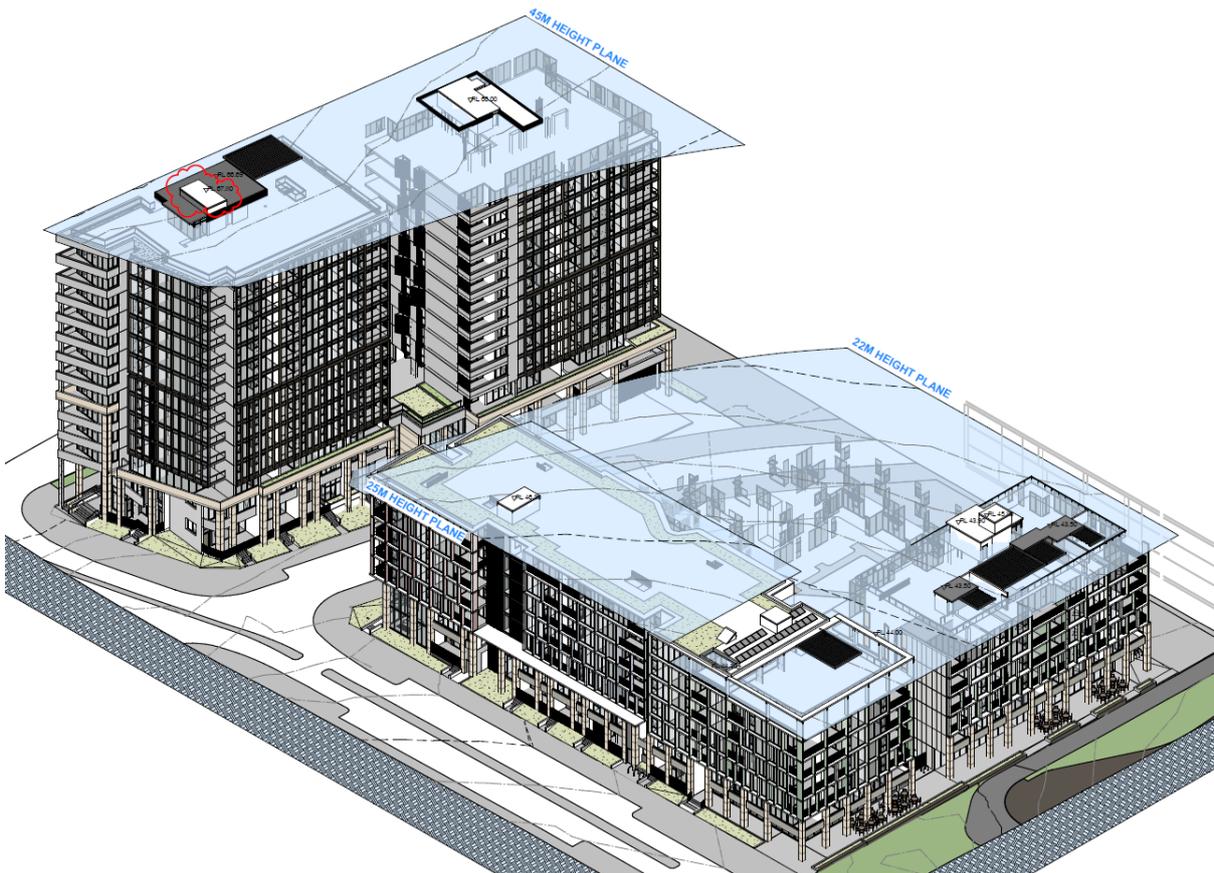


Figure 41 Height blanket diagram showing areas of non-compliance with the LEP maximum heights

186. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - b) That there are sufficient environmental planning grounds to justify contravening the standard.
187. A copy of the applicant's written request is provided at Attachment 4.

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

188. The applicant seeks to justify the contravention of the building height development standard on the following basis:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
189. The statement refers to the first and third and fourth methods of the five part test established in *Webhe v Pittwater* [2007] NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The tests seek to demonstrate that the objectives of the standard are achieved notwithstanding non-compliance with the numerical standard; the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable; and that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and reasonable.
190. A summary of the applicant's assessment against the five objectives of the building height development standard (first method) are provided below:
- (a) to ensure the height of development is appropriate to the condition of the site and its context;
 - (i) The urban density and built form scale permitted under the existing controls allows for more intensive development on the site than currently exists. The existing controls recognise that development on this site will be prominent in terms of scale.
 - (ii) The height exceedance relates to discrete elements of the building form. It does not result in additional storeys over those envisaged by the DCP to be added to the development. The proposed built form remains generally consistent with the site specific DCP envelopes for the site.
 - (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas;
 - (i) The departure from the 45m height limit which applies to the site's Epsom Road frontage, directly opposite a heritage listed item, will have little or no visual impact on the surrounds as the additional height relates to plant equipment fully contained within the roof element of the proposed building.

Plant equipment comprises a small proportion of the proposal's roof area and will not be visible at street level (being set back within the building's roof).

- (c) to promote the sharing of views;
 - (i) The proposal has limited view impacts on neighbouring properties. No additional view impacts are anticipated from the elements of the proposal that exceed the controls, noting that the upper floor windows and balconies of neighbouring buildings are typically located below this level in any event. There would be no difference in views when compared to a fully compliant development.
- (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas;
 - (i) The proposed additional height will not have any adverse impact on the transition of heights from Central Sydney and Green Square Town Centre to adjoining areas.
- (e) in respect of Green Square—
 - (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and
 - (ii) to ensure the built form contributes to the physical definition of the street network and public spaces.

191. The site occupies a prominent position within the suburb of Epsom Park close to the public transport network. It is currently underdeveloped but has been identified as the site of future mixed-use development. The proposed scale of buildings reflects this.

192. The underlying objective of the building height limit is to manage the scale of any future built form in order to mitigate any adverse impacts on the amenity of residential areas. The character of the surrounding area is evolving and is becoming increasingly mixed in terms of bulk, scale and density. The proposed development is compatible with the height and scale of surrounding and nearby development. Buildings opposite are of a consistent height and density.

193. A summary of the applicant's assessment against the third method, where the object or purpose would be defeated or thwarted if compliance was required is summarised below.

194. The applicant considers that the underlying objective of the Building Height control is to allow for a hierarchy of buildings within the Green Square locality, with taller buildings located within the Town Centre and a gradual reduction in height in the outer areas of the suburb. In view of the development context and the minor exceedance proposed in this case strict compliance with Clause 4.3 of the LEP is considered to be both unnecessary and unreasonable. The exceedance relates to non-habitable floor space, comprising plant rooms and lift overruns only. Strict compliance with the height control would result in an inferior design outcome with a less pronounced distinction between the building typologies proposed.

195. A summary of the applicant's assessment against the fourth method, where the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard are provided below:

196. The applicant has cited 5 development consents in close proximity to the site that have been determined within the previous 3 years:

DA REF	SITE ADDRESS	DATE	EXTENT OF DEPARTURE
D/2014/1757	501 Botany Road, Zetland	11/05/2017	8%
D/2016/824	132 Joynton Avenue, Zetland	11/05/2017	50%
D/2017/324	906 Bourke Street, Zetland	26/06/2017	83%
D/2015/913	106 Epsom Road, Zetland	27/07/2017	30%
D/2018/508	62 Epsom Road, Zetland	05/12/2018	12.5%

197. The applicant states that given the minor nature of the departure proposed in this instance and noting that consent has been granted to other buildings within the immediate area for heights which in some instances considerably exceed the maximum building height control it would be unreasonable for strict compliance to be applied in this case.

198. That there are sufficient environmental planning grounds to justify contravening the standard, the applicant provides a number of environmental planning grounds to justify contravening the building height development standard, as outlined below:

- (a) The proposal has been designed to meet BASIX requirements. The minor height variation has no implications on the development's ability to comply with these requirements.
- (b) The proposed development is considered to be suitable for the subject site and will result in positive social and economic impacts in the locality.
- (c) The proposed development has been designed to provide for the highest and best use of the land, which ensures that the most efficient use of land is achieved. Strict compliance with the height control that applies to the site would result in a reduction in the overall yield achievable on the site as it would likely necessitate a storey being removed from Buildings A and C.
- (d) The proposal will deliver additional housing stock that will ensure the market supply promotes housing choice and affordability.
- (e) The subject site is a former commercial industrial use and is largely devoid of vegetation. The proposed development will not result in impacts to threatened flora and fauna, ecological communities or their habitats. Nor would the additional height proposed over and above the LEP height control does not affect these matters.
- (f) The site is not heritage listed, nor is it situated within a heritage conservation area. It is not anticipated that the proposed development will result in adverse impacts on a nearby heritage item being separated from it by Epsom Road. The proposal will positively impact on the streetscape through the redevelopment of a visually unattractive industrial site to accommodate a well-designed building that responds positively, through the use of careful material selection and form, to its surroundings. The component of the

development over and above the LEP height control does not result in additional overshadowing or greater visual impact on this heritage item.

(g) The proposed development exhibits good design and has been through a rigorous design assessment process. The rooftop elements of the development are well thought out and have been successfully integrated into the overall design of the buildings. The minor height variation relates to the lift overrun and rooftop plant equipment which have been positioned in the middle of the taller elements of the proposed buildings and as such these elements will not be visible from the street level of the surrounding public domain. These elements do not adversely affect the amenity of the surrounding area through additional overshadowing or visual bulk.

199. The Applicant has considerable experience in construction and the management of buildings and has drawn on this experience in the development of this project. The proposed buildings and additional height will be constructed in accordance with relevant BCA and AS requirements.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

200. Development consent must not be granted unless the consent authority is satisfied that:

- a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

201. The applicant has correctly referred to the test established by Preston CJ in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. Specifically, the applicant has addressed the first part of the test by demonstrating that the development meets the objectives of Clause 4.3, notwithstanding non-compliance with the numerical standard.

202. It is not agreed that the applicant has demonstrated that the third and fourth tests of *Wehbe* have been satisfied, though it is noted that only one of the tests must be satisfied.

203. A detailed discussion of the applicant's submission with regard to the objectives of the building height development standard has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the building height development standard, to the extent of the variation proposed, is unreasonable and unnecessary.

204. In particular, the development is consistent with the SJB design scheme selected as the winner of the competitive design process. As set out throughout this report, the proposed development is considered to exhibit design excellence, notwithstanding the proposed variation to the height of buildings development standard.

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

205. The statement provides environmental planning grounds specific to the circumstances of the site to justify the extent of non-compliance with the building height development standard.

206. The applicant has therefore demonstrated that there are sufficient environmental planning grounds to support the extent of the variation proposed.

Is the development in the public interest?

207. As discussed elsewhere in this report, the development is consistent with the objectives of Clause 4.3 notwithstanding the variation to the numerical standard.

208. Despite the non-compliance with the numerical standard, the development achieves the objectives of the B4 Mixed Use zone. The development will provide a compatible mix of uses, housing and retail floor space within Epsom Park, without adversely impacting the viability of nearby centres. The site is located within an accessible area and incorporates significant community infrastructure and public domain enhancements, to benefit the local pedestrian and cycling environment. As such, the development will encourage sustainable modes of transport in the future.

Conclusion

209. For the reasons provided above the requested variation to the building height development standard is supported as the applicant's written request has adequately addressed the relevant matters contained in clause 4.6 Exceptions to Development Standards of the SLEP 2012 and the proposed development is in the public interest because it is consistent with the objectives of building height development standard and the B4 Mixed Use zone.

Voluntary Planning Agreement

210. A Voluntary Planning Agreement (VPA) between the developer and the City, dated 7 May 2020 has been executed and registered on title, and provides community infrastructure and land dedication as required under provisions in section 5.3.3 of the DCP.

211. The VPA that has been prepared in association with the subject development application provides for the following public benefits:

- a) dedication of a 1.4m wide strip of land along the Epsom Road frontage of the development site to allow for a widened pedestrian footpath;
- b) construction and dedication of parts of Rose Valley Way and George Julius Avenue; and
- c) construction of part of the Green Square Trunk Drain underneath Rose Valley Way.

212. The executed VPA was publicly exhibited for a period of 28 days in accordance with the requirements of section 7.5 of the Environmental Planning and Assessment Act

1979. The public exhibition period ended on 11 March 2020 and no submissions were received.

213. Recommended conditions of consent will require the development to be undertaken in accordance with the executed VPA to ensure that the public benefits of the proposal are realised.

Communal Open Space

214. Part 3D of the ADG and Part 4.2.3.8 of the SDCP 2012 require that a minimum of 25% (2,647.5sqm) of the site area is provided as communal open space for use of prospective residents.

215. The proposed development provides 1,923.5sqm of communal open space across the site, which equates to 18.2% of the site area. This results in a non-compliance of 724sqm.

216. The proposed amount of communal open space to be provided in the development is supported for the following reasons:

- a) The proposed development delivers extensive public benefits through the provision of community infrastructure worth \$5,550,929.70. This includes dedication of 3,125sqm of land for the construction of new roads (parts of Rose Valley Way and George Julius Avenue) and footpath widening along Epsom Road.
- b) Once the area of these land dedications are subtracted from the total site area, it equates to 7,465sqm of residual area for the proposed development. The proposed development provides 1,923.5sqm of communal open space, equal to 25.8% of the residual site area (excluding land dedications).
- c) Communal open space that is proposed as part of the development is evenly distributed across the site. This includes:
 - (i) 883.1sqm provided in the Level 2 courtyard in the northern parcel;
 - (ii) 425.6sqm provided at Level 7 in the northern parcel;
 - (iii) 180.8sqm provided at Level 3 in the southern parcel; and,
 - (iv) 434sqm provided at Level 14 in the southern parcel.
- d) All of these communal open spaces will be readily accessible to all residents and are provided with landscaping, outdoor furniture and recreational facilities to encourage social interaction. Further amenities facilities are provided in Building C, with a pool and gym provided for residents on Level 2.
- e) Furthermore, at least 50% of the usable part of the proposed communal open space will receive direct sunlight between 9am to 3pm on 21 June, consistent with the requirements of Part 3D of the ADG.

217. It is noted that as part of the amended scheme that was provided to Council on 17 April 2020, a 62sqm plant structure was incorporated at roof level of Building A on Level 7 (northwest block). This location reduces the amount of communal open space that is available to all residents, and would be a location that will receive excellent levels of

solar access. As such, given the proposed non-compliance with the communal open space requirement, recommended conditions of consent seek a design modification to relocate the rooftop plant to within private open space areas at Level 7.

Deep Soil Zones

218. Part 3E of the ADG requires a minimum 7% (741.3sqm) of the site area is provided as deep soil landscaped area with a minimum dimension of 6m.
219. Part 4.2.3.6 of the SDCP 2012 requires that at least 10% (1,059sqm) of the site area is provided as deep soil landscaped area. On sites greater than 1,000sqm, the SDCP requires deep soil areas to be consolidated with a minimum dimension of 10m. Where this is not possible, all remaining deep soil areas are to have a minimum dimension of 3m.
220. The proposed development provides 762sqm of deep soil area across the site, which equates to 7.2% of the site area. Only 300sqm (2.8% of the site area) of the deep soil landscaped area is provided with a minimum dimension of 10m. Of the remaining deep soil landscaped area proposed, 233sqm is provided with a minimum dimension of 3m and 229sqm with a minimum dimension of 2m.



Figure 42: Deep soil proposed across the site.

221. Despite these numerical non-compliances with the minimum dimension requirements of the ADG and both the area and minimum dimension requirements of the SDCP 2012, the proposed amount of deep soil area is supported in this instance for the following reasons:
222. The development does provide in excess of 7% of the total site area as deep soil landscaped area. Although all of these deep soil areas do not have a minimum dimension of 6m as prescribed by the ADG, ample space is provided to accommodate tree planting, as demonstrated in the accompanying landscape plans.

223. Like the discussion relating to communal open space above, once land dedications are subtracted from the total site area, the proposed deep soil landscaped area is equal to 10% of the buildable site area.
224. The above calculations of deep soil landscaped area do not include areas with a minimum dimension of less than 2m. However, as shown in Figure 32 above some of these areas are still capable of supporting vegetation and planting.
225. As demonstrated in the submitted landscape plans, the proposed development is capable of supporting extensive tree and vegetation planting. Including 73 new trees capable of achieving a mature height of at least 10m. The provision of a consolidated area of deep soil at Level 2 in the northern parcel will also facilitate the planting of large trees capable of reaching a mature height of 16m. This will provide a significant increase in urban tree canopy cover across the site.
226. For the reasons stated above, it is considered that the proposed amount of deep soil landscaped area is acceptable. Despite numerical non-compliances with the ADG and SDCP 2012, the proposed development will support healthy tree and plant growth on the site, increasing urban tree canopy, assisting in stormwater management and enhancing amenity for future occupants. Despite numerical non-compliances, the proposal is consistent with ADG Objective 3E-1 and the objectives of the SDCP 2012.

Visual Privacy

227. Part 3F of the ADG prescribes building separation that is required between proposed buildings on the same site as well as to neighbouring sites. The relevant building separation distances to be provided between buildings for habitable rooms and balconies are 12m (up to 4 storeys), 18m (5-8 storeys), and 24m (9 storeys and above).
228. The building separation provided between the two blocks that form Building A is 6.3m where habitable rooms of the eastern block directly face habitable rooms of the northern block from Levels 2 through to 7. This provides a numerical non-compliance with the distances prescribed in the ADG of between 5.7m (Levels 2 - 4) and 11.7m (Levels 5 - 7).
229. Building C contains a separation between residential towers of 10.2m on Levels 3 – 13. This provides a numerical non-compliance with the distances prescribed by the ADG of 1.8m (Level 3), 7.8m (Levels 4 to 7) and 13.8m (Levels 8 to 13), respectively.
230. It is noted that the objective of this part of the ADG (3F-1) is to ensure that apartments achieve reasonable levels of visual privacy. To ensure that acceptable levels of visual privacy are provided for all affected apartments within Buildings A and C, a number of privacy treatments have been incorporated into the design of the buildings. This includes the use of privacy louvres and angled 'pop-out' windows to limit any direct views between habitable rooms.

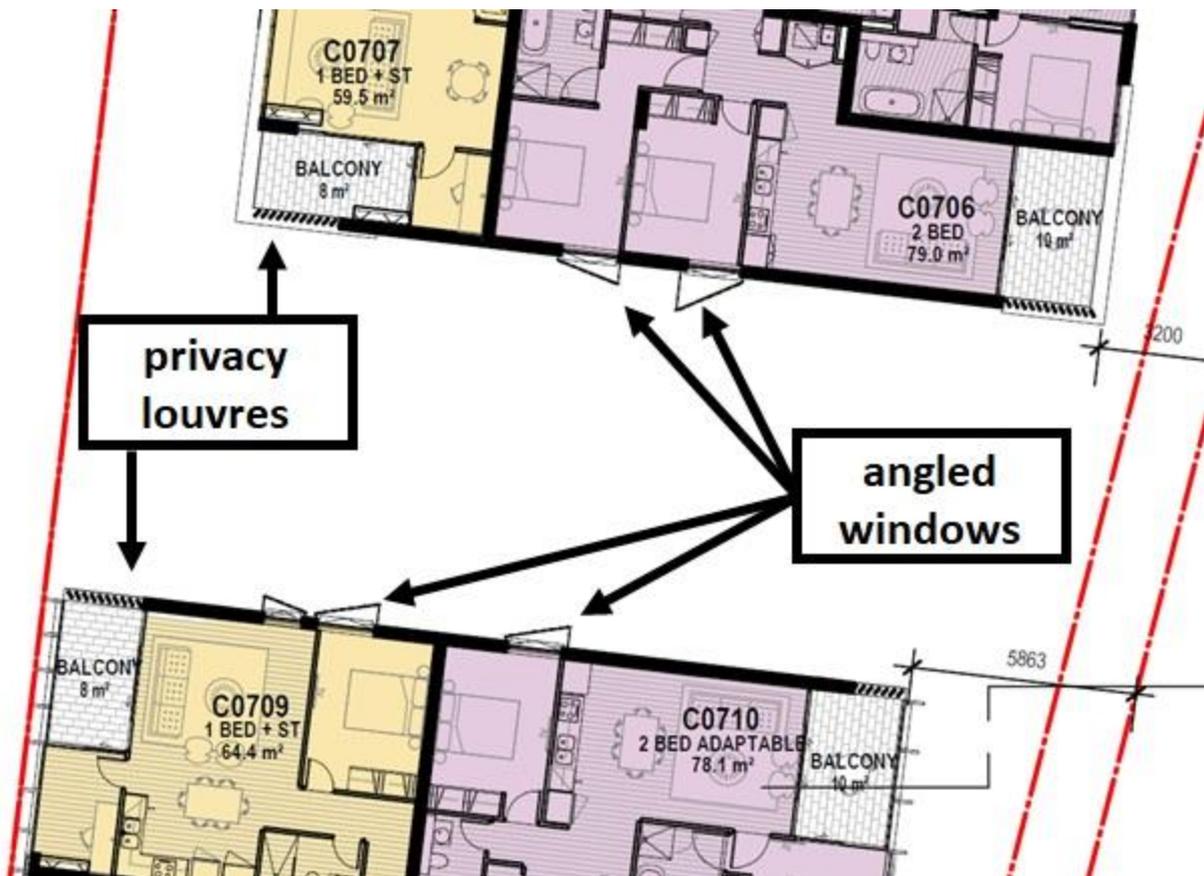


Figure 43: Extract of Building C Level 7 floor plan, illustrating various privacy treatments incorporated into the design

231. The above treatments are considered to mitigate any potential adverse visual privacy impacts for proposed apartments. Similar treatments are proposed for apartments facing each other in Building A. However, apartments on Levels 4 - 7 (A0406, A0506 and A0605) have east-facing windows serving kitchen/dining areas which do not appear to have any privacy treatments. This will face directly onto west-facing open balconies for apartments on the opposite side of the through site link.

232. Conditions are recommended requiring design modifications for suitable privacy louvres to be incorporated into the design of these units as shown in the example extract in Figure 34 below.

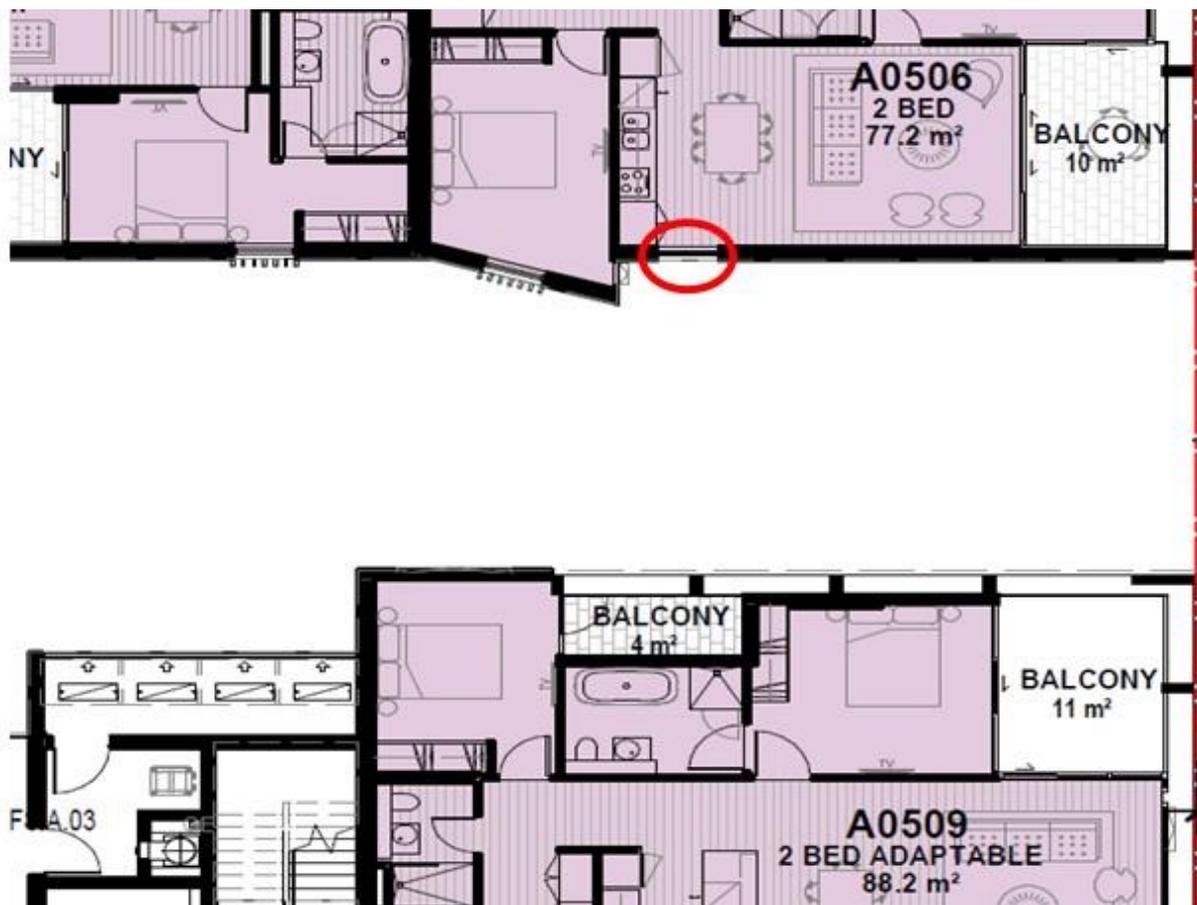


Figure 44: Level 5 floor plan, showing non-treated windows outlined in red.

Solar Access

233. The ADG requires that at least 70% of residential apartments receive at least 2 hours of solar access between 9am and 3pm on 21 June. The applicant provides that 191 (70.5%) out of 271 residential apartments are provided with 2 hours of solar access between 9am and 3pm on 21 June in accordance with the requirements of Part 4A of the ADG.

234. However, an assessment of solar access has identified a number of the apartments that the applicant claims as complying with the ADG do not receive at least 2 hours of solar access between 9am and 3pm on 21 June. The overall count concludes that 183 apartments receive a minimum of 2 hours solar access or 67.5% of the total apartments proposed.

235. Whilst this is non-compliant with the ADG requirements it is acknowledged that the proposal has improved from the original submission. The applicant has sought to make changes to the layout of the apartments to optimise the solar access and has included skylights where possible to improve sunlight to the apartments.

236. Furthermore, the vast majority of apartments are provided with internal sizes and private open spaces that are larger than the minimum required under the ADG. These

apartments also benefit from having reasonable levels of outlook and visual and acoustic privacy in accordance with the relevant ADG and SDCP 2012 requirements.

237. As such, it is considered that the proposed residential apartments are provided with good levels of amenity, despite the numerical non-compliance in respect of solar access. The proposed development is thus considered to be consistent with Objective 4A-1 of the ADG.

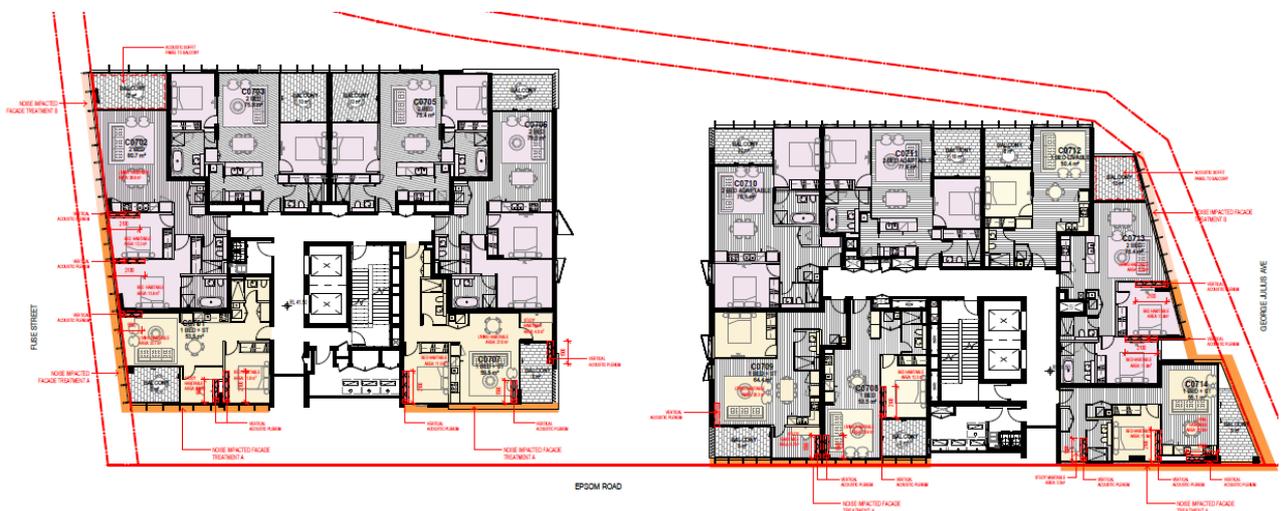
Natural Ventilation and Acoustic Privacy

238. Section 4.2.3.11 of the SDCP 2012 requires the repeatable maximum LAeq (1 hour) level in residential buildings to not exceed 45dB for bedrooms between 10pm and 7am, and 55dB in the main living area 24 hours (for open windows and doors).

239. Objective 4B-1 of the ADG requires that all habitable rooms are naturally ventilated and the accompanying design guidance requires that the area of unobstructed window openings should be equal to at least 5% of the floor area served.

240. The acoustic assessment report submitted with the application indicates that the bedrooms and living areas of all apartments of Building C that face Epsom Road do not achieve DCP noise criteria with windows open to achieve natural ventilation. The proposed development seeks an alternative design in the form of an acoustic plenum that will be incorporated into the design of each affected bedroom and living room to ensure that satisfactory acoustic privacy and natural ventilation are achieved.

241. The plans and section below provide an indication of where the acoustic plenums will be located and how they will be designed.



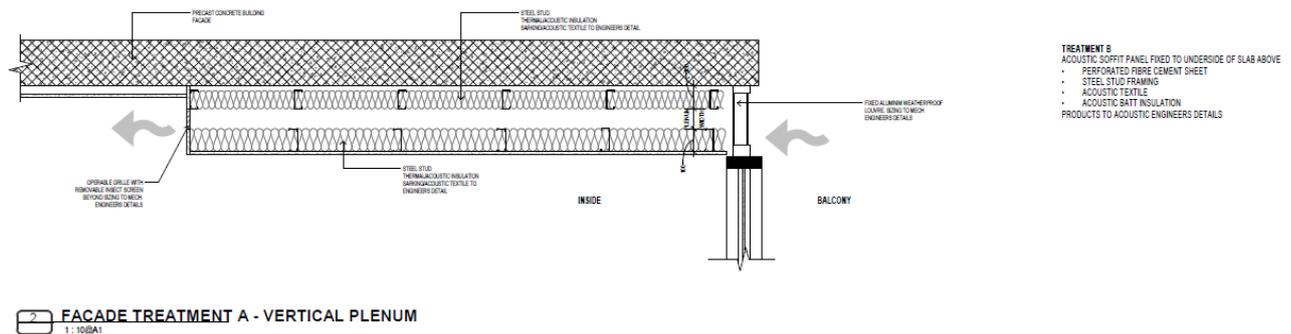


Figure 4: Proposed location and design of acoustic treatments to Building C.

242. Council's Environment Health Officer has assessed the proposal and acknowledges that the design has the capability to accommodate such an arrangement to ensure that each apartment is naturally ventilated whilst still achieving internal acoustic compliance as per the ADG and SDCP 2012.
243. To ensure this is provided whilst not adversely impacting the external appearance of the proposed building or the internal amenity of the proposed apartments, conditions of consent will require further design detail and verification of the proposed acoustic plenum arrangement or an alternative solution to be provided prior to construction certificate. This will include a requirement to have the design verified by a ventilation expert.

Natural Cross Ventilation

244. Part 4B of the ADG requires that at least 60% of residential apartments on the first nine levels of a development are naturally cross ventilated. 225 apartments are proposed on Levels 1 - 9, so 135 apartments are required to be naturally cross ventilated in accordance with the ADG.
245. The applicant provides that 123 (55%) out of 225 residential apartments are provided with naturally cross ventilation in accordance with the requirements of Part 4B of the ADG.
246. However, the applicant has included a number of apartments in the calculation that incorporate acoustic plenums (55 on the first nine storeys of Building C), as discussed in the following section of this report. These apartments should be discounted from the calculations as they cannot be naturally cross ventilated in accordance with the ADG. When discounted from the total number of apartments within the first nine storeys of the development this leaves 170 apartments, meaning 102 (60%) apartments are required to be cross ventilated.
247. The development achieves natural cross ventilation to 81 (47.6%) of the 106 apartments in question, which is non-compliant with the requirements of the ADG. This is considered to be an acceptable outcome given the acoustic constraints that affect Building C. However, the design of some of the apartments is required to be amended so that apartments do receive adequate cross ventilation.

248. A number of corner apartments within Building A are required to incorporate a window within bedrooms to achieve cross ventilation. As such, conditions of consent will require a number of apartments (A0201, A0209, A0309, A0409, A0509, and A0608) to incorporate amended window design to provide openable 'pop-out' windows and thus adequately achieve natural cross ventilation whilst maintaining privacy. An example of this is provided for apartment A0209 below.

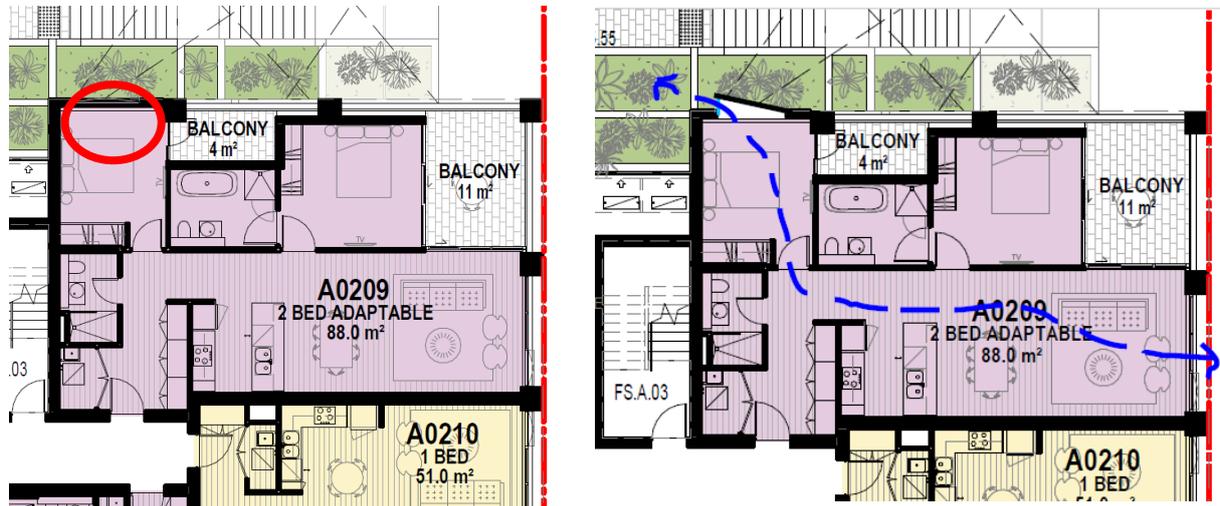


Figure 5: Proposed floor plan for A0209 (left) and plan showing location of required window for cross ventilation (right).

Furthermore, a number of apartments in Building A are provided with skylights for cross ventilation (A0603, A0701, A0702, A0704, A0706, and A0709). The skylights have not been located deep enough within the floor plate of these apartments to ensure adequate cross ventilation. As such, conditions of consent will require these skylights to be relocated accordingly.

Other Impacts of the Development

249. The proposed development is capable of complying with the BCA.

250. 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

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

Internal Referrals

252. The application was referred to or discussed with the following Council officers and referral bodies during the assessment process:

- Design Advisory Panel
- Heritage Specialist;
- Urban Design Specialist;
- Landscape Specialist;
- Environmental Health Unit;

- Public Domain Unit;
- Safe City Unit;
- City Projects Unit;
- Specialist Surveyor;
- Building Services Unit;
- Late Night Trading;
- Transport Planner;
- Sustainability Specialist;
- Public Art Specialist;
- Tree Management Unit; and
- Waste Management unit.

253. Where appropriate conditions recommended by referral bodies and Council officers have been included for imposition on any consent granted.

External Referrals

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

255. The application was also referred to Sydney Water and NSW Police who did not provide a response to the referrals. Standard conditions of consent, including the requirement to obtain a Section 73 Certificate is recommended.

Notification, Advertising and Delegation

256. The application constitutes integrated development and as such the application was notified and advertised for 30 days between 11 September 2019 and 11 October 2019 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification 11 submissions were received.

a) Increased traffic and congestion in the locality.

Response - The Traffic and Parking Assessment that accompanies the application demonstrates the proposed development will not give rise to an adverse increase in traffic and congestion in the locality. Bicycle parking on site is proposed to be provided in excess of the minimum requirements and will encourage sustainable modes of transport to reduce congestion on local roads.

b) Lack of parking provided on the site and cumulative impact of a number of new developments in the locality.

Response - Parking provided on site is in accordance with Council's maximum parking rates. The site is in an accessible location and sustainable modes of transport to and from the site are thus encouraged. Council's Transport Planner has assessed the application and raises no objection with the amount of parking provided.

c) The proposed development is ugly.

Response - The proposed development has been the subject of a competitive design process and the proposed development is consistent with the winning scheme by SJB. The proposed development is considered to exhibit design excellence, pursuant to Clause 6.21 of Sydney LEP 2012. The proposal provides a high quality development that incorporates an appropriate response to the public domain, including Gunyama Park and is consistent with the emerging character of the locality. The development is of a scale and form that is consistent with the relevant planning controls and the design competition scheme. Materials will be high quality and compatible with nearby developments.

d) Proposed scale and height is not compatible with the locality and exceeds the height prescribed by SLEP 2012.

Response - As discussed elsewhere in this report, the proposed scale of the development is considered to be compatible with the desired future character of the area as described in the Epsom Park DCP. In particular, the height of the development up to 13 storeys along Epsom Road is consistent with the height approved at Nos. 106-116 Epsom Road adjacent to the east of the subject site. LEP height non-compliances arise from non-habitable rooftop plant structures, set well back from parapets and will not be visible from street.

e) No further retail premises are required in the area. The proposed ground floor retail units will remain empty and are a waste of land use.

Response - Retail premises are envisaged at ground level for the subject site, as outlined within the Sydney DCP 2012. The provision of retail will be consistent with the active frontages envisaged along Epsom Road and facing Gunyama Park.

f) Dust and noise from construction. Adverse impact on air quality.

Response - Standard conditions are proposed to mitigate any potential noise and dust from construction activities on the site.

g) Fuse Street is not adequate to accommodate construction traffic and ensure safe access to adjacent properties.

Response - Conditions are recommended for a Construction Traffic Management Plan (CTMP) to be submitted to and approved by Council Officers prior to the commencement of works on site. The CTMP will be required to manage traffic and ensure safe access/egress to the site during construction.

h) Adverse impacts on nearby heritage item.

Response - Council's Heritage Specialist raises no objections to the proposed development on heritage grounds. Building C has been broken up by providing a two storey podium with towers above, which reduces the overall bulk of the building. A warm palette of materials is proposed and will respond to heritage item opposite.

- i) Insufficient setbacks on the western side and loss of visual privacy to neighbouring apartments.

Response - Building setbacks to Nos. 84-92 Epsom Road to the west of the site are compliant with the ADG separation requirements. As such, levels of visual privacy for neighbouring apartments are considered to be acceptable.

- j) Rose Valley Way is not adequate to provide vehicular access to the site and neighbouring sites.

Response - Interim measures will be put in place so that Rose Valley Way only provides access to the subject site, once built. As other developments within Epsom Park are completed, the local road network will be linked together as per Council's vision for the locality. Council's Transport Planner has reviewed the application and raises no objections, subject to conditions.

- k) Lack of deep soil provided.

Response - The amount of deep soil landscaped area proposed has been increased as a result of amendments over the course of the assessment period. As set out within this report, the amount of deep soil area provided is considered to be acceptable.

- l) Lack of community infrastructure to support the increase in residential floor space in the area.

Response - Community infrastructure proposed as part of the development is in accordance with Council requirements and will have an attributable value of \$5,550,929.70. This is secured by a VPA that has been agreed and executed between the developer and the City.

- m) The proposal is an overdevelopment of the site. Too much density has been approved in the area.

Response - The proposed density (FSR) has been justified through a Clause 4.6 variation request, as previously discussed in the report. It is considered to be in keeping with the density envisaged for the area under the relevant planning controls for the site.

- n) Failure to protect trees on the site.

Response - Trees proposed to be removed are considered to be necessary to facilitate redevelopment of the site. These are predominantly within areas that are designated for new roads and footpath widening. Council's Tree Management Unit raises no objections to the application, subject to recommended conditions.

- o) Potential impact on the structural stability of adjacent buildings.

Response - A Geotechnical Report accompanies the application and provides that excavation can be undertaken using conventional excavation and earthmoving equipment. A condition is recommended requiring dilapidation reports to be carried out for all adjacent properties.

Public Interest

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

Affordable Housing Contribution

258. An affordable housing contribution is payable in accordance with Clause 7.13 of the Sydney LEP 2012. The monetary affordable housing levy contribution rate effective from 1 March 2020 to 28 February 2021 is \$214.17 per square metre of total residential floor space and \$71.36 per square metre of non-residential floor space.

259. As such, the required contribution amount is \$7,197,879.26 based on a Total Floor Area calculation of 33,414sqm of residential floor space and 583sqm of non-residential floor space.

260. A condition requiring payment of the affordable housing contribution has been imposed.

S7.11 Contribution

261. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015. This contribution is calculated on the basis of the development's net increase in resident, worker and/or visitor populations.

262. Credits have been applied for the most recent past use of the site, as a Council depot. This provided 10,377sqm of gross floor area which equates to 170.1 workers in accordance with the City of Sydney Development Contributions Plan 2015.

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

Open Space	\$3,020,940.14
Community Facilities	\$612,906.26
Traffic and Transport	\$499,888.61
Stormwater Drainage	\$197,730.76
Total	\$4,331,465.77

264. The section 7.11 contributions payable may be offset against the community infrastructure provisions, in accordance with the requirements and obligations identified in the Voluntary Planning Agreement dated 7 May 2020 between The Council of the City of Sydney and Karimbla Properties (No 48) Pty Ltd.

Relevant Legislation

265. Environmental Planning and Assessment Act 1979.

266. Sydney Airport Referral Act 1996.

267. Water Management Act 2000.

Conclusion

268. The proposal seeks consent for the redevelopment of the site for a mixed use development comprising 3 buildings varying from 4 to 13 storeys in height, and containing retail uses at ground level, with 271 residential apartments, 2 levels of basement car parking with 184 car spaces and associated landscaping.
269. The development has been the subject of a competitive design process with SJB being selected as the winning entry. The proposal is generally consistent with the intent of the winning scheme, with further refinements being made to improve the scale, expression and materiality of Buildings A and C, increase deep soil provision and rearrange vehicular entries, in accordance with the recommendations of the Selection Panel.
270. The application seeks Integrated Development approval under the Water Management Act 2000 for dewatering. General terms of approval granted by Water NSW are included in the list of recommended conditions.
271. A written request seeking to vary Clause 4.3, the 'Height of Buildings' development standard, has been submitted. The variation relates to Buildings A and C, where the development exceeds the height by between 0.5m and 1.5m (parapet and lift overrun) or between 2% and 4.5% respectively.
272. The proposed request to vary the height development standard is supported. The statement provided demonstrates that compliance with the 'Height of Buildings' development standard is unnecessary in this instance, and that there are sufficient environmental planning grounds to justify the variation. The height variation to the development is consistent with the objectives of Clause 4.3, and the B4 - Mixed Use zone, and therefore in the public interest.
273. The site has a prescribed FSR of 1.75:1 and benefits from an additional 0.5:1 for community infrastructure provision. However, as no site specific DCP or concept (stage 1) application was submitted for the site, the development is not eligible for up to 10% additional floor space pursuant to Clause 6.21 of Sydney LEP 2012.
274. As such a further written request seeking to vary Clause 4.4, the Floor Space Ratio development standard, has been submitted. The request seeks a variation of 2,407.5sqm of GFA, providing a proposed FSR of 2.48:1, which equates to a 10.1% variation.
275. The proposed request to vary the FSR development standard is supported. The statement provided demonstrates that compliance with the Floor Space Ratio development standard is unnecessary in this instance, and that there are sufficient environmental planning grounds to justify the variation. Notwithstanding the variation of the FSR development standard the proposed development is consistent with the objectives of Clause 4.4, and the B4 - Mixed Use zone, and is in the public interest.
276. The development is generally consistent with the design quality principles of the State Environmental Planning Policy No. 65 and the objectives of Part 3 and 4 of the Apartment Design Guide. Where non-compliances exist, they have been demonstrated

in this report to be acceptable in the circumstances or can be resolved by the recommended conditions of consent.

277. The proposal achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development will not adversely impact the amenity of neighbouring properties and nor will it compromise the safe and efficient operation of the local road network.
278. Community infrastructure and public domain enhancements provided as part of the development will contribute to the emerging street network in the locality to the benefit of the wider community.
279. Overall, the scale, form, articulation, materiality and architectural contribution of the proposed development is consistent with the Sydney DCP 2012 provisions for Epsom Park and the proposed development is consistent with the desired future character of the locality. The development exhibits design excellence in accordance with Clause 6.21 of Sydney LEP 2012.
280. As a result of notification, 11 individual submissions were received. The submissions raised concerns pertaining to the height, bulk and scale of the development, traffic and construction impacts, deep soil and trees, land uses proposed, overdevelopment of the site, lack of community infrastructure, amenity impacts, heritage, and structural impacts. The concerns are addressed within this report.
281. Subject to conditions, the development is in the public interest and is recommended for deferred commencement approval.

JEFF MEAD

Managing Director, Planning Ingenuity (Consultant Planner)