

Item 5.**Development Application: 905 South Dowling Street & 118-130 Epsom Road, Zetland - D/2023/724**

File No.: D/2023/724

Summary

Date of Submission:	10 August 2023. Amended plans and additional information were submitted up until 26 April 2024.
Applicant:	Karimbla Properties (No. 60) Pty Ltd
Architect/Designer:	Mako Architecture
Developer:	Meriton
Owner:	Karimbla Properties (No. 60) Pty Ltd
Planning Consultant:	Meriton & Planning Ingenuity
Cost of Works:	\$506,521,727.80
Zoning:	MU1 Mixed Use
Proposal Summary:	<p>The subject concept development application (DA) which largely reflects the adopted Planning Proposal seeks consent for:</p> <ul style="list-style-type: none">• Concept building envelopes for a mixed-use development comprising nine (9) individual development blocks ranging in height between one (1) and 25 storeys;• Concept design for public domain works including new streets, new public open spaces and new trunk drainage;• Indicative land uses including basement car parking, storage and services, ground floor retail and commercial uses and a centre-based childcare facility and residential uses on the upper floors.

Assessment

Over the course of the assessment the proposal has been amended to update the staging sequencing, amend the proposed vehicular access, confirm the quantum of non-residential and residential uses within each stage and address height non-compliances with the Sydney Development Control Plan 2012 (SDCP 2012).

Additional information has been submitted including solar analysis, contamination documentation, an updated traffic report, an updated Public Art Strategy and a CAD model.

Subject to the recommended conditions, the envelopes can accommodate detailed buildings of appropriate height, bulk and scale that respond to the character of the area and which are capable of achieving design excellence.

Notification

The DA was publicly exhibited for 28 days from 23 August 2023 to 21 September 2023. In response to the public exhibition, three submissions were received. One submission raised concerns about the lack of bus services in the area and another sought clarification regarding the intersection upgrade works to the Epsom and Link Road roundabout. The third submission was received from Randwick City Council and raised concerns regarding the timing of the lodgement of the DA which occurred prior to the site-specific controls in the Sydney Local Environmental Plan 2012 (SLEP 2012) and SDCP 2012 commencing.

Voluntary Planning Agreement

The owner of the site has made a formal offer to enter into a Voluntary Planning Agreement (VPA) with the City.

The VPA will provide for the delivery of community infrastructure as follows:

- Embellishment and dedication/transfer of public open space, public roads and 1.45m of road widening to Epsom Road including any associated utility diversion works.
- Extension of the Green Square Trunk Drainage under Rose Valley Way and associated utility diversion works.
- Embellishment of the through-site link between pocket parks and Defries Avenue with the creation of an easement over to facilitate public access.

- Option for the Developer to carry out the installation of traffic signals at the intersection of Defries Avenue and Epsom Road (subject to Council undertaking all relevant designs and securing the required approvals from relevant authorities).

The draft VPA is required to be publicly exhibited for 28 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Consent Authority

The proposed development has an estimated cost of works more than \$50 million and is therefore required to be determined by the Central Sydney Planning Committee (CSPC).

Summary Recommendation: It is recommended that authority be delegated to the Chief Executive Officer to determine the application, following the drafting and exhibition of the Voluntary Planning Agreement, and considering any public submissions received in response.

Consideration should be given to granting deferred commencement consent requiring the Voluntary Planning Agreement to be executed prior to the consent becoming operative and subject to the recommended conditions contained in this report.

Development Controls:

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) SEPP (Resilience and Hazards) 2021
- (iv) State Environmental Planning Policy (Housing) 2021
- (v) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (vi) SEPP (Sustainable Buildings) 2022
- (vii) SEPP (Transport and Infrastructure) 2021
- (viii) SEPP (Biodiversity and Conservation) 2021
- (ix) City of Sydney Interim Floodplain Management Policy 2023
- (x) Sydney Landscape Code Volume 2: All Developments Except for Single Dwellings 2012

- (xi) City of Sydney Guidelines for Waste Management in New Developments
- (xii) City of Sydney Public Art Policy 2011 and City of Sydney Public Art Strategy 2011
- (xiii) City of Sydney Community Engagement Strategy and Participation Plan 2023

Attachments:

- A. Recommended Conditions of Consent
- B. Building Envelope Drawings
- C. Indicative Reference Design Drawings
- D. Design Excellence Strategy
- E. Public Benefit Offer
- F. Submissions (Confidential)

Recommendation

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer to determine Development Application Number D/2023/724 following the drafting and conclusion of the public exhibition of the draft Voluntary Planning Agreement generally in accordance with the public benefit offer dated 2 May 2024 and considering any public submissions received in response;
- (B) authority be delegated to the Chief Executive Officer (CEO) to determine Development Application No. D/2023/724 subject to receipt of an approval from Federal Department of Infrastructure and Regional Development, Airspace Protection, Aviation and Airports, pursuant to the Airports (Protection of Airspace) Regulations 1996 and clause 7.16 of the Sydney Local Environmental Plan 2012;
- (C) authority be delegated to the Chief Executive Officer to determine whether the Design Excellence Strategy for 118-130 Epsom Road and 905 South Dowling Street, Zetland, prepared by Meriton and dated 8 April 2024, as shown in Attachment D to the subject report, ought to be approved pursuant to Section 3.3.1 of the Sydney Development Control Plan 2012 and Section 1.2 of the Competitive Design Policy; and
- (D) if the Chief Executive Officer determines to approve the application, consideration be given, pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, to granting deferred commencement consent to Development Application Number D/2023/724 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 proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979, in that, subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee
- (B) The concept proposal is for building envelopes for nine (9) development blocks for a mixed-use development comprising indicative commercial, retail, childcare centre and residential uses. The proposal secures public benefits comprising land dedication, the delivery of trunk drainage, roads and parks and embellishment works for footpath widening and a through-site link between pocket parks and Defries Avenue.
- (C) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (D) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

- (E) The building envelope complies with the maximum height of buildings development standard in Clause 4.3 of the Sydney Local Environmental Plan 2012 and provides capacity for an additional 10 per cent of additional floorspace available under Clause 6.21D(3)(b) of the Sydney Local Environmental Plan 2012 for any subsequent detailed design resulting from a design competition process and demonstrating design excellence.
- (F) The indicative reference design accompanying the application demonstrates that the envelope can accommodate a building which complies with the maximum floor space ratio development standard in Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (G) Subject to compliance with the Design Excellence Strategy, the undertaking of a competitive design process and the recommended conditions of consent, the proposed development provides building envelopes capable of accommodating future buildings which can exhibit design excellence in accordance with Clause 6.21C of the Sydney Local Environmental Plan 2012.

Background

The Site

1. The site comprises two lots known as 118-130 Epsom Road and 905 South Dowling Street, Zetland with a legal description of Lot 7 DP 24134 and Lot 2 DP 830870, respectively. The site is irregular in shape with an area of approximately 4.85 hectares.
2. The site has the following frontages:
 - **North** - frontage of 265m is provided to the driveway of 130 Joynton Avenue.
 - **East** - frontage of 227m is provided to Link Road which provides access to Southern Cross Drive to the north and Epsom Road to the south.
 - **South** - frontage of 113m is provided to Epsom Road, a local road connecting the suburb of Kensington in the east to Botany Road in the west.
 - **West** - frontage of 337m is shared with neighbouring residential and commercial developments that are currently under construction.
3. The site housed the former Suttons car dealerships. The site formerly contained a series of internal driveways, hard stand parking areas and multiple single storey buildings associated with the former use. Demolition has recently commenced, and the majority of these structures have been demolished. In the southwestern extent of the site, an open drainage channel is located. Existing vegetation on the site includes a mix of trees and shrubs.
4. Vehicular access is available from existing driveways off both Epsom Road and Link Road.
5. The site gently slopes down in a northern direction from a high point of 21m AHD in the southern portion of the site to 19m AHD along the northern boundary.
6. The site is not identified as a heritage item and is not located within a heritage conservation area.
7. The site is located within the Epsom Park locality and is identified as being subject to flooding.
8. Photographs are provided below.



Figure 1: Aerial view outlining the two separate allotments which comprise the subject site in red and the site's surrounds



Figure 2: Aerial view of site (outlined in red) looking southeast towards Link Road



Figure 3: Aerial view of site (outlined in red) taken from above Southern Cross Drive looking southwest

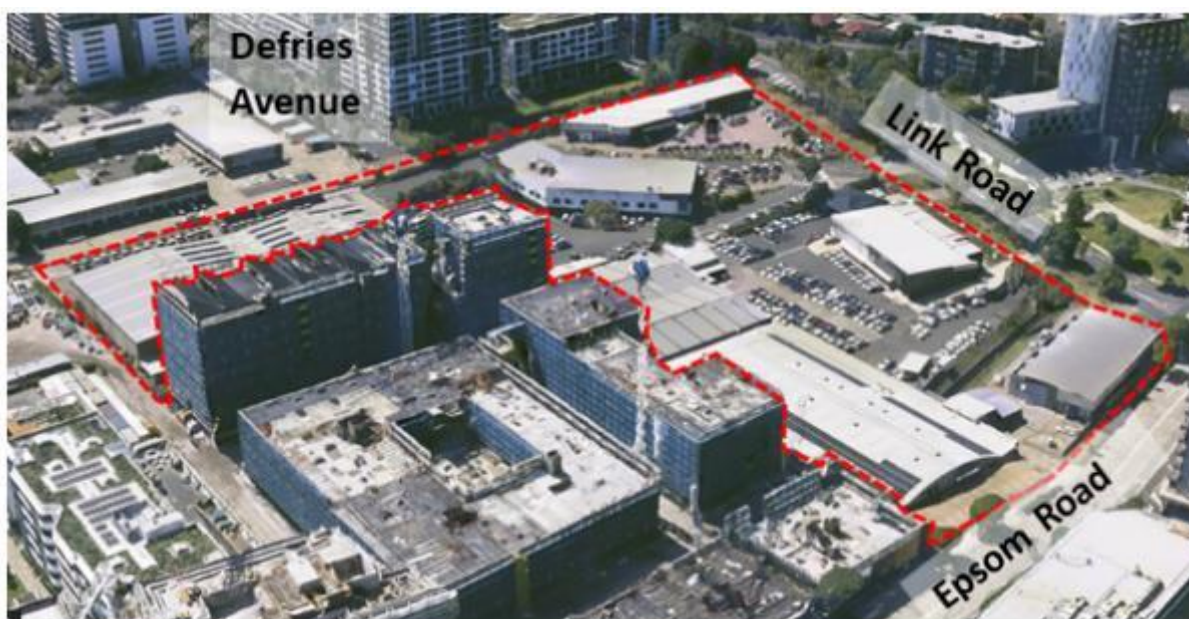


Figure 4: Aerial view of site (outlined in red) taken from above Epsom Road looking northeast towards Southern Cross Drive

Surrounding Development

9. The site is located within the suburb of Zetland, part of the Green Square Urban Renewal Area. The renewal of this area seeks to deliver a shift from former industrial uses to a mixed use precinct with residential and commercial uses. The projected population of the Urban Renewal Area at completion is between 60,000 to 70,000 people.

10. A number of sites within the immediate locality contain approved or recently constructed residential flat buildings and mixed-use developments. These are described below:

North

- To the immediate north is the former Ausgrid Zetland Depot located at 130 Joynton Avenue. On this site, two design excellence competitions took place between January and March 2024 for the redevelopment of two separate parts of the site for a future mixed-use development comprising commercial and residential uses with heights ranging between 28m - 50m. The site's existing driveway (located directly to the north of the subject site) will comprise the future Zetland Avenue which will connect Link Road in the east to Joynton Avenue in the west.
- Further to the north are a number of residential flat buildings including Vertex, Imperium, 5 Defries Avenue & 5 Hutchinson Walk.

East

- To the east of the site, beyond Link Road, is Paragon Apartments comprising residential flat buildings of varying building heights between five and 15 storeys.

South

- To the southeast of the site is 87-103 Epsom Road which contains an existing storage facility. The site benefits from a concept approval dating from 2007 which has commenced however a detailed design DA for its redevelopment has not been lodged.
- To the south is Jolyn Place, a newly constructed part nine, part 14 storey mixed use development.
- To the southwest is 57-65 Epsom Road, an existing commercial premises. The site has not been the subject of any recent DAs.

West

- To the immediate southwest of the site is 106-116 Epsom Road which is currently under construction. The site is known as "Downtown" and will comprise a future mixed use development of five buildings ranging between five and 14 storeys accommodating 555 residential apartments and 840sqm of retail floorspace.
- Beyond Downtown is 94-104 Epsom Road which is currently under construction, which is known as Allegra and will comprise three mixed use buildings up to 14 storeys in height.
- Adjacent to Allegra is 84-92 Epsom Road which has been recently constructed and is known as Symphony. It comprises four buildings up to 11 storeys in height.
- To the immediate northwest is Gunyama Park which comprises an indoor and outdoor aquatic and recreation centre and public park (known as Stage 1). Stage 2 is currently under construction and will include a skate park, amenities building, playground, shade canopies, BBQs, seating and planting.

11. Photos of the site and surrounds are provided below.



Figure 5: Aerial view of site (outlined in red) looking northeast identifying nearby developments within the vicinity of the site



Figure 6: Aerial view of site (outlined in red) looking northwest identifying nearby developments within the vicinity of the site



Figure 7: Aerial view of site (outlined in red) looking west identifying nearby developments within the vicinity of the site



Figure 8: Aerial view of site (outlined in red) looking southwest identifying nearby developments within the vicinity of the site



Figure 9: Aerial view of site (outlined in red) looking southeast identifying nearby developments within the vicinity of the site

History Relevant to the Development Application

Planning proposal

12. A site-specific planning proposal was prepared by the City following a request by Meriton Group Pty Ltd to change the site's planning controls. The planning proposal allowed for a redistribution of height, with additional height in some locations balanced with areas of height reduction. The planning proposal allowed for alternative building heights up to 90m, subject to a site-specific provision which secures:
 - For BASIX affected development, where the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies, exceeds the BASIX targets for water and energy by not less than 5 points.
 - No less than four per cent of the gross floor area on the land being provided for non-residential purposes.
 - There being no additional height awarded for the achievement of design excellence.
 - The site-specific provision also allows for a 1,200sqm supermarket to be provided on the site which exceeds the current 1,000sqm maximum in the Sydney Local Environmental Plan 2012 (SLEP 2012).
13. The planning proposal does not facilitate any additional floor space ratio.
14. On 27 March 2024 the planning proposal was sent to the Department of Planning & Environment for finalisation and the amendments to the SLEP 2012 and Sydney Development Control Plan 2012 (SDCP 2012) commenced on 3 May 2024.
15. Whilst the former controls continue to apply, the proponent has lodged this DA seeking to utilise the alternative heights set out in the site-specific planning proposal.

Development Applications

16. The following applications are relevant to the current proposal:
- **D/2023/720** – Development consent was granted on 3 November 2023 for demolition of all existing structures to accommodate the future redevelopment of the site.
 - **D/2023/753** – Development consent is sought for civil works involving the construction of roads (kerb-to-kerb), sewer, stormwater, water supply infrastructure, site remediation and subdivision in preparation for the future mixed-use development at the subject site. The application has been lodged concurrently with the subject DA and is currently under assessment.

Competitive Design Alternatives Process

17. The subject DA is accompanied by a Design Excellence Strategy which identifies the proponent will carry out a 'Competitive Design Alternatives Process' for each of the three development stages which are shown on the map below.



Figure 10: Competitive process sites for the three development stages

18. As a result of the competitive design processes the applicant is seeking up to 10 per cent additional floorspace across the consolidated site pursuant to clause 6.21D(3) of the SLEP 2012.
19. Following a request from the proponent, it was agreed by the City that the competitive design process for Stage 1 could commence prior to the site-specific amendments to the SLEP 2012 and SDCP 2012 coming into force and prior to the determination of this concept DA, entirely at Meriton's risk.

20. The six architectural firms (in three teams) who participated in the Stage 1 'Competitive Design Alternatives Process' included:
 - (a) Mako Architecture and Aileen Sage;
 - (b) Woods Bagot and Architecture And; and
 - (c) Crone Architects and Youssoff and Hart.
21. The competitive design process was carried out between 22 January 2024 and 3 April 2024.
22. At the conclusion of the Selection Panel's deliberations, the Selection Panel selected the Mako Architecture and Aileen Sage scheme as the future winning scheme. This is not part of this application and will be subject of a future detailed application with detailed assessment.

Photomontages of the winning scheme (to be considered in the future) are provided in the figures below.



Figure 11: Indicative photomontage of winning scheme viewed from the corner of Link Road and Zetland Avenue



Figure 12: Indicative photomontage of winning scheme viewed from Defries Avenue showing the three storey terrace dwellings with the tower beyond

Amendments

23. On 23 November 2023, the City issued a request for additional information and amendments relating to the subject DA and D/2023/753, the concurrent DA under assessment for civil works, remediation and subdivision.
24. The City requested the following:
 - (a) Additional contamination documentation confirming the site can be made suitable for the proposed residential use.
 - (b) Amendments to the design to demonstrate a compliant quantum of solar access to Mulgu Park can be achieved in accordance with the site-specific DCP controls.
 - (c) Additional documentation demonstrating the overshadowing impacts to the adjoining residential flat buildings.
 - (d) Amendments to the design to maintain compliance with the site-specific DCP which requires no vehicular access is provided from Link Road, with access achieved from Zetland Avenue.
 - (e) Amendments to the staging to ensure Defries Avenue is constructed with Stage 1 to enable vehicular access.
 - (f) Amendments to the Traffic Report.
 - (g) Additional information to confirm the distribution of gross floor area (GFA) across the various stages of development.
 - (h) Amendments to the concept scheme drawings to ensure consistency with the height in storeys control set out in the site-specific DCP.
 - (i) Amendments to the concept scheme drawings to establish appropriate setbacks with the neighbouring buildings to the west of the site.
 - (j) Clarification regarding how the applicant intends on dealing with the various easements.
 - (k) Amendments to the concept scheme drawings to remove non-essential information.
 - (l) Amendments to the reference scheme to include additional floor plans, typical tower floor plans, elevations and sections and GFA plans for all levels.
 - (m) Updated 3D digital model.
 - (n) Amendments to the Public Art Strategy.
25. The applicant provided a response to the above between 21 December 2023 and 23 April 2024. This included updated solar analysis, amended concept scheme and reference scheme drawings, an amended Traffic Report and an amended Public Art Strategy.
26. The final concept DA as amended by submissions of the revised drawings and additional information summarised above is the subject of this assessment report.

Proposed Development

27. The application, as amended, seeks concept approval for the following:
- (a) Three (3) stages of development across nine (9) separate development blocks;
 - (b) Nine (9) building envelopes ranging in height from one (1) storey to 25 storeys, providing approximately 810 dwellings and 4,552sqm of non-residential floor space. The building envelopes specify:
 - (i) Maximum building heights defined by RLs and storeys;
 - (ii) Ground and upper level setbacks;
 - (iii) Vehicular entry points;
 - (iv) Deep soil locations;
 - (c) GFA of 81,700sqm comprising:
 - (i) 77,148sqm of residential floorspace; and
 - (ii) 4,552sqm of non-residential floorspace.
 - (d) The location of future public domain works, including:

Local Street Network

- (i) Extension of Defries Avenue to commence north at the new intersection with Zetland Avenue and terminate south at Epsom Road;
- (ii) Extension of Rose Valley Way across Defries Avenue and through the site;
- (iii) Extension of Peters Street across Defries Avenue and through the site;
- (iv) Creation of a new north-south street (designed as a shared zone), known as 'Chimes Street' to commence north at the new intersection with Zetland Avenue and terminate south at the extended Rose Valley Way;
- (v) Creation of a new east-west street (designed as a shared zone), to commence west at Defries Avenue and terminate south at Chimes Street;
- (vi) Extension of Laetitia Street (designed as a shared zone) to commence north at the new intersection with Zetland Avenue;
- (vii) 1.4m footpath widening to Epsom Road; and
- (viii) Dedication of 991sqm of land to assist with the delivery of Zetland Avenue, a new local road connecting Link Road in the east to Joynton Avenue in the west.

Public Open Spaces

- (ix) Mulgu Park, a new park approximately 3,541sqm in size;

- (x) Provision of ancillary parks and a public plaza adjoining Link Road and Chimes Street with an area of 794sqm; and
- (xi) Provision of two new ancillary parks within the northwestern extent of the site with an area of 1,221sqm, in addition to a through site link connecting through to Defries Avenue.

Trunk Drainage

- (xii) The extension of the Green Square Trunk Drainage System under Rose Valley Way.

28. All of the proposed public domain works identified above are to be dedicated to the City under the terms of the VPA. The VPA is discussed in further detail below.
29. Drawings of an indicative reference scheme have been lodged with the application to demonstrate how a detailed building design may be able to be configured within the proposed concept envelopes. These reference scheme drawings are not approved as part of any consent granted and are for assessment purposes only.
30. The indicative reference scheme identifies the following indicative future land uses:
 - (a) Up to three levels of basement car parking, service parking, loading areas, storage and services.
 - (b) Ground level retail and commercial uses including a supermarket, public open spaces, communal open spaces, residential apartments and townhouses.
 - (c) Upper level uses including a childcare centre, residential apartments, townhouses and communal open spaces.

Note: The reference scheme comprises approximately 3,436sqm of retail floorspace, 117sqm of childcare floorspace and 84,092sqm of residential uses.

31. No demolition or physical works are proposed as part of the subject application.
32. Photomontages and plans of the proposed development including the envelope plans and indicative reference scheme plans are provided in the figures below.



Figure 13: Envelope Plan - development blocks and public domain



Figure 14: Envelope Plan - deep soil



Figure 15: Envelope Plan - height of storeys



Figure 16: Envelope Plan - staging

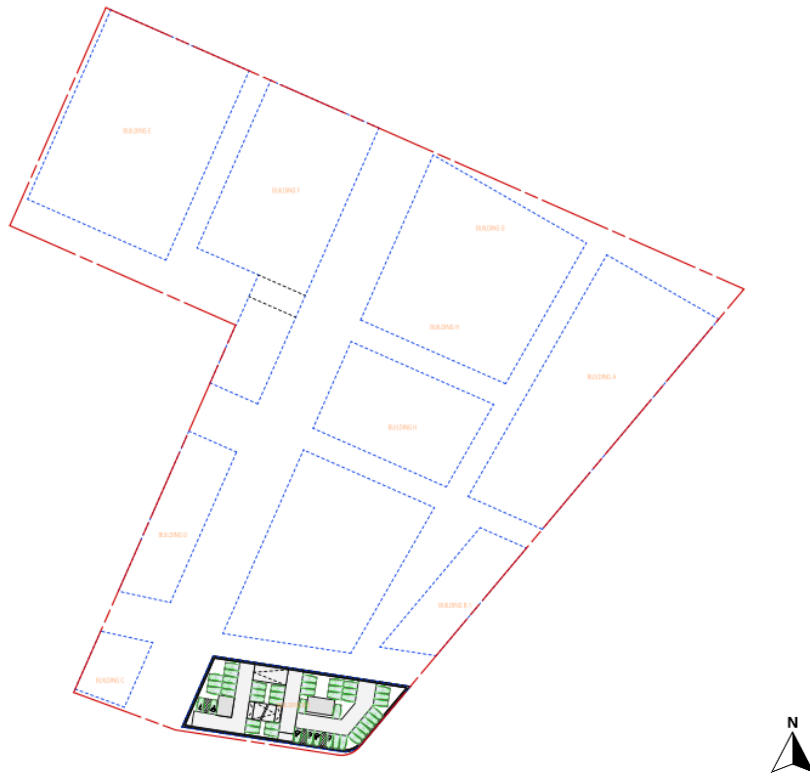


Figure 17: Reference Scheme - level three basement plan



Figure 18: Reference Scheme - level two basement plan



Figure 19: Reference Scheme - level one basement plan

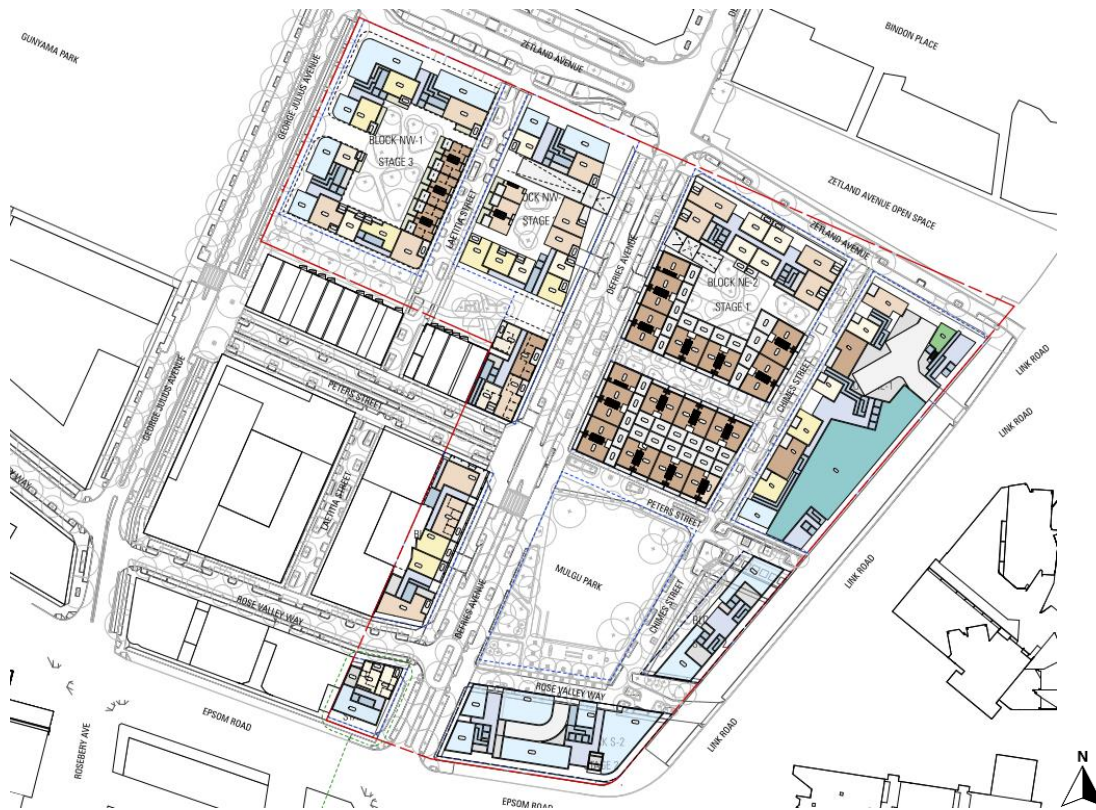


Figure 20: Reference Scheme - ground floor plan

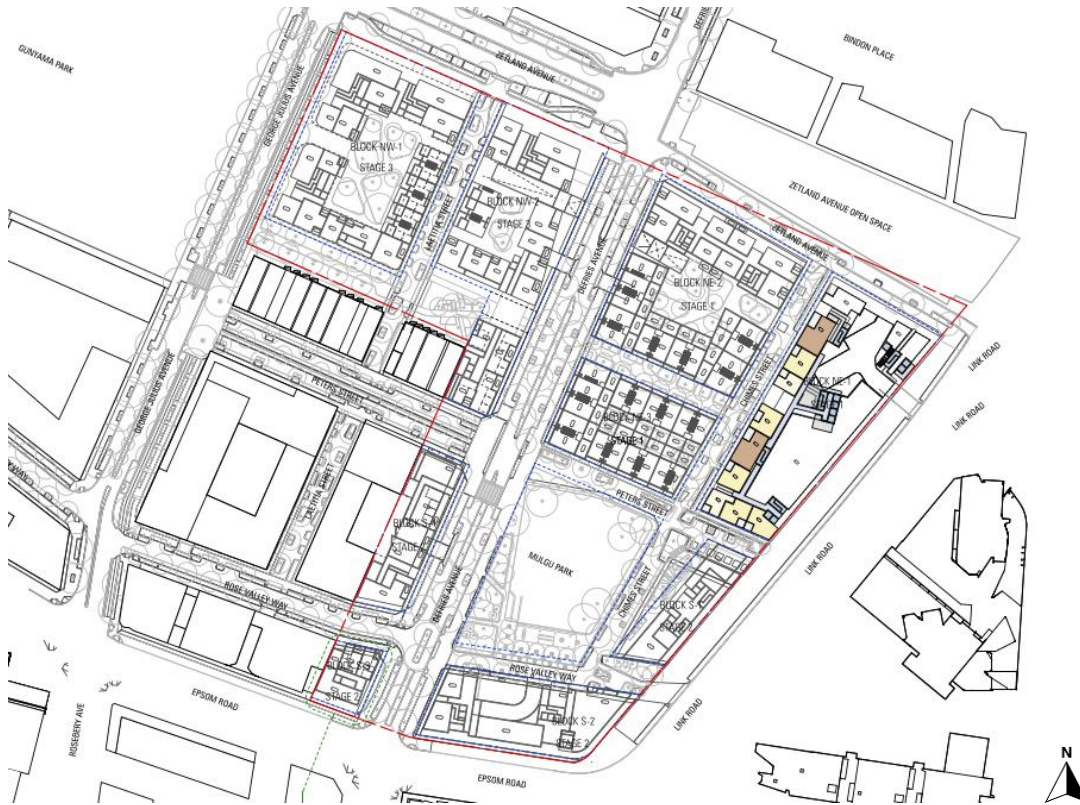


Figure 21: Reference Scheme - level one



Figure 22: Reference Scheme - level two



Figure 23: Reference Scheme - level three



Figure 24: Reference Scheme - level eight



Figure 25: Reference Scheme - levels 10-14



Figure 26: Reference Scheme - levels 15-20



Figure 27: Reference Scheme - levels 21-25



Figure 28: Indicative aerial view looking west to the site from Gunyama Park



Figure 29: Indicative view looking north along Defries Avenue



Figure 30: Indicative view of Mulgu Park and Chimes Street looking north from Rose Valley Way



Figure 31: Indicative view looking south along Defries Avenue



Figure 32: Indicative view from Zetland Avenue looking south



Figure 33: Indicative aerial view from the southeast looking northwest across the site

Voluntary Planning Agreement

33. The subject application is accompanied by a public benefit offer to Council to enter into a Voluntary Planning Agreement (VPA) that is generally consistent with the site-specific requirements in the SDCP 2012 for public domain works.
34. The VPA is being negotiated and drafted in association with the subject DA and provides for the following benefits:
 - Embellishment and dedication/transfer of public open space including any associated utility diversion works;
 - Embellishment and dedication/transfer of public roads including any associated utility diversion works;
 - Construction of the portion of the Green Square Trunk Drainage system under Rose Valley Way and associated utility diversion works;
 - Embellishment of the through-site link between pocket parks and Defries Avenue with the creation of an easement over to facilitate public access; and
 - Embellishment and dedication/transfer of 1.45m of road widening to Epsom Road.
35. The draft VPA will be placed on public exhibition for 28 days in accordance with the requirements of section 7.5 of the Environmental Planning and Assessment Act 1979.
36. Having regard to the above, it is recommended that authority be delegated to the CEO to determine the application, following the drafting and conclusion of the public exhibition of the draft VPA, and considering any public submissions received in response.

37. It is also recommended that the CEO consider granting deferred commencement development consent subject to the recommended conditions requiring the VPA to be executed and registered on title prior to the consent becoming operative.

Assessment

38. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Water Management Act 2000

39. Dewatering will be required as a result of future excavation for basement levels. Consequently, the DA was referred to Water NSW for comment.
40. Water NSW advised that General Terms of Approval are not required given the DA is a concept proposal and does not involve any construction works. In their referral Water NSW advised future detailed design DAs will require the relevant licencing under the Water Management Act 2000 for construction dewatering. A referral under section 90(2) of the Act will be required for all future DAs.
41. Consent is not approved for the extent of any basements as part of this concept application.

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

42. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land 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.
43. Site investigations have identified the following contaminants as present on the site:
- Heavy metals
 - Petroleum hydrocarbons
 - Monocyclic Aromatic Hydrocarbons and Volatile Organic Compounds (VOC)
 - Phenols and Polycyclic Aromatic Hydrocarbons (PAHs)
 - Volatile Organic Compounds (VOCs)
 - Semi Volatile Organic Compounds (SVOCs)
 - Polychlorinated biphenyls (PCBs)
 - Organochlorine and organophosphorus pesticides (OCP/OPPs)

- Asbestos and
 - PFAS.
44. A Framework Remediation Action Plan (RAP) has been prepared which defines a remedial strategy to address the risks to human health and the environment from contamination at the site. The preferred remediation strategies are likely to be a combination of remediation avoidance and excavation and disposal offsite.
45. Interim advice has been provided by a site auditor. The interim advice confirms the Framework RAP remains an appropriate practical road map to support the concept DA to ensure a suitable remedial strategy for the development of the site, subject to the following conditions:
- (a) A site-specific RAP must be prepared in consideration of the final design development and is to include:
 - (i) An update as to the extent of the remediation, including the boundary of the AECs identified by both Ramboll (2021) DSI and Trinitas (2024) Data Gap Investigation. The extent of the remediation (including the boundary of the AECs and their area in sqm) should be presented in the site-specific RAP. These soils will require excavation and disposal to a licensed waste facility, and validation of the resulting excavations. Figures should show the site on a single site layout plan.
 - (ii) The results of a site survey (to identify all sub-surface infrastructure, drainage UPSS) is to be completed to aid a site-specific validation plan designed for the known UPSS at the site. The validation sampling must be conducted in accordance with NSW EPA approved guidance and an unexpected finds protocol must be outlined in the event of encounter UPSS not currently identified.
 - (iii) Remediation approach for any proposed open space areas for the development where deep soil planting may be considered, or parks that require the upper 2m to meet ecological criteria.
 - (iv) An approach to remediate asbestos impacted soils and validate the site.
 - (i) Asbestos clearance reports are to be included in the final site validation report.
 - (ii) Airborne asbestos monitoring will be completed for excavations or disturbance and removal of asbestos containing materials/soils on the site.
 - (iii) An asbestos management plan is required.
 - (v) Notification to the Auditor of any unexpected finds encounters with no works commencing within the affected area without prior approval from the Auditor.
 - (b) The validation plan required to document remediation as outlined in the site-specific RAP must outline validation sampling steps for the UPSS, in accordance with NSW EPA approved guidance. The remedial strategy is to outline the steps to remove and dispose of the USTs and the associated sub-surface infrastructure. Validation sampling of the UPSS excavations is required under NSW EPA approved guidance.

46. The Council's Health & Building team are satisfied that, subject to conditions, the site can be made suitable for the proposed use. This includes a condition requiring any subsequent DA for the detailed design of the building must include reports and documentation to address the requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land.

State Environmental Planning Policy (Housing) 2021

47. Amendments were made to State Environmental Planning Policy (Housing) 2021 (Housing SEPP) on 14 December 2023. The Housing Amendment SEPP repeals State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and incorporates provisions regarding the design of residential development, and application of the Apartment Design Guide (ADG) into the Housing SEPP.
48. Chapter 4 of the Housing SEPP relates to the design of residential apartment development. The aim of this chapter is to improve the design quality of residential apartment development in New South Wales.
49. When determining an application for a residential flat development of three or more floors and containing four or more apartments, the Housing SEPP requires the consent authority to take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 9.
50. The applicant has submitted a design verification statement report prepared by Mako Architecture with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the ADG. The statement is deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.
51. An assessment of the proposal against the design quality is provided as follows:

- (a) **Principle 1: Context and neighbourhood character**

The subject site is located in the Epsom Park Precinct of the Green Square redevelopment area. The locality comprises a number of former industrial, commercial and residential uses. The locality is in a period of transition to a desired character of a new neighbourhood of primary medium density residential and mixed uses. The new neighbourhood will have good transport links, open parklands, recreational opportunities and speciality retail activities. It is to have a strong urban character and identity, built on the quality of the streets and architecture. The locality statement highlights the need for a variety of dwelling types, and for buildings to be at a human scale, with streets providing permeability and maximising pedestrian and cycle movement.

The proposal is predominantly residential (77,148sqm), with 4,552sqm of non-residential uses proposed which front the primary streets of Epsom Road, Link Road, George Julius Avenue and Zetland Avenue. This is consistent with the desired uses anticipated for the area.

The concept approval will facilitate development which is anticipated by the built form controls and consistent with the desired future character of Epsom Park.

(b) **Principle 2: Built form and scale**

In terms of the FSR development standard, a maximum of 2:1 applies to the subject site (excluding up to 10% design excellence bonus, which may be awarded in any future detailed design DA). An FSR of 2:1 is proposed by this concept application which is compliant with the control.

In terms of the height of buildings development standard, the site is subject to a range of controls varying from 3m to 90m. The proposal is compliant with the height of buildings control.

The proposed building envelopes are considered to be capable of facilitating development that is of an appropriate scale and built form.

(c) **Principle 3: Density**

The proposed building envelopes comply with the maximum permitted GFA applicable to the site. The proposed GFA is appropriate in the Epsom Park neighbourhood given its proximity to the established and proposed infrastructure, public transport, community and recreational facilities. The proposed density responds to the existing and desired future context of the area.

(d) **Principle 4: Sustainability**

The energy efficiency and sustainability of the design would form part of any future detailed design DA.

(e) **Principle 5: Landscape**

All proposed development sites are capable of providing an area of common open space that is 25% of the total site area, either in the form of a courtyard or rooftop open space. A condition of consent is recommended requiring all future applications involving the development of a residential flat building or mixed use building to provide an area equal to 25% of the development block site area as communal open space.

(f) **Principle 6: Amenity**

Any future detailed design DA will be required to demonstrate that an acceptable standard of residential amenity will be provided.

(g) **Principle 7: Safety**

This is a matter for any future detailed design DA.

(h) **Principle 8: Housing diversity and social interaction**

This is a matter for any future detailed design DA.

(i) **Principle 9: Aesthetics**

This is a matter for any future detailed design DA.

52. The development is acceptable when assessed against the SEPP including the above stated principles and the associated ADG. These controls are generally replicated within the apartment design controls under the SDCP 2012. Consequently, compliance with the SEPP generally implies compliance with Council’s own controls.
53. Compliance with the guidelines within the ADG, wherever relevant to the concept proposal, is addressed in the table below. Specific areas of non-compliance are discussed further in the Issues section, where necessary. A detailed assessment of the proposal against the ADG is provided below.

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Able to comply	<p>Many of the proposed concept envelopes provide building depths exceeding 18m. While this exceeds the maximum 18m requirement, it allows for flexibility in terms of building position and articulation when designing a future building with a maximum depth of 18m.</p> <p>The deepest apartments in the reference scheme have a depth up to 20m, which exceeds the recommended maximum building depth requirements.</p> <p>Compliance with this requirement will be assessed upon lodgement of any subsequent DA for the detailed design of buildings.</p>

2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms <p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> • 18m between habitable rooms / balconies • 12m between habitable and non-habitable rooms 	Able to comply	<p>The proposal is generally able to comply with the building separation requirements of the ADG, however some constraints on future detailed design DAs have been identified. These occur within Block S-4 and Block NW-2 and are detailed in the section below.</p> <p>The reference scheme does not specify apartment layouts and therefore the location of habitable and non-habitable rooms cannot be determined.</p> <p>There are instances where there needs to be careful control of the interfaces between habitable rooms, non-habitable rooms and blank walls. Conditions of consent are recommended accordingly. Refer to the discussion section below.</p>

2F Building Separation	Compliance	Comment
<ul style="list-style-type: none"> 9m between non-habitable rooms 		
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> 24m between habitable rooms / balconies 18m between habitable and non-habitable rooms 12m between non-habitable rooms 	<p>Able to comply</p>	<p>The proposed building envelopes allow for three tower forms exceeding nine storeys in height located in the NE-1, NW-1 and S-2 blocks.</p> <p>There are instances where there needs to be careful control of the interfaces between habitable rooms, non-habitable rooms and blank walls given the proximity to existing and future residential development outside of the site boundary. Conditions of consent are recommended accordingly.</p>

3B Overshadowing	Compliance	Comment
<p>Living areas, private open space and communal open space should receive solar access in accordance with objectives 3D Communal and public open space and 4A Solar and daylight access.</p> <p>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.</p>	<p>Able to comply</p>	<p>Refer to the discussion section below.</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>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open</p>	<p>Able to comply</p>	<p>The reference scheme identifies ground floor communal open space however does not identify the location of any rooftop communal open space and does not identify the total quantum of communal open space provided within the individual stages of development.</p>

3D Communal and Public Open Space	Compliance	Comment
space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).		<p>The submitted shadow diagrams indicate that to achieve sunlight to communal open spaces on each development block in midwinter, substantial communal open space will need to be provided on the roofs of each block.</p> <p>A condition is recommended requiring that any detailed design DA involving a residential flat building or mixed use building provides an area equal to 25% of the development block site area as communal open space.</p> <p>Compliance with these requirements will be assessed upon lodgement of any subsequent DA for the detailed design of buildings.</p>

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	Able to comply	<p>The reference scheme demonstrates that approximately 12% (5,086sqm) of deep soil can be provided across the site which includes a consolidated deep soil area with minimum dimensions in excess of 10m.</p> <p>A condition is recommended requiring that 12% of deep soil must be provided which equates to the following quantum of deep soil for the three stages:</p> <ul style="list-style-type: none"> • Northeast stage - 527sqm (3%) • Northwest stage - 1,018sqm (9%) • South stage - 3,541sqm (27%)

3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> • 6m between habitable rooms / balconies • 3m between non-habitable rooms <p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> • 9m between habitable rooms / balconies • 4.5m between non-habitable rooms <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 6m between non-habitable rooms 	Able to comply	Refer to the assessment against ADG objective 2F Building separation above and discussed in the issues section.

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.	Able to comply	<p>The Design Verification Statement states that over 70% of apartments will receive a minimum of two hours direct sunlight at mid-winter. However, the reference scheme does not specify apartment layouts and therefore this claim cannot be substantiated.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the buildings.</p>
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Able to comply	The Design Verification Statement states that fewer than 10% of apartments will receive less than 15 minutes of direct sunlight between 9am and 3pm at mid-winter. However, the reference scheme does not specify apartment layouts and therefore this claim cannot be substantiated.

4A Solar and Daylight Access	Compliance	Comment
		Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the buildings.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Able to comply	The Design Verification Statement states that over 60% of apartments are naturally cross ventilated. However, the reference scheme does not specify apartment layouts and therefore this claim cannot be verified.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.		Compliance with these objectives will be assessed upon lodgement of any subsequent DA for the detailed design of the buildings.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Able to comply	The deepest apartments have depths which exceed the maximum requirement of 18m. Notwithstanding it is considered the development is able to comply with the requirement. Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the building.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Able to comply	The indicative elevations provided in the reference scheme drawings indicate 3.2m floor to floor height which would provide sufficient tolerance at construction to provide 2.7m floor to ceiling heights. Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the buildings.

4C Ceiling Heights	Compliance	Comment
<p>If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.</p>	<p>Able to comply</p>	<p>The indicative elevations provided in the reference scheme drawings indicate floor to floor heights between 4m - 5m at ground level which would provide sufficient tolerance at construction to provide between 3.6m - 4.6m floor to ceiling heights.</p> <p>At first floor level, the indicative elevations indicate floor to floor heights between 3.2m - 4.6m.</p> <p>Compliance with this objective will be assessed upon lodgement of any subsequent DA for the detailed design of the buildings.</p>

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	<p>Able to comply</p>	<p>An assessment of the reference scheme indicates compliance with the ADG minimum apartment size requirements.</p> <p>Compliance with this objective will be assessed upon lodgement of a subsequent detailed design DA.</p>

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments are to have a minimum balcony area of 4m² with a minimum depth of 1m.</p>	<p>Able to comply</p>	<p>An assessment of the reference scheme indicates compliance with the ADG minimum private open space requirements.</p>

4E Private Open Space and Balconies	Compliance	Comment
<p>One bed apartments are to have a minimum balcony area of 8m² with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m² with a minimum depth of 2.4m.</p>		<p>Compliance with this objective will be assessed upon lodgement of a subsequent detailed design DA.</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>Able to comply</p>	<p>An assessment of the reference scheme indicates some ground and podium level balconies are less than 15sqm in size. Of that scheme, the smallest balcony is 8.35sqm in size.</p> <p>Compliance with this objective will be assessed upon lodgement of a subsequent detailed design DA.</p>

4F Common Circulation and Spaces	Compliance	Comment
<p>The maximum number of apartments off a circulation core on a single level is eight (8).</p>	<p>Able to comply</p>	<p>The reference scheme demonstrates compliance with this requirement.</p> <p>Compliance with these requirements will be assessed upon lodgement of any subsequent DA for the detailed design of buildings.</p>
<p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p>Able to comply</p>	<p>The reference scheme demonstrates compliance with this requirement.</p> <p>Compliance with these requirements will be assessed upon lodgement of any subsequent DA for the detailed design of buildings.</p>

4F Common Circulation and Spaces	Compliance	Comment
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.	Able to comply	The reference scheme does not distinguish living rooms or bedrooms and their windows. Compliance with these requirements will be assessed upon lodgement of any subsequent DA for the detailed design of buildings.
Daylight and natural ventilation are provided to all common circulation spaces.	Able to comply	Compliance with these requirements will be assessed upon lodgement of any subsequent DA for the detailed design of buildings.

4G Storage	Compliance	Comment
Minimum storage provision facilities: <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ (Minimum 50% storage area located within unit)	Able to comply	As detailed designs including the number of apartments and basement levels will be determined as part of the DAs for the detailed design of buildings, compliance with this objective will be assessed at that later stage.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Able to comply	Refer to the assessment against the acoustic privacy controls at provision 4.2.3.11 in the DCP compliance tables below.

State Environmental Planning Policy (Sustainable Buildings) 2022

54. All future detailed design DAs will be required to satisfy BASIX requirements and the requirements set out in State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP). A condition is recommended to advise that any future residential scheme must comply with the Sustainable Buildings SEPP and that a BASIX certificate must be submitted with any subsequent detailed design DA.

State Environmental Planning Policy (Transport and Infrastructure) 2021

- 55. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the DA.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations

Clause 2.122 - Traffic-generating development

- 56. The application is subject to Clause 2.122 of the SEPP as the proposal involves more than 300 dwellings. Written notice of the intention to carry out the development was given to TfNSW. On 13 September 2023 TfNSW responded confirming that the proposed development will have a minor impact on the classified road network and that TfNSW has no further comment at this stage.

Part 3.3 Early education and care facilities - specific development controls

- 57. The indicative reference scheme includes a childcare centre within the NE-1 block.
- 58. Part 3.3 of the SEPP incorporates provisions for centre based childcare facilities which have been considered as part of the concept DA.
- 59. Any future detailed design DA seeking approval for a childcare facility will need to demonstrate compliance with the provisions set out in the SEPP, as well as the requirements under the Education and Care Services National Regulations (2011 SI 653).

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017

- 60. The Vegetation SEPP regulates the clearing of vegetation that is below the Biodiversity Offset Scheme threshold referred to in the Biodiversity Conservation Act 2016. As the vegetation on the site has not been identified in accordance with Part 3 of the Vegetation SEPP, the Policy does not apply.

Local Environmental Plans

Sydney Local Environmental Plan 2012

- 61. An assessment of the proposed development against the relevant provisions of the SLEP 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the MU1 Mixed Use zone. Indicative land uses include residential accommodation, commercial premises, retail premises and a centre-based childcare facility which are all uses which are permissible with consent.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	N/A	The applicant can rely on the alternative site-specific height controls in the SLEP Amendment No 94 which were gazetted on 3 May 2024.
4.4 Floor space ratio 6.14 Community infrastructure floor space at Green Square 6.21D Competitive design process	Yes	<p>Clause 4.4 specifies a maximum permissible FSR of 1.5:1. Clause 6.14 provides an opportunity for a further 0.5:1 where community infrastructure is provided.</p> <p>As part of the subject application, the owner of the site has made a formal offer to enter into a VPA with the City. The offer provides a range of public benefits including the embellishment and dedication of public open spaces, public roads and a through-site link, the extension of Green Square Trunk Drainage and the dedication of 1.45m of land for road widening to Epsom Road.</p> <p>In accordance with clause 6.21D(3)(b), up to 10% additional floorspace (0.2:1) may be approved, subject to a competitive design process being carried out, a winning scheme being selected and that winning scheme exhibiting design excellence in a detailed DA.</p> <p>Having regard to the above, the maximum permitted FSR for the development is 2.2:1.</p> <p>The reference scheme has an FSR of 2.2:1 (89,696sqm of GFA) and complies with the maximum permissible FSR for the site.</p> <p>No works or FSR are approved as part of this concept application. A condition is recommended in Attachment A that requires the subsequent detailed design DAs not to exceed the maximum permissible FSR. The allocation of non-residential and residential GFA to each stage of development is discussed under the Issues section.</p>

Provision	Compliance	Comment
		<p>The subject concept proposal has been assessed against the relevant requirements of clause 6.21C(2) including site suitability, proposed uses, bulk and massing, street frontage heights and other environmental impacts.</p> <p>The concept proposal demonstrates, subject to the recommended conditions, a suitable detailed building design can be achieved for the site. Clause 6.21D(3)(b), which allows for a potential 10% FSR increase will be considered in the assessment of all subsequent DAs for the detailed building design.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is not a heritage item nor is it located in a heritage conservation area. There are no heritage items within proximity of the site.</p> <p>The proposed development will not have any adverse heritage impacts.</p>
5.21 Flood planning	Yes	<p>The site is subject to flooding during the 1% Annual Exceedance Probability (AEP) and Probable Maximum Flood (PMF) events.</p> <p>A site-specific flood study has been submitted with the application and recommends flood planning levels (FPLs) for the development.</p> <p>Council's Public Domain Unit has reviewed the proposal. The recommendations of the site-specific flood study are supported, and conditions recommended for the endorsed FPLs to be incorporated into any detailed building design submitted as part of any future DA for the site.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Able to comply	<p>The proposal is for concept building envelopes which are capable of accommodating future buildings which can exhibit design excellence in accordance with the objectives and matters for consideration in clause 6.21C of the Sydney LEP 2012.</p> <p>Demonstration of design excellence is required before the award of any additional building floor space.</p>
Division 5 Site specific provisions		
<p>Site-specific controls for 118–130 Epsom Road and 905 South Dowling Street, Zetland</p> <p>Sydney LEP Amendment No. 94</p>	Yes	<p>As per the site-specific controls, development consent may be granted on the basis that a development control plan has been prepared for the land.</p> <p>The proposal relies on the alternative heights set out in the site-specific controls which permit heights between 3m and 90m. The proposed concept envelopes are compliant with the alternative heights.</p> <p>The site-specific controls stipulate that development consent must not be granted to development on the land unless the consent authority is satisfied at least 4% of the GFA of all buildings on the land will be used for purposes other than residential accommodation or serviced apartments.</p> <p>Whilst consent is not granted to specific land uses, the application seeks approval for a quantum of residential and non-residential uses for each block. This equates to 5.6% of non-residential uses across the site which complies with this clause. Compliance with this clause will also need to be demonstrated at the detailed design DA stage.</p>

Provision	Compliance	Comment
		<p>The site-specific controls stipulate that a building demonstrating design excellence is not to have a height that exceeds the height controls by 10%. Compliance with this clause will need to be demonstrated at the detailed design DA stage.</p> <p>The site-specific controls state that development consent may be granted on the land for the purposes of markets or shops with a GFA not exceeding 1,200sqm. Compliance with this clause will need to be demonstrated at the detailed design DA stage.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development	Able to comply	<p>The reference scheme indicates car parking could be provided in two/part three levels of basement.</p> <p>Car parking numbers for future uses can only be assessed as part of a subsequent DA for the detailed design of the buildings.</p> <p>The permissible number of car parking spaces are determined by the amount and type of proposed non-residential uses and the residential dwelling mix which is only indicative at this concept stage.</p>
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Able to comply	<p>The site is located on land with class 5 Acid Sulfate Soils.</p> <p>Any subsequent detailed design DA will need to determine whether the provisions of this clause are triggered by any proposed excavation works.</p>
7.16 Airspace operations	Decision pending	The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport.

Provision	Compliance	Comment
		<p>As noted elsewhere in this report the proposal has been referred to the relevant aviation authorities' for concurrence and confirmation that the relevant Commonwealth body does not have any objection to the construction of the development.</p> <p>The recommendation of this report is for authority be delegated to the CEO to determine the application pending a decision of the Federal Department of Infrastructure and Regional Development, Airspace Protection, Aviation and Airports, pursuant to the Airports (Protection of Airspace) Regulations 1996.</p>
7.17 Development in areas subject to airport noise	N/A	The subject site is not located within ANEF Contour 20 or higher and as such, is not subject to the requirements of this clause.
7.19 Demolition must not result in long term adverse visual impact	Not applicable	<p>No demolition is proposed under the subject application.</p> <p>Development consent has been granted for demolition of the existing structures at the site under D/2023/720.</p>
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>As the site area is greater than 5,000 square metres in size, preparation of a site specific DCP is required.</p> <p>Pursuant to the provisions of Section 4.23(2) of the Environmental Planning and Assessment Act 1979, the lodgement of a concept DA may be considered by the consent authority as satisfying this obligation.</p> <p>As detailed elsewhere in this report, subject to the recommended conditions, the concept DA adequately addresses the matters for consideration specified under this clause including, height, bulk, massing, streetscape, and environmental impacts.</p>

Development Control Plans

Sydney Development Control Plan 2012

62. An assessment of the proposed development against the relevant provisions within the SDCP 2012 is provided in the following sections.

Section 2 – Locality Statements

63. The site is located within the Epsom Park locality. The neighbourhood is in transition from traditional industrial land uses to a mix of uses including medium density residential development and commercial and retail uses. New development is to have a strong urban character and identity built on the quality of the streets, architecture, good public transport, facilities and services.
64. The proposed concept envelope is capable of providing a variety of dwelling types and buildings which are human in scale. The proposed public domain is consistent with the DCP and allows the streets to integrate with those in the surrounding neighbourhoods to provide permeability and to maximise pedestrian movement.
65. The reference scheme illustrates commercial, and retail uses along Zetland Avenue, Epsom Road, Link Road and the internal roads to contribute to ground level activity. The scale of buildings facing the new roads are considered appropriate at the pedestrian level and will encourage casual surveillance and a sense of security.
66. The future detailed design DAs must demonstrate their compatibility with the local character and consistency with the design principles.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Able to comply	<p>The site-specific controls in Section 5.3.6 of the SDCP 2012 sets out all new public open spaces and streets which are to be dedicated to the City.</p> <p>The proposed concept plan is in accordance with the DCP's public domain requirements and is considered capable of facilitating detailed design DAs that will make a positive contribution in that regard.</p> <p>In particular:</p> <ul style="list-style-type: none"> • New streets and public open spaces are proposed in accordance with the DCP maps • The concept envelope includes the required 1.4m dedication for footpath widening to Epsom Road

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • Solar access diagrams submitted with the application demonstrate that at least 75% of the area of Mulgu Park will receive four hours of solar access between 9am and 3pm on 21 June • A Public Art Strategy has been submitted to the satisfaction of Council officers. <p>The application is accompanied by a Public Benefit Offer to deliver and dedicate the public domain works to the City. A future VPA will outline the works will be in accordance with the City's requirements and specifications, as required by the DCP and be executed prior to the application being determined.</p>
3.2. Defining the Public Domain	Able to comply	<p>The proposal will contribute to the activity, safety, amenity and quality of new and existing streets and the public domain.</p> <p>The proposal was referred to the City's Public Domain Unit who have recommended appropriate conditions.</p>
3.2.3 Active frontages	Able to comply	<p>The DCP requires active frontages to Epsom Road, Link Road, the western extent of Zetland Avenue and the northern extent of Georgie Julius Avenue.</p> <p>The reference scheme demonstrates the provision of retail and commercial uses along these frontages which would encourage active frontages as required by the DCP.</p>
3.2.4 Footpath awnings	Able to comply	<p>The DCP requires footpath awnings to Epsom Road, Link Road, the western extent of Zetland Avenue and the northern extent of Georgie Julius Avenue.</p>

Provision	Compliance	Comment
		The reference scheme excludes footpath awnings to these frontages. All future detailed design DAs will need to provide the required awnings over footpaths in accordance with the DCP.
3.2.6 Wind effects	Able to comply	<p>A Wind Report has been submitted with the application to assess the impacts of the proposed envelope on the public domain and pedestrian environment within the development.</p> <p>The report identifies areas of potential concern which include the pedestrian walkways, the parkland areas and pedestrian links within the site and the courtyard of Blocks NE2, NE3 and NW2.</p> <p>The report includes recommendations for upper level balconies and landscaping.</p> <p>A condition is recommended requiring further wind testing to be undertaken and the recommendations incorporated into all future detailed design DAs following competition outcomes.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>Any future detailed design DA associated with the proposed development will be the subject of a competitive design process and a condition of consent is recommended accordingly.</p> <p>As discussed earlier in this report, a competitive design process has taken place for the northeastern stage.</p>
3.5 Urban Ecology	Able to comply	<p>No trees are proposed to be removed as part of this concept DA.</p> <p>The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.</p> <p>Conditions of consent are recommended requiring an Arboricultural Impact Assessment to be submitted with each individual detailed design DA.</p>

Provision	Compliance	Comment
		<p>Conditions are recommended for the street trees surrounding the perimeter of the street to be retained.</p> <p>New tree planting and landscaping works proposed as part of any future detailed design DA must be in accordance with DCP requirements and will be assessed accordingly.</p>
3.6 Ecologically Sustainable Development	Able to comply	<p>Conditions are recommended to ensure that the proposed ESD commitments will be carried through the competitive design process to the detailed design DAs.</p> <p>Furthermore, a condition is recommended to require a valid BASIX Certificate to be submitted with any such application, in accordance with the provisions of the Sustainable Buildings SEPP and Environmental Planning and Assessment Regulation 2021.</p>
3.7 Water and Flood Management	Able to comply	Refer to the assessment against Clause 5.21 of the SLEP 2012 in the LEP compliance table above.
3.8 Subdivision, Strata Subdivision and Consolidation	Able to comply	Consideration to subdivision, strata subdivision associated with residential lots and lot consolidation will be considered in any future detailed design DA.
3.11 Transport and Parking	Able to comply	<p>The reference scheme demonstrates that car parking, servicing, bicycle parking and end of trip facilities can be accommodated within generally two, part three basement levels.</p> <p>Parking numbers or rates are not approved as part of the concept proposal and would form part of a future detailed design when the exact land uses and residential apartment mix numbers are known.</p> <p>Notwithstanding, it is acknowledged that future development at the site has the potential for traffic generation within the locality. In order to augment future traffic impacts, it is contemplated that</p>

Provision	Compliance	Comment
		<p>additional traffic signals will be required at the Defries Avenue and/or George Julius at Epsom Road intersection to assist with the flow of traffic on the local street network. This will be further considered in parallel with the subsequent detailed design DAs.</p> <p>A Traffic Impact Assessment was submitted with the application and was reviewed by Council's Transport Planner.</p> <p>Given the quantum of residential dwellings proposed, the development is identified as traffic-generating development and the application was referred to TfNSW for comment in accordance with the Transport and Infrastructure SEPP. TfNSW raised no issues with the proposal.</p> <p>Detailed consideration to this matter will form part of any future detailed DA.</p>
3.12 Accessible Design	Able to comply	A condition is recommended to require an Access Report to be submitted with any future detailed design DA to ensure that the future buildings on the site incorporate accessible design.
3.13 Social and Environmental Responsibilities	Able to comply	Any future detailed design DA would be required to demonstrate compliance with the CPTED principles.
3.14 Waste	Able to comply	<p>Council's Waste Management Specialists have reviewed the submitted Waste Management Plan and reference scheme design and have raised the following concerns:</p> <ul style="list-style-type: none"> • Adequate waste storage space is not provided in the basement levels. • Waste servicing and loading requirements for all buildings have not been adequately addressed. • Lack of information regarding the transfer of waste across the basement levels.

Provision	Compliance	Comment
		<p>To address these concerns, conditions of consent are recommended which require:</p> <ul style="list-style-type: none"> Any future detailed design DA is to incorporate waste management facilities, vehicle access and loading in accordance with the requirements of the SDCP 2012 and the City's Guidelines for Waste Management in New Developments. Each stage of development is to allow for independent residential waste servicing. All waste management and collection to be accommodated wholly within the buildings on the site with the exception of Block S3 due constraints surrounding its size and location.
3.16 Signage and Advertising	Able to comply	A condition is recommended to require a signage strategy to be submitted with any subsequent detailed design DA in accordance with the requirements of Section 3.16.1 of the SDCP 2012.
3.17 Contamination	Able to comply	The application includes suitable information for its assessment against the provisions of the SEPP Resilience and Hazards 2021.

Section 4 – Development Types

4.1 Single Dwellings, Terraces and Dual Occupancies

Provision	Compliance	Comment
4.1.1 Building height	Able to comply	<p>Block NE-1 is to be developed as terrace housing. A maximum of three storeys is permitted on Block NE-1.</p> <p>The proposed building envelope for Block NE-1 can accommodate three storey dwellings.</p>

Provision	Compliance	Comment
4.1.2 Building setbacks	Able to comply	The proposed setbacks of Block NE-1 comply with site specific provisions set out in Section 5.3.6 of the SDCP 2012.
4.1.3 Residential amenity	Able to comply	Compliance with controls relating to residential amenity including solar access, the location and quantum of private open space, deep soil planting and visual privacy will need to be assessed at the subsequent detailed design DA stage.

4.2 Residential Flat, Commercial and Mixed-Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	N/A	Refer to site-specific provisions in Section 5.3.6.4 of the SDCP 2012 which set out the height in storeys controls for the site.
4.2.1.2 Floor to ceiling heights and floor to floor heights	Able to comply	The indicative reference scheme drawings demonstrate that the proposed envelopes can accommodate compliant floor to ceiling heights of 2.7 metres and floor to floor heights of 3.1 metres for residential components and 4.5m floor to floor heights for ground floor commercial components.
4.2.3 Amenity	Able to comply	The indicative reference design scheme drawings demonstrate that a building can be constructed within the proposed envelope with acceptable levels of residential amenity.
4.2.3.5 Landscaping	Able to comply	This provision specifies the matters to be addressed by a landscape plan submitted as part of a DA for the detailed design of a building.

Provision	Compliance	Comment
4.2.3.6 Deep Soil	Able to comply	<p>The SDCP requires a minimum of 10% of the site area (4,085sqm) is to be provided as consolidated deep soil areas with a minimum dimension of 10 metres.</p> <p>The subject concept proposal provides approximately 12% (5,086sqm) of deep soil across the site. This includes:</p> <ul style="list-style-type: none"> • Northeast stage - 527sqm • South stage - 3,541sqm • Northwest stage - 1,018sqm <p>A condition of consent is recommended requiring the above quantum of deep soil is maintained with any subsequent detailed design DA.</p>
4.2.3.11 Acoustic privacy	Able to comply	<p>Epsom Road, Link Road and Southern Cross Drive are classified roads that carry more than 20,000 average daily traffic movements. As such, the proposed development is subject to the noise criteria specified at clause 2.120 of the Transport and Infrastructure SEPP.</p> <p>The submitted acoustic report identifies that the apartments fronting Link Road, Epsom Road and the northeastern extent of Zetland Avenue without mitigation, cannot achieve the relevant internal noise criteria.</p> <p>The resolution of external noise is a critical matter for any subsequent detailed design DA.</p> <p>A condition of consent is recommended requiring that any subsequent detailed design DA be accompanied by an acoustic report and specification which addresses the relevant noise criteria.</p>
4.2.3.12 Flexible housing and dwelling mix	Able to comply	The number and mix of apartments are not approved as part of any concept DA consent granted.

Provision	Compliance	Comment
		Any subsequent DA for the detailed design of the buildings will be assessed against the requirements of this control.
4.2.4 Fine grain, architectural diversity and articulation	Able to comply	<p>This provision specifies a maximum building frontage length of 65m on streets with a width of 18m or more.</p> <p>Link Road has a width of more than 18m. Block NE-1 has a frontage length of 105m to Link Road.</p> <p>This provision allows for non-compliance with the maximum frontage lengths subject to design measures to modulate the scale, grain, articulation, materiality and architectural character of such long frontages.</p> <p>Any subsequent DA for the detailed design of the buildings will be assessed against the requirements of this control.</p>
4.2.5.1 Tall buildings	Able to comply	<p>The proposed concept envelope accommodates three tower locations of varying height in the northeastern, southeastern and northwestern corners of the site. The towers are between 55 and 90m in height and are capable of accommodating a tall building as defined by this provision.</p> <p>A condition is recommended for all tall buildings (>35m in height) to be vertically proportioned in height, form and architectural articulation as a design requirement in any subsequent DA for the detailed design of the buildings.</p>
4.2.5.3 Development on busy roads and active frontages	Able to comply	<p>Epsom Road and Link Road carry over 20,000 average daily traffic movements.</p> <p>Subsequently, those parts of the concept envelope fronting Epsom Road and Link Road are subject to this provision which requires non-residential uses to be provided at ground level.</p>

Provision	Compliance	Comment
		<p>The reference scheme locates commercial premises at the ground floor fronting Epsom Road and Link Road.</p> <p>Any subsequent DA for the detailed design of the buildings will be assessed against the requirements of this control.</p>
4.2.6 Waste and recycling Management	Able to comply	Refer to Section 3.14 of the SDCP 2012 discussion above.
4.2.7 Heating and cooling infrastructure	Able to comply	The indicative reference design scheme drawings have provided areas within the building envelope to accommodate plant and services, including consolidated heating and cooling infrastructure.
4.2.8 Letterboxes	Able to comply	The location of letterboxes can be addressed as part of any subsequent detailed design DA.

4.4 Other Development Types and Uses

Section 5 – Specific Areas

Provision	Compliance	Comment
5.2 Green Square		
5.2.1 Green Square Urban Strategy 5.2.2 Objectives for Green Square	Yes	<p>The concept proposal satisfies the relevant objectives and is consistent with the urban strategy to transform the Green Square area into an attractive, vibrant and sustainable urban area. The concept proposal will facilitate the redevelopment of the site to create a residential environment supported by retail uses, public parks and public streets to support diverse communities.</p>
5.3 Community infrastructure	Yes	<p>The application seeks to provide the maximum GFA permitted under the SLEP 2012 which can only be achieved where a development provides community infrastructure to the satisfaction of the consent authority.</p> <p>The applicant has made a public benefit offer and agreed to enter into a VPA to deliver this infrastructure.</p>

Provision	Compliance	Comment
5.2.4 Local infrastructure 5.2.6 Public open space	Yes	<p>The proposal is generally in accordance with local infrastructure and public domain requirements. Specifically:</p> <ul style="list-style-type: none"> The proposed street network is consistent with the site specific DCP provisions and all streets will be dedicated to the City under the terms of the VPA. Public open space is provided in accordance with the site-specific provisions and will be dedicated to the City under the terms of the VPA.
5.2.7 Stormwater management and waterways	Able to comply	<p>Council's Public Domain Unit has reviewed the proposal. The recommendations of the site-specific flood study are supported, and conditions recommended for the endorsed FPLs to be incorporated into any detailed building design submitted as part of any future DA for the site.</p> <p>The VPA will allow for the future construction of the trunk drain stormwater system underneath the extended Rose Valley Way.</p>
5.2.8 Highly visible sites	Able to comply	<p>The site is identified as a highly visible site, specifically the site's corners at Link Road and Epsom Road and Link Road and the future Zetland Avenue.</p> <p>The site specific DCP controls are prescriptive in the size, height and location of future built form in these locations. The concept envelopes are consistent with the DCP controls and future detailed design DAs will need to determine opportunities to create landmarks, provide focal points and reinforce view corridors as required by the SDCP.</p>
5.2.9 Building design	Able to comply	Any subsequent DA for the detailed design of the building will be assessed against the requirements of this control.

Provision	Compliance	Comment
5.3 Green Square - Epsom Park		
5.3.1 Epsom Park Urban Strategy	Yes	The concept proposal is in keeping with and will support the realisation of the Epsom Park Urban Strategy.
5.3.3 Local infrastructure and public domain	Yes	The concept proposal is consistent with the required local infrastructure and public domain for the site. This includes the location and dimensions of the street network, the extension of the Green Square Trunk Drainage System and the location of public open spaces.
5.3.4 Building form and design	Yes	<p>With respect to building form and design, the concept proposal is consistent with the site-specific controls which are applicable where development seeks to utilise alternative building heights under the site-specific controls of the SLEP Amendment Nol 94.</p> <p>In accordance with the general objectives, the concept envelopes are capable of ensuring future built form creates architectural diversity and visual interest and contributes to the physical definition of the existing and proposed street network.</p> <p>The concept envelopes are suitably sized to ensure all tower forms can be articulated, are limited in floor plate and result in good solar access to apartments and the public domain.</p> <p>Any future detailed design DA will need to address ground floor active frontages, noise and ventilation and environmental sustainable design as required by these objectives.</p>
5.3.4.1 Building setbacks	Able to comply	The SDCP 2012 specifies a ground and first floor condition for residential flat buildings in Epsom Park. Future detailed design DAs will be required to demonstrate compliance with this setback requirement.

Provision	Compliance	Comment
5.3.4.2 Splay corners	Able to comply	The SDCP 2012 identifies four potential splay corners in the north-western extent of the site. Any future detailed design DA will be required to demonstrate compliance with this requirement should these need to be provided.
5.3.4.4 Other development	Able to comply	No uses are approved as part of this concept application. Any future detailed design DA will need to demonstrate compliance with the various requirements for active frontages across the site.
5.3.4.5 Deep soil planting	Able to comply	<p>The concept proposal demonstrates 12% deep soil provision and a condition is recommended requiring this quantum to be retained.</p> <p>Any future detailed design DA will be assessed against the deep soil planting provisions set out in Section 4.2.3.6 of the SDCP 2012.</p>
5.3.5 Staging and implementation	Able to comply	The concept proposal includes three stages of development. The redevelopment of the site can occur without reliance on infrastructure from adjacent sites.
5.3.6 118-130 Epsom Road and 905 South Dowling Street, Zetland		
5.3.6.1 Relationship with the LEP	Yes	<p>As required by the SDCP 2012, a concept DA has been lodged which seeks to utilise alternative building heights available under the site-specific controls in SLEP Amendment No. 94.</p> <p>The concept application is accompanied by the following documentation set out in part (2):</p> <ul style="list-style-type: none"> • Distribution of non-residential uses across the site • Flood Report • Contamination documentation

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • Acoustic Report • Staging Plan • Design Excellence Strategy • Public Art Strategy and • Traffic and Transport Study.
5.3.6.2 Local infrastructure and public domain	Able to comply	<p>The concept plans provide public open space and streets in accordance with Figure 5.3.6-1 Alternative Public Domain and in accordance with the standards set out in Sections 5.3.3.1 Public open space and 5.3.3.2 Street network of the SDCP 2012.</p> <p>All 9 metre wide streets are provided as shared zones.</p> <p>Any future detailed design DA will need to address the requirements of part (3) and (4) which requires a holistic approach to the design and experience of Mulgu Park and the requirement for the future pedestrian / cycle through site link to be provided as an easement on title for public access.</p>
5.3.6.3 Movement and connectivity	Able to comply	<p>Driveway and vehicle access points are consistent with Figure 5.80 Epsom Park Circulation and Access and as required by the SDCP 2012, the block bound by Link Road, Zetland Avenue, Chimes Street and Peters Street will be entered and exited from a single vehicular access on Zetland Avenue.</p> <p>Approval is not granted for any car parking or any basement extents as part of this concept proposal. Any future detailed DA application will need to ensure that no above ground car parking is provided, as per the SDCP 2012.</p>
5.3.6.4 Building layout, form and design	Able to comply	<p>The concept envelopes do not specify a maximum number of storeys or street frontage heights. Rather, the concept envelopes identify maximum RLs for each development block which are</p>

Provision	Compliance	Comment
		<p>capable of achieving compliance with the height controls set out in the SLEP 2012 and SDCP 2012. Any subsequent detailed design DA will need to demonstrate compliance with the height in storeys and street frontage height controls.</p> <p>Similarly, the concept envelopes do not establish precise locations of the three towers. The concept envelopes are consistent with the hatched tower zones in the SDCP 2012 and require any future detailed design DA to determine the location of the towers, subject to overshadowing impacts to Mulgu Park and neighbouring dwellings as required by the DCP.</p> <p>Remaining controls in this section relating to separation, solar zones, primary and upper level setbacks will be a matter for consideration for all future detailed design DAs.</p> <p>Importantly, the concept envelopes do not prevent any future detailed design DA from complying with the built form controls set out in the DCP.</p>
5.3.6.5 Land use	Able to comply	Approval is not granted for any uses in this concept application and the location of all uses, including a local supermarket and active frontages will need to be determined in any future detailed design DA.
5.3.6.6 Noise and ventilation	Able to comply	The resolution of noise and ventilation issues will be a matter for any future detailed design DA to address with the careful siting and layout of buildings.
5.3.6.7 Contamination	Yes	The application is accompanied by contamination documentation which demonstrates the site can be remediated to facilitate the proposed development.

Provision	Compliance	Comment
5.3.6.8 Ecologically sustainable development and green infrastructure	Able to comply	The provisions of this control will be a matter for consideration for any future detailed design DA.

Discussion

Allocation of GFA

67. A maximum base FSR of 2:1 is permitted, which may be increased up to 2.2:1 subject to future detailed design DAs achieving design excellence as part of a competitive design process.
68. The total site area is 40,850sqm which facilitates a maximum GFA of 81,700sqm without a design excellence bonus and 89,870sqm with a design excellence bonus of 10%. The indicative reference scheme has a GFA of 89,696sqm and demonstrates compliance with the FSR controls for the site.
69. The concept proposal allocates a portion of the base quantum of GFA to each development stage based on the GFA the proposed building envelopes are capable of accommodating. The proposed allocation is outlined in the table below.

Stage	Lot Area	Res. GFA	Non-resi. GFA	Site FSR	Approx % of GFA
Northeast	17,170sqm	31,928sqm	2,322sqm	1.99:1	42%
Northwest	10,761sqm	24,693sqm	857sqm	2.37:1	31%
South	12,916sqm	20,527sqm	1,373sqm	1.70:1	27%
Total	40,847sqm	77,148sqm	4,552sqm	2:1	100%

70. The proportional allocations outlined above are generally supported. A condition of consent is recommended to allocate a base quantum of GFA to each development block in accordance with the table above.
71. A condition of consent is recommended which specifies that the FSR of the overall site must not exceed the maximum permissible and shall be calculated in accordance with clauses 4.4, 6.14 and 6.21D of the SLEP 2012. This allows for a base FSR of 2:1 (81,700sqm) with up to 10% additional floorspace achieving design excellence.

Building Separation and Visual Privacy

- 72. An assessment of the proposed building separation between building envelopes within the development site, and to existing or approved developments outside the development site, has been undertaken. The proposal is generally able to comply with the building separation requirements of the ADG, however some constraints on future detailed design DAs have been identified. These occur within Block S-4 and Block NW-2, they are highlighted in the figure below and discussed respectively.
- 73. The separation distance between individual building components within development blocks, for example the inside courtyard blocks and across the public roads, is not a matter for consideration at this concept stage. All subsequent detailed design DAs will be required to ensure the design criteria outlined in Part 3F 'Visual Privacy' are met. This will require careful control of the interfaces between habitable rooms, non-habitable rooms and blank walls.

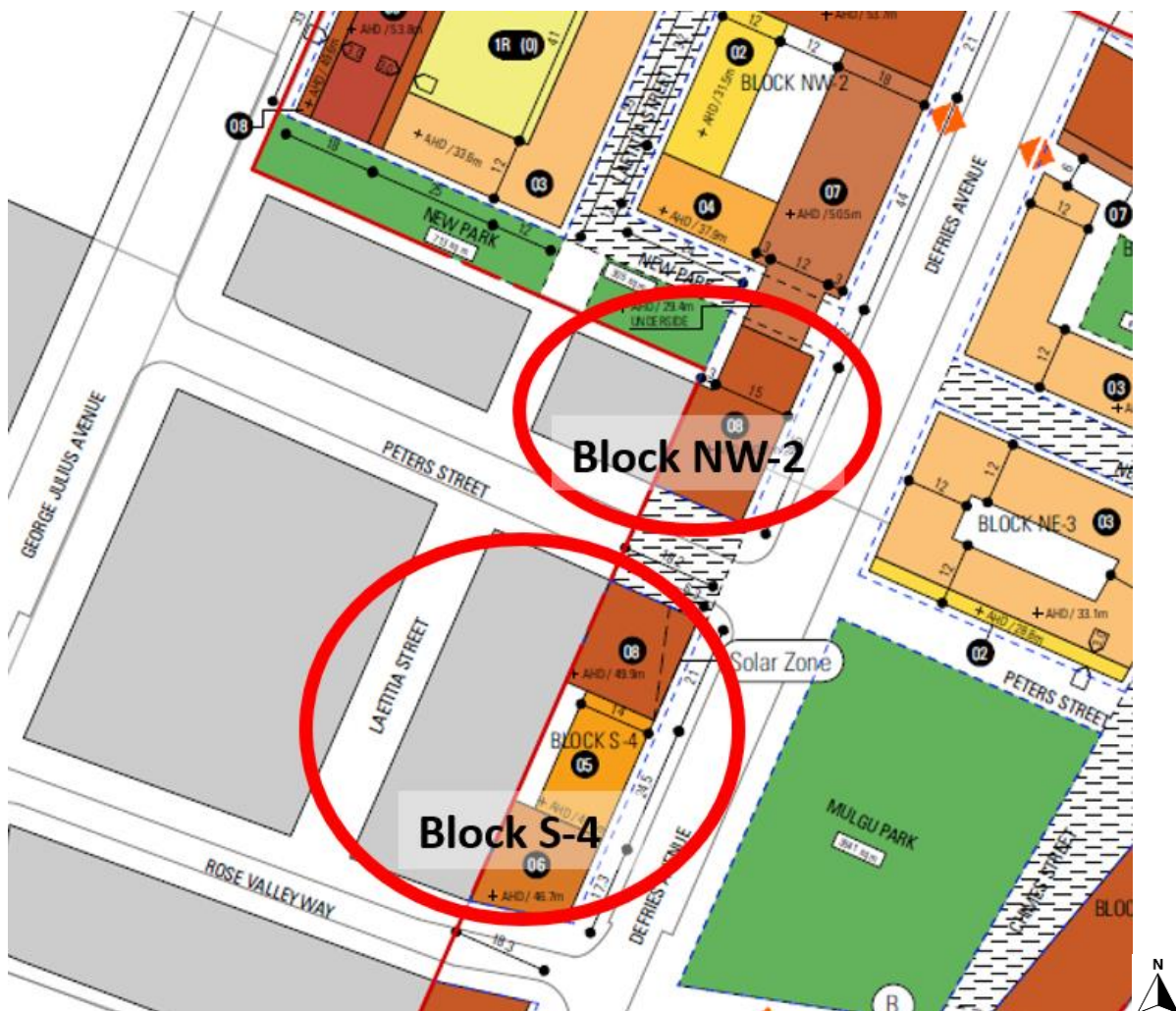


Figure 34: Envelope plan showing location of S-4 block and NW-2 block and proximity to adjoining development outside of the site boundary in grey

Block S4

- 74. Block S-4 located on the western extent of Defries Avenue directly fronts 10-12 Letitia Street to the west.

- 75. 10-12 Letitia Street comprises a recently constructed five storey residential flat building. The building has a central courtyard which directly abuts the proposed S-4 block. The approved floor plans (D/2015/913/C) for 10-12 Letitia Street identify habitable windows and balconies fronting this courtyard from ground floor to level five.
- 76. As shown in the figures below, there is a 16m building separation distance across the central courtyard between the S-4 block and 10-12 Letitia Street. The ADG requires a minimum of 12m of building separation between habitable rooms and balconies up to four storeys and 18m of building separation between habitable rooms and balconies between five to eight storeys.

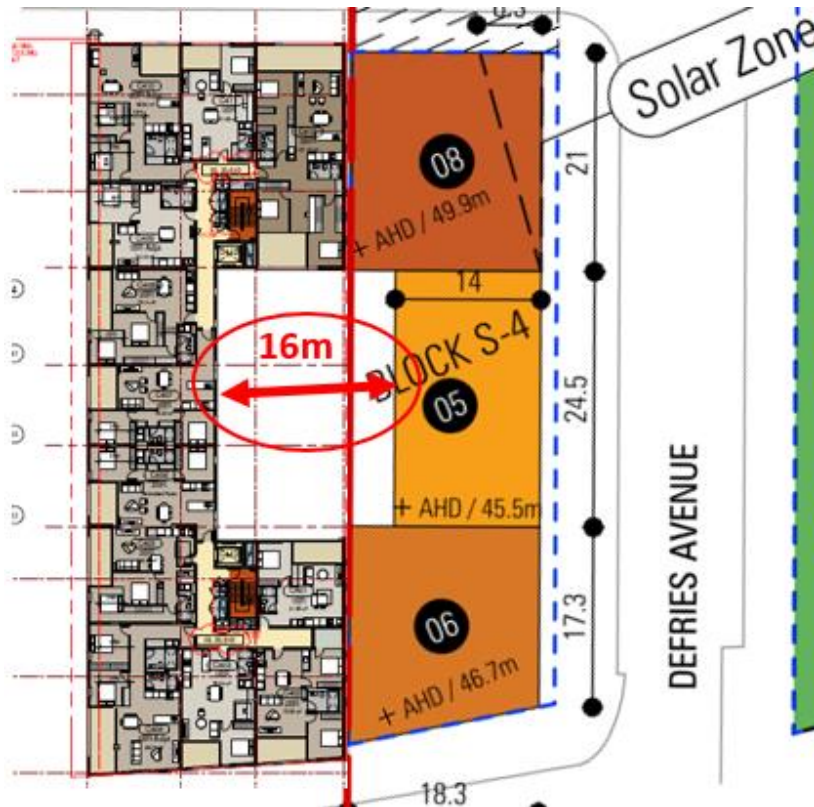


Figure 35: Envelope plan - height of building in storeys plan showing S-4 block and relationship to adjoining approved development to the west at 10-12 Letitia Street (level five floor plan)

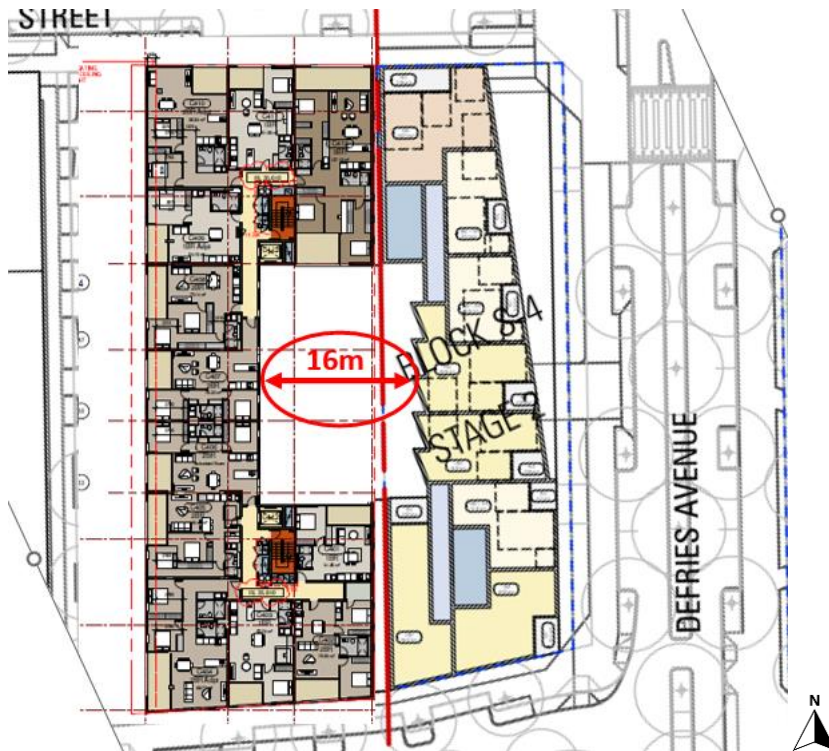


Figure 36: Reference scheme plan - height of building in storeys plan showing S-4 block and relationship to adjoining approved development to the west at 10-12 Letitia Street (level five floor plan)

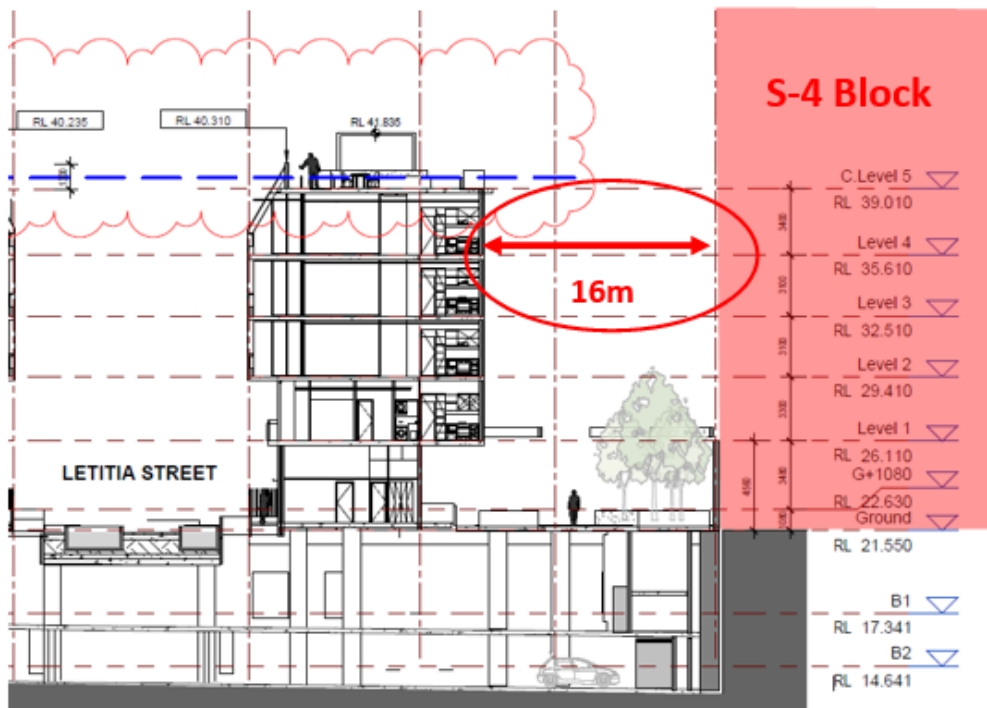


Figure 37: Section plan taken through approved development at 10-12 Letitia Street identifying 16m setback to boundary with S-4 block

77. In order to address the above, a condition of consent is recommended requiring a non-habitable interface to be provided to the internal courtyard's western interface above four storeys to address ADG building separation and privacy issues.

Block NW-2

78. Block NW-2 located on the western extent of Defries Avenue has a frontage to 8-12 Peters Street at its south-eastern extent.
79. 8-12 Peters Street comprises a recently constructed eight storey building. Block 02 of this building provides habitable interfaces located perpendicular to Block NW-2 and comprises balconies with living rooms and bedrooms behind.
80. As shown in the figures below, there is the propensity for overlooking to occur between 8-12 Peters Street and residential dwellings located along the western frontage of this particular part of Block NW-2. In order to mitigate this risk, a condition of consent is recommended requiring that visual privacy measures be incorporated along this facade to maintain visual privacy for residents.



Figure 38: Envelope plan - height of building in storeys plan showing NW-2 block and relationship to adjoining approved development to the southwest at 8-12 Peters Street (level five floor plan)



Figure 39: Approved northern elevation of showing location of Block 02 of 8-12 Peters Street showing extent of balconies along this frontage

Overshadowing and Solar Access

Adjoining residential flat buildings

81. The subject site is located within a densely populated residential precinct with a number of residential flat buildings within immediate proximity. The application is accompanied by detailed solar analysis of four residential flat buildings which will be significantly overshadowed by future redevelopment of the site. These properties are:
 - (a) 1-5 Link Road & 132-136 Epsom Road to the east;
 - (b) 10 Magari Street to the south, beyond Epsom Road; and
 - (c) 8-12 Peters Street, to the southwest.
82. The figure below identifies the abovementioned residential flat buildings in red. In yellow are residential flat buildings which are likely to experience some form of overshadowing from future built form on the subject site, however, detailed analysis to these buildings has not been undertaken with the concept DA.



Figure 40: Map showing location of residential flat buildings in red for which detailed solar analysis has been undertaken. The residential flat buildings outlined in yellow may be impacted by overshadowing from future built form at the site, however detailed analysis has not been undertaken.

83. Part 4A of the ADG relates to solar and daylight access and requires the following:
- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of two hours direct sunlight between 9am and 3pm at midwinter.
 - A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.
84. A summary of the overshadowing impacts from the reference scheme to these residential flat buildings is discussed below.

8-12 Peters Street

85. A review of the existing solar analysis indicates that more than 75% of apartments (82 out of 109) within this building receive two hours of direct sunlight at midwinter. Currently 14.7% of apartments (16 out of 109) receive no direct sunlight at midwinter.

86. City staff's review of the proposed solar analysis indicates that around 72% of apartments (79 out of 109) will maintain two hours of direct sunlight to living rooms and private open spaces at midwinter. The City's review indicates that less than 14.7% of apartments (16 out of 109) will receive no direct sunlight between 9am and 3pm at midwinter.
87. In summary, the solar analysis to this residential flat building demonstrates compliance with the ADG and the solar access provisions contained in the SDCP 2012.

1-5 Link Road & 132-136 Epsom Road

88. These residential flat buildings were approved under the same DA (D/2012/1955 (as amended)) and therefore the solar analysis undertaken has been combined and relates to both buildings.
89. A review of the existing solar analysis indicates that currently 64% of apartments (123 out of 193) within these buildings receive two hours of direct sunlight at midwinter which is less than the objective in the ADG. Currently 11.4% of apartments (22 out of 193) receive no direct sunlight at midwinter.
90. The proposed scenario indicates that seven apartments will not achieve two hours of direct sunlight at midwinter as a result of the proposal, specifically the tower, reducing the overall percentage to around 60% (116 out of 193). It is expected that the quantum of apartments receiving no direct sunlight at midwinter will remain unchanged at 11.4%.
91. Selected view from sun diagrams indicating the impact to the 1-5 Link Road building are provided below. An overview of the cumulative solar analysis impacts is discussed under the heading "summary" below.

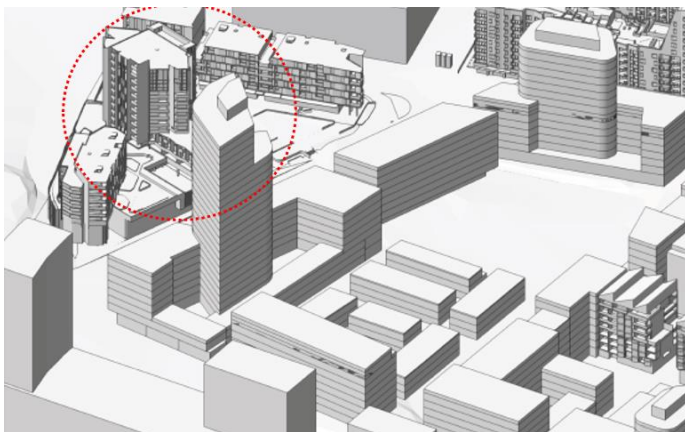


Figure 41: View from sun diagram showing impact at 12:30pm on 21 June which represents the start of the tower's impact to the 1-5 Link Road building

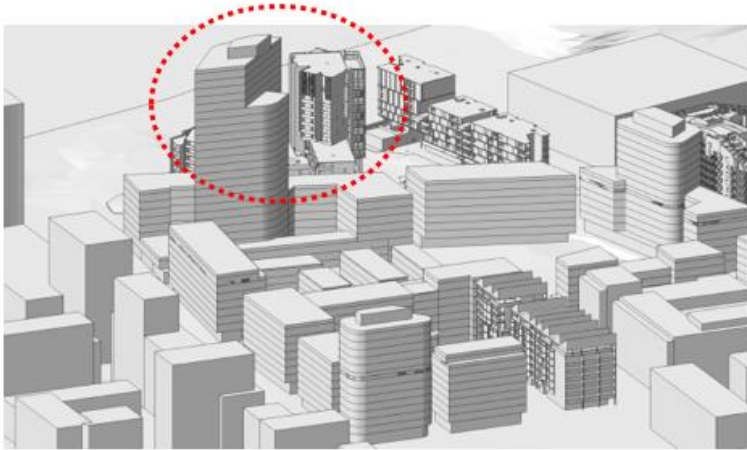


Figure 42: View from sun diagram showing impact at 2:55pm on 21 June which represents the end of the tower's impact to the 1-5 Link Road building

67-77 Epsom Road

92. A review of the existing solar analysis has been conducted by City staff. The architect claims that currently 54.1% of apartments (171 out of 316 including serviced apartments) receive two hours of direct sunlight at midwinter. The architect advises that over 20% of apartments (64 out of 316) currently receive no direct sunlight at midwinter. In both of these existing circumstances, a non-compliant quantum of solar access is achieved.
93. The existing solar analysis calculations contain a number of unverified facts which are identified in the points below:
 - (a) The solar analysis conducted by the architect includes 'serviced apartments' in the calculations. City staff specifically requested the architect exclude these given the solar and daylight access provisions of the ADG do not apply to serviced apartments. Notwithstanding, these have been included in the architect's final solar analysis.
 - (b) The apartment numbering does not reflect the amended apartment numbering approved by modification number D/2015/624/B.
94. Both of these factors have rendered the cross-checking of the plans and architect's solar analysis challenging. Notwithstanding, a review has been conducted by City staff.
95. City staff's review indicates that over 52% of apartments (167 out of 316) will receive two hours of solar access at midwinter, a reduction of four apartments compared with the existing scenario. It is City staff's opinion that the quantum of apartments receiving no solar at midwinter will increase, although the calculations have not been verified for the reasons discussed above.
96. Due to the siting of the existing residential flat building located due south of Block S-2 and Tower B, residential apartments fronting Epsom Road are impacted by the proposal continuously from 9am to 3pm at midwinter.

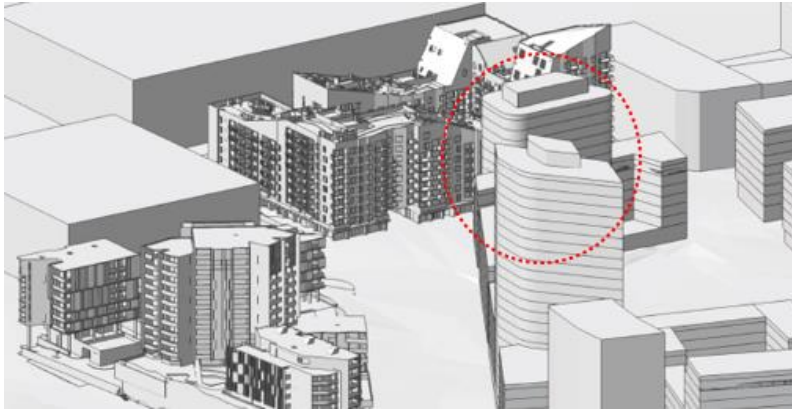


Figure 43: View from sun diagram showing impact at 9am on 21 June to 67-77 Epsom Road which is caused by Block S-2 and Tower B

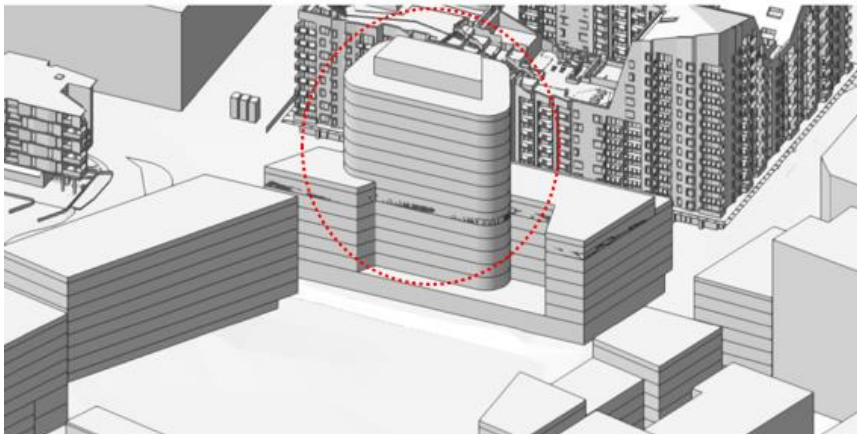


Figure 44: View from sun diagram showing impact at 12:55pm on 21 June to 67-77 Epsom Road which is caused by Block S-2 and Tower B

Summary

97. It is acknowledged that the architect's solar analysis has been conducted on the reference scheme, which is indicative only, with its purpose to demonstrate how a detailed building design may be able to be configured within the proposed concept envelopes. The positioning of the built form, including the location of the tower forms may ultimately be amended during the detailed design process which will result in differing solar access impacts.
98. The adverse overshadowing impacts are principally caused by the tower forms located in the NE-1 and S-2 blocks. The site-specific SDCP 2012 controls allow for flexibility in the locations of all tower forms, and this has been reflected in the concept plans which identify three separate tower zones in Block NE-1, Block S-2 and Block NW-1 (refer figure below). This flexibility allows for future tower forms to be located anywhere within these zones, subject to compliance with the floorplate controls and overshadowing controls stipulated in the DCP. This will be an important matter for consideration in the assessment of any future detailed design DA.



Figure 45: Building Envelope Plan showing location of tower zones hatched and outlined in red

99. Given the overshadowing impacts identified by the indicative reference scheme which identify non-compliances with the ADG, a condition is recommended to ensure tower forms submitted as part of any future detailed design DA are appropriately modulated and articulated to maximise the available solar access to adjoining residential developments and residential development within the site. All tower forms should seek to optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space as required by the design criteria set out in the ADG.
100. A detailed analysis of the overshadowing impacts will need to be undertaken in any subsequent detailed design DA.

Mulgu Park

101. The DCP requires that an application be accompanied by solar analysis which demonstrates that a consolidated area equal to at least 75% of the area of Mulgu Park achieves four hours of solar access between 9am and 3pm on 21 June.
102. The solar analysis provided with the application has been prepared utilising the reference scheme (not the concept envelope) and demonstrates an area of 75.16% of Mulgu Park (equating to 2,663sqm) will achieve solar access for at least four hours at midwinter. The solar insolation analysis accompanying the application is provided below.

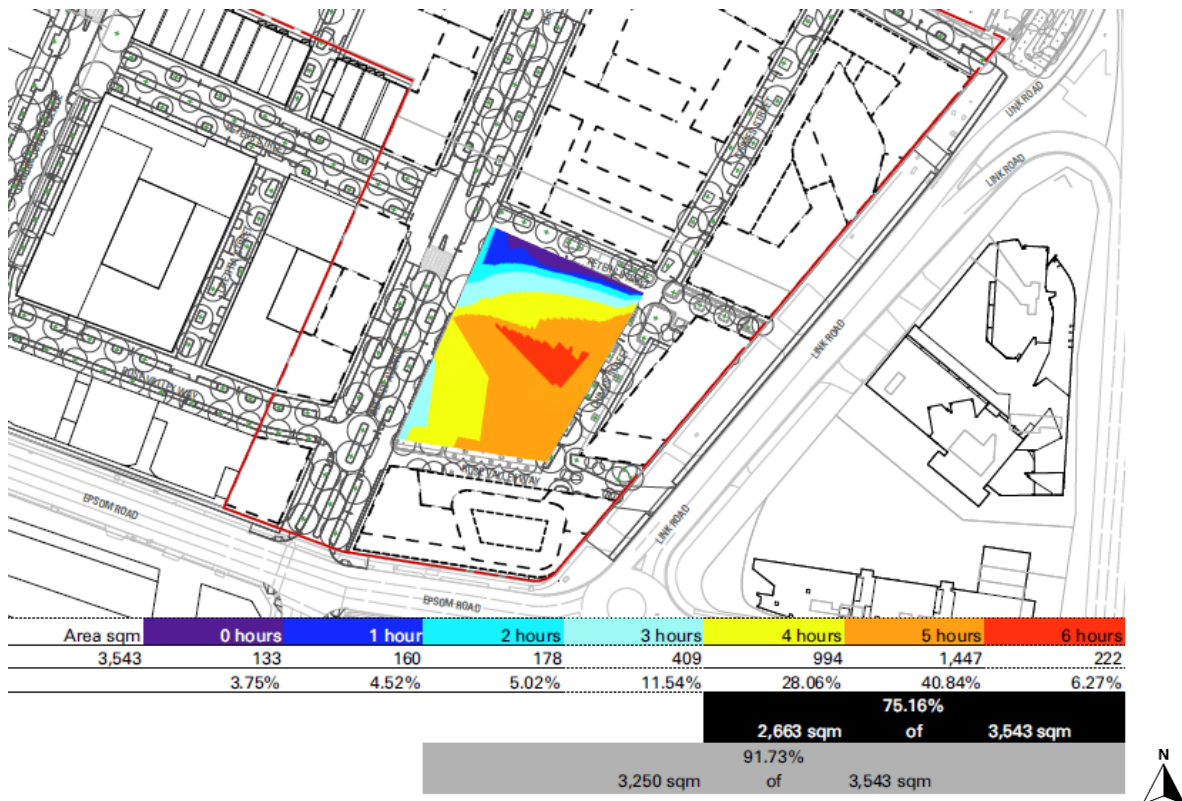


Figure 46: Solar insolation analysis prepared utilising the reference scheme demonstrating compliance with the DCP

- 103. Given the solar analysis has been prepared on the reference scheme, it is acknowledged that any amendments to the built form location and form, specifically the tower location in the north-eastern corner, will result in a different solar impact to Mulgu Park.
- 104. Compliance with this DCP control will need to be demonstrated in any subsequent detailed design DA. Any future DA must be supported by site-specific shadow and solar access analysis.

Internal Referrals

- 105. The assessment process has been informed by advice from Council's Specialist Surveyor, Public Domain, Tree Management, Landscape Design, Environmental Health, Urban Design, Public Art, ESD and Waste Management Specialists, Legal Officers, Design Excellence team, Transport Planner and VPA Coordinator.
- 106. Where appropriate, conditions recommended by these referrals have been included for imposition on any consent given.

External Referrals

Sydney Airport

- 107. 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.

108. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify that the site is subject to a prohibition of the construction of buildings (without approval) rising more than 51m AHD above existing ground level.
109. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted. The relevant approval body is the Civil Aviation Safety Authority (CASA).
110. At this current time, an approval for the controlled activity has not been issued. The recommendation of this report is for authority be delegated to the CEO to determine the application pending a decision of the Federal Department of Infrastructure and Regional Development, Airspace Protection, Aviation and Airports, pursuant to the Airports (Protection of Airspace) Regulations 1996.

Transport for NSW

111. Pursuant to Section 2.122 of the SEPP (Transport and infrastructure) 2021, the application was referred to TfNSW for comment.
112. Comments were received on 13 September 2023 advising that the concept proposal will have a minor impact on the classified road network and that TfNSW has no further comment at this stage.

Water NSW

113. Pursuant to Section 90(2) of the Water Management Act 2000, the application was referred to Water NSW for concurrence.
114. Water NSW provided comments on 14 November 2024. Water NSW advised that given the application is a concept DA involving no construction works and that no information relating to the basement design, geotechnical investigations and groundwater monitoring has been submitted, General Terms of Approval are not required.

Advertising and Notification

115. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 23 August 2023 and 21 September 2023. A total of 1,579 properties were notified and three submissions were received.
116. The submissions raised the following issues:
 - (a) **Issue:** The DA is to be assessed against the controls that are current on the day of lodgement.

Response: This is incorrect. The DA has been assessed against the new controls which have been gazetted and incorporated into the SLEP 2012 and SDCP 2012.

- (b) **Issue:** Approval of the DA requires an assessment of the merit of the variation of the development standards via the clause 4.6 variation request. The variation fails to demonstrate that the departure from the development standard is justifiable under the current circumstances where existing height standards apply. Clause 4.6 does not provide sufficient environmental grounds to support the significant breach of the height standard.

Response: The application seeks to rely on the site-specific controls which have been gazetted and incorporated into the SLEP 2012 and SDCP 2012. There is no requirement for a clause 4.6 variation request to accompany the DA given the proposal complies with the height and floor space ratio controls set out in the changes to SLEP 2012.

- (c) **Issue:** The rearrangement of built form contemplated by the DA results in numerous areas of non-compliance with the current site-specific DCP. To reduce areas of non-compliance and to create more transparent and accurate merit assessment, the DA should only be assessed once the draft site-specific DCP controls have commenced.

Response: The application has been assessed against the new site-specific DCP controls. As discussed in this report, the concept proposal is generally consistent with these controls. Any subsequent DA for the detailed design of the buildings will be assessed against the requirements of the site-specific DCP.

- (d) **Issue:** Request for more direct buses within the locality.

Response: This is a matter for TfNSW to consider, not the City,

- (e) **Issue:** Clarification as to whether the City would impose a DA condition for the signalisation of the roundabout on Epsom and Link Roads to be completed prior to commencement of works.

Response: The works associated with the signalisation of the roundabout on Epsom and Link Roads are being undertaken by the City. There is no condition proposed requiring the roundabout to be signalised prior to the commencement of works at the subject site.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

117. A Section 7.11 contribution will be applicable for all subsequent detailed design DAs.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

118. A Section 7.13 contribution will be applicable for all subsequent detailed design DAs.

Relevant Legislation

119. Environmental Planning and Assessment Act 1979.

Conclusion

120. The subject DA seeks consent for concept building envelopes for a mixed-use development comprising nine (9) development block ranging in height between one (1) and 25 storeys and indicative uses including:
 - (a) Basement car parking, storage and services;
 - (b) Ground floor retail and commercial uses; and
 - (c) Centre-based childcare facility and residential uses on upper floors.
121. The Public Benefit Offer has been received and accepted by the City and will inform a draft VPA associated with the application. The draft VPA will undergo a 28-day public exhibition period in accordance with the requirements of section 7.5 of the Environmental Planning and Assessment Act 1979. A deferred commencement condition is recommended to enable the VPA to be drafted, executed and registered on title.
122. The concept proposal and Design Excellence Strategy establish concept building envelopes and suitable parameters for the competitive design processes. Subject to the recommended conditions, the proposed envelopes are able to generally accommodate detailed building designs of an appropriate bulk and scale, which respond to the character of the area, and which are capable of achieving design excellence subject to competitive processes.
123. For these reasons it is recommended that authority be delegated to the Chief Executive Officer (CEO) to determine the application, following the drafting and conclusion of the public exhibition of the draft VPA and considering any public submissions received in response. It is recommended that the CEO consider granting deferred commencement development consent subject to the recommended conditions requiring the VPA to be executed and registered on title prior to the consent becoming operative.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Lotti Wilkinson, Senior Planner