

**Item 5.****Development Application: 94-104 Epsom Road, Zetland - D/2019/1159****File No.: D/2019/1159****Summary**

|                            |   |
|----------------------------|---|
| <b>Date of Submission:</b> | 18 October 2019, 12 May 2020 amended plans and information  |
| <b>Applicant:</b>          | Karimbla Constructions Services (NSW) Pty Ltd   |
| <b>Designer:</b>           | JN Responsive Engineering   |
| <b>Developer:</b>          | Karimbla Constructions Services (NSW) Pty Ltd   |
| <b>Owner:</b>              | The Council of the City of Sydney   |
| <b>Cost of Works:</b>      | \$7,449,560   |
| <b>Zoning:</b>             | B4 Mixed Use Zone - The proposed early works are to facilitate the redevelopment of the site for mixed commercial and residential uses and which are permitted with consent in the zone.  |
| <b>Proposal Summary:</b>   | The proposal is for early works to facilitate the redevelopment of the site for mixed commercial and residential uses. The proposed early works comprise tree removal, excavation, remediation, shoring and piling.<br><br>This application was lodged with a development application for the construction of three multi storey mixed-use buildings with two basement levels ( D/2019/976). This application is being reported to the Central Sydney Planning Committee (CSPC) on 25 June 2020 and includes a recommendation for deferred commencement approval. |

The application is classified as Integrated Development under the Water Management Act 2000. Water NSW has not issued a decision concerning the General Terms of Approval for the development. The period during which time Water NSW is required to issue such a decision has lapsed. As such there is no impediment to the consent authority determining the application. Conditions are recommended requiring approvals from Council should groundwater need to be discharged into the stormwater drainage system and advising that further approval may be required from Water NSW under the relevant provisions of the Water Management Act 2000.

As Integrated Development, the subject application was advertised and notified for 30 days from 29 October to 28 November 2019. No public submissions were received.

Over the course of the assessment there have been several iterations of amendments and additional information submitted, including:

- a revised Statement of Environmental Effects (SEE);
- an Acid Sulphate Soil Management Plan;
- an amended Remedial Action Plan;
- site auditor's advice;
- arborist's reports;
- amended plans; and
- other additional information.

The proposed early works satisfy the relevant requirements of the Sydney Local Environmental Plan 2012 (the LEP). The proposed early works will not impede the redevelopment of the site in a way that is consistent with the desired future character of the area.

The developer has executed and registered a voluntary planning agreement (VPA) with Council for dedication of 3,126sqm of land for new roads and footpath widening and construction of new roads, footpaths and a portion of the new Green Square trunk drain. This VPA is associated with development application D/2019/976 for the substantive redevelopment of the site.

The site is subject to an option deed (between the City and the Developer) for the Developer to purchase the land. As the application is for development of a City owned site it is to be determined by the Local Planning Panel in accordance with the Minister's local planning panels direction dated 23 February 2018.

The submitted Remedial Action Plan (RAP) identifies potential data gaps pertaining to contaminants [per- and poly-fluoroalkyl substances (PFAS)] that may be present due to the site's history of industrial uses.

The advice of an accredited site auditor has been provided to confirm that the site has a very low risk of PFAS contamination and if PFAS is found there are proven methods for remediation.

As has been recommended for the application for the substantive redevelopment of the site (D/2019/976), a deferred commencement consent is recommended that will require environmental experts to undertake further on-site testing for PFAS prior to the consent becoming operative..

Council's environmental health specialist has reviewed all the materials outlined above and is satisfied the site can be made suitable for its future intended uses in accordance with the requirements of State Environmental Planning Policy No 55 - Remediation of Land.

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

- Development Controls:**
- (i) State Environmental Planning Policy No 55 - Remediation of Land
  - (ii) State Environmental Planning Policy (Infrastructure) 2007
  - (iii) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
  - (iv) Sydney Local Environmental Plan 2012
  - (v) Sydney Development Control Plan 2012

- Attachments:**
- A. Recommended Conditions of Consent
  - B. Selected Drawings
  - C. Selected Drawings Detailed Design DA (D/2019/976)
  - D. Voluntary Planning Agreement Detailed Design DA (D/2019/976)
  - E. Tree Location Plan - Extract from JNW AIA Report 27/08/2019

**Recommendation**

It is resolved that 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/2019/1159 subject to the conditions set out in Attachment A to the subject report.

**Reasons for Recommendation**

The application is recommended for approval for the following reasons:

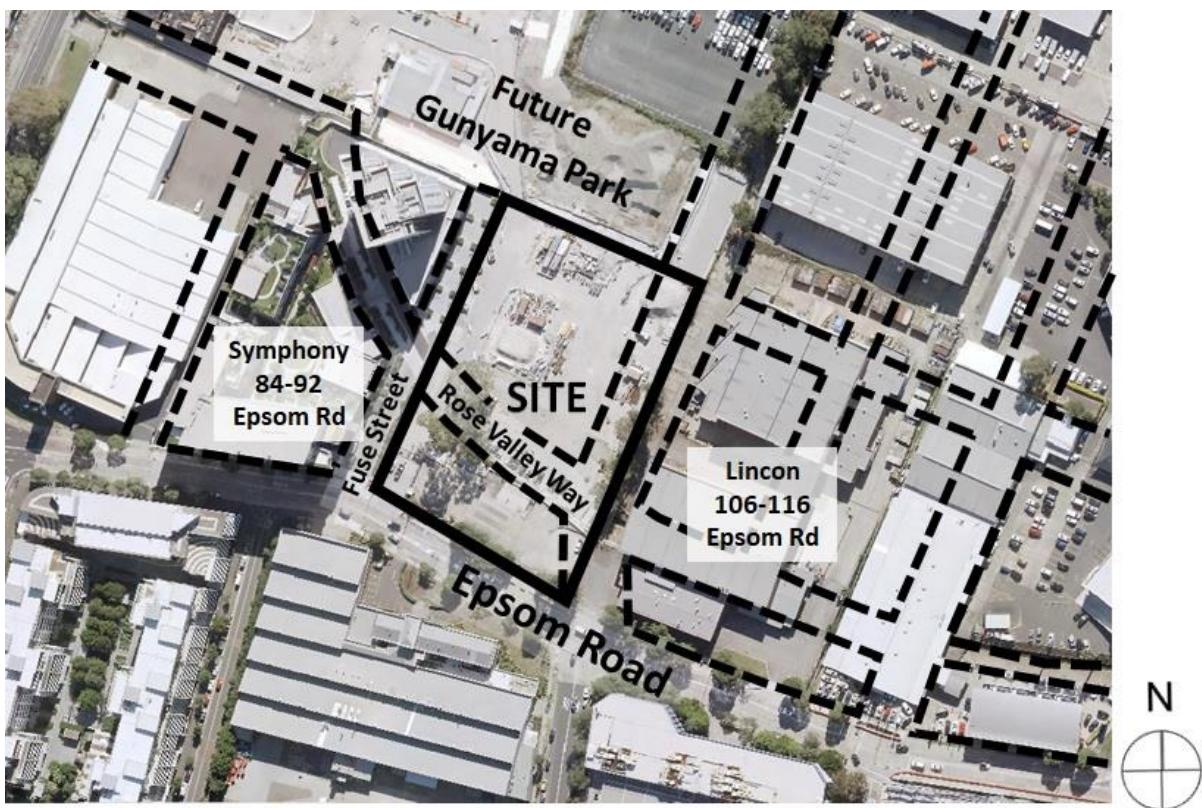
- (A) The early works are to facilitate the redevelopment of the site for mixed-use buildings and which is consistent with the objectives of the B4 Mixed Use zone.
- (B) The proposed early works satisfy the relevant requirements of the Sydney Local Environmental Plan 2012 (the LEP) and will not impede the redevelopment of the site in a way that is consistent with the desired future character of the area..
- (C) Subject to the recommended conditions the early works can be carried out without unacceptable impacts to the amenity of the area.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 2 DP 1239679 and is commonly known as 94-104 Epsom Road, Zetland.
2. The site is irregular in shape and has an area of 10,590sqm. It has a primary street frontage of 84.78m with an existing vehicle crossover to Epsom Road to the south and a secondary street frontage of 60.22m to Fuse Street to the west. Epsom Road contains five street trees and a separated cycleway adjacent to the site's street frontage.
3. The northern two thirds of the site is generally flat and is at a height of about RL 18.50. However, there is an embankment near the southern end of the site which rises up to meet the level of Epsom Road and which is at a height of about RL 20.00.
4. As shown in Figure 1 below, Rose Valley Way currently runs perpendicular to and west of its intersection with Fuse Street. Rose Valley Way has been recently constructed and is proposed to be extended through the subject site as part of its redevelopment, as proposed under application D/2019/976 and is to be extended further east as the adjacent lots are redeveloped in the future.
5. As detailed in the History section of this report below, the subject site was formerly used by the Council of the City of Sydney as a depot. The former depot buildings have been demolished to ground level. The site is currently being used to store materials, vehicles and site offices associated with the construction of the future Gunyama Park and which will adjoin the site to the north.
6. The site adjacent to the east at 106-116 Epsom Road contains low-rise warehouse buildings that currently house commercial and industrial uses. That site is subject to a development consent D/2015/913 for a mixed-use development comprising five multi-storey buildings. Should development consent D/2015/913 be acted upon, the development of the site would include the construction of part of a new street to be named George Julius Avenue, which would straddle and extend along its eastern boundary with the subject site.
7. On the opposite, southern side of Epsom Road is the local heritage item (I1379) known as the former 'Moffat Virtue' warehouse and office building.
8. The site does not contain a heritage item and is not located within a heritage conservation area.

9. A site visit was carried out by staff on 18 October 2019. Photos of the site are below:



**Figure 1:** Aerial image of subject site and surrounding area with proposed new streets shown dotted.



**Figure 2:** Eastern end of subject site's Epsom Road frontage.



**Figure 3:** Western end of subject site's Epsom Road frontage.



**Figure 4:** View across the subject site to the north-west.



**Figure 4:** View across the subject site to the south-east.



**Figure 5:** Local heritage item (I1379) known as the former 'Moffat Virtue' warehouse and office building located on the southern side of Epsom Road, opposite the site.



**Figure 6:** Meriton's Symphony building at 84-92 Epsom Road adjacent and west of the subject site.



**Figure 7:** View east along Rose Valley Way towards the site.

## History Relevant to the Development Application

Former uses of the subject site

10. The Victoria Park Racing and Recreation Ground Company Limited owned and operated the site as a racecourse from 1910 to 1946. Part of the racecourse was used as an army base during this period, from 1939 to 1945.
11. During the 1950's the site was used for a vehicle assembly facility. Between 1952 and 1980 the land was owned by the Olympic Tyre & Rubber Company Limited and used for motor vehicle related activities including repair workshops and as a petrol station.
12. From 1980 until the recent demolition of the depot buildings, the site has been owned by Council and was used as a depot for vehicle maintenance, fleet services and cleaning.

Planning processes and applications for the subject site

13. D/2014/748 – On 11 July 2014 development consent was granted for the subdivision of the former Council depot site into two lots, one for the future Gunyama Park and one residual development parcel.
14. Planning Proposal: Minor Policy And Housekeeping Amendment To Sydney Local Environmental Plan 2012 – On 30 November 2017 and 11 December 2017 respectively, the Central Sydney Planning Committee (CSPC) and the Council approved the Planning Proposal to amend the Floor Space Ratio (FSR) Map to reflect the subdivision of the former Council depot site to create a development parcel and Gunyama Park. The outcome of which was to increase the base FSR control for the site from 1.25:1 to 1.75:1. These revised controls would come into force once the site was subdivided, among other requirements.
15. D/2016/824 – On 11 May 2017 development consent was granted for the staged construction and use of the 'Gunyama Park Aquatic and Recreation Centre' comprising an indoor and outdoor aquatic and recreation centre and public park. The approved works include demolition of existing structures, earthworks and construction of the new facilities. The aquatic centre includes a 50m heated outdoor pool, a heated outdoor leisure pool, a 25m indoor program pool, an indoor hydrotherapy pool, a creche, a licensed cafe and a health and recreation centre. The park includes a synthetic sports field, playground, skate areas, fitness stations, amenities buildings, barbecue areas and landscaping.
16. S/2018/23 – On 22 June 2018, approval was granted for a land subdivision certificate for a two lot subdivision pertaining to Gunyama Park as approved by development consent D/2014/748.
17. CMP/2018/8 – From January to March 2019, a competitive design process was held for the site.
18. D/2019/976 – On 3 September 2019, a DA was lodged for excavation, remediation, and construction of a new public road and a mixed-use development of three multi-storey buildings, comprising more than 260 residential apartments, ground level retail, landscaping, basement containing parking and services and for staged subdivision. This application is being reported to CSPC on 25 June 2020 and includes a recommendation for deferred commencement approval. The deferred commencement conditions require environmental experts to undertake further on-site testing prior to the consent being made operative.

19. VPA/2018/18 – A draft Voluntary Planning Agreement (VPA) for dedication of 3,126sqm of land and developer's works to construct portions of Rose Valley Way, George Julius Avenue, Epsom Road widening and the Green Square trunk drain, associated with D/2019/976 was exhibited from 12 February to 11 March 2020. On 1 May 2020 the VPA was executed and registered on title of the lot.

Planning approvals for the adjacent site at 84-92 Epsom Road ('Symphony' development)

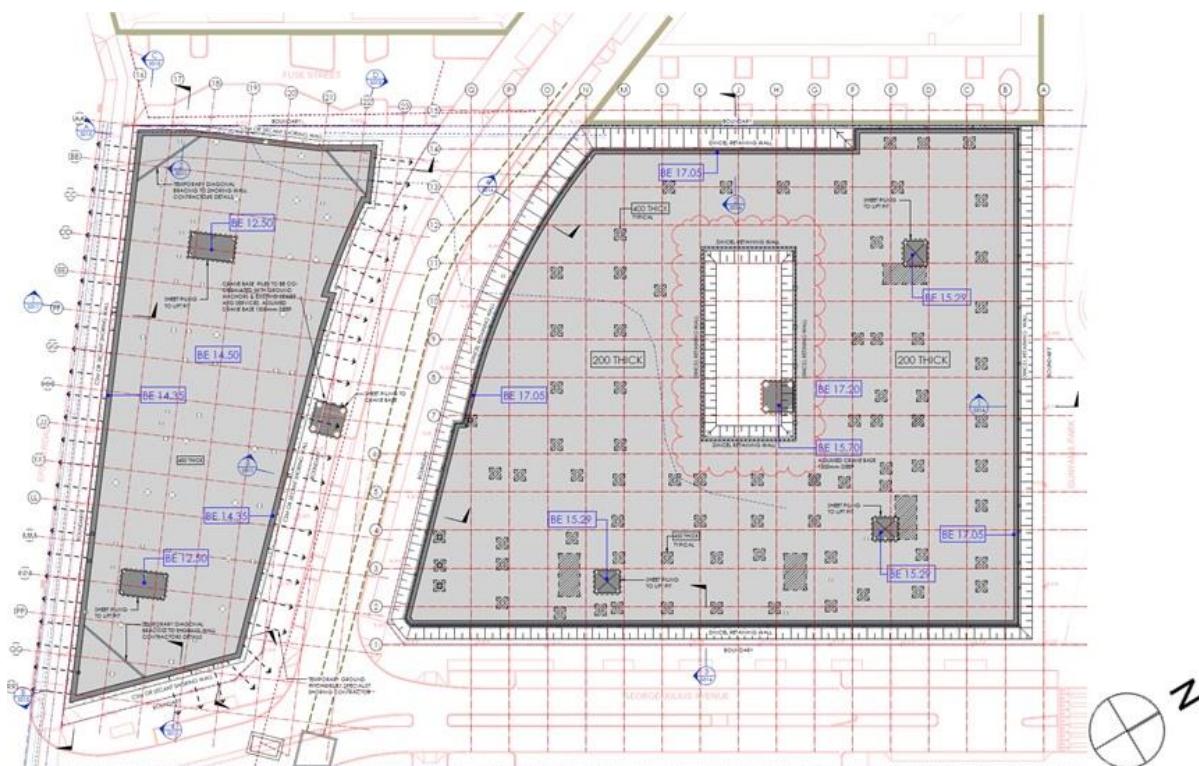
20. CMP/2014/12 – From May to June 2014, a competitive design process was held for the site.
21. D/2014/1988 – On 14 April 2015, deferred commencement consent was granted for removal of 35 trees, excavation and remediation of the site.
22. D/2014/1928 – 4 September 2015, deferred commencement consent was granted for a mixed-use development comprising 4 buildings with 215 residential apartments and ground level retail, basement parking, landscaping, public domain works and subdivision to create 4 new lots. The deferred commencement conditions were satisfied and the consent made operational on 14 September 2015. The Symphony development and associated public domain works have been constructed.
23. VPA/2015/21 – A VPA was entered into, in association with the development approved by consent D/2014/1928. The VPA included land dedication of 2,214sqm comprising a 1.4m wide strip along Epsom Road for road widening, for the future Fuse Street and the future Rose Valley Way and works in kind to embellish the dedicated land and a monetary contribution of \$3,197,469.

Planning approvals for the adjacent site at 106-116 Epsom Road ('Lincon' site)

24. D/2011/1760 – On 30 July 2013, development consent was granted for a concept (stage 1) development application for demolition of all existing structures, building envelopes of up to 14 storeys, basement parking and public domain works (including new public open space, road layout, through site links and landscaping).
25. CMP/2013/12-15 – From September 2014 to January 2015 a 3 stage competitive design process was held for the site.
26. D/2015/1775 – On 8 January 2016, development consent was granted for tree removal and construction of a temporary marketing display suite including signage and landscaping.
27. D/2015/913 – On 27 July 2017, deferred commencement consent was granted for demolition of the existing structures and tree removal 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 basement car parking, landscaping, public domain works and subdivision to create 6 new lots. The deferred commencement conditions were satisfied and the consent was made operative on 11 July 2018.
28. VPA/2013/43 - A VPA was entered into, in association with the development approved by consent D/2015/913. The VPA included land dedication of 5,654sqm comprising new roads including Peters Street, Letitia Street, Rose Valley Way and George Julius Avenue and footpath widening to Epsom Road and works in kind to embellish the dedicated lands and to construct part of the Green Square trunk drain. The VPA also included land dedication for the future Gunyama Park, part of the future George Julius Avenue.

## Proposal

29. The proposed early works include tree removal, excavation, remediation, shoring and piling. This will facilitate the future construction of three multi-storey mixed-use buildings with up to two basement levels as proposed under development application D/2019/976. The application for the substantive redevelopment (D/2019/976) is being reported to CSPC on 25 June 2020 and is recommended for deferred commencement approval.
  30. Most of the site is proposed to be excavated to a depth of about 3m below ground level (BGL) with the portion of the site to accommodate the new southern building block to be excavated to a depth of up to 6.4m BGL. The depth of excavation may extend deeper at specific locations within the site for footings, service trenching and lift pits.
  31. Over the course of the assessment the subject application has been amended by submission of a revised Statement of Environmental Effects (SEE), an Acid Sulphate Soil Management Plan, amended Remedial Action Plan and Site Auditor's Advice, amended excavation plans and other additional information. The most recent amendments were submitted on 12 May 2020 and are the subject of this assessment report, as shown in **Figure 8** below.

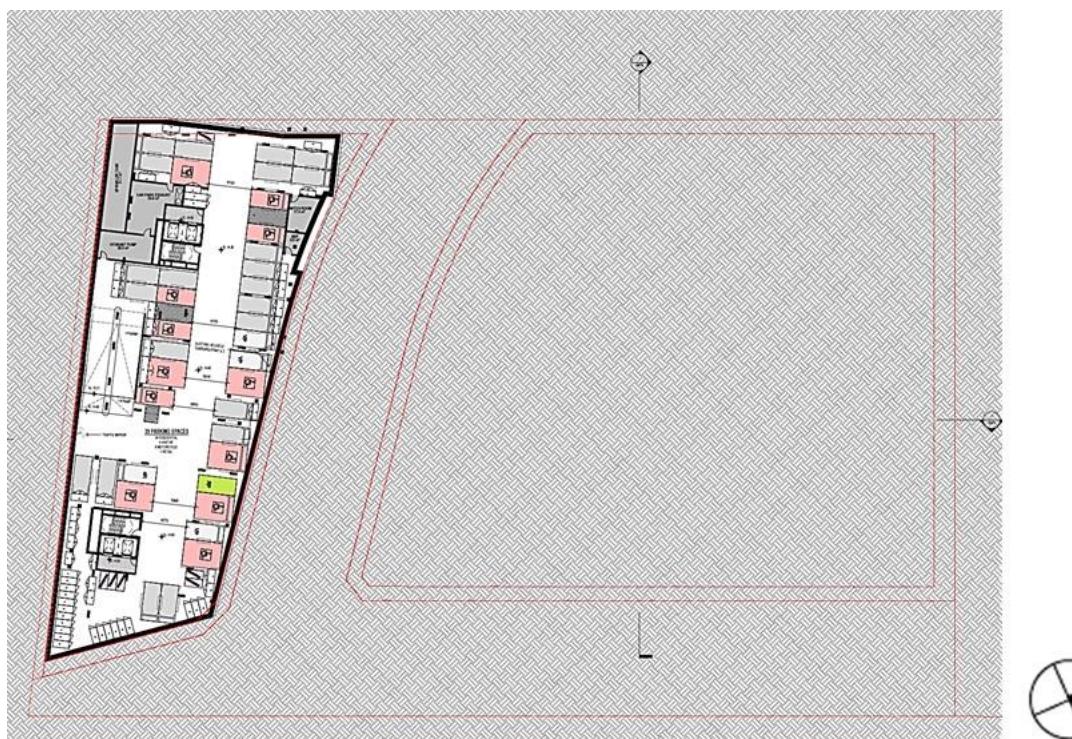


**Figure 8:** Excavation plan proposed under the subject application.

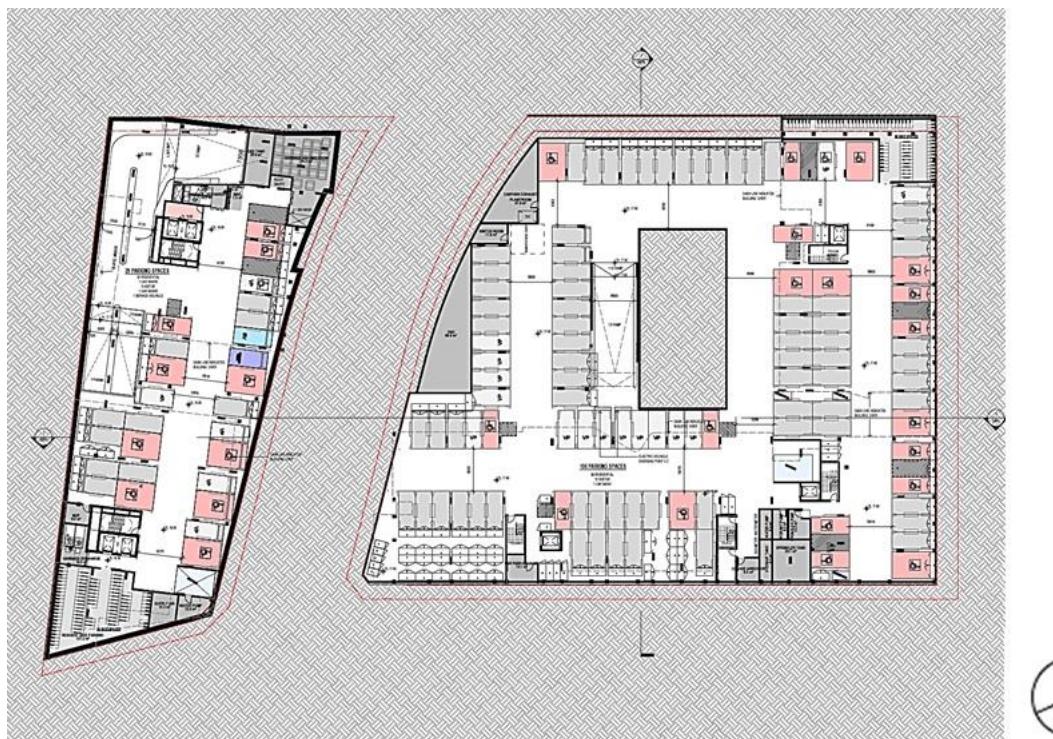
32. A photomontage, basement and ground level plans as proposed under the substantive redevelopment application D/2019/976 are shown in Figures 9 to 12 below. Application D/2019/976 is a detailed design DA for excavation, remediation, and construction of a new public road and a mixed-use development of three multi-storey buildings, comprising more than 260 residential apartments, ground level retail, landscaping, basement containing parking and services and for staged subdivision. This application is to be reported to CSPC on 25 June 2020 and is recommended for deferred commencement approval.



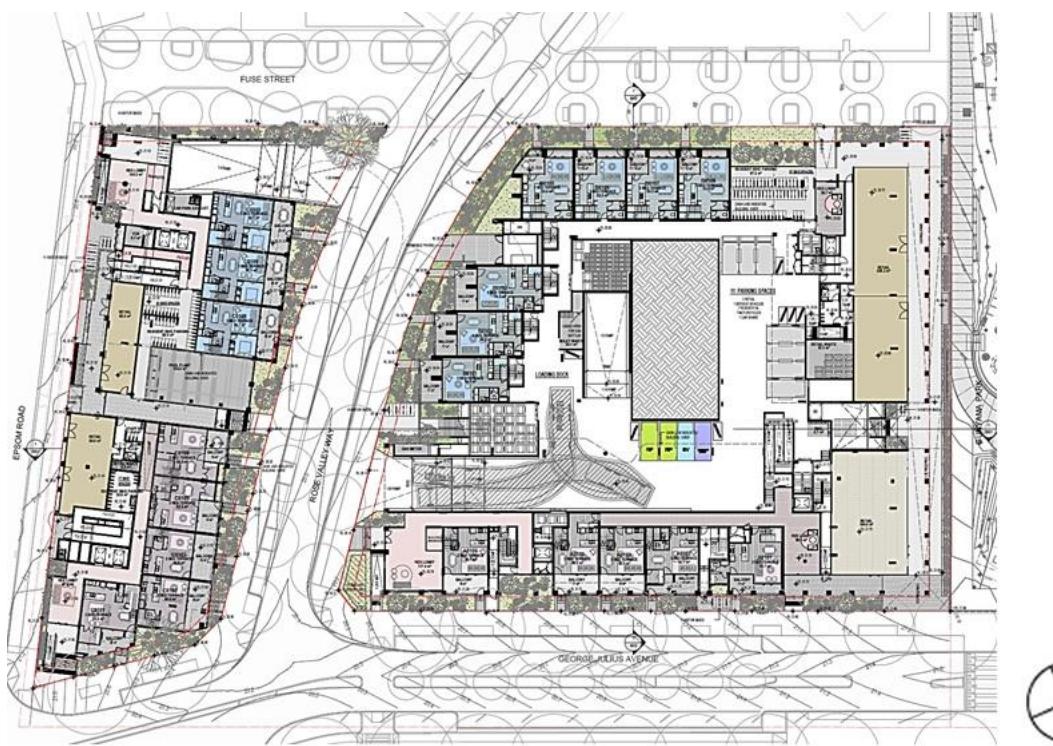
**Figure 9:** Photomontage - development proposed under the substantive application D/2019/976.



**Figure 10:** Basement level 2 - development proposed under the substantive application D/2019/976.



**Figure 11:** Basement level 1 - development proposed under substantive application D/2019/976.



**Figure 12:** Ground level - development proposed under the substantive application D/2019/976.

## Economic/Social/Environmental Impacts

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

- (a) Environmental Planning Instruments and DCPs.

### State Environmental Planning Policy No 55—Remediation of Land

34. 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.
35. As outlined elsewhere in this report, the site has a history of uses that have contributed to its contamination. The subject application is to carry out early works to facilitate the redevelopment of the site for residential and commercial uses and for new areas of public domain including new roads, footpaths and landscaped areas. As these are sensitive land uses, the SEPP applies to the subject application.
36. A Detailed Environmental Site Investigation (DESI) and Remedial Action Plan (RAP) were submitted with the application. The RAP identified potential gaps in the data pertinent to the site and recommended a sampling program for per- and poly-fluoroalkyl substances (PFAS) that may be present due to its history of industrial uses.
37. During the assessment, Council officers requested that the following information be submitted:
- (a) an addendum RAP that is based upon the results of sampling that address data gaps, particularly those pertaining to PFAS contamination; and
  - (b) either a Site Audit Statement or letter of interim advice provided by an accredited site auditor, to certify that the RAP is practical and the site will be suitable after remediation for its future intended use.
38. A revised RAP and a site auditor's endorsement of the revised RAP were submitted, and which confirmed the RAP could be implemented and would make the site suitable for a future mixed-use development. However, contrary to Council's officers' request the revised RAP was not based on sampling to address the data gaps identified in the DESI and RAP submitted at lodgement.
39. Following further consultation between Council's planning officers, environmental health specialist and the applicant's project team about these outstanding concerns, the site auditor provided additional advice to confirm that:
- (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.
40. Council's environmental health specialist has reviewed all the materials outlined above and is satisfied the site can be made suitable for its future intended use. Deferred commencement consent conditions are recommended to allow the environmental experts to access the site and carry out further sampling to address the identified data gaps.

41. It is noted that the same RAP and issues were raised with the DA for the substantive redevelopment of the site (D/2019/976) being reported to CSPC on 25 June 2020. The report for the DA for the substantive redevelopment of the site (D/2019/976) includes the same conditions requiring further environmental testing on site prior to deferred commencement consent being made operative.

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

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

Clause 44 and 45 - Development likely to affect an electricity transmission or distribution network

43. The proposed development is in the vicinity of electricity power lines and may affect an electricity transmission or distribution network.
44. In accordance with SEPP clauses 44 and 45 the application was notified to both Ausgrid and Transgrid on 29 October 2019.
45. While Ausgrid did not provide a response, Transgrid replied on 15 November 2019 to advise that no objection was raised.

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

46. The aim of the SEPP is to protect the biodiversity values and amenity of non-rural areas of the State through the preservation of trees and other vegetation.
47. There are five street trees adjacent to the site within Epsom Road and twenty-one trees within the subject and neighbouring site at 106-116 Epsom Road.
48. Conditions have been recommended to manage the removal of trees within the site and to retain and protect street trees within Epsom Road and within the neighbouring site at 106-116 Epsom Road. Refer to the Issues section in this report.

### **Sydney Local Environmental Plan 2012**

49. The site is located within the B4 Mixed Use Zone. The proposal is for early works to facilitate the redevelopment of the site for mixed commercial and residential uses and which are permitted with consent in the zone.
50. The relevant matters to be considered under Sydney Local Environmental Plan 2012 (the LEP) for the proposed development are outlined below.

### Compliance Tables

| <b>Development Control</b> | <b>Compliance</b> | <b>Comment</b>  |
|----------------------------|-------------------|---|
| 4.3 Height of Buildings    | N/A               | No permanent, above ground structures are proposed under the subject application. |
| 4.4 Floor Space Ratio      | N/A               | No development comprising floor space is proposed under the subject application.  |

| <b>Development Control</b> | <b>Compliance</b> | <b>Comment</b>   |
|----------------------------|-------------------|--|
| 5.10 Heritage conservation | Yes               | <p>The subject site is in the vicinity of the local heritage item (I1379) known as the former 'Moffat Virtue' warehouse and office building, which is located on the opposite southern side of Epsom Road.</p> <p>Demolition of the former Council depot buildings that previously existed on the site was approved by the development consent (D/2016/824) for the construction of the Gunyama Park and aquatic centre.</p> <p>The subject application is for early works to facilitate the redevelopment of the site and which will have no adverse impacts upon the former 'Moffat Virtue' warehouse and office building.</p> |

| <b>Part 7 Local Provisions - General</b>           | <b>Compliance</b> | <b>Comment</b>   |
|--|-------------------|--|
| 7.5-7.7 Car parking ancillary to other development | Able to comply    | <p>This proposal does not seek approval of car parking spaces. However the proposed basement excavation works align with the basements proposed as part of the DA for the substantive redevelopment of the site and allow for car parking provision that complies with the LEP parking rates.</p> <p>A maximum of 231 residential, 25 visitor and 12 retail (a total of 268) car parking spaces are permitted in accordance with the LEP rates, based on the plans submitted as part of D/2019/976 for the redevelopment of the site for residential and retail uses.</p> <p>The plans submitted under the subject application are consistent with those lodged under D/2019/976 and which propose 178 car spaces to meet LEP requirements, with an additional 6 spaces for service vehicles, car share and car wash bays in accordance with the relevant DCP rates.</p> |

| <b>Part 7 Local Provisions - General</b>                           | <b>Compliance</b> | <b>Comment</b>  |
|--|-------------------|---|
|  |                   | The early works plans submitted under the subject application can accommodate the detailed basement design proposed under D/2019/976 in accordance with the maximum car parking rates permitted under the LEP.  |
| 7.14 Acid Sulphate Soils   | Yes               | <p>The submitted Acid Sulphate Soils Management Plan (ASSMP) is based on a review of the various environmental investigations that have been carried out and concludes that the site contains potential acid sulphate soils.</p> <p>The ASSMP specifies how any acid sulphate soils are to be managed during excavation and construction and how acid sulphate soils are to be treated to protect the future development from damage arising from the presence of such soils.</p> <p>Council's Environmental Health Specialist has reviewed the ASSMP and supports its recommendations.</p> |
| 7.15 Flood planning  | Yes               | <p>The site is flood affected. A site-specific flood assessment has been submitted as part of the subject application.</p> <p>Council's Public Domain Infrastructure Officer has reviewed the subject application and site-specific flood assessment and supports the recommended flood planning levels (FPLs) for the future buildings.</p> <p>Conditions have been recommended to ensure the proposed early works are consistent with the FPLs of future development specified in the submitted site specific flood assessment.</p>   |
| 7.19 Demolition must not result in long term adverse visual impact | N/A               | As noted in the History section of this report, the former depot buildings were demolished under development consent D/2016/824 for the Gunyama Park Aquatic and Recreation Centre.   |

### Sydney Development Control Plan 2012

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

#### 2.5.5 Locality Statements – Epsom Park, Green Square

The subject site is located in the locality of Epsom Park in Green Square. The proposed early works will not impede the achievement of the design outcomes defined in Council's planning controls.

| 3. General Provisions                    | Compliance     | Comment   |
|--|----------------|---|
| 3.1 Public Domain Elements               | N/A            | The proposed works will not impede the delivery of new streets including Rose Valley Way and George Julius Avenue, as part of the development proposed under application D/2019/976 for the redevelopment of the site.  |
| 3.5 Urban Ecology                        | Able to comply | <p>There are 5 street trees adjacent to the site within Epsom Road and 21 trees within the subject and neighbouring site at 106-116 Epsom Road.</p> <p>The proposed development requires removal of all trees contained within the site.</p> <p>Subject to the recommended conditions, the proposal will not have any unacceptable impacts upon the local urban ecology.</p> <p>Refer to the Issues section of this report.</p>                                     |
| 3.6 Ecologically Sustainable Development | Yes            | The design excellence strategy associated with the competitive design process carried out for the site committed to the implementation of ESD initiatives including the preparation of a Waste Management Plan (WMP). This includes percentage targets for reductions in the amount of demolition and construction waste that is sent to landfill, best practice waste record keeping and waste monitoring to be applied during demolition and construction phases. |

| <b>3. General Provisions</b>   | <b>Compliance</b> | <b>Comment</b>   |
|--------------------------------|-------------------|--|
|                                |                   | The submitted WMP fulfils the commitments set out in the design excellence strategy.   |
| 3.7 Water and Flood Management | Yes               | Refer to the assessment against LEP clause 7.15 in the compliance tables elsewhere in this report.   |
| 3.9 Heritage                   | Yes               | Refer to the assessment against LEP clause 5.10 in the compliance tables elsewhere in this report.   |
| 3.11 Transport and Parking     | Yes               | Council's Transport Planner has reviewed the proposal and has recommended conditions to regulate traffic to and from the site during the early works phase of development.   |
| 3.14 Waste                     | Yes               | The submitted construction waste management plan satisfies the requirements of this provision.   |
| 3.17 Contamination             | Yes               | In accordance with the requirements of this provision the submitted remediation information is sufficient for Council officers to assess the application against the relevant provisions of the State Environmental Planning Policy No 55 - Remediation of Land. |

| <b>4. Development Types</b> | <b>Compliance</b>  | <b>Comment</b>  |
|-----------------------------|--------------------|---|
| 4.2.3.6 Deep soil           | Partial compliance | <p>Deep soil area equal to 10% of site area and with a minimum dimension of 10m is required.</p> <p>The proposed excavations are aligned with the building footprints proposed under the detailed design DA (D/2019/976) and allow for deep soil areas of 762sqm. This equates to 10% of site area after land dedications and with minimum dimensions of between 2m and 10m.</p> <p>Refer to the Issues section in this report.</p> |

## Issues

### Tree Protection

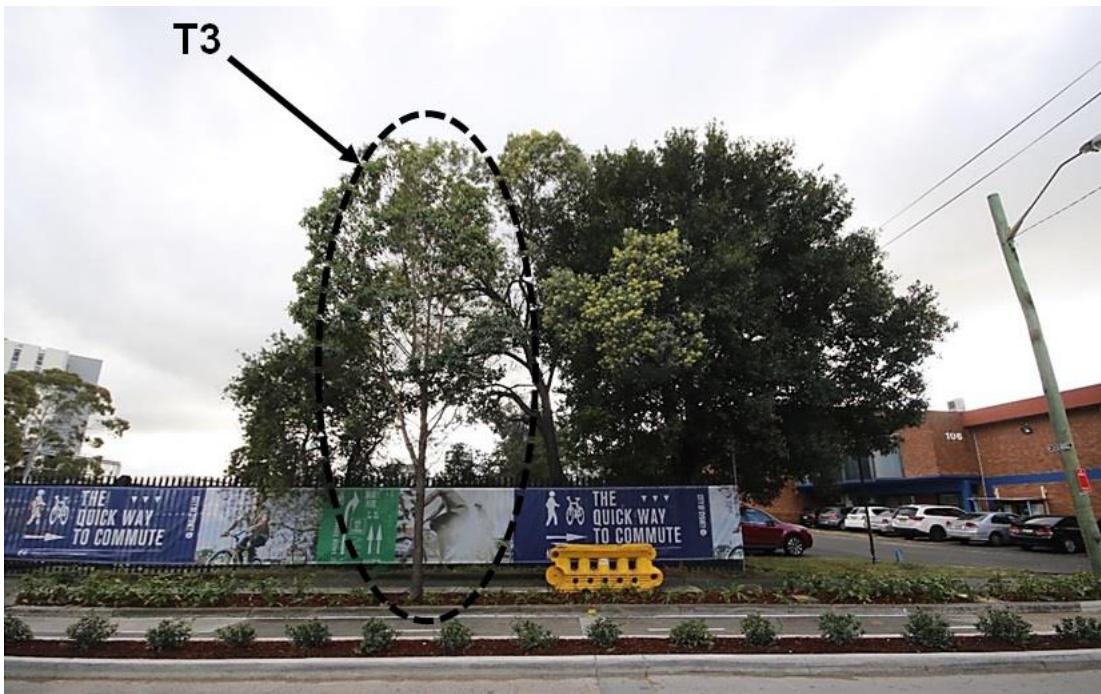
52. There are 5 street trees adjacent to the site within Epsom Road and 21 trees within the subject and neighbouring site at 106-116 Epsom Road.
53. In response to concerns raised by Council officers the applicant submitted an Arboricultural Impact Assessment Report (AIA Report) and Addendum Report dated 29 October 2019 and 8 May 2020, respectively. The reports have not satisfied concerns raised as they have not included root mapping data or provided the information requested.

#### Street trees within Epsom Road

54. As shown in the Figures 13 to 15 below, the five (5) street trees on Epsom Road are numbered T1 to T3 and T16 to T17 in the submitted AIA Reports. Trees numbered T1 to T3 are mature *Lophostemon confertus* (Brushbox). T16 and T17 are semi-mature Brushbox trees. These street trees are of good health and condition and contribute to the quality of the Epsom Road environment. These street trees are considered to be important council assets.
55. The proposed early works are within the Structural Root Zone (SRZ) of street trees numbered T1 to T3 located on Epsom Road.
56. The AIA Reports do not adequately address the potential impacts upon the SRZ of street trees T1 to T3.



**Figure 13:** Street trees numbered T1 and T2 (source: Jacksons Nature Works dated 27 August 2019).



**Figure 14:** Street tree number T3 (source: Jacksons Nature Works dated 27 August 2019).



**Figure 15:** Street trees numbered T17 and T16 (source: Jacksons Nature Works dated 27 August 2019).

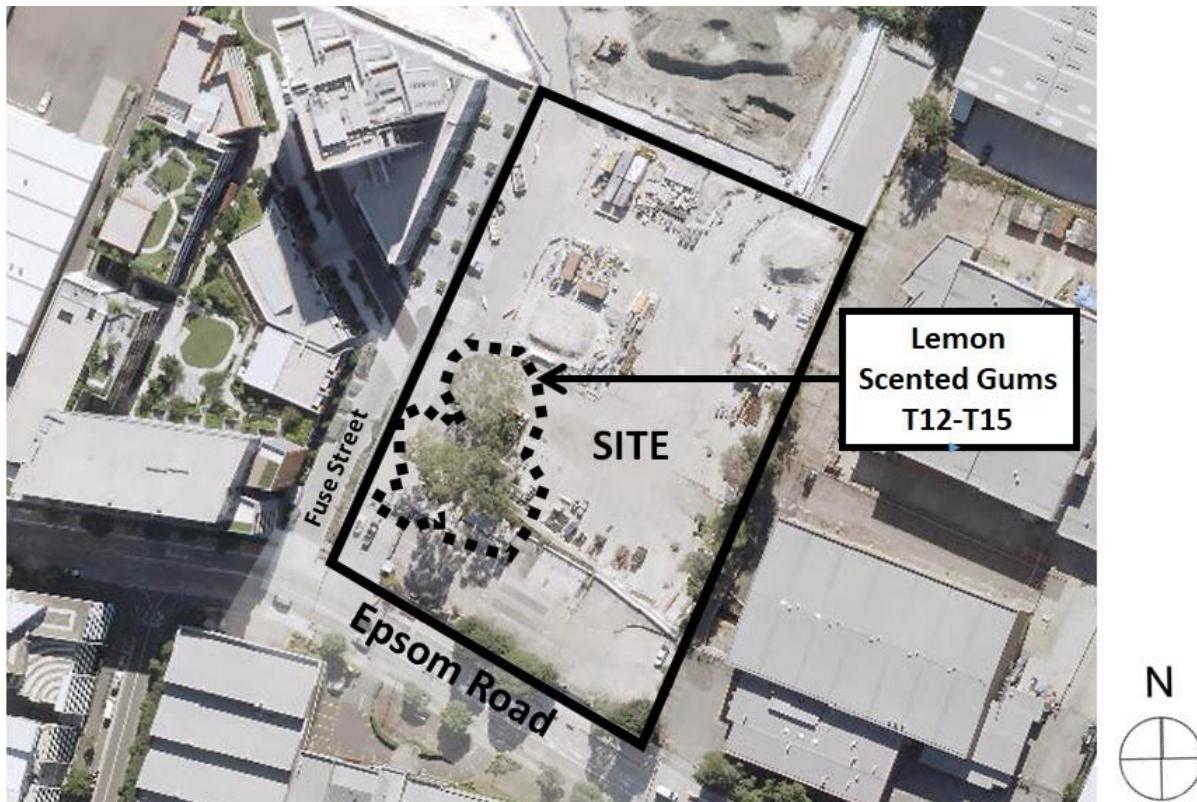
57. Street trees numbered T1 and T2 overhang the site and will likely require pruning for the erection of scaffolding, hoarding and piling rigs. The submitted AIA Reports do not address these potential impacts to street trees.

58. Conditions are recommended:

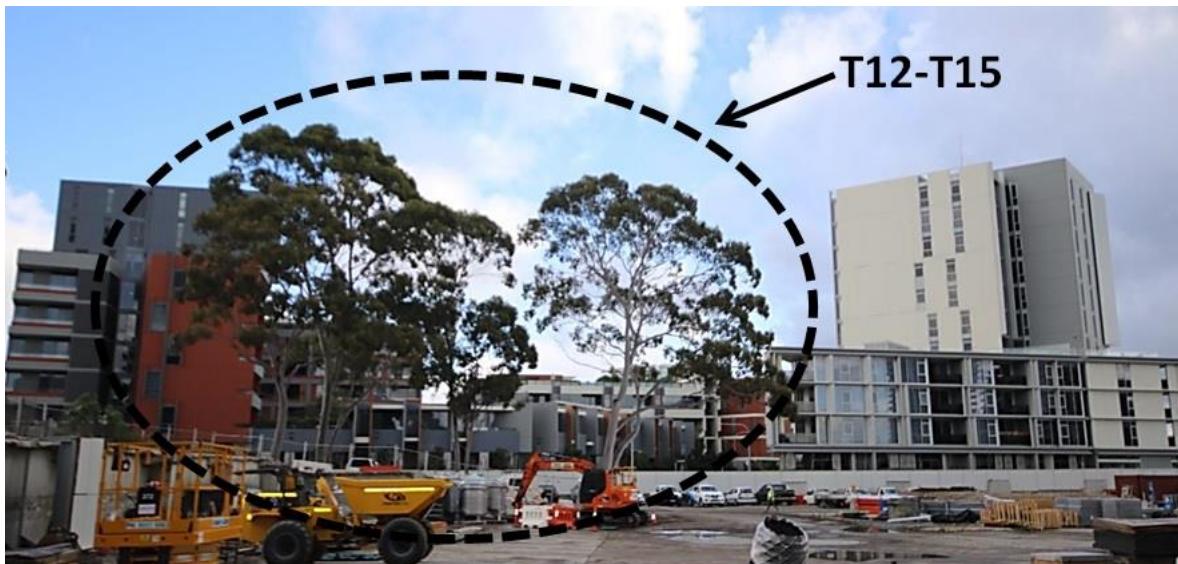
- (a) for the retention and protection of all street trees within Epsom Road;
- (b) that prohibit any works within 2.7m [which is the maximum (SRZ)] of trees numbered T1 to T3, including parts of these SRZs within the site's existing property boundary with Epsom Road, until an AIA Report has been submitted to and approved by the relevant Council officers;
- (c) that require the AIA Report to be informed by non-invasive root investigations and to include tree pruning specifications; and
- (d) that require design modifications for any development including the erection of temporary structures such as scaffolding, excavation and piling equipment to be setback from the SRZ of street trees numbered T1 to T3 located on Epsom Road, as identified by the AIA Report.

#### Trees within the site

59. There are four (4) large mature *Corymbia citriodora* (Lemon Scented Gum) numbered T12-T15 contained within the site (refer to Figures 16 and 17). These Lemon Scented Gums are in good health, condition and contribute greatly to the environment. However, these trees are located within the portion of new street known as Rose Valley Way that is to be constructed as part of the development proposed under detailed design DA (D/2019/976). The dedication of land and construction of Rose Valley Way has been secured through the voluntary planning agreement (VPA) associated with that application.



**Figure 16:** Aerial photograph of Lemon Scented Gum trees T12-T15.



**Figure 17:** Lemon Scented Gum trees numbered T17 and T16 (source: Jacksons Nature Works dated 27 August 2019).

60. There are another eight (8) trees within the site located near the property boundary with Epsom Road. These trees are of various species and range in age and condition. They are of low-retention value and need to be removed to facilitate the proposed development.
61. Conditions are recommended for the removal of these twelve (12) trees contained within the site. Conditions for replacement tree-planting within the site and in the new public domain will be imposed on any consent granted under the substantive DA (D/2019/976).

Trees contained within the neighbouring site

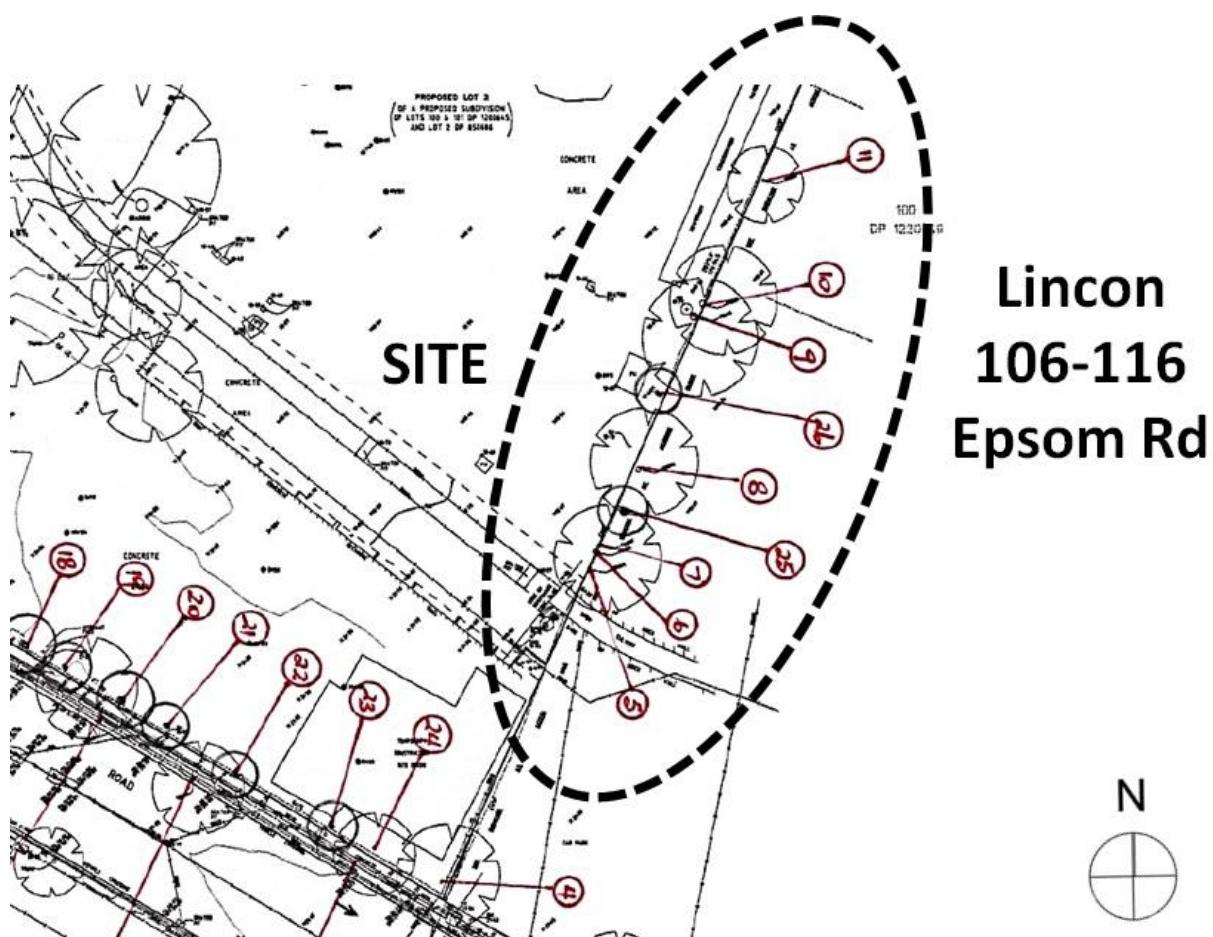


Figure 18: Trees numbered T5-T11 and T25-T26 (source: Jacksons Nature Works dated 27 August 2019).

62. As shown in Figure 18 above, there are at least three (3) trees within the neighbouring site of 106-116 Epsom Road and six (6) trees along the boundary line of 106-116 Epsom Road (it is unclear whether these trees are within the site or the adjacent site). These nine (9) trees numbered T5-T11, T25-T26, will require removal for the construction of George Julius Avenue.
63. Public domain upgrade works (i.e. road construction and reconfiguration) of George Julius Avenue will be undertaken by Council and are not a component of this development application. Trees located within the adjacent property are the property of the owner of the adjacent site. No consent has been granted by the owner of the adjacent property, as part of the subject DA, for any works that would affect those trees. Conditions are recommended for the protection of trees T5-T11 and T25-T26.

## Deep Soil



**Figure 17:** Deep soil areas proposed under detailed design DA (D/2019/976).

64. The deep soil areas proposed under the detailed design DA (D/2019/976) are shown in Figure 17 above.
65. DCP provision 4.2.3.6 requires deep soil areas equal to 10% of site area and with a minimum dimension of 10m.
66. The proposed excavations allow for deep soil areas of 762sqm. This equates to 10% of site area after land dedications and with minimum dimensions of between 2m and 10m.
67. The independent consultant planner assessing the substantive DA (D/2019/976) has advised that the deep soil provision and variations to minimum dimension requirements proposed under the detailed design DA are supported.
68. The proposed excavation plans are consistent with the building footprints proposed under the detailed design DA and are supported.
69. Council's landscape design specialist, who has also provided an assessment of the landscape design for the detailed design DA, has recommended conditions requiring:
  - (a) tower crane bases and supports located within deep soil zones to be removed upon completion of the redevelopment of the site under the substantive DA (D/2019/976); and

- (b) photographic evidence that the deep soil has been backfilled in accordance with the approved section details to be submitted to and approved by the Principal Certifier .

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

70. The proposed development is capable of complying with the BCA.
71. 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**

72. The proposed early works are suitable for the site.

### **Internal Referrals**

73. The assessment process has been informed by advice from Council's Specialist Surveyor, Environmental Health Specialist, Public Domain Specialist, Transport Planner, Tree Management Specialist, ESD Specialist and Waste Management Specialist.
74. Where appropriate, conditions recommended by these referrals have been included for imposition on any consent given.

### **External Referrals**

#### **Water Management Act 2000**

75. Groundwater occurs at a depth of approximately 3.5m BGL. The proposed excavation is expected to penetrate groundwater and may require dewatering of the site. This would require a water activity approval under the Water Management Act 2000 and as such the application is integrated development under the EPA Act.
76. On 29 October 2019, the application was referred to Water NSW as integrated development, in accordance with section 91A of the EPA Act.
77. On 10 February 2020, Council's planning officer advised Water NSW that no submissions had been received in response to the notification and public exhibition of the application.
78. On 2 March 2020, the period during which time Water NSW is required to provide its decision in terms of issuing general terms of approval, lapsed.
79. Water NSW have not provided general terms of approval for the application. As such there is no impediment to the consent authority determining the application. Conditions have been recommended requiring approvals from Council should groundwater need to be discharged into the stormwater drainage system and advising that further approval may be required from WaterNSW under the relevant provisions of the Water Management Act 2000.

**Sydney Water Act 1994**

80. On 29 October 2019, the application was referred to Sydney Water in accordance with section 78 of the Water Act 1994.
81. On 19 November 2019, Sydney Water provided comments to advise that the proposed early works did not require an assessment by Sydney Water at this time.
82. The applicant has made a Sydney Water adjustment/deviation application associated with the development application D/2019/976, for the substantive redevelopment of the site. Sydney Water has issued conditions directly to the applicant and which can only be acted upon once an operative development consent is issued.

**Notification and Advertising**

83. The application constitutes integrated development and as such the application was notified and advertised for 30 days between 29 October and 28 November 2019 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. No submissions were received.

**Delegation**

84. The site is subject to an option deed (between the City and the Developer) for the Developer to purchase the land. As the application is for development of a City owned site it is to be determined by the Local Planning Panel in accordance with the Minister's local planning panels direction dated 23 February 2018.

**Public Interest**

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

**S7.11 Contribution**

86. As stated at section 1.3 of the City of Sydney Development Contributions Plan 2015, the plan applies to development that results in a net population increase.
87. As the proposed works would not result in a new habitable development that would result in a net population increase, the proposed development is not subject to the plan and a section 7.11 contribution is not payable at this time.
88. Development application D/2019/976 for the substantive redevelopment of the site will be assessed against the relevant requirements of the City of Sydney Development Contributions Plan 2015.

**Relevant Legislation**

89. Environmental Planning and Assessment Act 1979.

**Conclusion**

90. The subject application is for early works to facilitate the future construction of three multi-storey mixed-use buildings with two basement levels proposed under development application D/2019/976. The application for the substantive redevelopment of the site is being reported to the CSPC on the 25 June 2020 and includes a recommendation for deferred commencement approval..
91. The subject application has satisfactorily demonstrated that the site can be made suitable for its future intended residential and commercial uses and for new areas of public domain, in accordance with the requirements of State Environmental Planning Policy No 55 - Remediation of Land.
92. The proposed early works satisfy the relevant requirements of the LEP. The proposed early works will not impede the redevelopment of the site in a way that is consistent with the desired future character of the area.
93. For these reasons the proposed development is recommended for deferred commencement consent.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Ben Chamie, Senior Planner