

Item 4.**Development Application: 130 Joynton Avenue, Zetland - D/2024/514****File No.:** D/2024/514**Summary****Date of Submission:** 9 July 2024. Amended drawings and additional information were submitted on 18 October 2024.**Applicant/ Owner/ Developer:** Deicorp Projects (Joynton Ave) Pty Ltd**Architects:** Fender Katsalidis and Besley & Spreser Architects
(Buildings A, B and C)Candalepas Associates and Lachlan Seegers Architects
(Building groups D and E)**Planning Consultant:** Planning Lab**Design Advisory Panel:** 12 September 2024**Cost of Works:** \$304,040,785.00**Zoning:** The site is zoned MU1 - Mixed Use under the Sydney Local Environmental Plan 2012. The proposal comprises a mixed use development including commercial and residential uses which are permissible with consent in the zone.**Proposal Summary:** Approval is sought for a mixed use development comprising nine new buildings across five development sites including:

- Excavation, site preparation and remediation works relating to the five development sites (excluding the public domain);
- Construction of nine buildings containing a total of 571 apartments including:
 - Five mixed used buildings with commercial ground floor uses and residential apartments above (Buildings A, B, C, D1 and E1); and

- Four residential flat buildings (Buildings D2, D3, E2 and E3).
- Construction of two basement levels containing 540 car parking spaces, comprising:
 - An eastern wing underneath Buildings C, D and E, accessed from George Julius Avenue; and
 - A western wing underneath Buildings A and B, accessed from Victoria Park Parade.
- Site landscaping including tree removal.

The buildings are to be constructed in five stages, starting in the east with Building groups D and E and through to the west ending at Building A.

A separate development application has been lodged for the related public domain works including new roads and public parks (D/2024/601).

The application is Integrated Development requiring the approval of Water NSW under the Water Management Act 2000. General Terms of Approval have been received and form part of the recommended conditions in Attachment A.

The application is referred to the Central Sydney Planning Committee (CSPC) for determination as the cost of works exceeds \$50 million.

Voluntary Planning Agreement

The proposal includes a public benefit offer to undertake works and dedicate land to deliver the new infrastructure works outlined in the City's Public Domain Concept and Civil Design plans. These works include:

- The extension of Zetland Avenue, Grandstand Parade, Victoria Park Parade, George Julius Avenue, Ascot Avenue and Defries Avenue; and
- The construction and dedication of Woolwash Park, Biyanbing Park and Zetland Avenue Open Space.

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

Competitive design process

Two separate competitive design processes were held for the site in accordance with clause 6.21D of the Sydney Local Environmental Plan 2012:

- Competition 1 related to Building groups D and E. Candalepas and Associates and Lachlan Seegers Architects were selected as the winning scheme.
- Competition 2 related to Buildings A, B and C. Fender Katsalidis and Besley & Spreser Architects were selected as the winning scheme.

The proposal is generally consistent with the overall design intent of the winning schemes and the recommendations of each selection panel have been addressed in this report.

Notification

The application was notified for a period of 28 days between 11 July and 9 August 2024, with 37 submissions received. The key issues raised relate to building height, character of the area, building separation, construction impacts, structural impacts, transport and traffic, overdevelopment, solar access, contamination, view loss, waste management, acoustic impacts, visual privacy, and landscaping.

Following the submission of amended plans, the application was re-notified for a period of 14 days between 25 October and 9 November 2024. One additional submission was received.

Clause 4.6 variation request

A written request has been submitted to vary the height of buildings development standard pursuant to clause 4.6 of the Sydney Local Environmental Plan 2012. The proposal seeks to vary the height of a minor portion of Building D1 by 2.5% and part of Building E3 by 13.2%.

The applicant's written request to vary the height of buildings development standard demonstrates that compliance with the standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravening the standard. The height non-compliances are therefore supported in this instance.

Assessment

The proposal was reviewed by the Design Advisory Panel (DAP) on 12 September 2024.

Amended plans were submitted on 18 October 2024 to address issues raised by Council and the DAP. The amended proposal adequately addresses the issues raised, as detailed in this report.

The proposal in its final form responds appropriately to surrounding development and provides a built form that is generally consistent with the desired future character of the Green Square Epsom Park locality, reflected by the planning controls that apply to the site. The development achieves a standard of architectural design that demonstrates design excellence in accordance with clause 6.21 of the Sydney Local Environmental Plan 2012 and will contribute significant public benefits captured in the Planning Agreement.

A deferred commencement condition is recommended requiring the Planning Agreement to be publicly exhibited, executed and registered on title prior to the consent becoming operational.

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

Development Controls:

- (i) Sydney Airport Referral Act 1996
- (ii) Water Management Act 2000
- (iii) State Environmental Planning Policy (Transport and Infrastructure 2021)
- (iv) State Environmental Planning Policy (Resilience and Hazards) 2021
- (v) State Environmental Planning Policy (Housing) 2021
- (vi) State Environmental Planning Policy (Sustainable Buildings) 2022
- (vii) Sydney Local Environmental Plan 2012
- (viii) Sydney Development Control Plan 2012
- (ix) City of Sydney Development Contributions Plan 2015
- (x) City of Sydney Affordable Housing Program

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings - Buildings A, B and C
- C. Selected Drawings - Buildings D and E
- D. Clause 4.6 variation request - Height of Buildings
- E. Competitive Design Alternatives Report - Buildings A, B and C
- F. Competitive Design Alternatives Report - Building groups D and E
- G. Public Benefit Offer
- H. Submissions

Recommendation

It is resolved that:

- (A) the request to vary the height of buildings development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application Number D/2024/514 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for deferred commencement approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the recommended conditions of consent, 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) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height of buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney Local Environmental Plan 2012.
- (C) The development is permissible with consent in the MU1 - Mixed Use zone and is consistent with the objectives of the zone.
- (D) The proposed development complies with the maximum floor space ratio controls pursuant to clauses 4.4, 6.14 and 6.21D of the Sydney Local Environmental Plan 2012.
- (E) The proposal demonstrates design excellence in accordance with the relevant provisions and matters for consideration in clause 6.21C of the Sydney Local Environmental Plan 2012.
- (F) The proposed development is consistent with the design intent of the winning schemes of the competitive design alternatives processes for the site, held in accordance with the City of Sydney Competitive Design Policy.
- (G) The proposal satisfies the relevant provisions and matters contained in clause 7.20 of the Sydney Local Environmental Plan 2012 relating to development requiring the preparation of a development control plan.

- (H) The proposal has been assessed against the aims and objectives of the relevant planning controls including the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012, and the State Environmental Planning Policy (Housing) 2021. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent.

- (I) The proposed development has a form, bulk and massing that is suitable for the site and its context and is appropriate in the setting of the Green Square Epsom Park locality.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 in Deposited Plan 850686 and Lot 2 in DP1307642 and is known as 130 Joynton Avenue, Zetland. It is irregular in shape with area of approximately 28,788sqm.
2. The site adjoins Zetland Avenue to the south, Kirby Walk to the north, Defries Avenue and Link Road to the east, and Joynton Avenue to the west.
3. Four existing roads run perpendicular to the site from the northern boundary, being Grandstand Parade, Victoria Park Parade, George Julius Avenue and Ascot Avenue. These roads are proposed to be extended through the development site, connecting to Zetland Avenue to the south.
4. The site is relatively flat, with a minor fall from east (RL 21.54) to west (RL 18.54). The site is identified as being subject to flooding.
5. The site has historically been associated with industrial and commercial uses, most recently containing an Ausgrid depot. The site previously contained seven 1-2 storey warehouse buildings, which are in the process of being demolished under a separate Complying Development Certificate.
6. The site is located immediately east of the Green Square Town Centre and sits within the Epsom Park portion of the Green Square urban renewal area.
7. The surrounding area comprises a range of residential, commercial and mixed use developments within the broader Green Square urban renewal area, including:
 - (a) **North:** Immediately north of the site are several residential flat buildings ranging from 4-15 storeys including 116-118 Joynton Avenue, 17-19 Grandstand Parade, 10-12 Grandstand Parade, 9-11 Victoria Park Parade, 10-12 Victoria Park Parade, 1 Kirby Walk, 1 Hutchinson Walk and 8 Ascot Avenue.
 - (b) **East:** To the east and north-east of the site is a precinct developed by Meriton comprising residential and mixed use buildings ranging from 7-22 storeys. This includes six buildings at 10 Defries Avenue and three buildings at 14 Defries Avenue.
 - (c) **South:** Immediately south of the site is Gunyama Park Aquatic and Recreation Centre, Gunyama Park Stage 2 which is currently under construction and 118-130 Epsom Road and 905 South Dowling Street, which is the former Suttons site being redeveloped by Meriton.
 - (d) **West:** To the east is the Green Square Town Centre which contains a range of mixed use and residential flat buildings. The future Green Square Public School is located directly south-west of the site.

- 8. A site visit was carried out on 9 August 2024. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Joynton Avenue looking east



Figure 3: Site viewed from Zetland Avenue looking west



Figure 4: Site viewed from Zetland Avenue looking east



Figure 5: Site viewed from Zetland Avenue looking north



Figure 6: Looking west along Zetland Avenue



Figure 7: Site viewed from Kirby Walk



Figure 8: Site viewed from Defries Avenue looking south



Figure 9: Site viewed from Defries Avenue looking west

History Relevant to the Development Application

Development Applications

9. The following applications are relevant to the current proposal:
- **D/2024/501** – Development consent was granted on 1 October 2024 for demolition of existing site structures and erection of a new temporary (maximum 5 years) single storey exhibition home and associated signage.
 - **D/2024/595** – A development application was lodged on 5 August 2024 for subdivision of the site into two Torrens Title lots. This application is currently under assessment.
 - **D/2024/601** – A development application was lodged on 5 August 2024 for public domain works associated with the mixed use development including bulk excavation, remediation, civil infrastructure, new and connecting roads, pedestrian and bicycle paths, public open space, lighting, landscaping works and subdivision. This application is currently under assessment.

Pre-DA consultation

10. Following the purchase of the site in 2022, the applicant initiated discussions with Council regarding the future redevelopment of the site and the proposed planning pathway.
11. The applicant put forward a case for proceeding directly to a design competition in lieu of preparing a site-specific Development Control Plan (or Concept DA) required by clause 7.20 of the SLEP 2012, as the proposal would be consistent with the detailed requirements for development contained in the Green Square - Epsom Park special area controls in the SDCP 2012, which contains detail equivalent to a site-specific DCP. This is outlined further in the 'Discussion' section below.
12. It was agreed that extensive investigations would be undertaken through a Pre-DA process to resolve issues such as contamination, flooding, waste management and public domain coordination prior to commencement of any competitive design process.
13. Consultation was undertaken to establish the necessary deliverables for the Pre-DA process. It was agreed that the documentation submitted would be similar to that of a Concept DA, focusing on establishing environmental baselines and indicative building envelopes generally consistent with the DCP to guide the competitive design process.
14. Upon receipt of the requested deliverables, Council officers provided extensive and detailed advice on the proposal through a series of written advice and meetings.
15. Once all outstanding matters were addressed, the competition briefs and related documents were finalised. These included indicative building envelopes which were attached to the competitive design process briefs, as shown in Figures 10 and 11 below.
16. It is noted that while the general building locations and massing are consistent with the DCP, some minor variations were negotiated through the Pre-DA process to achieve improved environmental outcomes, particularly relating to street tree retention and overshadowing to neighbouring properties.

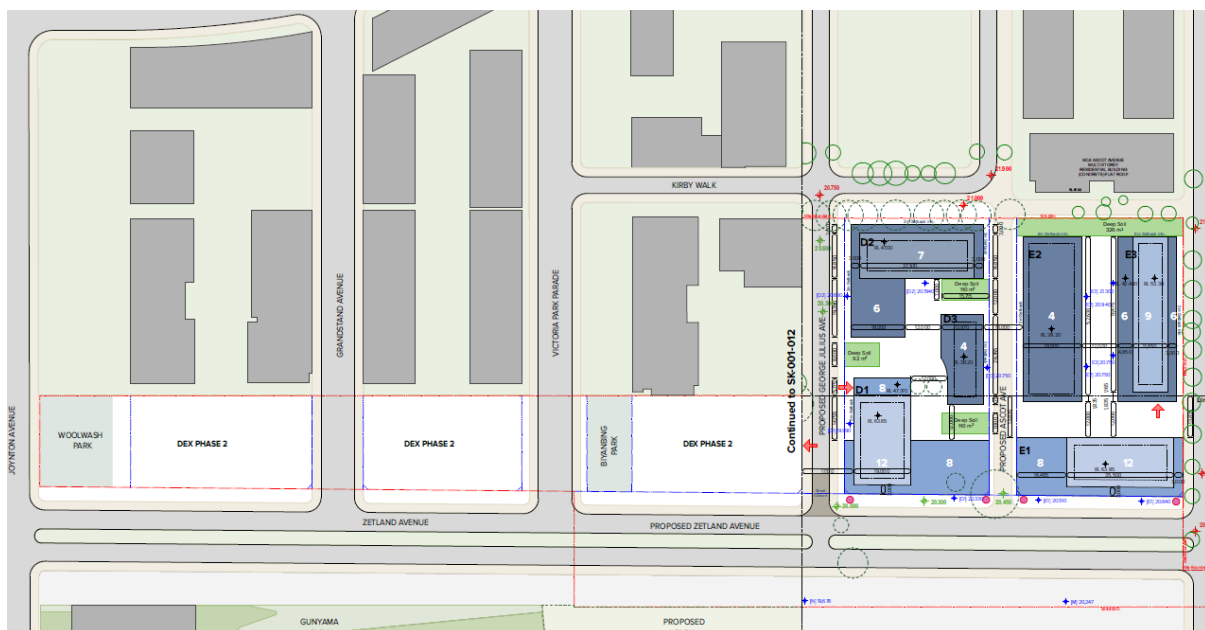


Figure 10: Indicative building envelopes for Buildings D and E attached to the competition brief

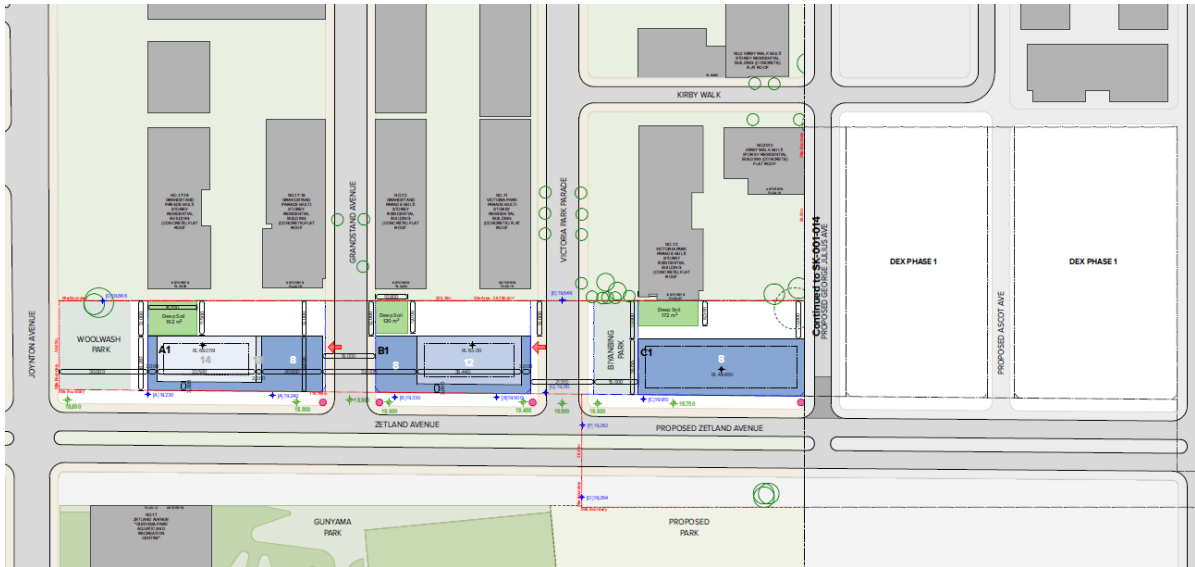


Figure 11: Indicative building envelopes for Buildings A, B and C attached to the competition brief

Competitive design process

17. Two separate competitive design processes were held for the site, including one for Building groups D and E and one for Buildings A, B and C.
18. The first competitive design process relating to Building groups D and E was held in January 2024. Of the four schemes presented, the scheme by Candalepas and Associates and Lachlan Seegers Architects was selected as the most capable of demonstrating design excellence and was declared the winner.
19. The second competitive design process relating to Buildings A, B and C was held in March 2024. Of the four competing teams, Fender Katsalidis and Besley & Sperser were selected as having the scheme most capable of achieving design excellence and were declared the winner.
20. The Competitive Design Alternatives Reports are provided at Attachments E and F. The key principles and qualities of the designs to be maintained and areas for further resolution identified by the Panel are addressed in the 'Discussion' section of this report.

Voluntary Planning Agreement

21. The proposal includes a Public Benefit Offer to dedicate land and undertake works to deliver the new infrastructure works outlined in the City's Public Domain Concept and Civil Design plans. These works include:
 - (a) The extension of Zetland Avenue, Grandstand Parade, Victoria Park Parade, George Julius Avenue, Ascot Avenue and Defries Avenue; and
 - (b) The delivery of Woolwash Park, Biyanbing Park and Zetland Avenue Open Space.
22. The Public Benefit Offer is set out in Attachment G to this report.
23. The draft Planning Agreement is to be publicly exhibited for 28 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

24. The application is recommended for deferred commencement approval to require the draft Planning Agreement to be publicly exhibited, for submissions to be considered and for the owner of the site to execute the planning agreement and register it on title before the consent becomes operative. This will ensure that the consent cannot be acted upon without assurance that the public benefits will be delivered in accordance with the provisions of this agreement.

Amendments

25. Following a preliminary assessment of the proposed development by Council officers, a request for additional information and amendments was sent to the applicant on 23 September 2024.
26. The primary issue raised by Council officers was in relation to several design changes had been made to Building groups D and E since the competitive design process, which caused these buildings to have lower amenity compared to the competition scheme and reduced setbacks overall. These changes were a result of seeking to utilise the permissible Gross Floor Area (GFA) for these buildings.
27. To maintain the design integrity of the winning scheme for Building groups D and E, it was considered crucial that the level of amenity proposed in the competition scheme was not compromised.
28. Following consultation with the DAP, Council officers requested that the plans be amended to reflect the design competition scheme in relation to building articulation, corridor amenity and building setbacks. To compensate for this, and based on DAP advice, Council officers advised that consideration could be given to a scenario where the GFA lost from these changes is calculated and recouped by adding an additional setback storey to Building E2. This design move is outlined further in the 'Discussion' section of this report.
29. In addition to the above primary issue, the following additional information and amendments were requested:
 - (a) Setbacks:
 - (i) 2m landscape setbacks required by the SDCP 2012 to be provided.
 - (ii) Minimum 4m northern setback for Building D2 to the street trees on Kirby Walk to be provided.
 - (iii) Additional setback on Building E3's northern frontage to be provided.
 - (iv) Corner splays were to be incorporated.
 - (v) 3m setbacks above podiums were to be provided.
 - (b) Height in storeys - Justification for any non-compliances with the height in storeys control was requested.
 - (c) Basements - The pedestrian tunnel underneath Biyanbing Park at level B1 was not supported.

- (d) Design competition recommendations - Additional information was requested to address the Selection Panel's recommendations.
 - (e) Solar access - Further information demonstrating compliance with the ADG was requested.
 - (f) Building separation and visual privacy - Further information addressing visual privacy for all ADG building separation inconsistencies was requested.
 - (g) Acoustic attenuation - Additional information was requested to demonstrate that acoustic amenity and natural ventilation can be achieved simultaneously.
 - (h) General amenity:
 - (i) Relocation of the condenser farm in the communal open space of Building A was recommended.
 - (ii) External corridors to Buildings D1, E1, E2 and E3 to be updated to provide baton screens that allow genuine ventilation at an angle to resist inclement weather.
 - (i) Overshadowing - View from the sun diagrams were requested.
 - (j) Wind impacts - The recommendations of the Pedestrian Wind Assessment were to be implemented into the plans.
 - (k) Architectural plans - Additional details to be shown on the architectural plans and materials and finishes schedule.
 - (l) Adaptable apartments - Changes were required to adaptable apartments.
 - (m) Landscaping - Additional details were requested to ensure the integrity and quality of landscape areas.
 - (n) Public domain - Additional information regarding containment cells under roads and construction staging was requested.
 - (o) Transport and access - Minor amendments were required to swept paths, visitor and accessible spaces and bicycle parking.
 - (p) Noise - Changes to the acoustic report and a Construction Noise and Vibration Management Plan were recommended.
 - (q) Waste management - Changes were required to basement waste storage, waste collection, chutes, and the Waste Management Plan.
 - (r) Tree management - An updated Arborist Report and additional setbacks were requested.
 - (s) Public Art - It was recommended that a monetary contribution equivalent to the public art budget be considered instead of providing public art within the development site.
30. The applicant responded to the request on 18 October 2024 and submitted amended plans and additional information to address the points outlined above. These amended plans form the basis of this assessment.

Proposed Development

31. The application (as amended) seeks consent for a mixed use development comprising nine new buildings across five development sites including:
 - (a) Excavation, site preparation and remediation works relating to the five development sites
 - (b) Construction of nine buildings containing a total of 571 apartments
 - (c) Construction of two basement levels containing a total of 540 car parking spaces, comprising:
 - (i) An eastern wing underneath Buildings C, D and E, accessed from George Julius Avenue; and
 - (ii) A western wing underneath Buildings A and B, accessed from Victoria Park Parade.
 - (d) Site landscaping including tree removal.
32. The buildings are to be constructed in five stages, starting in the east with Buildings D and E and through to the west ending at Building A.
33. A summary of each proposed building site and their respective photomontages are outlined below:
 - (a) **Building A** - Part 14, part 8 storey mixed use building containing ground floor retail and 93 residential apartments above.



Figure 12: Photomontage of Building A viewed from Zetland Avenue

- (b) **Building B** - Part 12, part 8 storey mixed use building containing ground floor retail and 76 residential apartments above.



Figure 13: Photomontage of Building B viewed from Zetland Avenue

- (c) **Building C** - 8 storey mixed use building containing ground floor retail and 61 residential apartments above.



Figure 14: Photomontage of Building C viewed from Zetland Avenue

(d) **Building group D:**

- (i) Building D1 - Part 12, part 8 storey mixed use building containing ground floor retail and 81 apartments above.
- (ii) Building D2 - Part 7, part 6 storey residential flat building containing 58 apartments.
- (iii) Building D3 - 4 storey residential flat building containing 16 apartments.

(e) **Building group E:**

- (i) Building E1 - Part 12, part 8 storey mixed use building containing ground floor retail and 83 residential apartments.
- (ii) Building E2 - Part 5, part 4 residential flat building containing 35 apartments.
- (iii) Building E3 - Part 9, part 6 storey residential flat building containing 68 apartments.



Figure 15: Photomontage of Building D1, viewed from Zetland Avenue



Figure 16: Photomontage of Building E1 (left) and E3 (right) viewed from Defries Avenue looking east



Figure 17: Photomontage of Building E2 (left) and Building D2 (right), viewed from Kirby Walk looking south down Ascot Avenue



Figure 18: Photomontage of Building E2, looking north-west towards Ascot Avenue

34. A separate development application has been lodged for the associated public domain works including bulk excavation, remediation of public domain land, civil infrastructure, new and connecting roads, pedestrians and bicycle paths, public open space, lighting, and landscaping works (D/2024/601).
35. Demolition of the existing structures has been sought under a privately certified Complying Development Certificate and demolition has commenced on site.
36. Selected drawings of the proposed development are provided below, noting that a more extensive drawing pack is provided at Attachments B and C.

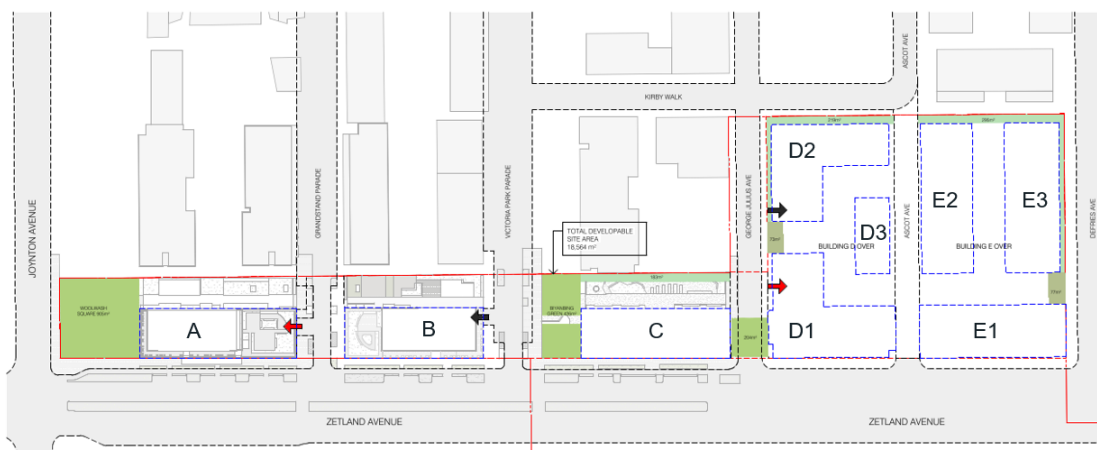


Figure 19: Precinct Site Plan showing developments sites A-E

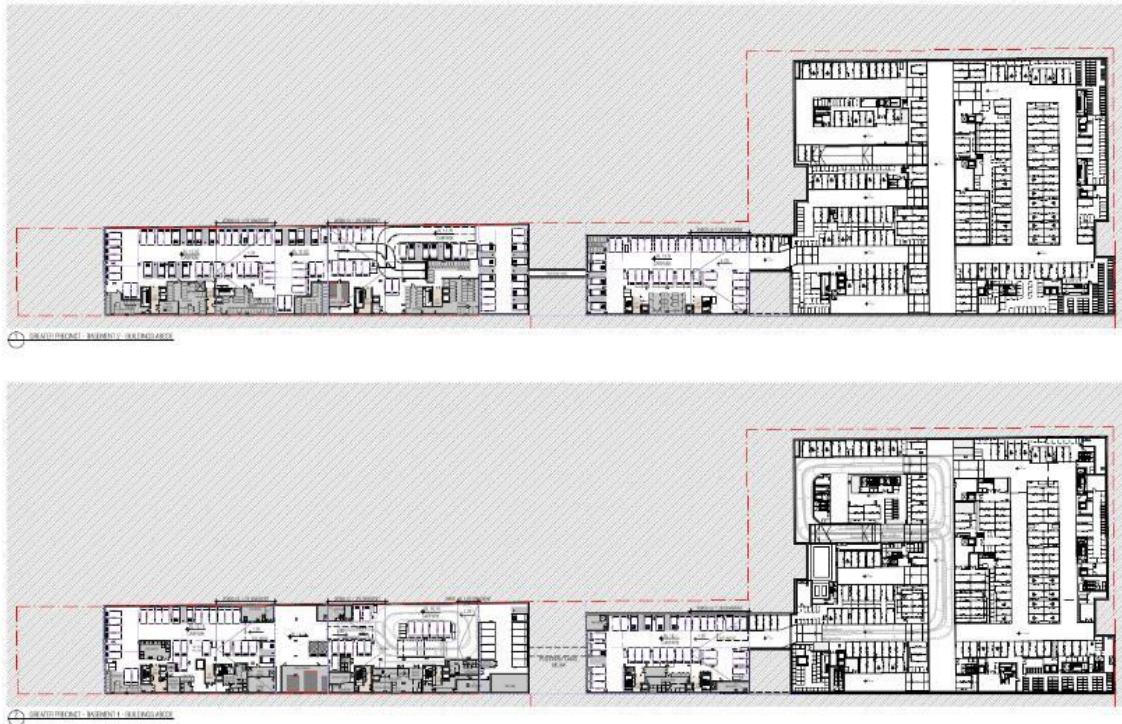


Figure 20: Precinct Basement Plans, showing the western portion underneath Buildings A and B and the eastern portion underneath Buildings C, D and E

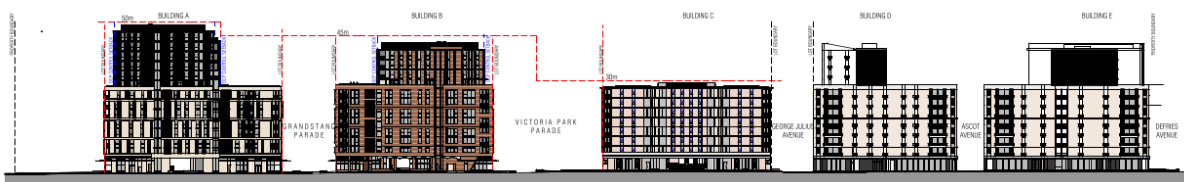


Figure 21: Precinct Elevation viewed from Zetland Avenue (southern elevation)



Figure 22: Buildings A, B and C Precinct Plan - Ground Floor

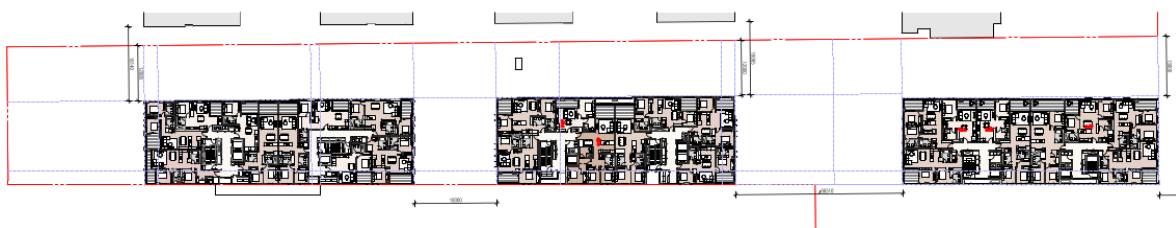


Figure 23: Buildings A, B and C Precinct Plan - First Floor



Figure 24: Buildings A, B and C - Southern Elevation (Zetland Avenue)



Figure 25: Buildings A, B and C - Section

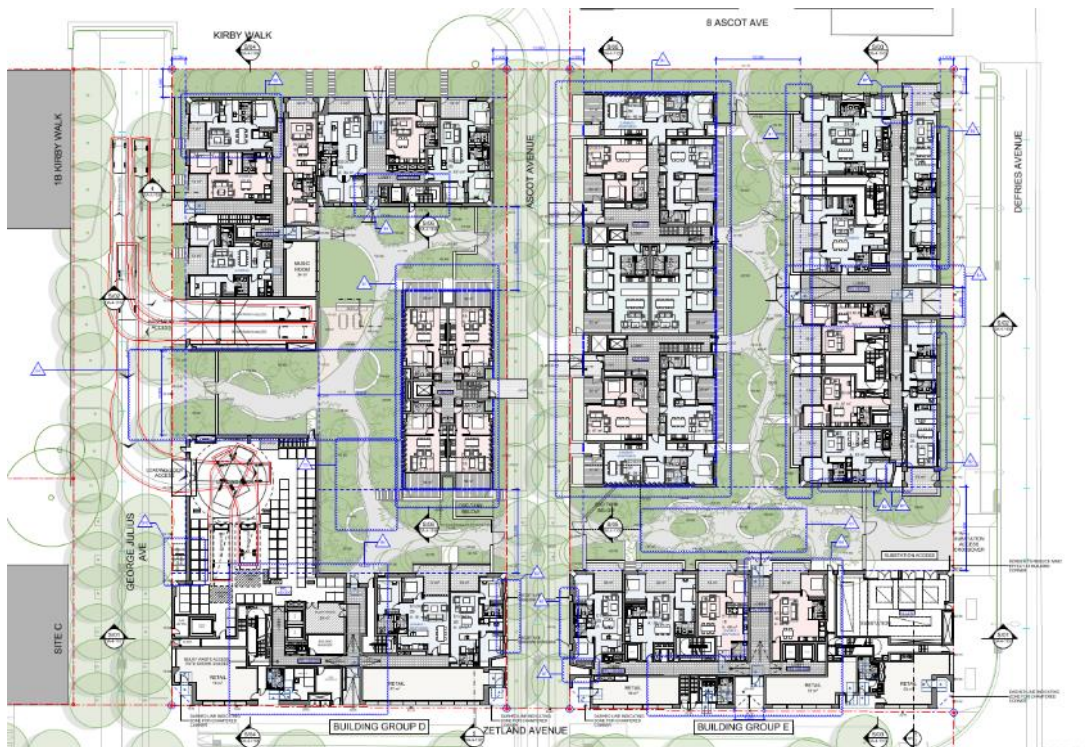


Figure 26: Building Groups D and E - Ground Floor Plan

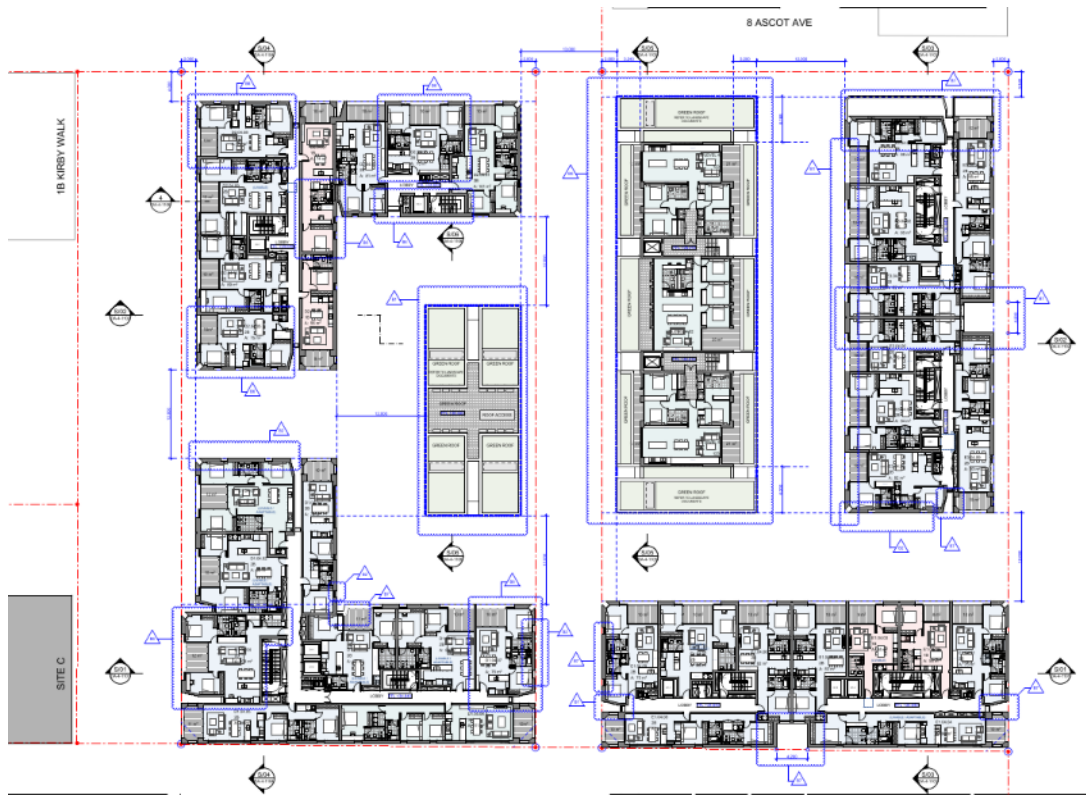


Figure 27: Building Groups D and E - Level 4 Plan

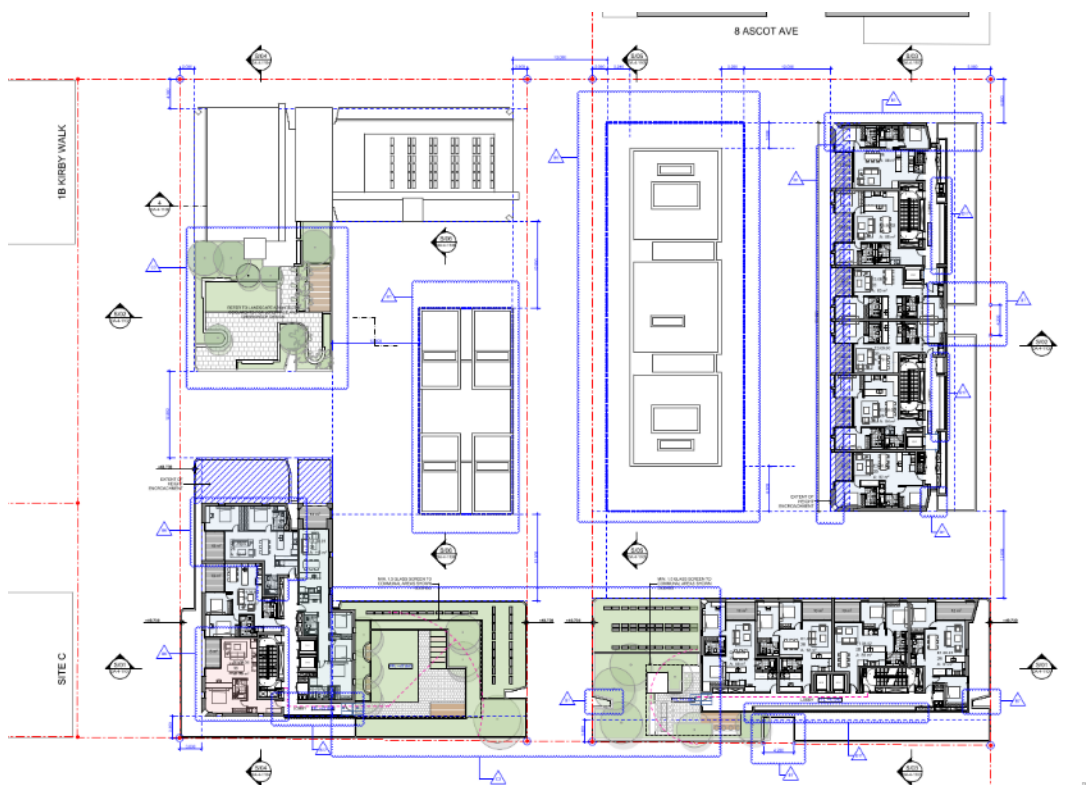


Figure 28: Building Groups D and E - Level 8 Plan



Figure 29: Section through Buildings D1 and E1

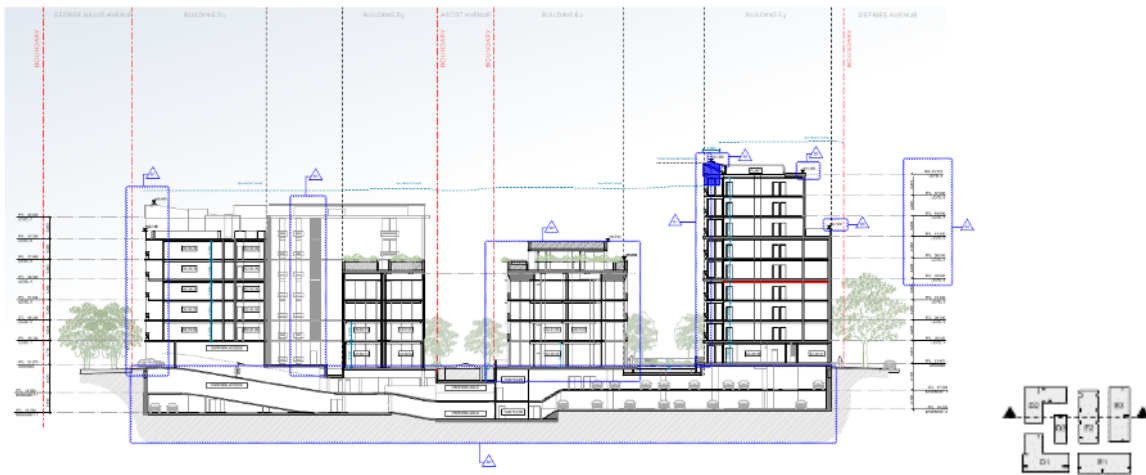


Figure 30: Section through Building groups D and E



Figure 31: Section through Buildings E3 and E1



Figure 32: Buildings D1 and E1 southern elevation (Zetland Avenue)



Figure 33: Buildings D2 and D1 western elevation (George Julius Avenue)



Figure 34: Northern elevation (Kirby Walk)

Assessment

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

Sydney Airport Referral Act 1996

38. 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.
39. Clause 6(1) of the Civil Aviation (Building Control) Regulations 1988 identifies that 'prescribed airspace' includes 'the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services - Aircraft Operations (PANS-OPS) surface for the airport.'
40. The OLS for the subject site is 51m (AHD). With a maximum height of 62.665m AHD, the development will penetrate the OLS by 11.665m AHD and is therefore a 'controlled activity'.
41. 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.
42. Clause 14 of the Civil Aviation (Building Control) Regulations 1988 provides that a proposal to carry out a controlled activity must be approved unless carrying out the controlled activity interferes with the safety, efficiency, or regularity of existing or future air transport operations into or out of the airport concerned. Clause 14(1)(b) provides that an approval may be granted subject to conditions.
43. Under the Regulations, the Secretary of the Department is empowered to make decisions in relation to the approval of controlled activities and impose conditions on the approval. Approval was granted for the controlled activity on 23 October 2024, subject to conditions which have been included in Attachment A.

Water Management Act 2000

44. Pursuant to Sections 89 and 90(2) of the Water Management Act 2000, the application was referred to WaterNSW for concurrence.
45. General Terms of Approval were issued by WaterNSW on 4 September 2024 and have been included in the recommended conditions of consent.

Sydney Water Act 1994

46. The application is subject to the requirements of Section 78 of the Sydney Water Act 1994 and was referred to Sydney Water for comment.
47. Sydney Water responded on 22 August 2024 and provided conditions which have been included in the recommended conditions of consent.

State Environmental Planning Policies

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

Remediation of Land

32. 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.
33. The proposal seeks consent for remediation of the land within the five development sites. Remediation of land within the public domain has been sought separately under the public domain works DA (D/2024/601).
34. The site has been identified as containing asbestos impacted fill soils, petroleum hydrocarbons and naphthalene. Management strategies for the impacted soils are proposed in the Detailed Site Investigation (DSI), Remediation Action Plan (RAP) and Letter of Interim Advice. The interim advice confirms the proposed strategy is appropriate.
35. The Council's Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
36. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy (Housing) 2021

37. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.
38. Section 7.32 of the EP&A Act 1979 states that where the consent authority is satisfied that the development meets certain criteria, and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
39. The application of Section 7.32(1) of the EP&A Act 1979 is relevant to the subject development as:
 - (a) Section 14 of the Housing SEPP identifies that there is a need for affordable housing within each area of the state
 - (b) The proposed development will or is likely to reduce the availability of affordable housing within the area as per section 7.32(1)(a)
 - (c) The proposed development will create a need for affordable housing within the area as per section 7.32(1)(b) and
 - (d) The proposed development is allowed only because of the initial zoning of the site, permitting a mixed use development within the MU1 Mixed Use zone.

40. In consideration of section 15 of the Housing SEPP, the application of the City of Sydney Affordable Housing Program allows the payment of a monetary contribution towards the delivery of affordable housing in lieu of floor space. The Program outlines the distribution and management of monetary contributions for the purpose of the delivery of affordable housing in accordance with the criteria above.
41. The imposition of a condition requiring the payment of an affordable housing monetary contribution is consistent with the requirements of section 7.32(3) of the EP&A Act 1979 as:
 - (a) The condition requiring the payment of a monetary contribution is consistent with the relevant requirements of the Housing SEPP
 - (b) Section 7.13 of the SLEP 2012 authorises the imposition of a condition requiring a contribution to affordable housing by way of floor space dedication or a monetary contribution in lieu of floor space and
 - (c) The contribution has been imposed in accordance with the City of Sydney Affordable Housing Program which has determined the value of a monetary contribution in consideration of the extent of the need in the area for affordable housing, the scale of the proposed development and other dedications or contributions to be made for affordable housing or under Section 7.11 of the EP&A Act.
42. It is therefore considered reasonable to impose a condition of consent requiring payment of a monetary contribution for affordable housing. This is discussed further under the 'Financial Contributions' heading below.

Chapter 4 - Design of Residential Apartment Development

43. The aim of Chapter 4 is to improve the design quality of residential apartment development in New South Wales.
44. When determining an application for a residential flat development of three or more floors and containing four or more apartments, the SEPP requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 9.
45. The applicant has submitted the following design verification statements and design reports:
 - Buildings A, B and C - prepared by Craig Baudin of Fender Katsalidis Architects (NSW ARB 11546).
 - Building Groups D and E - prepared by Angelo Candalepas (NSW ARB 5773).
 - Buildings D3 and E2 - prepared by Lachlan Seegers Architect (NSW ARB 10174).
46. The design verification statements and design reports address the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide (ADG). The statements are deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.

47. An assessment of the proposal against the design quality is provided as follows:

(a) Principle 1: Context and Neighbourhood Character

The site is a former Ausgrid depot within a historically industrial suburb that has undergone significant urban renewal. The local character is defined by a variety of built forms ranging from multistorey residential, mixed use, light industrial and community uses.

Zetland Avenue runs along the southern boundary of the site, providing a key thoroughfare to the Green Square Town Centre. The proposed buildings respond to their context in their overall siting, massing and use.

(b) Principle 2: Built Form and Scale

Buildings A, B and C are of a scale and massing that reinforce the primary civic axis of Zetland Avenue and reflect a stepping down of scale towards the east. At street level, the corners have been activated with retail and commercial tenancies and the central portion of each building contains open entry walkways to announce residential entry points.

Buildings D and E are guided by their surrounding context and applicable planning controls. Four of the building form a protective perimeter around the site, with two smaller courtyard buildings in the centre.

(c) Principle 3: Density

The buildings provide a density within the constructs of the SLEP 2012 and the SDCP 2012 and are therefore reflective of the desired future character for this area. The site is well serviced by local infrastructure, public transport, employment uses, community facilities and public open space.

(d) Principle 4: Sustainability

The proposal delivers an environmentally sustainable design that responds to regulatory requirements and Sustainable Buildings SEPP 2022 targets. This is achieved through passive thermal design principles, external shading devices, placement of glazing, cross ventilation, PVs and green roofs.

(e) Principle 5: Landscape

Buildings A, B and C provide communal landscaped areas to the north of each building. Buildings A and B also have rooftop landscaping on level 8 with high levels of solar access and outlook.

Building groups D and E provide central courtyards on the ground floor and communal podium rooftops on Buildings D1, D2 and E1.

(f) Principle 6: Amenity

Buildings A, B and C provide a good variety of apartment sizes, layouts and configurations. The core design has been optimised to minimise south facing apartments. Adequate storage has been incorporated and liveable and adaptable units have been provided. Communal open space is provided across the three buildings to optimise the benefit and amenity offering for all residents.

Buildings D and E have been designed to achieve visual and acoustic privacy whilst also allowing for solar access and view capture. Facade openings to primary living spaces are oriented north, west and east and setback behind the balcony to provide shade and visual privacy.

(g) Principle 7: Safety

Buildings A, B and C provide a safe and secure private and public domain with a clear distinction between the two. Retail entries at ground level provides level access from Zetland Avenue. Residential lobbies are at ground and accessed from secure open entry walkways. The building design ensures there are no concealed entrapment spaces. The communal open spaces are secured with fences with controlled access.

Buildings D and E have building entrances off all street frontages to provide a clear sense of address. All entry points are securable and visible from the street.

(h) Principle 8: Housing Diversity and Social Interaction

The proposed apartments have been designed to meet the objectives of the ADG in terms of solar access, cross ventilation and apartment sizes. The proposed apartment mix is in accordance with the SDCP 2012 and caters to an appropriate demographic range and diversity of occupants.

Social interaction amongst residents is promoted throughout the development by generous corridors, connective landscaping throughout the buildings and communal rooms.

(i) Principle 9: Aesthetics

The form aesthetic for Buildings A, B and C contains a podium and tower typology, where the podium and tower are expressed with complementary facade expressions and materiality.

Building groups D and E have been designed with in-situ and precast structural components and local brickwork for the external expression.

The materials and finishes proposed across the development are of a high quality and are supported subject to conditions.

48. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

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>Partial compliance</p>	<p>Building separation distances for the site were established under the SDCP 2012 prior to the commencement of the ADG. Therefore, there are some locations where the recommended building separation distances are not achieved, largely due to the location of existing surrounding buildings.</p> <p>Refer to the Section 3F - Visual Privacy below and the 'Discussion' section for further details.</p>
<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 • 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 		

3D Communal and Public Open Space	Compliance	Comment
<p>Communal open space has a minimum area equal to 25% of the site.</p>	<p>Yes</p>	<p>34% communal open space is provided, which complies. This includes both ground floor and rooftop communal open space.</p>
<p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open</p>	<p>Yes</p>	<p>Over 50% of the communal open space receives the minimum amount of solar access in midwinter.</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).		

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Partial compliance	<p>Approximately 13% deep soil is provided across the site.</p> <p>The ADG recommends a combined deep soil zone for larger sites. Given the irregular shape of the site and the established layout of building envelopes and planned public open space, it is not possible to provide one consolidated deep soil area. Instead, deep soil is dispersed throughout the site in accordance with the SDCP 2012, which is acceptable in this instance.</p>

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 	Partial compliance	<p>As discussed above under part 2F Building Separation, the building locations and separation distances for the site were established under the SDCP 2012 prior to commencement of the ADG.</p> <p>Buildings A, B and C</p> <p>The side separations between buildings A, B and C all achieve the recommended ADG separation distances and achieve an acceptable level of visual privacy.</p> <p>To the northern boundary, Buildings A and B provide 12m separation and Building C provides 13m separation. These comply with the recommended ADG separation distances to the boundary.</p>
<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 		

3F Visual Privacy	Compliance	Comment
<ul style="list-style-type: none"> 6m between non-habitable rooms 		<p>Refer to the 'Discussion' section below for further details.</p> <p>Building groups D and E</p> <p>12m separation is generally achieved between buildings, which is consistent with the site layout established under the SDCP 2012. Some buildings do not comply with the ADG separation distances. This is outlined in the 'Discussion' section below.</p> <p>Regarding neighbouring sites, there are minor non-compliances with the ADG recommendations between Building E3 and the northern neighbour at 8 Ascot Avenue. This is outlined in the 'Discussion' section below.</p>

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.	Yes	71% of apartments achieve the minimum required solar access, which complies.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	8.6% of apartments receive no direct sunlight in midwinter, which complies.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	<p>The proposal generally complies.</p> <p>A condition is recommended that requires a window to be provided to the study of Apartment D1.00.01 on the ground floor of Building D1 to ensure this room is naturally ventilated.</p>

4B Natural Ventilation	Compliance	Comment
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	64% of apartments within the first nine storeys are naturally cross ventilated, which complies.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Partial compliance	The proposal generally complies. 3.3m is not achieved for the ground and first floor of all buildings. However, this is considered acceptable as generous floor to ceiling heights (varying from 4.41m to 5.09m) are provided to all proposed commercial floors.
Non-habitable rooms: 2.4m		
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.		

4D Apartment Size and Layout	Compliance	Comment
Minimum unit sizes: <ul style="list-style-type: none"> • Studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² 	Yes	The minimum size requirements are achieved.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	The proposal complies.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	The proposal complies.
8m maximum depth for open plan layouts.	Yes	The proposal complies.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	The proposal complies.
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m 	Yes	The proposal complies.
4m minimum width for cross over and cross through apartments.	Yes	The proposal complies.

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>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>	Yes	The proposed apartments achieve the minimum balcony area and depth requirements.

4E Private Open Space and Balconies	Compliance	Comment
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m ² and a minimum depth of 3m.	Yes	The proposal complies.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	The proposal complies.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	The proposal complies.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed.	Yes	The proposal complies.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	The proposal complies.

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)	Yes	The proposed apartments accommodate the minimum 50% required storage within the apartment. Additional residential storage is provided in the basement.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	All apartments are capable of natural ventilation and provide acceptable acoustic amenity, subject to conditions. See 'Discussion' section for further details.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 2 Standards for residential development - BASIX

49. A BASIX report has been submitted with the development application. This report lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX report and certificates are implemented.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Clause 2.48 Determination of development applications – other development

50. The application was referred to Ausgrid for comment in accordance with clause 2.48 of the SEPP. Ausgrid did not object to the proposed development and recommended conditions of consent which have been included in Attachment A.

Clause 2.122 - Traffic generating development

51. The application was referred to Transport for NSW (TfNSW) in accordance with Clause 2.122 - Traffic generating development. Recommended conditions of consent have been provided by TfNSW which are included in Attachment A.

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

52. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP.
53. There are several trees within and around the site that require removal to facilitate the proposed development. The removal of these trees is supported, subject to conditions. There are several trees surrounding the site that will need to be retained and protected during building work. Conditions of consent are recommended to protect these trees.

Local Environmental Plans

Sydney Local Environmental Plan 2012

54. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 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. The proposed development contains residential flat buildings and mixed use buildings with ground floor commercial and residential apartments above, which are permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Partial compliance	<p>A maximum building height ranging from 3-50m is permitted across the site.</p> <p>The proposal complies with the maximum heights except for:</p> <ul style="list-style-type: none"> • Building D1, which exceeds the maximum by 700mm, resulting in a variation of 2.5%; and • Building E3, which exceeds the maximum by 3.7m, resulting in a variation of 13.2%. <p>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 1.909:1 or 54,953sqm is permitted across the site.</p> <p>This maximum includes:</p> <ul style="list-style-type: none"> • A base FSR of 1.25:1 applying to the majority of the site; • A base FSR of 0.35:1 for a small portion of land on the site's southern frontage; • An additional 0.5:1 for community infrastructure floor space in Green Square permitted by clause 6.14 of the SLEP 2012; and

Provision	Compliance	Comment
		<ul style="list-style-type: none"> Up to 10% additional floor space for buildings demonstrating design excellence permitted by clause 6.21D of the SLEP 2012. <p>A floor space ratio of 1.904:1 or 54,806sqm is proposed, which complies with the maximum permitted.</p>
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the height of buildings development standard prescribed under Clause 4.3. A Clause 4.6 variation request has been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is not identified as a heritage item and is not within a heritage conservation area. There are no heritage items in the vicinity of the site.
5.21 Flood planning	Yes	<p>The site is affected by flooding and has been accompanied by a Flooding Assessment Report.</p> <p>The flooding results indicate that the proposed development structures do not interfere or exacerbate the flooding regime in the area.</p> <p>The proposal is supported by the City's Public Domain unit, subject to conditions.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
6.14 Community infrastructure floor space at Green Square	Yes	<p>This clause permits an additional floor space of 0.5:1 if the development includes Green Square community infrastructure.</p> <p>The landowner has made an offer to enter into a Planning Agreement with the</p>

Provision	Compliance	Comment
		<p>City. This involves the dedication of land to the City and a monetary contribution for community infrastructure provision. Therefore, the development is eligible for the additional floor space.</p> <p>See 'Floor Space Ratio' assessment above under clause 4.4.</p>
6.21C Design excellence	Yes	<p>The proposed development is of a high standard of architectural design and uses materials and detailing which are compatible with the existing development in the Green Square Epsom Park locality. The buildings will contribute positively to the character of the area and will improve the quality and amenity of the public domain.</p> <p>The proposed residential and retail uses are consistent with the objectives of the MU1 Mixed Use zone and the redevelopment from a depot to a mixed use development is appropriate for the site.</p> <p>The development appropriately addresses streetscape constraints and provides bulk and massing consistent with the LEP and DCP controls and having regard to neighbouring buildings.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The development is considered to exhibit design excellence in accordance with the requirements of this clause.</p>
6.21D Competitive design process	Yes	<p>Two separate competitive design processes were held for the site.</p> <p>The winner of the competition for Building groups D and E was Candalepas and Associates and Lachlan Seegers Architects.</p>

Provision	Compliance	Comment
		<p>The winner of the competition for Buildings A, B and C was Fender Katsalidis and Besley & Sprester.</p> <p>The proposed development is consistent with the intent of the winning competition schemes. Refer to the 'Discussion' section for further details.</p> <p>The building is therefore eligible for up to 10% additional floor space. See 'Floor Space Ratio' assessment above under clause 4.4.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
<p>7.5 Residential flat buildings, dual occupancies and multi dwelling housing</p> <p>7.7 Retail premises</p>	Yes	<p>A maximum of 618 car parking spaces are permitted, including residential, visitor, retail and car share spaces.</p> <p>The proposal includes 540 spaces, which complies. This includes 465 residential spaces, 45 residential visitor spaces, 24 retail spaces and 6 car share spaces.</p>
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The Detailed Site Investigation indicates that no further assessment of Acid Sulfate Soils is required given the site is in an area of no known occurrence of Acid Sulfate Soils. This has been reviewed by Council's Environmental Health Unit and is considered acceptable.
7.16 Airspace operations	Yes	<p>The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport.</p> <p>The concurrence of Sydney Airport Corporation, as a proxy for the Civil Aviation Safety Authority, has been</p>

Provision	Compliance	Comment
		received subject to conditions of consent.
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>As the site area is over 5,000sqm, the preparation of a site specific DCP would ordinarily be required under this clause.</p> <p>The site is subject to detailed requirements within the Green Square - Epsom Park controls in Section 5.3 of the SDCP 2012.</p> <p>The applicant seeks to rely on consistency with the specific area controls for Epsom Park in the SDCP 2012 to satisfy the requirements of clause 7.20(2) and the matters listed in clause 7.20(4) of the SLEP 2012.</p> <p>Refer to the 'Discussion' section below for further details.</p>

Development Control Plans

Sydney Development Control Plan 2012

55. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

56. The site is located within the Epsom Park locality (2.5.5). The proposed development is in keeping with the unique character and the design principles of the Epsom Park locality as it:
- (a) contributes new development in a location where residents enjoy proximity to the City, easy access to the Green Square Town Centre, good transport links, open parklands and recreational opportunities, and speciality retail activities
 - (b) contributes positively to the strong urban character with high quality streets and architecture
 - (c) accommodates new streets to provide permeability and maximises pedestrian movement
 - (d) achieves the required sustainability targets and provides equity of access for pedestrians, cyclists and vehicles
 - (e) retains, protects and enhances the grand scale of street trees along Joynton Avenue

- (f) does not prohibit a future transport interchange along Zetland Avenue and
- (g) addresses the street frontage along Zetland Avenue, contributing to ground level activity.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	Public domain works have been sought separately under D/2024/601. The proposed development under this main works DA will be integrated with the future public domain including streets, footpaths, cycleways and public open space, subject to conditions.
3.1.5 Public art	Yes	<p>A Preliminary Public Art Plan was submitted with the application. The Plan proposes three highly constrained opportunities for public art.</p> <p>The City's Public Art team recommended that given the constraints of the site, consideration should be given to payment of a monetary contribution equivalent to the public art budget, to replace the need to deliver public art within the private site. This contribution would be directed towards other planned public art within Green Square and this requirement would be captured in the VPA.</p> <p>The above approach is acceptable in the circumstances. A condition is recommended requiring payment of a monetary contribution towards public art and this is captured in the VPA.</p>
3.1.6 Sites greater than 5,000sqm	Yes	<p>Sites greater than 5,000sqm are to provide an appropriate street pattern to ensure a fine grain, highly connected urban place.</p> <p>The proposed development follows the street pattern identified in Section 5.3 of the SDCP 2012 for Epsom Park. Consent for the public domain elements is sought separately under D/2024/601.</p>
3.2.1 Improving the public domain	Yes	Overshadowing effects of new buildings on publicly accessible open space are to

Provision	Compliance	Comment
		<p>be minimised between the hours of 9am to 3pm on 21 June.</p> <p>Shadow diagrams were submitted with the application. The overshadowing impacts to Gunyama Park are minor and are acceptable.</p> <p>Refer to the 'Discussion' section for further details.</p>
3.2.2 Addressing the street and public domain	Yes	<p>The development positively contributes to the activity, safety, amenity and quality of streets and the public domain. It provides the required active uses along Zetland Avenue and incorporates improvements to the public domain including new streets and parks.</p> <p>All buildings have been designed to positively address the street with high quality finishes and minimising blank walls.</p>
3.2.3 Active frontages	Yes	<p>The proposal provides the required active frontages along Zetland Avenue.</p> <p>The ground floor frontages to buildings are pedestrian orientated, of a high design and positively contribute to the streetscape.</p> <p>The active frontages contribute to the liveliness and vitality of Zetland Avenue by maximising entries and windows, minimising blank walls and providing a high standard of finish and architectural detail for shopfronts.</p>
3.2.4 Footpath awnings	Yes	<p>Continuous awnings have been provided along Zetland Avenue.</p>
3.2.6 Wind effects	Yes	<p>A Pedestrian Wind Assessment was submitted with the application. A Pedestrian Wind Study was also provided to further validate and refine the predicted wind conditions and fine-tune the wind control measures.</p> <p>Conditions of consent are recommended to ensure the plans adequately capture the wind mitigation measures, including:</p> <ul style="list-style-type: none"> • Screening is required to substation corner within Building E1 and is to

Provision	Compliance	Comment
		<p>be high quality, well integrated and porous; and</p> <ul style="list-style-type: none"> Full height screens are proposed to selected balconies of Buildings A, B and C. These are to be partly open in accordance with Provision 4.2.3.13 of the SDCP 2012. <p>Subject to conditions, the proposal will adequately ameliorate adverse wind conditions.</p>
3.2.7 Reflectivity	Yes	Light reflectivity from building materials on facades must not exceed 20%. A condition of consent is recommended to ensure this is complied with.
3.3 Design Excellence and Competitive Design Processes	Yes	Two competitive design processes were held for the site in accordance with the City of Sydney Competitive Design Policy. Refer to the 'Discussion' section for further details.
3.4 Hierarchy of Centres, City South	Yes	The site is not located within a major centre, local village or small village, in accordance with the Hierarchy of Centres, City South map. It is located within the Green Square Town Centre Primary Trade Area. The development provides an appropriate amount of retail uses to activate the Zetland Avenue frontage.
3.5.2 Urban vegetation	Yes	<p>The development is to provide at least 15% canopy coverage within 10 years from the completion of development.</p> <p>51% canopy coverage is proposed across the site, which exceeds the minimum requirement.</p>
3.5.3 Tree management	Yes	A revised Arborist Report was submitted during the assessment. The Arborist Report includes an assessment of 52 trees. This includes 37 trees within the public domain, 7 trees on neighbouring sites and 8 within the existing site

Provision	Compliance	Comment
		<p>boundaries (of which 2 are exempt species).</p> <p>A total of 15 trees are proposed to be removed to accommodate the development. This includes 6 trees within the site and 9 trees within the public domain. Some of the trees identified for removal fall within the proposed building or new road footprints and some are identified as likely to fail due to high level impacts.</p> <p>The remaining 41 trees are proposed for retention.</p> <p>Refer to the 'Discussion' section for further details.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements. Refer to SEPP (Sustainable Buildings) and discussion section.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under section 7.15 above.
3.11 Transport and Parking	Yes	<p>The development provides a total of 540 car parking spaces. This includes 465 residential spaces, 45 residential visitor spaces, 24 retail spaces and 6 car share spaces. 55 motorcycle spaces are also provided. The parking spaces comply with the maximum permitted in the SLEP 2012.</p> <p>The development also provides 733 bicycle parking spaces, including 647 residential spaces, 63 residential visitor spaces, 6 retail staff spaces and 17 retail visitor spaces. This exceeds the minimum number of spaces required by the SDCP 2012.</p> <p>A Transport Impact Assessment was submitted with the application, which includes a forecast of traffic generation. Traffic generation from the proposed development is not considered to generate an unacceptable increase of</p>

Provision	Compliance	Comment
		<p>traffic movements. The various vehicle access points proposed and multiple traffic routes in and out will ensure traffic is distributed across the road network.</p> <p>The development density is consistent with the planning controls for the site and traffic impacts were considered as part of the broader precinct planning and rezoning.</p> <p>The proposal has been reviewed by Council's Transport and Access unit who advised that the proposal is acceptable, subject to conditions of consent.</p> <p>Refer to the 'Discussion' section for further details.</p>
3.12 Accessible Design	Yes	16% of apartments are adaptable, which complies with the minimum requirement of 15%.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	<p>Waste storage areas are provided within the basement levels. Waste loading and collection is to be undertaken from the two loading docks (Building A and D1).</p> <p>Conditions of consent have been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development. Refer to the 'Discussion' section for further details.</p>
3.16 Signage and Advertising	Yes	No signage is proposed as part of the development proposal. A condition is recommended requiring the preparation of a signage strategy prior to the issue of a Construction Certificate.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1.1 Height in storeys and street frontage height in storeys	Partial compliance	<p>The site is subject to various maximum building height in storeys controls across the site, ranging from 4 to 14 storeys.</p> <p>Refer to the 'Discussion' section below for further details.</p>
4.2.2 Building setbacks	Partial compliance	<p>Landscape setbacks are required on Building groups D and E, as discussed under the Epsom Park controls in Section 5.3.4.1 and in the 'Discussion' section below.</p> <p>3m upper level setbacks are provided, which complies.</p> <p>The proposed building setbacks are generally in accordance with the built form established in the Epsom Park DCP controls.</p>
4.2.3.1 Solar access	Yes	<p>The proposal complies with the DCP in relation to solar access to new development and impacts to neighbouring development.</p> <p>Refer to the 'Discussion' section for a detailed assessment of solar access impacts.</p>
4.2.3.3 Internal common areas	Yes	<p>The proposed internal common areas in Buildings C and D2 have access to daylight and face onto the communal open space.</p>
4.2.3.4 Design features to manage solar access	Yes	<p>Conditions of consent are recommended to ensure adequate solar shading is provided to Buildings A, B and C.</p>
4.2.3.5 Landscaping	Yes	<p>Extensive landscaping is proposed across the site. The proposal has been reviewed by Council's Landscape Officer who advised that the proposal is generally acceptable, subject to conditions. Refer to the 'Discussion' section for further details.</p>

Provision	Compliance	Comment
4.2.3.6 Deep Soil	Partial compliance	<p>The DCP requires a minimum of 10% of the site area to be deep soil. For lots greater than 1,000sqm, the deep soil area is to be consolidated with a minimum dimension of 10m.</p> <p>Approximately 13% deep soil is provided across the entire site.</p> <p>In this instance, given the shape of the site and the established layout of building envelopes and planned public open space, it is not possible to provide one consolidated deep soil area. Instead, deep soil is dispersed throughout the site, which is acceptable in this instance.</p>
4.2.3.7 Private open space and balconies	Yes	Private open space in the form of balconies/ courtyards are provided to all apartments.
4.2.3.8 Common open space	Yes	<p>25% of the total site area is required as common open space, with a minimum dimension of 6m.</p> <p>The proposed common open space equates to 34% of the site area, which complies. This includes ground floor communal open space for all buildings as well as rooftop communal open space on Buildings A, B, D1, D2 and E1.</p> <p>The solar analysis demonstrates that over 50% of the principal communal open space areas across the site receive the required 2 hours solar access.</p>
4.2.3.9 Ventilation	Yes	All habitable rooms are naturally ventilated. 63% of apartments within the first nine storeys are naturally cross ventilated, which complies with the ADG.
4.2.3.10 Outlook	Yes	The development provides an acceptable outlook from all apartments.

Provision	Compliance	Comment
4.2.3.11 Acoustic privacy	Yes	An Acoustic Report was submitted with the application. Refer to the 'Discussion' section below for further details.
4.2.3.12 Flexible housing and dwelling mix	Yes	<p>The DCP specifies the following dwelling mix:</p> <ul style="list-style-type: none"> • 1 bed: 10-30% • 2 bed: 40-75% • 3+ bed: 10-100% <p>The following dwelling mix is proposed:</p> <ul style="list-style-type: none"> • 1 bed: 19% • 2 bed: 69% • 3 bed: 11%
4.2.3.13 Wind affected balconies	Yes	Wind screens are proposed to certain balconies on Buildings A, B and C to mitigate wind impacts. A condition of consent is recommended that requires the screens to be partially open in accordance with this clause.
4.2.3.14 Apartments with setback bedrooms	Yes	The plans have been amended to remove the previously proposed setback bedrooms.
4.2.4 Fine grain, architectural diversity and articulation	Yes	The development provides an appropriate scale, modulation and facade articulation to ensure the buildings respond to their context.
4.2.6 Waste and recycling Management	Yes	<p>Conditions have been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p> <p>Refer to the 'Discussion' section below for further details.</p>
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	Amenity impacts from the proposed development including acoustic impacts, visual privacy, traffic and overshadowing

Provision	Compliance	Comment
		have been considered throughout this report. The specific use and fit out of retail tenancies will be subject to separate development consent.

Section 5.3 - Green Square - Epsom Park

Provision	Compliance	Comment
5.3.1 Epsom Park Urban Strategy	Yes	<p>The proposed development is consistent with the Epsom Park Urban Strategy as it:</p> <ul style="list-style-type: none"> • Provides taller buildings on Buildings A, B, D1 and E1 as required; • Provides an active edge along Zetland Avenue; • Accommodates the required new streets and open spaces whilst not inhibiting future transport corridors; • Provides buildings of the highest quality that are sympathetic to the surrounding local character; • Provides an appropriate height transition to surrounding areas, with taller buildings fronting Zetland Avenue; • Provides a permeable network of streets, maximising opportunities for walking and cycling; • Creates a strong and consistent landscape character; and • Contains an appropriate mix of land uses with retail uses at ground level on Zetland Avenue.
5.3.2 Urban design principles	Yes	<p>The proposed development is consistent with the urban design principles for Epsom Park. These are summarised as follows:</p> <p>Principle 1 - Transition of Building Heights</p>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • The development provides a street wall height of 4-7 storeys on streets and 8 storeys on Zetland Avenue. • Upper levels are setback 3m. • Taller buildings are provided on Zetland Avenue with lower buildings on small streets. <p>Principle 2 - Land uses</p> <ul style="list-style-type: none"> • Active edges are provided along Zetland Avenue. • A mix of land uses are provided including ground floor retail on Zetland Avenue and residential uses on upper storeys and the quieter streets. <p>Principle 3 - Public domain</p> <ul style="list-style-type: none"> • Landscape setbacks have been provided. • Public open space is proposed where indicated in the DCP.
5.3.3 Local infrastructure and public domain	Yes	The redevelopment of the site includes all public domain elements required under the DCP. This includes, but is not limited to, the extension of streets including Zetland Avenue, and open space on the eastern end of Zetland Avenue, Biyanbing Park and Woolwash Park. Consent for these public domain elements has been sought separately under D/2024/601.
5.3.3.3 Movement and connectivity	Yes	<p>Figure 5.80 - Epsom Park Circulation and Access of the SDCP 2012 contains major access and egress points.</p> <p>An assessment of the proposal against this section of the DCP is contained in the 'Discussion' section below.</p>

Provision	Compliance	Comment
5.3.4 Building form and design	Partial compliance	<p>The proposal generally complies with the built form and height outlined in the DCP, with some minor exceptions.</p> <p>Building height in storeys and street frontage heights are considered in the 'Discussion' section below.</p>
5.3.4.1 Building setbacks	Partial compliance	<p>The Building Setback and Alignment Map requires the following setbacks:</p> <ul style="list-style-type: none"> • 2m landscape setback along George Julius, Kirby Walk, Ascot Avenue and Defries Avenue; and • 6m landscape setback on the northern frontage of Buildings E2 and E3. <p>The proposal partially complies with the above setbacks. Refer to the 'Discussion' section for further details.</p>
5.3.4.2 Splay corners	Yes	Splay corners have been provided on corners fronting Zetland Avenue.
5.3.4.3 Fences	Yes	The proposed fences have been designed to enable some outlook from buildings for safety and surveillance, assist in highlighting entrances and provide visual interest to the streetscape.
5.3.4.4 Other development	Yes	Active uses are provided on the ground floor facing Zetland Avenue as required.
5.3.4.5 Deep soil planting	Yes	The 2m landscape setbacks have been provided as part of the deep soil area.
5.3.5 Staging and implementation	Yes	<p>The development of this site can occur independently and does not rely on infrastructure from adjacent sites.</p> <p>A staging plan was submitted with the application which outlines five construction stages. These are outlined in the 'Discussion' section below.</p>

Discussion

Clause 4.6 Request to Vary a Development Standard

- 57. Clause 4.3 of the Sydney Local Environmental Plan 2012 specifies various maximum height of building development standards across the site ranging from 3m to 45m, as shown in Figure 35 below.
- 58. Buildings D1 and E3 do not comply with the maximum height of building development standards in the locations shown in Figures 35 and 36 below. All other buildings on Building groups D and E and Buildings A, B and C comply.

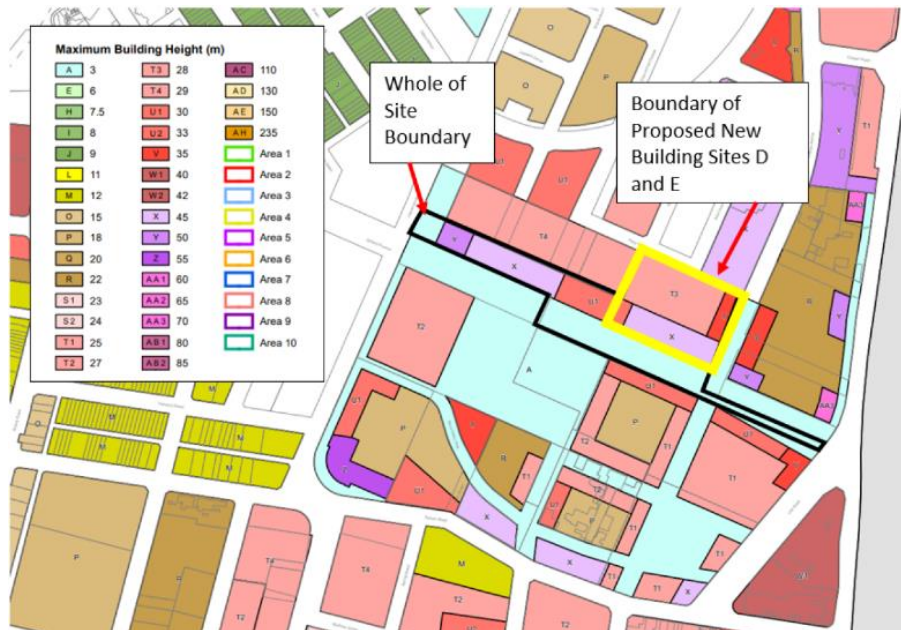


Figure 35: Extract of the SLEP 2012 Height of Buildings map, with Building groups D and E outlined in yellow

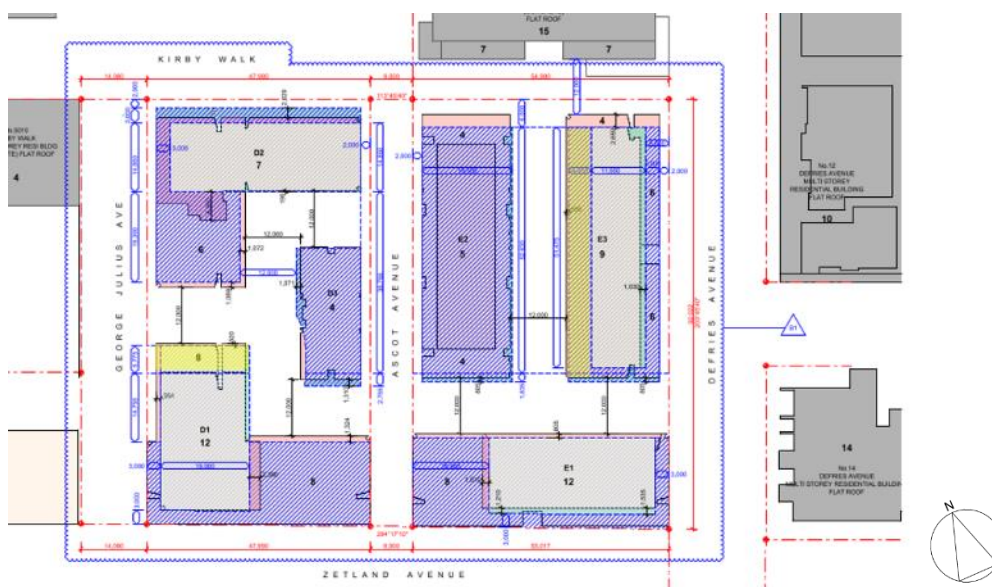


Figure 36: Site plan of Building groups D and E with areas of non-compliance highlighted in yellow

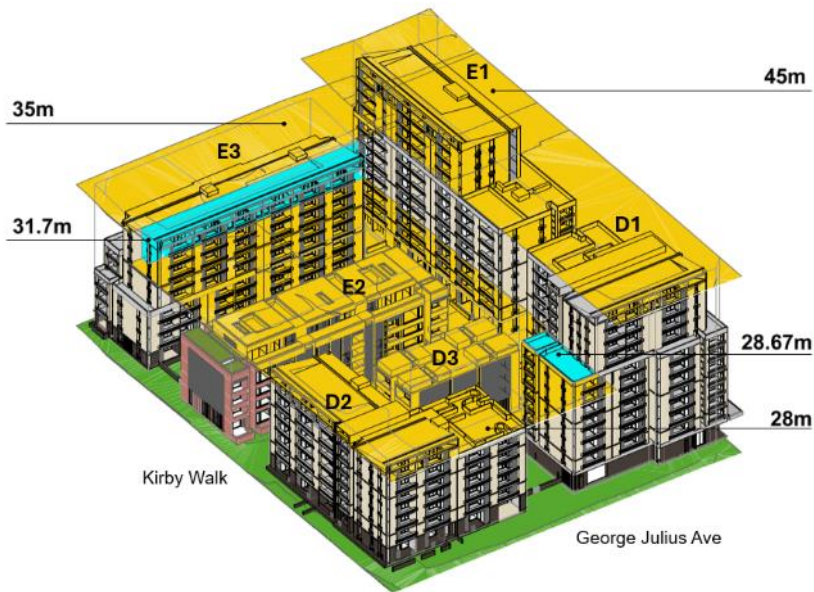


Figure 37: Axonometric Plan View of Building groups D and E, with the SLEP 2012 height plane in yellow and the non-compliances in blue

59. Each non-compliance is summarised below:

(a) Building D1

The SLEP 2012 height plane transitions from 45m along Zetland Avenue down to 28m to the north.

A minor portion of the building on Level 8 has a height of 28.7m, which exceeds the maximum height of 28m by 700mm. This results in a variation of approximately 2.5%. An elevation showing the non-compliance is provided in Figure 38 below.



Figure 38: Northern elevation of Building D1, showing the height non-compliance in blue

(b) Building E3

The SLEP 2012 height plane transitions from 35m along Defries Avenue down to 28m to the west.

A portion of the building along the western frontage exceeds the 28m height control with a maximum height of 31.7m, resulting in a variation of 3.7m or 13.2%. An elevation showing this non-compliance is provided in Figure 39 below.

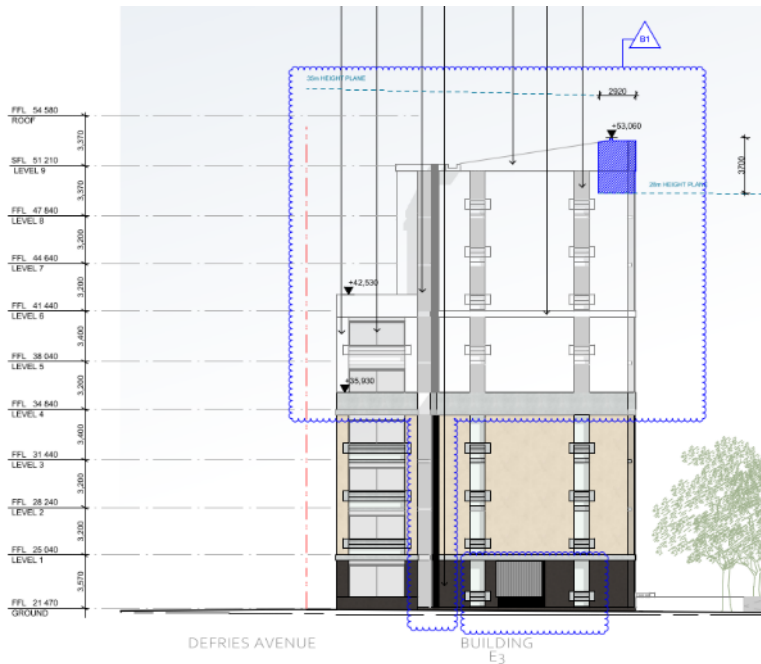


Figure 39: Building E3 northern elevation, showing the LEP height plane and area of non-compliance in blue

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

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

61. The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

(i) The applicant refers to the first method of the five-part test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the standard is unreasonable or unnecessary. This method seeks to demonstrate that the objectives of the development standard are achieved notwithstanding the non-compliance with the standard.

(ii) A summary of the applicant's assessment against the objectives of the height of buildings development standard contained in clause 4.3 of the SLEP 2012 is provided below:

Objective (a) - to ensure the height of development is appropriate to the condition of the site and its context

The proposal seeks to achieve overall consistency and the LEP and DCP controls for Epsom Park. The height controls are consistent with the surrounding medium to high density, mixed-use development zoning and development controls.

Buildings D1 and E3 predominately achieve compliance with these height controls, with the exception of minor variations created by various mid-block height limit transitions.

Given the higher buildings already constructed, and planned to be constructed, in the surrounding locality in accordance with Council's LEP and DCP controls, it is considered that these minor variations are appropriate and low impacting within the site context.

Objective (b) - to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas

The site is not identified as a heritage item nor is it within a heritage conservation area, and there are no heritage items or conservation areas located in the immediate vicinity of the site.

Objective (c) - to promote the sharing of views outside Central Sydney

The location and orientation of the relatively minor proposed height variations of Buildings D1 and E3 will not result in any significant loss of iconic or significant district views among adjoining and surrounding properties, or within the other buildings of Buildings A to E of the subject development.

Objective (d) - to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas

Given the high degree of compliance with the current LEP and DCP height controls, the subject proposal supports the general pattern of height transition in the Green Square and surrounding areas.

Objective (e) - in respect of Green Square— (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and (ii) to ensure the built form contributes to the physical definition of the street network and public spaces

The proposed mixed-used development, including the identified Buildings D1 and E3, is highly consistent with the Epsom Park LEP and DCP controls in terms of the scale and siting of the planned building envelopes, street network and public open space, with particular attention paid to providing a high quality architectural and active frontage presentation to the planned boulevard of the newly formed Zetland Avenue.

- (iii) In summary, the applicant submits that the development is consistent with the objectives of the height of buildings development standard. Therefore, compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
- (b) That there are sufficient environmental planning grounds to justify contravention of the standard:

(i) **The exceedance is minor**

The variations to the 28m LEP height limit for Buildings D1 and E3 are 700mm (2.5%) and 3.7m (13.21%) respectively.

The extent of the variation is relatively minor in the context of surrounding development and planned development. Of relevance, Walsh C in Eather v Randwick City Council [2021] NSWLEC 1075 states at [38]:

The fact of the particularly small departure from the actual numerical standard and lack of any material impacts consequential of the departure are sufficient environmental planning grounds to justify contravening the development standard.

(ii) **Absence of significant material adverse impacts**

The non-compliances do not adversely impact the amenity of surrounding properties. The location and orientation of the variations will not result in any significant loss of privacy, views, solar access or visual impact for the residents of existing adjoining properties to the north, north-east and east off Defries Avenue and off Kirby Walk to the west, areas of public domain along Zetland Avenue, or the other buildings of the subject development.

(iii) ***The development promotes the economic and orderly use and development of land***

The site is located centrally within the prominent, built-up, mixed-use, medium to high density Epsom Park Precinct. The precinct is highly accessible to a range of public transport options, most notably the nearby Green Square Railway Station. The proposed minor building height exceedance is therefore consistent with the expectations for the planned intensity of development for the locality.

To not permit the contravention in these circumstances would be contrary to:

- The objective of the EP&A Act set out in section 1.3(c), which is 'to promote the orderly and economic use and development of land'; and
- The objective set out in section 1.3(a), which is 'to promote the social and economic welfare of the community and a better environment by the proper management...[and] development...of the State's...resources'.

Consideration of Applicant's Written Request - Clause 4.6 (3)

62. Development consent must not be granted unless the consent authority is satisfied that that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

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

63. The applicant has relied upon the first test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case.
64. The applicant has satisfactorily demonstrated that the proposal meets the objectives of the height of buildings development standard, notwithstanding the non-compliance.

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

65. The applicant has sufficiently demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.
66. It has been demonstrated that the height non-compliances are minor, does not adversely impact the amenity of surrounding properties or the public domain and promotes the economic and orderly use and development of land.

Conclusion

67. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Sydney Local Environmental Plan 2012.

Preparation of a development control plan

68. Clause 7.20(2)(b) of the SLEP 2012 requires the preparation of a development control plan for the land where the site is more than 5,000sqm or has a building height greater than 25m. A development control plan would therefore ordinarily be required for the subject development.
69. Clause 7.20(4) outlines a list of matters that must be provided for in the development control plan.
70. During pre-DA consultation, the applicant submitted that the proposal satisfied the requirements of clause 7.20(2) and the matters listed in clause 7.20(4) by achieving consistency with the detailed requirements for development contained in the Green Square - Epsom Park special area controls in Section 5.3 of the SDCP 2012.
71. In this instance, the reliance on the Epsom Park DCP controls to satisfy clause 7.20(2), in lieu of the preparation of a new site-specific DCP, is acceptable for the following key reasons:
 - (a) The detailed DCP controls for Epsom Park in Section 5.3 of the SDCP 2012 apply to the site in addition to the standard LEP and DCP provisions that would ordinarily apply. The Epsom Park DCP controls are significantly more detailed than other general DCP controls and contain detail equivalent to a site-specific DCP as they specify:
 - (i) A detailed urban strategy and specific urban design principles
 - (ii) Street networks, road locations, circulation and access arrangements and a street hierarchy, including detailed sections for each new street
 - (iii) Vehicle access locations
 - (iv) Specific locations for active edges
 - (v) Locations for tall buildings and low buildings in accordance with the urban design principle for appropriate height transitions
 - (vi) Detailed height in storeys map showing specific heights, setbacks and building locations
 - (vii) Street frontage height in storeys
 - (viii) Building setback requirements on both the ground plane and upper levels, including the requirement for 2m landscape setbacks
 - (ix) Designated locations for specific building types and land uses
 - (x) Public domain and infrastructure requirements and
 - (xi) Other specific controls relating to splay corners, fences, active uses, deep soil requirements and development stages.
 - (b) The proposal is consistent with key elements such as building locations, general massing, height transitions, land uses, street locations, vehicle access and circulation, setbacks and public domain requirements.

- (c) The pre-DA consultation involved similar investigation and documentation to what would be expected for a Concept DA. It involved preparation and testing of indicative building envelopes and a supporting reference scheme, as well as numerous technical reports to address issues such as flooding, contamination, traffic, and acoustic impacts, which were assessed in a similar manner to what would be undertaken for a Concept DA. This extensive level of detail was required to inform the competition brief for the site.
- (d) Two separate design competitions were held for the site, in accordance with clause 6.21D of the SLEP 2012. The indicative building envelope drawings and supporting technical reports were appended to the endorsed competitive design process briefs to guide the competitors.

72. The requirements of clause 7.20(4) have been addressed, as outlined in Table 1 below.

Table 1: Consideration of the matters listed in clause 7.20(4) of the SLEP 2012.

Provision of clause 7.20(4)	Response
<p>4(a) - requirements as to the form and external appearance of proposed development so as to improve the quality and amenity of the public domain</p>	<p>The DCP provides requirements for the form and external appearance of the development through:</p> <ul style="list-style-type: none"> • Figure 5.59 Epsom Park Urban Strategy which identifies the location of tall buildings, low buildings, open space and active edges. • Specific objectives in Section 5.3.1 Epsom Park Urban Strategy to ensure development is of the highest quality and sympathetic to the local character and public domain; • Urban Design Principles in Section 5.3.2 relating to transition of building heights and public domain requirements. • Detailed requirements in Section 5.3.3 Local Infrastructure and Public Domain, including provisions for new streets and public open spaces. • Objectives and provisions in Section 5.3.4 Building Form and Design which ensures built form is of a pedestrian scale and improves the quality and amenity of the public domain. • Detailed building height in storey requirements in Figure 5.8.3 which

Provision of clause 7.20(4)	Response
	<p>shows building locations, heights and setbacks.</p> <ul style="list-style-type: none"> Street frontage height in storeys in Figure 5.84.
4(b) - requirements to minimise the detrimental impact of proposed development on view corridors	<p>The provisions of Section 5.3.4 - Building Form and Design and Figure 5.8.3 - Epsom Park Building Height in Storeys have been designed to ensure future development does not detrimentally impact view corridors.</p> <p>Specifically, provision 5.3.4(c) seeks to retain important views in and out of the Epsom Park neighbourhood by extending vistas along new streets and lanes.</p>
4(c)(i) the suitability of the land for development	<p>Section 2.5.5 of the SDCP 2012 provides a locality statement for Epsom Park and identifies the precinct as being suitable for a new neighbourhood with a strong sense of place and public life, where residents enjoy proximity to the City, easy access to the GSTC, good transport links, open parklands and recreational opportunities, and speciality retail activities. The subject site, being within the Precinct, is therefore suitable for the proposed mixed-use development which will contribute positively to the new Epsom Park neighbourhood.</p>
4(c)(ii) the existing and proposed uses and use mix.	<p>The Urban Design Principles in Section 5.3.2 includes 'Principle 2 - Land Uses', which specifies non-residential uses on ground floor along Zetland Avenue. Residential uses are to predominate on upper storeys and on quieter streets fronting Defries Avenue, Ascot Avenue, Kirby Walk and George Julius Avenue.</p> <p>Active edges are also required along Zetland Avenue as per Figure 5.59 Epsom Park Urban Strategy.</p>
4(c)(iii) any heritage issues and streetscape constraints.	<p>Heritage issues are not applicable to the subject site. Streetscapes are prescribed by the various sections for new streets</p>

Provision of clause 7.20(4)	Response
	including Zetland Avenue, George Julius Avenue and Defries Avenue.
4(c)(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form.	The location of taller buildings is specified along Zetland Avenue as per Figure 5.59 Epsom Park Urban Strategy, Urban Design Principle 1 - Transition of Building Heights (section 5.3.2) and the Building Form and Height controls in section 5.3.4.
4(c)(v) the bulk, massing and modulation of buildings.	Section 5.3.4 Building Form and Design contains specific controls to manage the bulk and massing of buildings, as well as articulation requirements. Maximum height in storeys, street wall height in storeys and setback requirements are specified.
4(c)(vi) street frontage heights.	Provision 5.3.4(2) states that the street frontage height of a building must not exceed the maximum street frontage height shown on Figure 5.84 Epsom Park Street Frontage Height.
4(c)(vii) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity.	<p>Section 4.2.3 of the SDCP 2012 applies to the site and contains provisions relating to amenity including solar access, overshadowing, apartment amenity, landscaping, acoustic and visual privacy and outlook.</p> <p>Wind is addressed in Section 3.2.6 and reflectivity in Section 3.2.7. Section 3.6 contains controls addressing ESD.</p>
4(c)(viii) the achievement of the principles of ecologically sustainable development.	Section 3.6 of the DCP applies to the site and contains controls for the achievement of ESD principles.
4(c)(ix) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network.	Section 5.3.3.3 Movement and Connectivity contains specific controls for these matters. Figure 5.8 Epsom Park Circulation and Access supports these controls. This includes vehicle access locations, traffic signals, street design, circulation requirements, permeability of the block and pedestrian networks.

Provision of clause 7.20(4)	Response
4(c)(x) the impact on, and any proposed improvements to, the public domain.	<p>Section 5.3.3 Local Infrastructure and Public Domain outlines objectives and provisions for streets, lanes, footpaths, local infrastructure and public open space.</p> <p>Section 5.3.3.1 contains detailed provisions for public open space and 5.3.3.2 specifies street network requirements.</p>
4(c)(xi) the impact on any special character area.	Not applicable.
4(c)(xii) achieving appropriate interface at ground level between the building and the public domain.	The interface between the building and public domain is specifically addressed in Section 5.3.4.1 Building Setbacks, which includes provisions for ground floor setbacks and landscape setbacks.
4(c)(xiii) the excellence and integration of landscape design.	Section 5.3.4.5 includes requirements for deep soil planting to ensure excellence and integration of landscape design.
4(c)(xiv) the incorporation of high quality public art into the fabric of buildings in the public domain or in other areas to which the public has access.	<p>The locality statement for Epsom Park specifies that public art and the public domain in Epsom Park are to interpret the neighbourhood's connection with the Sheas Creek catchment.</p> <p>Public art is required by Section 3.1.5 of the DCP.</p>

73. Having regard to the above, it is considered that the planning controls applying to the site, including those contained in Section 5.3 for Epsom Park, are sufficiently detailed to be equivalent to that of a site-specific DCP in accordance with clause 7.20(2) of the SLEP 2012 in this instance.
74. Specifically, the matters that are to be addressed by a site-specific DCP in clause 7.20(4) have been satisfied, as outlined in Table 1 above.
75. Therefore, it is concluded that a further site-specific DCP for this site is not warranted and the requirements of clause 7.20 of the SLEP 2012 are satisfied.

Design Excellence

76. Two separate competitive design processes were held for the site, including one for Buildings A, B and C and one for Building groups D and E. Consideration of the proposed development against the recommendations of the selection panel is provided below.

Buildings A, B and C

- 77. The competitive design process for Buildings A, B and C was held in March 2024. Of the four competing teams, Fender Katsalidis and Besley & Spresser were selected as having the scheme most capable of achieving design excellence and were declared the winner.
- 78. The Selection Panel identified the following key principles of the design to be maintained and developed:
 - (a) The design intent of the accessible common open space across the rear of Buildings A, B and C.
 - (b) Visual connectivity across the sites and north to south permeability.
 - (c) Horizontality of building and building details and material selection for Building C.
 - (d) Driveway, waste, loading and substation strategy.
 - (e) Disposition of the retail frontages to the public parks.
 - (f) Retain deep soil locations and high level of tree coverage.
- 79. The proposed development for Buildings A, B and C adequately maintains the abovementioned key principles.
- 80. The Selection Panel identified areas for further resolution and refinement through design development, outlined in Table 2 below.

Table 2: Selection Panel recommendations for Buildings A, B and C and design response.

Jury comment	Design response	Satisfactory
Address the entry sequence to be more urbane and reconsider the announcement of building entries and security points whilst maintaining the visual connection from north to south. The low ceilings and deep under crofts with raised planters should be reconsidered.	The externalised lobbies proposed in the competition submission are generally maintained in the DA submission. Minor changes have been made to simplify the entrance points and landscaping in these locations. The design intent for these spaces is to be an internalised street, with a ceiling height of 4.5m and width of 6m.	Yes
Entry areas should be configured more as a lobby, to include lobby furniture and storage.		
Lift overruns to be integrated into the building form to reduce their visual impact.	The size of the lift overruns have been reduced and integrated into the buildings.	Yes

Jury comment	Design response	Satisfactory
Provide sun shading appropriate to orientation, particularly for the south-western summer afternoon condition for mid-season heat on the north facades.	Sun shading has been proposed to elevations that experience solar gain. These have been reviewed and are considered to be acceptable, subject to conditions.	Yes, subject to conditions
Address recommendations of wind analysis.	The recommendations of the wind report have mostly been addressed. Refer to the 'Discussion' section for further details.	Yes, subject to conditions
Further consider mitigations to reduce the visual and acoustic impacts of the loading dock in Building A and ensure continuity of pedestrian access and integration within the landscape setting.	The loading dock strategy has been revisited across the site and is acceptable. Refer to the 'Discussion' section for further details.	Yes

81. Overall, the proposed development for Buildings A, B and C is consistent with the merits of the winning competition scheme, has satisfactorily addressed the Selection Panel's recommendations and is considered to exhibit design excellence.

Building groups D and E

82. A competitive design process for buildings on Building groups D and E was held in January 2024. Of the four schemes presented, the scheme by Candalepas and Associates and Lachlan Seegers Architects was selected as the most capable of demonstrating design excellence and was declared the winner.

83. The Selection Panel identified the following key principles of the design to be maintained and developed:
- (a) Simplicity of the architectural expression, with variety introduced through changes to texture and colour.
 - (b) Clarity of the plan with elongated units around perimeter ('semis in the sky' concept).
 - (c) Green roofs to central buildings to enable positive views from above.
 - (d) Architectural detailing and proportions, and material selection, in particular the precast stepped beams with glass above and below.
 - (e) Collection of window/balcony openings under a single spandrel – which presents as a simple and clean design detail.
 - (f) Treatment of corners to enable solar access into apartments and daylight into corridors.

- (g) Approach to the relaxed, informal character of the landscaping across the site including the integration of meandering pathways, mounding, fencing, thematic outdoor seating areas, public art and deep soil provision in appropriate locations, all as indicated in Jane Irwin’s conceptual design.
- (h) Providing a clear and strong street address to every building.
- (i) Multiple windows at ends of straight corridors to provide light and air.
- (j) Number of lifts and overall lifting strategy.
- (k) Considerations for concealing downpipes and services.
- (l) General buildability including rational structure, basement depth and architectural rationalisation.
- (m)** Any variation to the above should demonstrate that the proposal can continue to achieve a high level of residential amenity and design quality.

- 84. The proposed development for Building groups D and E adequately maintains the abovementioned key principles.
- 85. The Selection Panel identified areas for further resolution and refinement through design development, outlined in Table 3 below.

Table 3: Selection Panel recommendations for Building groups D and E and design response.

Jury comment	Design response	Satisfactory
Unit mix will need to be calibrated to meet DCP targets.	The unit mix satisfies the DCP targets.	Yes
Individual entries to ground-floor units – further design development is required to ensure clarity of access points and security to private gardens accessible directly from the street.	Ground floor individual entries have been developed. The access points are clear and an appropriate level of security is achieved.	Yes
The Panel recommend the reconsideration of increasing the width of vertical windows to bedrooms addressing Zetland Avenue, Defries Avenue, Ascot Avenue and Kirby Walk to improve access to natural light and ventilation.	Vertical windows have been increased in width from 800mm to 1000mm.	Yes
The Panel recommend a review of opportunities for apertures/windows at upper-	Additional vertical windows have been incorporated.	Yes

Jury comment	Design response	Satisfactory
level blank walls to provide potential additional views and amenity from apartments.		
Further development of sun shading to buildings will be required through the detailed design.	Sun shading is provided by external blinds and screens to balconies as per the competition scheme. This is acceptable, subject to conditions.	Yes, subject to conditions.
Consideration of judiciously placed openings to hit and miss brickwork, to provide a better outlook from bedrooms behind whilst ensuring privacy concerns are satisfied (where this is the only window to the bedroom).	Additional openings have been provided.	Yes
<p>Revisiting the 2-bedroom corner internal floorplans to:</p> <p>Enable kitchens to have greater amenity.</p> <p>Improve amenity of living spaces by reducing number of doors that open onto them (including doors to service spaces such as bathrooms).</p> <p>Provide clarity around the potential 'study' rooms as shown in some floorplates to avoid internalised habitable rooms and the installation of joinery.</p>	<p>Kitchens have been incorporated into open plan living spaces for greater amenity.</p> <p>Apartment layouts have been amended to address doors opening onto living spaces.</p> <p>Studies have been incorporated where appropriate amenity is able to be achieved.</p>	Yes
Continue to develop the ground plane landscape and roof gardens to unify and enhance the overall setting, further addressing the integration with the public domain, key site entries and vistas, the linear orientation of the outdoor spaces and deep soil for substantial tree growth.	The proposed landscaping and integration with the public domain is acceptable, subject to conditions. Refer to the 'Discussion' section for further details.	Yes.

Jury comment	Design response	Satisfactory
Private open space, communal open spaces and publicly accessible open spaces to be clearly demarcated and integrated into the overall landscape setting.	Low wall heights and fencing are provided to ground floor units to achieve a balance of privacy and surveillance.	Yes
Recommend the improved treatment of blank walls created by the substation and loading dock.	The loading dock is setback behind a deep soil zone to allow for planting. The substation walls have appropriate detailing.	Yes

86. The proposed development for Building Groups is considered to exhibit design excellence as it is consistent with the key principles of the winning competition scheme and has satisfactorily addressed the Selection Panel's recommendations.

Building height in storeys and street frontage heights

87. The site is subject to varying building height in storeys controls across the site, as outlined in Figure 5.83 Epsom Park Building Height in Storeys of the SDCP 2012 (Figure 40 below).



Figure 40: Building height in storeys map, with the site outlined in blue

88. Buildings A, B and C comply with the building height in storeys control. Building D3 also complies with the height in storeys control, noting it is shown in dashed outline on the DCP map as this is identified as a location for up to 10% additional floor space if design excellence is achieved.

89. The proposal includes minor variations to the height in storeys control on Buildings D1, D2, E1, E2 and E3, as follows:

Building D1

90. A 2.3m portion of the 12 storey form exceeds the DCP height control (outlined in red in Figure 41 below). This is a result of redistributing permissible built form from the northern part of the tower, where 12 storeys are permitted but 8 storeys are proposed (shown in blue in Figure 41 below).
91. The additional height is setback 3m from Zetland Avenue and does not result in adverse environmental impacts.

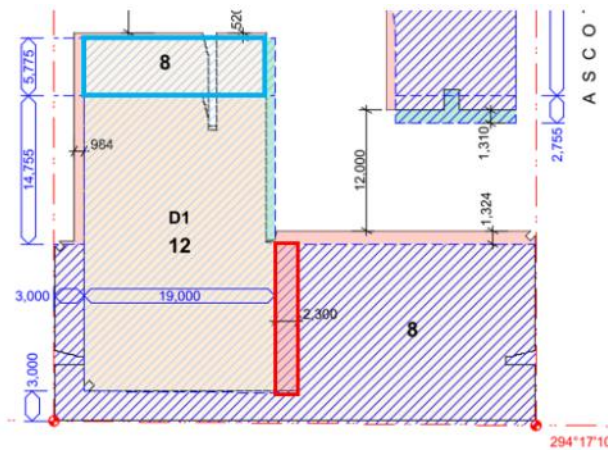


Figure 41: Plan of Building D1, showing DCP height exceedance in red

Building D2

92. The DCP permits a 6 storey street wall to Kirby Walk and George Julius Avenue. The proposal includes a 7 storey street wall to Kirby Walk and part of George Julius Avenue, highlighted in red in Figure 42 below.
93. The additional height along the street wall is acceptable in the context, with a range of building heights along Kirby Walk up to 15 storeys. This building also provides a greater northern setback than required (4m provided instead of 2m) to protect the street trees, which lessens the impact of the additional storey.

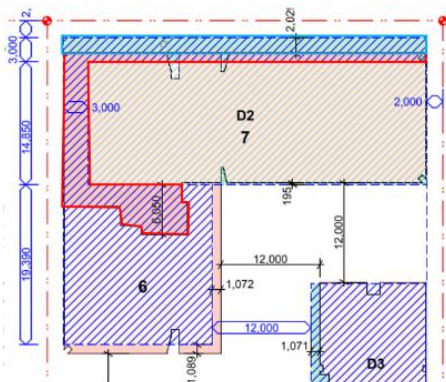


Figure 42: Plan of Building D2, with DCP height exceedance outlined in red

Building E1

94. A small 1.5m wide portion of the 12 storey form extends west beyond the DCP envelope (outlined in red in Figure 43 below). This is a result of redistribution of permissible built form from the southern edge of the tower (outlined in blue in Figure 43 below).
95. The additional height is setback 4.2m from Zetland Avenue and does not result in visual privacy or overshadowing impacts.

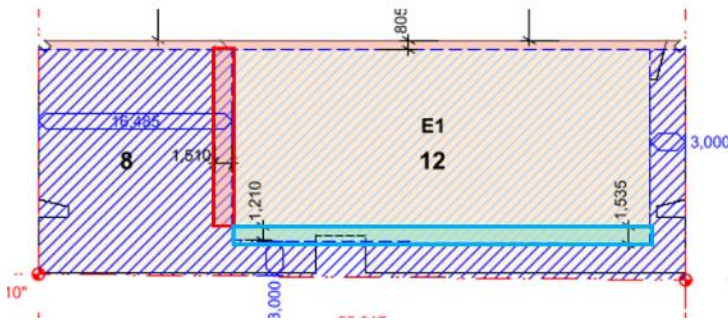


Figure 43: Plan of Building E1, with the DCP height exceedance outlined in red

Building E2

96. Building E2 is subject to a DCP height of 4 storeys. The amended plans introduced an additional 5th storey in response to DAP advice. A detailed assessment of this is outlined under the heading 'Building groups D and E design integrity' below.

Building E3

97. The DCP specifies a maximum height of 6 storeys along the southern portion of Building E3. The proposed 9 storey form extends towards the southern frontage of the building, outlined in red in Figure 44 below.
98. The proposal is consistent with the winning competition scheme, which incorporated this massing to reduce overshadowing to neighbouring buildings to the south-east of Building E3. This is achieved by setting back the 9 storey form further back from the eastern boundary. To address visual privacy between Buildings E3 and E1, conditions are recommended to ensure these balconies are treated with sliding screens.

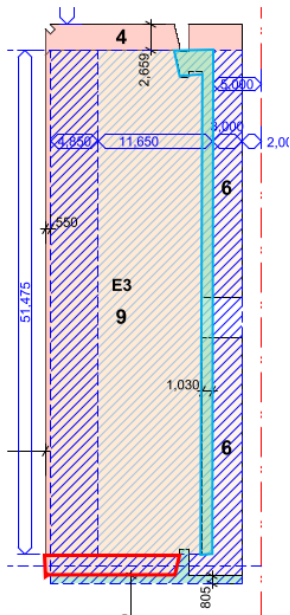


Figure 44: Plan of Building E3, with DCP exceedance outlined in red

Street frontage height in storeys

99. Provision 5.3.4(2) of the SDCP 2012 specifies maximum street frontage heights for the Epsom Park precinct, as shown in Figure 45 below.



Figure 45: Excerpt from Figure 5.83 of the SDCP 2012 - Epsom Park Street Frontage Height in Storeys

100. The development provides the following street frontage height in storeys:
- (a) Buildings A, B and C - 8 storey street wall heights are proposed on the eastern, southern and western frontages of these buildings. The DCP map requires the street wall to step down to 6 storeys on the side street frontages. The proposed 8 storey consistent street wall is acceptable in this instance as the objectives of Section 5.3.4 are satisfied notwithstanding the non-compliance, as follows:
 - (i) The consistent 8 storey street wall contributes positively to the physical definition of the existing and proposed street network and is considered to be of an acceptable pedestrian scale
 - (ii) Notwithstanding the non-compliance, the overall development provides a range of building types and architectural styles
 - (iii) The street walls do not obstruct important views in and out of Epsom Park
 - (iv) The buildings have high quality facade design and finishes
 - (v) The required 8 storey consistent street wall is provided along Zetland Avenue and buildings on this frontage have high architectural design and quality and
 - (vi) The building lengths and articulation result in an appropriate scale of development from the public domain.
 - (b) Building group D - Buildings on Building group D comply with the street frontage height control, except for Building D2. The northern street frontage to Kirby Walk and part of the western street frontage to George Julius Avenue are 7 storeys, which exceed the 6 storey control. This is acceptable as an increased building setback is proposed to Kirby Walk (4m compared to the required 2m setback), which minimises the impact of the street wall.
 - (c) Building group E - Buildings on Building group E comply with the street frontage height control.
101. The proposed street frontage heights are considered acceptable having regard to the objectives of this control. It is also noted that the proposed street wall heights are all consistent with the street walls proposed in the winning competition schemes.

Building groups D and E design integrity

102. One of the key features of the winning competition scheme prepared by Candalepas and Associates and Lachlan Seegers Architects was the overall amenity achieved to apartments and corridors, with good levels of outlook and solar access through various openings and facade articulation.
103. Several changes were made to Building groups D and E post-competition, causing these buildings to have lower amenity compared to the design competition scheme. This was particularly evident in the lobbies and corridors, which had less natural light, reduced dimensions and vistas removed, as well as reduced apartment amenity and less facade articulation. These changes were made to utilise the permissible GFA for these buildings.

104. Council's request for information raised specific areas of concern in relation to the amenity of these buildings, including but not limited to:
- (a) Reduced size of facade recesses in Buildings E1 and E3, resulting in setback bedrooms reliant on deep, narrow slots
 - (b) Deep slots proposed to corridors resulting in reduced amenity
 - (c) Setback bedrooms proposed throughout Building D1
 - (d) Interfaces between adjoining apartment at internal corners had reduced in quality, exacerbating visual privacy issues
 - (e) Ground floor lobbies no longer connected through to the communal open space and through vistas had been removed and
 - (f) Overall reduction in solar access compliance.
105. The above issues were discussed with the DAP, who were not supportive of the overall reduction in apartment amenity and facade articulation for these buildings. The Panel suggested transferring some floor space to an additional floor on a smaller building to retain the design integrity of the competition scheme and achieve equivalent or improved amenity, whilst utilising available GFA in an appropriate manner.
106. Following receipt of the above advice, Council's request for information letter recommended that the drawings be amended to maintain the design integrity of the competition scheme in relation to the specific issues mentioned above. To compensate for this, Council officers advised that consideration could be given to a scenario where the lost GFA from these changes is calculated and recouped by adding an additional setback storey to Building E2. This building was recommended following an assessment of various potential locations and associated impacts.
107. Amended plans were subsequently provided and the following changes were made to reinstate the amenity of the competition scheme:
- (a) Facade recesses to Buildings E1 and E3 were reinstated
 - (b) The previous depth and width of slots to the corridors and windows for daylight were reinstated
 - (c) Setback bedrooms were removed
 - (d) Interfaces between bedrooms and adjacent apartments at internal corners were amended in response to privacy concerns
 - (e) The ground floor lobbies were amended to connect through to the communal open space and provide vistas as per the competition scheme

108. The above changes are generally acceptable in maintaining the amenity and design integrity of the winning competition scheme, subject to the following conditions of consent:

- (a) Further changes are required to the northern end of Building D1 to remove the 9.6m long slot for daylight and shift the window at the end of the corridor north to align with bedroom 2 of apartment D1.01.01. This will require some amendments to the apartment planning and vertical apartment stack above. Refer to Figure 46 below.

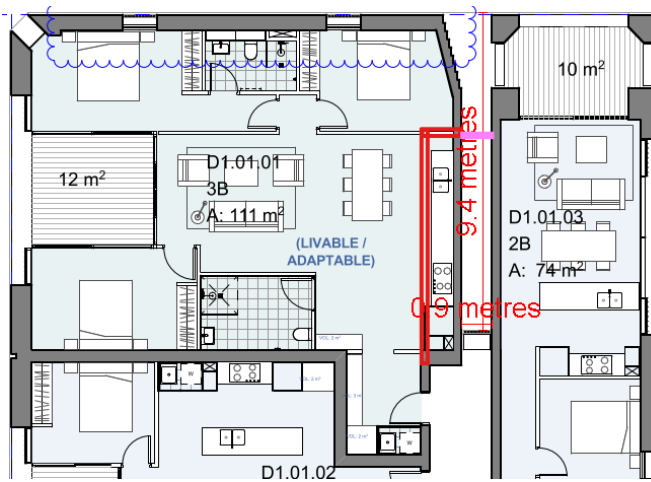


Figure 46: Building D1 corridor requiring a design modification condition, with the recommended configuration outlined in red

- (b) Adjacent apartments at internal corners in Building D1 require further refinement to ensure adequate visual and acoustic privacy is achieved. A condition is recommended requiring apartment reconfiguration or privacy screening to address this.
109. As per the DAP's recommendation, an additional 5th storey has been added to Building E2 to recoup the GFA lost from the above changes. Diagrams of the additional storey are provided below.

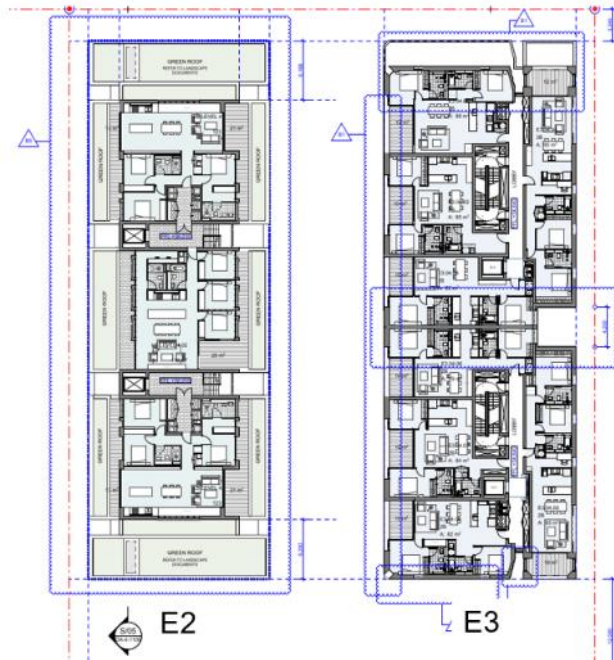


Figure 47: Plan showing the additional 5th storey proposed to Building E2

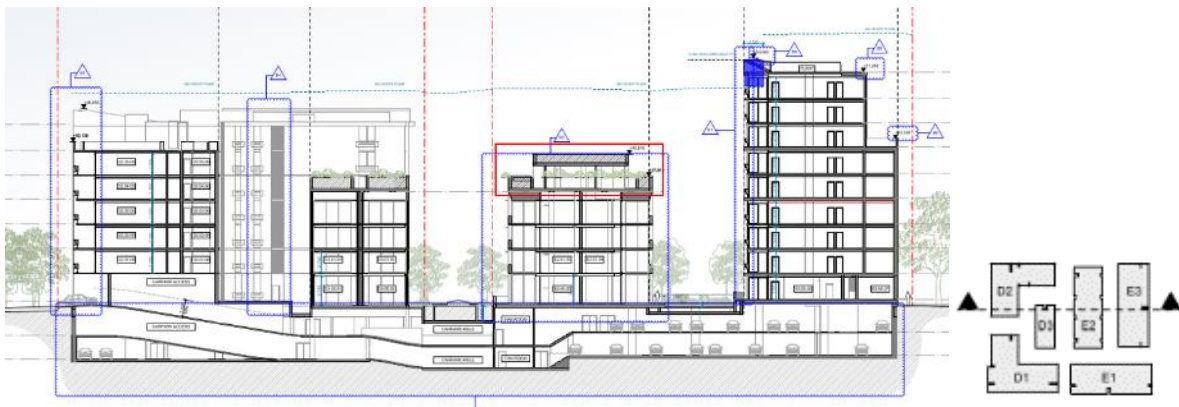


Figure 48: East-west section through the site with the additional storey to Building E2 outlined in red

110. The additional storey has been assessed and is supported for the following reasons:

- (a) The additional storey incorporates setbacks of 6.2m to the north and south and 3.2m to the east and west, which are considered appropriate for minimising bulk and achieving visual privacy.
- (b) Building separation for this storey is 14.2m to Building E3 and 15.2m to Building D2, which technically exceeds the recommended ADG setback of 18m above Level 4. To ensure visual privacy is achieved, the design includes:
 - (i) Increased solid balustrade heights at 1.4m high
 - (ii) Perimeter planting with 1.4m soil depth to allow for privacy screen planting
 - (iii) Use of hit and miss brickwork across bedroom windows

- (iv) Recessed private open spaces; and
- (v) An overall facade depth of 450mm to prevent oblique overlooking.
- (c) Horizontal shading of 1.5m depth is provided through recessing the private open spaces and extending the roof line over.
- (d) The additional storey does not cause adverse overshadowing impacts to neighbouring properties.
- (e) The additional storey will have minimal bulk and scale impact in the context of surrounding taller buildings.
- (f) The green roof has been maintained.

111. In summary, the amended plans for Building groups D and E are considered to maintain the design integrity and equivalent amenity to the competition scheme, subject to conditions. The additional 5th storey as recommended by the DAP is acceptable as it results in a superior outcome with improved amenity.

Landscape setbacks

112. Section 5.3.4.1 of the SDCP 2012 requires building setbacks to be provided in accordance with the Building Setback and Alignment Map, shown in Figure 49 below.

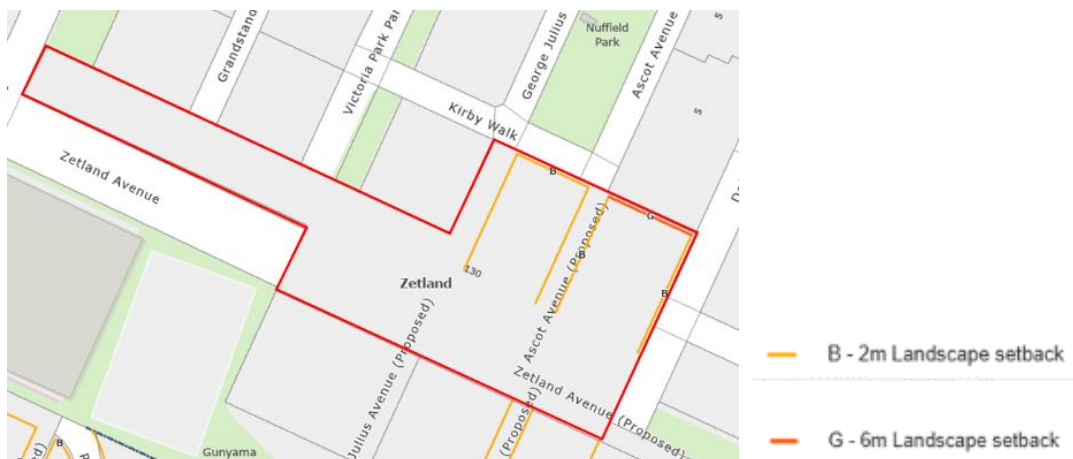


Figure 49: Building setback and alignment map from the SDCP 2012, with the site outlined in red

- 113. Figure 49 shows that a 6m landscape setback is required along the northern frontage of Building group E and a 2m landscape setback is required along George Julius, Ascot Avenue and Defries Avenue frontages.
- 114. The plans originally submitted with the application did not incorporate all the required setbacks. The plans have since been amended to incorporate 2m landscape setbacks to the residential frontages on George Julius Avenue, Ascot Avenue and Defries Avenue.
- 115. A 4m landscape setback is provided to the northern frontage of Building D2, fronting Kirby Walk. This exceeds the 2m required by the SDCP 2012 and is proposed to protect the street trees on Kirby Walk.

116. The only area of non-compliance with the required landscape setbacks is on the northern edge of Buildings E2 and E3. A 4m landscape setback is proposed where a 6m setback is required by the DCP. Refer to Figure 50 below.

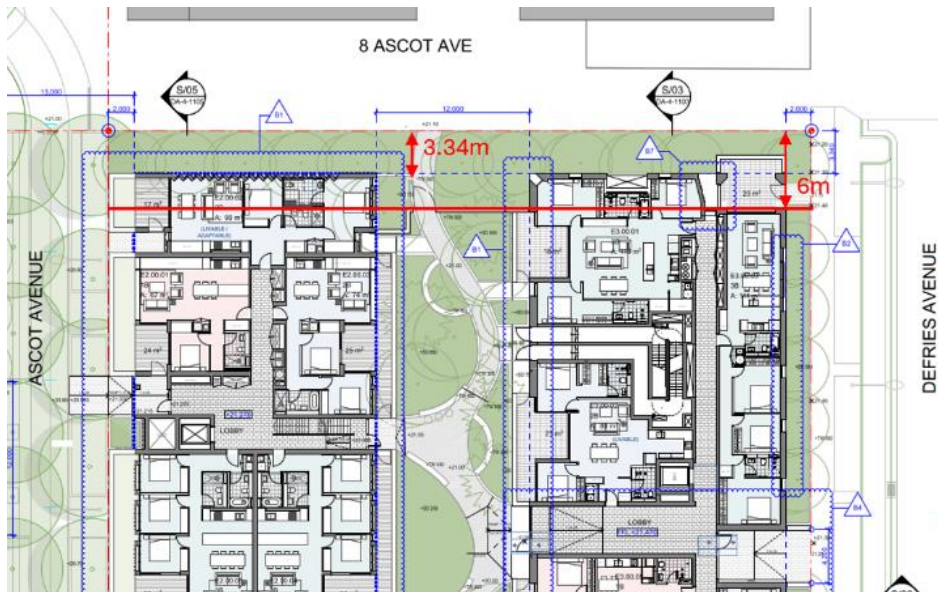


Figure 50: Building E2 and E3 northern setback, showing 3.34m setback proposed compared to the 6m required

117. The proposed 3.34m setback in this location is acceptable as it achieves the recommended 12m separation from the northern neighbour at 8 Ascot Avenue for Levels 1-4, which complies with the ADG. The 3.34m setback is proposed for Levels 1-4 only, with upper levels further setback for additional building separation.
118. Overall, the development provides adequate landscape setbacks and ground floor interfaces across the development in accordance with the objectives of the SDCP 2012.

Building separation and visual privacy - Buildings A, B and C

Within the site

119. The side separations between buildings A, B and C all achieve the recommended ADG separation distances and are therefore considered to achieve an acceptable level of visual privacy.

Neighbouring sites

120. There are existing residential flat buildings directly north of Buildings A, B and C, as shown in Figure 51 below.

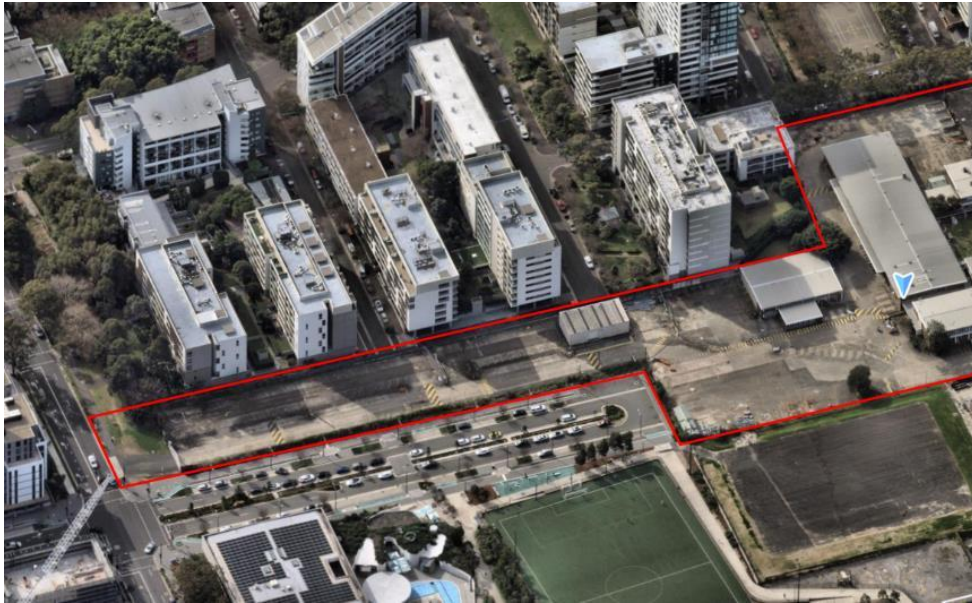


Figure 51: Existing residential buildings north of the site, with the site outlined in red

121. Figure 52 below shows a plan view of the site and the northern neighbouring buildings, with the building separation distances shown in red.

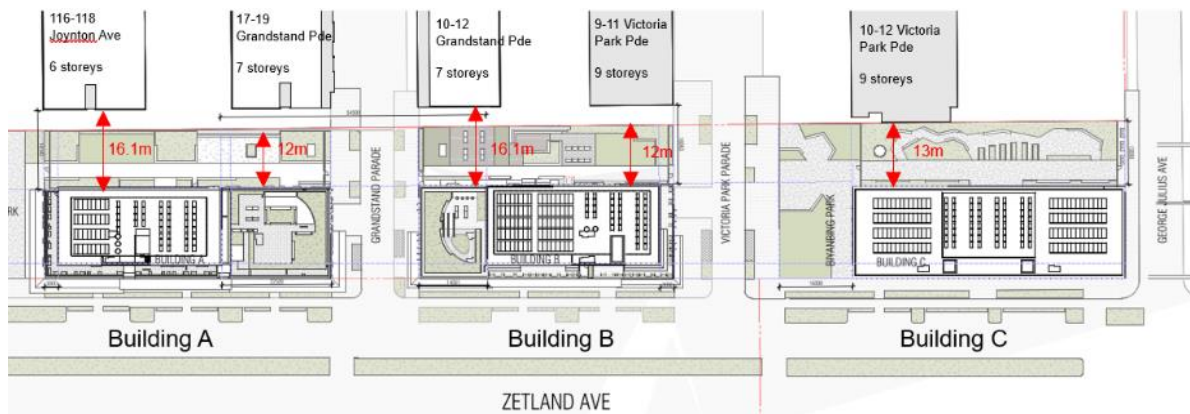


Figure 52: Plan of Buildings A, B and C with building separation distances in red

122. Buildings A and B achieve approximately 16.1m separation from the northern buildings at 116-118 Joynton Avenue, 17-19 Grandstand Parade, 10-12 Grandstand Parade and 9-11 Victoria Park Parade.

123. 12m separation is provided to the northern boundary on Buildings A and B. 13m separation is provided to the northern boundary on Building C. These setbacks from the northern boundary comply with the recommended separation between habitable rooms and balconies and side and rear boundaries, which is 6m for Levels 1-4, 9m for Levels 5-8 and 12m for 9+ storeys.

124. The ADG recommends that new development adjacent to existing buildings, including buildings that do not comply with the ADG setbacks, should provide separation distances to the boundary in accordance with the design criteria above.

125. In this instance, the proposal achieves the design criteria in terms of separation to the northern boundary. While building separation specified in Part 2F is not achieved, this is a result of existing non-compliance setbacks on the northern sites.
126. It is noted that the planning controls for Epsom Park were established prior to the commencement of the ADG. The northern neighbouring buildings also have minimal windows along the southern elevations and apartments are generally orientated east-west, which reduces the extent of overlooking between the buildings.
127. The proposed setbacks to the northern neighbouring buildings are considered acceptable as they achieve the design criteria under Part 3F of the ADG and are consistent with the building locations established in the Epsom Park DCP controls.

Building separation and visual privacy - Building groups D and E

Within the site

128. 12m separation is proposed between buildings on Building groups D and E, which is consistent with the site layout established under the SDCP 2012. However, this results in some areas of non-compliance with the recommended separation in the ADG. The key areas of non-compliance are as follows:
- (a) Building D1 to E1
- 9m separation is proposed, whereas the ADG recommends 12m separation up to 4 storeys and 18m separation up to 8 storeys.
- To mitigate visual privacy impacts, Building D1's eastern facade and Building E1's western facade contain privacy screens to all windows. Glazing on these elevations has also been minimised. Balconies on these elevations are treated with full height retractable external facade blinds to enable privacy control as well as solar shading.
- (b) Building E1 to E3
- 12m separation is proposed, while the ADG recommends 18m-24m. All windows on levels 1-8 of the southern facade of Building E3 are treated with privacy screens. A condition is recommended that requires sliding screens to balconies for additional privacy.
- (c) Building E2 to E3
- 12m separation up to Level 4 is provided, which complies. However, the additional 5th storey on Building E2 has a separation of approximately 15.2m from the equivalent storey on Building E3, which does not meet the 18m recommendation.
- The living room glazing on Building E2 has been further setback to increase separation. Privacy screens are provided to affected bedrooms. A condition of consent is recommended that requires screens to bedrooms that have sliding doors.

(d) Building E2 to D2

The additional 5th storey on Building E2 has a separation of approximately 16.2m to the equivalent storey on Building D2. This does not meet the 18m recommendation.

Minimal openings are proposed on the eastern facade of Building D2. Planting is also proposed to the perimeter of the Building E2 balcony. This is considered to achieve acceptable visual privacy.

(e) Building D1 to D2

12m separation is proposed, where 18m is recommended between 4-8 storeys. Glazing has been minimised on these elevations and windows are treated with privacy screens.

Neighbouring sites

129. The proposal generally achieves the ADG recommended building separation to neighbouring sites to the east and west of Building groups D and E.
130. An existing building at 8 Ascot Avenue is located directly north of Buildings E2 and E3, as shown in Figure 53 below. 8 Ascot Avenue is a part 7, part 15 storey residential flat building with apartments generally orientated east-west and high level windows on the southern facade (see Figure 54 below). The buildings are separated by a pedestrian path connecting Kirby Walk with Defries Avenue.

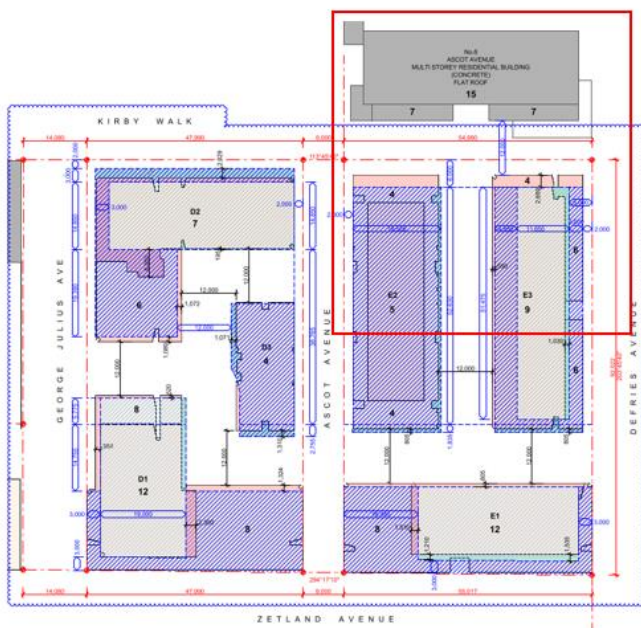


Figure 53: Site Plan of Building groups D and E, showing 8 Ascot Avenue north of Buildings E2 and E3



Figure 54: Southern facade of 8 Ascot Avenue, viewed from Defries Avenue looking west

- 131. The plans originally submitted with the application proposed an approximately 3.3m setback from the northern boundary for Buildings E2 and E3. This was an issue particularly for Building E3, which was 9 storeys up the entire northern frontage. This setback was not supported as it did not adequately address the recommended ADG building separation distances and resulted in an overbearing form.
- 132. Amended plans were submitted incorporating an additional 6m setback from the northern boundary above Level 4 for Building E3, resulting in building separations depicted in Figure 55 below.

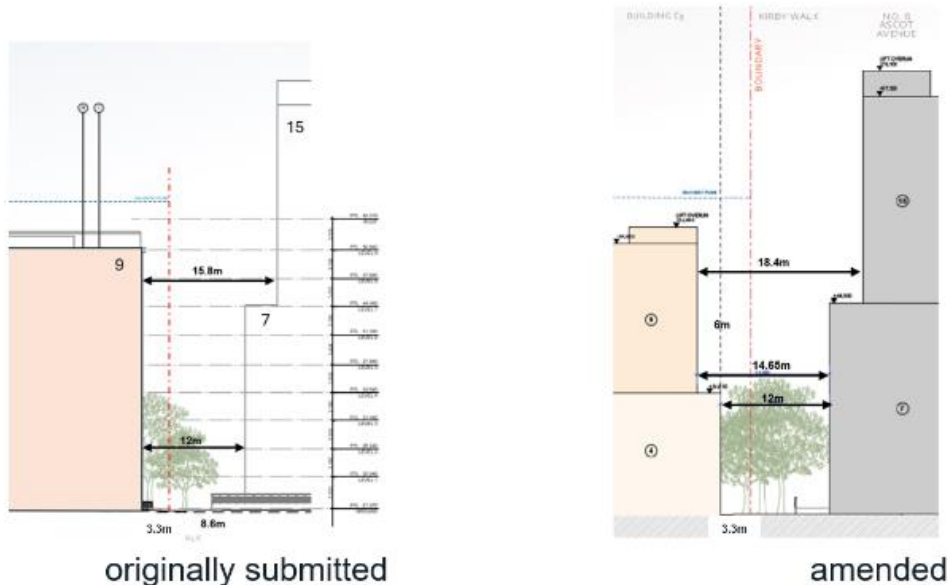


Figure 55: Originally submitted vs amended building separation between Building E3's northern frontage and 8 Ascot Avenue

133. Consideration of Buildings E2 and E3 against the ADG design criteria for building separation is summarised below:
- (a) Building E2:
 - (i) This building is 4 storeys to the northern boundary. Therefore, the 12m separation to 8 Ascot Avenue complies with the ADG design criteria.
 - (ii) The setback 5th storey has an 18m separation to 8 Ascot Avenue, which also complies with the ADG design criteria.
 - (b) Building E3:
 - (i) The 12m separation to 8 Ascot Avenue complies with the ADG design criteria for Levels 1-4.
 - (ii) For Levels 5-7, a separation of 14.7m is proposed, which does not meet the 18m ADG recommendation.
 - (iii) 8 Ascot Avenue has an increased setback above Level 7. This results in approximately 18.3m separation on Level 8, which complies with the ADG recommendation of 18m.
 - (iv) At Level 9, 18.3m separation is achieved, which does not meet the ADG recommendation of 24m.
134. The proposed building separation for Levels 5-7 and 9 of Building E3, though not strictly compliant with the ADG recommendations, are acceptable for the following reasons:
- (a) The southern elevation of 8 Ascot Avenue is predominantly treated with high-level windows, as shown in Figure 54 above. On Levels 1-7 the high-level windows service bathrooms and kitchens. Apartments in this building are also generally orientated east-west.
 - (b) The northern facade of Building E3 does not contain extensive glazing. Where windows are proposed, they are set in within the wall and are relatively narrow.
 - (c) A condition is recommended that requires north-facing balconies on Building E3 to be treated with privacy screening.
135. Having regard to the above, the amended setbacks and resulting building separation are acceptable on balance and are not considered to result in adverse visual privacy impacts, subject to conditions.

Solar access and overshadowing

Proposed apartments

136. The design criteria in Section 4A-1 of the ADG recommends that living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter. A maximum of 15% of apartments in a building should receive no direct sunlight between 9am and 3pm at mid winter.

137. A solar analysis including shadow diagrams and view from the sun diagrams was submitted with the application. The solar analysis demonstrates that 71% of apartments within the development site achieve the ADG design criteria, which complies. 8.6% of apartments receive no direct sunlight, which also complies.

Neighbouring properties

138. The abovementioned solar access design criteria must be demonstrated for neighbouring developments impacted by the proposed new buildings.
139. Provision 4.2.3.1(3) of the SDCP 2012 also specifies that new development must not create any additional overshadowing onto a neighbouring dwelling where that dwelling currently receives less than 2 hours direct sunlight to habitable rooms and 50% of the private open space between 9am and 3pm on 21 June.
140. The shadow diagrams demonstrate that Buildings A, B and C will not cause overshadowing to neighbouring residential flat buildings to the north or west of the site. Minor shadows are cast to Building D1 between 2-3pm and to the north-western corner of the Suttons site at 3pm. These impacts are minor and are acceptable.
141. The solar analysis submitted for Building groups D and E demonstrate the following impacts to neighbouring developments:

- (a) 12 Defries Avenue - Additional shadows are cast to the lower levels of this building facing Defries Avenue from 1.45pm-3pm. However, 72.5% of apartments within this building receive more than 2 hours direct solar access, which complies with the ADG.
- (b) 14 Defries Avenue - Additional shadows are cast to the lower levels of this building facing Defries Avenue from 1.45pm-3pm. However, 80.2% of apartments receive more than 2 hours direct solar access, which complies with the ADG.

It is also noted that the proposed massing of Building E3, which differs from the DCP massing, results in improved solar access outcomes for 12-14 Defries Avenue.

142. Overall, the overshadowing impacts from the proposed development comply with the design criteria in the ADG and are acceptable. The proposed massing is generally consistent with the DCP controls for Epsom Park and where deviations from the DCP massing are proposed, this results in improved solar access outcomes for 12-14 Defries Avenue.

Public open space

143. Provision 3.2.1.1(1) of the SDCP 2012 requires overshadowing effects of new buildings on publicly accessible open space to be minimised between the hours of 9am to 3pm on 21 June.
144. Shadow diagrams submitted with the application demonstrate that the development will cast shadows to the north-western portion of the sports field and the northern portion of the park at 9am, with the shadows reducing throughout the day. Most of the sports field and park are in full sun in mid-winter. The proposed shadows to the northernmost portion of the park are not considered to adversely impact the amenity of the public open space.



Figure 56: Shadow diagrams demonstrating shadows cast to Gunyama Park in mid winter

145. Urban Design Principle 1 for Epsom Park is to provide a transition of building heights, with tall buildings anticipated along the entire site fronting Zetland Avenue, as shown in Figure 57 below.

Principle 1
Transition of Building Heights

- LOW BUILDINGS
- MEDIUM BUILDINGS
- TALL BUILDINGS
- OPEN SPACE
- LANDSCAPE SETBACK
- TRANSPORT CORRIDOR

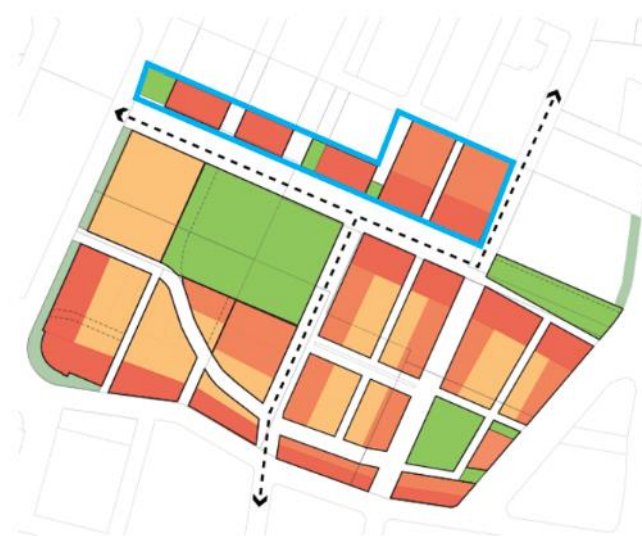


Figure 57: Urban Design Principle 1 in Section 5.3.2 of the SDCP 2012, showing the transition of building heights in the precinct and the site outlined in blue

146. The proposed buildings that impact Gunyama Park are of a height and scale that complies with the SLEP 2012 development standards and the controls for Epsom Park in Section 5.3 of the SDCP 2012. Therefore, the minor overshadowing impacts to Gunyama Park are acceptable.

Transport and access

Vehicle access strategy

147. Section 5.3.3.3 of the SDCP 2012 contains controls for Epsom Park regarding movement and connectivity throughout the precinct. Figure 5.80 - Epsom Park Circulation and Access identifies the following vehicular entry locations:

- (a) Kirby Walk on the northern side of Building D2
- (b) Victoria Park Parade on the eastern side of Building B
- (c) Grandstand Parade on the eastern side of Building A and
- (d) An optional entry on George Julius Avenue on the western side of Building C.

148. The proposal includes the following vehicle access locations:

- (a) George Julius Avenue on the western side of Building D2 for access to the basement car park
- (b) George Julius Avenue on the western side of Building D1 for access to the loading dock
- (c) Victoria Park Parade on the eastern side of Building B for access to the basement car park and
- (d) Grandstand Parade on the eastern side of Building A for access to the loading dock.

149. These vehicle access locations are shown in Figure 58 below.

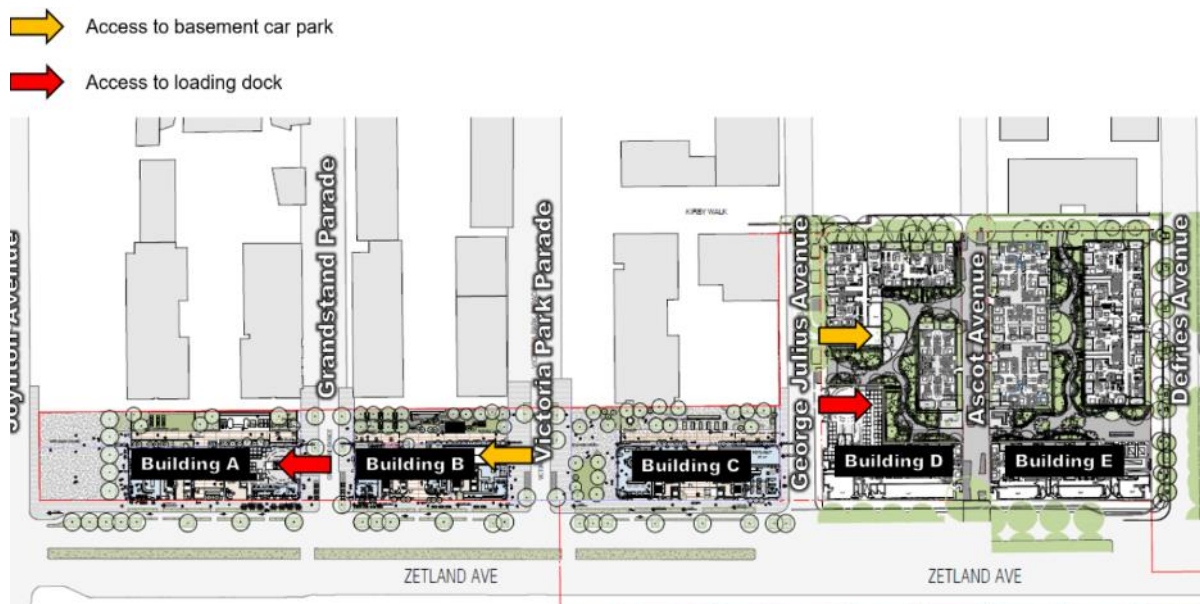


Figure 58: Proposed vehicle access locations

- 150. The proposed vehicle access locations have been consolidated to service multiple buildings, which provides the benefit of reducing points of conflict and supporting an improved public domain outcome. This is enabled by the consolidation of basements, with an eastern wing under Buildings C, D and E and a western wing underneath Buildings A and B.
- 151. Vehicle swept paths have been provided for all vehicle access locations to demonstrate compliance with Australian Standards. The swept paths demonstrate that simultaneous vehicle entry and exit will not impede the general flow of traffic along these streets.
- 152. While not strictly in accordance with the vehicle access locations identified in the SDCP 2012, the proposed vehicle access locations are supported, and the consolidation of access points results in an improved outcome for the public domain.

Loading strategy

- 153. The site-wide loading and servicing strategy is outlined in Figure 59 below and summarised as follows:
 - (a) Buildings A and B will be serviced by an at-grade loading dock within Building A, accessed from Grandstand Parade. This will accommodate Council's waste collection vehicles and other servicing and delivery vehicles.
 - (b) Buildings C, D and E will be serviced by an at-grade loading dock within Building D, accessed from George Julius Avenue.
 - (c) The proposal also includes five service vehicle parking spaces to accommodate trade vehicles and delivery vans. This includes two in the basement of Buildings A and B and three spaces in the basement of Buildings C, D and E.

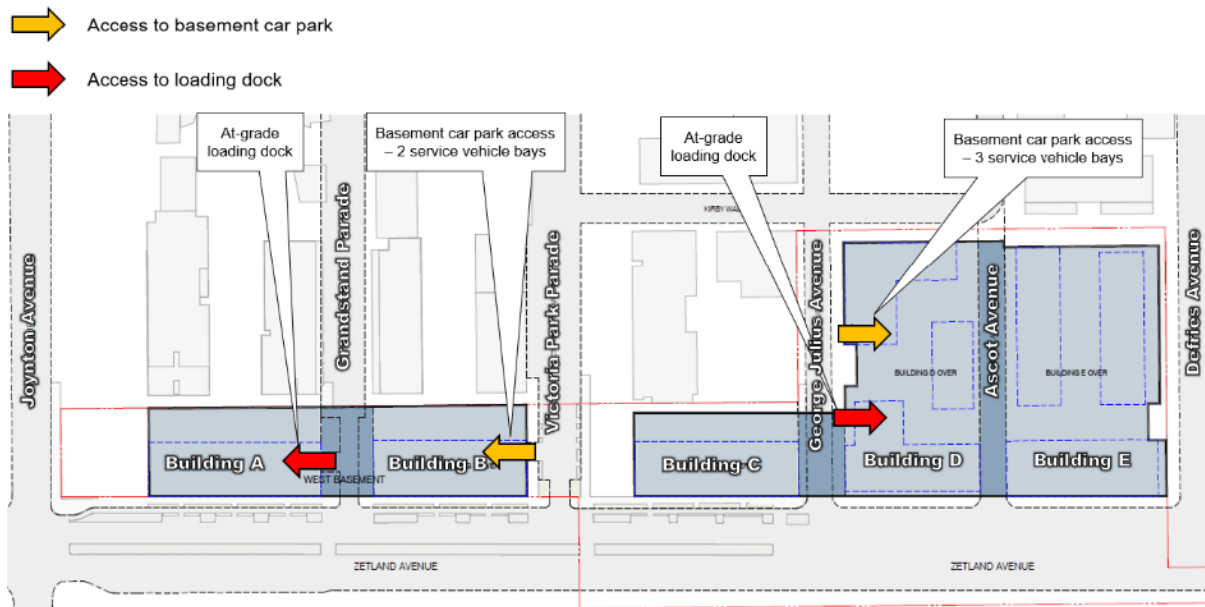


Figure 59: Site loading and servicing strategy

154. The proposed loading strategy is supported by Council's Transport and Access unit, subject to recommended conditions. This includes the requirement for a detailed Loading Dock Management Plan to ensure the loading docks are managed efficiently. Council's Waste Management Unit have recommended specific requirements to be addressed in the Loading Dock Management Plan prior to the issue of a Construction Certificate to ensure adequate spatial arrangements are achieved for waste collection.

Acoustic impacts

Acoustic attenuation and natural ventilation

155. Acoustic amenity and natural ventilation must be achieved simultaneously to demonstrate consistency with Section 4B-01 of the ADG relation to natural ventilation.
156. An Acoustic Report prepared by Acoustic Logic was submitted with the application. The report considers the issue of acoustic attenuation and natural ventilation for proposed apartments and identifies Building E1 as most affected by external traffic noise, including from the Eastern Distributor.
157. The Acoustic Report identifies some bedrooms in Building E1 facing south and east that do not achieve the required noise level of 55dB with windows open and noise mapping shows that there is an exceedance of up to 2dB at night.
158. Apartments in Building E1 with bedrooms facing balconies can achieve the required windows open noise criteria by using acoustically treated soffit linings and offsetting the openings. However, bedrooms on the external walls had not been addressed in the report. Council's Request for Information therefore recommended that further information be provided to demonstrate consistency with Section 4B-01 of the ADG.
159. An updated Acoustic Report was provided, which contains acoustic recommendations for bedrooms on external walls. This includes acoustically treating the recessed section of the external facade windows, which will ensure natural ventilation can be achieved while complying with the noise level criteria.
160. A condition of consent is recommended that requires 1:20 details to be submitted for the proposed window noise mitigation strategy.

Acoustic impacts to neighbouring properties

161. The Acoustic Report provides an assessment of the impacts of the proposed development on existing surrounding buildings having regard to the relevant noise criteria. This includes consideration of mechanical plant noise, operational noise from future commercial/ retail tenancies and noise impacts from waste collection.
162. The report provides recommendations to ensure the development complies with the relevant noise criteria. A condition is recommended that requires further details to be submitted prior to the issue of a Construction Certificate, including the completion of a verification report to ensure an acoustic review is undertaken to confirm acoustic treatments will control noise emissions to a satisfactory level.
163. To address construction noise, a separate Construction Noise and Vibration Management Plan (CNVMP) was also submitted in response to Council's Request for Information. It is noted that consent for demolition of the existing structures has been sought under a separate Complying Development Certificate and is therefore not required to be considered in the CNVMP.

164. The CNVMP includes recommendations to minimise construction noise impacts including provision of solid boundary fences as a noise barrier, community consultation and notification, quiet work methods, complaints handling processes and site inductions.
165. The CNVMP has been reviewed by Council's Environmental Health unit who advised that the plan is acceptable subject to conditions, which are included in Attachment A.

Landscaping of the site

166. The development includes site landscaping, resulting in 13% deep soil and 51% tree canopy. The landscape strategy seeks to provide extensive ground floor communal open space throughout both eastern and western precincts, creating a continuous green corridor through the site. The development also includes rooftop communal open spaces on Buildings A, B, D1, D2 and E1, as well as green roofs on the central courtyard buildings D3 and E2.
167. The key issues related to each portion of the site are summarised below.

Buildings A, B and C

168. Residents of Buildings A, B and C will have access to the shared ground floor communal open space areas. Buildings A and B also have rooftop communal open spaces.
169. The landscaping proposed for Buildings A, B and C are generally supported, subject to conditions of consent requiring the following details:
- (a) The landscape plans indicate a 1.1m high glass balustrade around the Level 8 rooftop terraces of Buildings A and B, however the architectural plans indicate a 1.5m high balustrade. This is to be clarified.
 - (b) The Pedestrian Wind Study identifies that building entrances and through site links of Buildings A and B will be exposed to uncomfortable wind conditions and recommends the use of dense undergrowth to reduce impacts. Detailed plans are to confirm that larger, shade tolerant shrubs will be utilised.
 - (c) There are some inconsistencies between the architectural and landscape plans that need to be addressed.
170. Subject to the above conditions of consent, the proposed landscaping of Buildings A, B and C is acceptable.

Building groups D and E

171. The key outstanding issue in relation to Building groups D and E landscaping relates to proposed slab set downs for the ground floor landscaping.
172. The original DA submission made allowance for 800mm slab set downs in the basements of Buildings D and E to allow trees to be planted at ground level with some mounding. The amended plans introduced reduced basement excavation by up to 2.2m, which was proposed by the applicant to minimise excavation given the level of the water table.

173. This change resulted in 250mm slab set downs for ground floor landscaping, compared to the 800mm originally proposed. Council's Landscape Officer raised concern that this may impact the feasibility of ground level tree planting due to the need for excessive mounding.
174. In response, the landscape plans were updated to increase the slab set down to a minimum of 350mm and increasing the planter wall to 550mm to increase the amount of un-mounded soil depth to 900mm. This creates greater soil volumes for root balls.
175. The above changes were accepted by Council's Landscape Officer, subject to conditions. It was noted that typical seat heights are generally 400-450mm high and therefore the 550mm high seats would be less comfortable. A condition is recommended that requires design changes such as having seats mounted to the face of the walls at 450mm or setting down the height of the walls. A condition is also recommended that requires the architectural plans to be updated to match the landscape plans and show the minimum 350mm slab set down.

Solar shading - Buildings A, B and C

176. One of the recommendations of the competitive design process Selection Panel was to ensure Buildings A, B and C provide sun shading appropriate to orientation. The DAP also recommended that unshaded glass facades on Building B be reviewed to ensure adequate solar protection.
177. The plans originally submitted with the application included northern sun shading to Building B, however no changes were made to the northern and southern facades of Buildings A and C since the design competition.
178. During the assessment, Council officers requested that the following details be provided:
 - (a) Summer sun shading to be provided to Buildings A and C
 - (b) Building B's northern summer sun shading was to be clearly shown on the plans and must be to vision glazing, not spandrel and
 - (c) Adequate summer sun shading was requested to the south-western facade of Building B. Vertical shading was recommended, such as a 250-300mm fine metal hood around the window opening that projects enough to shade the glass from the summer sun in the afternoon. A matching depth vertical blade on the mullion line was recommended to the wider window expanses.
179. The amended plans include summer shading to the northern facades of Buildings A, B and C. However, the south-western elevations of Buildings A, B and C have not been adequately addressed. Therefore, conditions of consent are recommended requiring the following details:
 - (a) The south-western elevations of Buildings A and C are to include vertical sun shading to reduce summer sun impacts and
 - (b) Building B is to be provided with vertical sun shading, such as a 250-300mm fine metal hood around the window opening that projects enough to shade the glass from the summer sun in the afternoon. A matching depth vertical blade on the mullion line to be provided to the wider window expanses.

Waste management

180. The submitted Waste Management Plan and amended architectural drawings have been reviewed and there are outstanding issues that are recommended to be addressed by conditions of consent. A summary of the outstanding issues is provided below.
- (a) Undersized retail waste storage areas (bins and bulky waste) and unresolved management strategies.
 - (b) Inadequate provision of safe residential access to dispose of food organics, bulky cardboard and problem waste.
 - (c) Ensuring the public domain design supports the movement of the City's waste collection vehicles.
 - (d) Design and management measures to ensure retail tenants cannot access residential waste storage rooms.
 - (e) Loading dock and waste collection concerns.
 - (f) Chute configuration in chute discharge rooms are to be confirmed.
 - (g) Provision of two bin tugs and trailers and adequate parking space given the excessive transfer distances required to move a large number of bins within the site.
 - (h) Amendments to waste storage areas in Building C to permit functional waste management.
181. A design modification condition specific to waste management has been recommended in Attachment A. Conditions requiring an updated Operational Waste Management Plan and Loading Dock and Basement Management Plan have also been recommended. Council's Waste Management Unit are satisfied that, subject to conditions, the development can comply with the City's waste management guidelines.

Tree management

182. The Arborist Report submitted with the application includes an assessment of 52 trees. This includes 37 trees within the public domain, 7 trees on neighbouring sites and 8 within the existing site boundaries (of which 2 are exempt species).
183. A total of 15 trees are proposed for removal to accommodate the development. Some of the trees identified for removal fall within the proposed building or new road footprints and some are identified as likely to fail due to high level impacts.
184. The remaining 41 trees are proposed for retention. Some trees will require pruning, including trees on Kirby Walk.
185. The proposal has been reviewed by Council's Tree Management Officer who raised concern in relation to the removal of the following trees:
- (a) Trees 19 and 21 located on Kirby Walk.

- Council's Tree Management Officer queried whether these could be retained through design amendments to the George Julius Avenue extension.
 - This was investigated, however the design of the George Julius Avenue connection requires two retaining walls to be built on both sides of the road due to level changes, as depicted in the Civil Plans. The retaining walls will cut into the root ball of these trees and therefore the project Arborist recommends their removal.
 - Council's Public Domain team also advised that design changes are unlikely to enable retention of these trees as George Julius is to be designed to carry vehicles and is the main vehicle access road to the site. The swept paths demonstrate that it is not feasible to avoid the trunks of these trees.
- (b) Trees 30 and 31 located on Kirby Walk at Ascot Avenue.
- Council's Tree Management Officer queried whether these could be retained through design amendments to the Ascot Avenue crossover.
 - The project Arborist identifies Tree 30 as being structurally defective at ground level, with greater than two thirds 2/3 basal wound with open wound wood face and degrading to ground level, resulting in high risk of failure tree. This creates limited opportunity for its retention.
 - Tree 31 and its TPZ/ STZ are located within the new roadway for Ascot Avenue which is required to be delivered by the SDCP 2012. The project Arborist identifies that the required infrastructure will conflict directly with the SRZ which will impact tree stability.
- (c) Tree 48 located within the curb of Zetland Avenue, on the corner of Defries Avenue.
- Council's Tree Management Officer recommended that this tree be coordinated into the design of Zetland Avenue.
 - This was explored; however the tree is located in close proximity to the proposed building and is within the splay corner setback area which is required by the DCP for sightlines and optimal pedestrian movement. The retention of the tree in this location, and under the proposed awning, is not feasible.
186. Overall, the proposed development includes substantial replacement tree planting equating to a canopy cover of 51%, which significantly exceeds the 15% requirement. The removal of the abovementioned trees is considered acceptable on balance as it has been demonstrated that their retention is not feasible and sufficient tree retention and new tree planting is proposed.
187. The impacts on trees are therefore acceptable subject to conditions, which are included in Attachment A.

Construction staging

188. A Construction Staging plan was submitted with the application which outlines the five construction stages relevant to land within the development sites (noting public domain works are sought separately under D/2024/601).

189. Construction is generally proposed in an east-west direction, beginning with Buildings D and E in the east and ending with Building A in the west. The proposed stages are summarised as follows:

(a) Stage 1 - Remediation part 1 (eastern portion of the site).**(b) Stage 2 - Building groups D and E:**

- (i) Part 2 of the remediation works.
- (ii) Shoring, excavation and construction of the basement under Buildings C, D and E.
- (iii) Construction of Building groups D and E buildings.

Note: Public Domain works proposed under D/2024/601 for Stage 2 include construction and handover of Ascot Avenue, George Julius Avenue Part 1, Defries Avenue, Zetland Avenue Part 1 and associated works.

(c) Stage 3 - Building C:

- (i) Shoring, excavation and construction of pedestrian access tunnel to Building B.
- (ii) Construction of Building C.

Note: Public domain works proposed under D/2024/601 for Stage 3 include construction and handover of Zetland Avenue Part 2, George Julius Avenue Part 2 and Biyanbing Park.

(d) Stage 4 - Building B:

- (i) Shoring, excavation and construction of the basement under Buildings A and B;
- (ii) Construction of Building B.

Note: Public domain works proposed under D/2024/601 for Stage 4 include construction and handover of Victoria Park Parade and a temporary waste loading area at Grandstand Parade.

(e) Stage 5 - Building A:

- (i) Construction of Building A.

Note: Public domain works proposed under D/2024/601 for Stage 5 include construction and handover of Grandstand Parade, Woolwash Park and Zetland Avenue connection to Link Road.

Consultation

Internal Referrals

190. The application was discussed with Council's;

- (a) Environmental Health Unit;
- (b) Environmental Projects unit;
- (c) Landscaping unit;
- (d) Public Domain Unit;
- (e) Surveyors;
- (f) Transport and Access Unit;
- (g) Tree Management Unit;
- (h) Planning Agreements;
- (i) Public art;
- (j) Safe City; and
- (k) Waste Management Unit.

191. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals

Ausgrid

192. The application was referred to Ausgrid for comment in accordance with clause 2.48 of the Transport and Infrastructure SEPP. Ausgrid did not object to the proposed development and recommended conditions of consent which have been included in Attachment A.

Sydney Airport

193. 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.

194. Clause 6(1) of the Civil Aviation (Building Control) Regulations 1988 identifies that 'prescribed airspace' includes 'the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services - Aircraft Operations (PANS-OPS) surface for the airport.'

195. The OLS for the subject site is 51m (AHD). With a maximum height of 62.665m AHD, the development will penetrate the OLS by 11.665m AHD and is therefore a 'controlled activity'.

196. 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).
197. Approval was granted for the controlled activity on 23 October 2024, subject to conditions which have been included in Attachment A.

Transport for NSW

198. The application was referred to Transport for NSW (TfNSW) in accordance with Clause 2.122 - Traffic generating development. Recommended conditions of consent have been provided by TfNSW which are included in Attachment A.

Water NSW

199. Pursuant to Sections 89 and 90(2) of the Water Management Act 2000, the application was referred to WaterNSW for concurrence.
200. General Terms of Approval were issued by WaterNSW on 4 September 2024 and have been included in the recommended conditions of consent.

Advertising and Notification

201. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 11 July and 9 August 2024. A total of 2,343 properties were notified and 37 submissions were received.
202. Following receipt of amended plans, the application was re-notified for 14 days between 25 October and 9 November 2024. One additional submission was received.
203. The submissions raised the following issues:

Issue	Response
Height	
The buildings are too tall and should be reduced in height.	<p>The proposal complies with the maximum height of buildings development standards, except for minor exceedances on Buildings D1 and E3.</p> <p>The proposal is generally consistent with the anticipated height and scale established by the planning controls that apply to the site.</p> <p>Refer to the 'Discussion' section for further details.</p>

Issue	Response
Character of the area	
The development will alter the character of Zetland.	<p>Green Square and the Epsom Park locality have long been identified for urban renewal, as reflected by the planning controls for the site which have been in place since 2012. The planning controls for the locality have facilitated the redevelopment of the area for residential and mixed use developments and new roads, infrastructure, and community facilities.</p> <p>The proposed development is consistent with the desired future character for the Epsom Park locality, as discussed in this report.</p>
Building separation	
Buildings A, B and C are too close to the northern neighbouring buildings.	The proposed setbacks to the northern boundary are consistent with the setback recommendations in Part 3F - Visual Privacy in the ADG. Refer to the 'Discussion' section for further details.
Construction impacts	
Noise from excavation and construction will adversely affect nearby residents.	<p>A Construction Noise and Vibration Management Plan (CNVMP) was requested by Council officers in the Request for Information.</p> <p>The submitted CNVMP identifies potential sensitive receivers and the major noise and vibration sources. It includes specific recommendations for the ongoing monitoring and management of noise and vibration during construction.</p> <p>The CNVMP has been reviewed by Council's Environmental Health unit who advised that the CNVMP is satisfactory subject to conditions.</p>

Issue	Response
Impacts from construction traffic.	A condition is recommended requiring preparation and approval of a Construction Traffic Management Plan.
Dilapidation reports should be required.	A condition of consent is recommended that requires dilapidation reports to be prepared for adjoining sites prior to works commencing.
Structural impacts	
The area has a high level of underground water. Excavation and pumping underground water could have structural impacts on nearby buildings.	<p>Dewatering of the site is subject to the approval of WaterNSW, who have provided concurrence for the proposal. The General Terms of Approval provided by WaterNSW are included in Attachment A.</p> <p>Conditions of consent are recommended in relation to excavation and structural impacts.</p>
The depth and extent of excavation for the basement should be restricted to reduce risk of structural damage.	<p>The basement setbacks and depth have been assessed as being acceptable. The Geotechnical Reports submitted with the application contain recommendations to manage structural impacts.</p> <p>Conditions of consent are recommended in relation to excavation and structural impacts.</p>
Continuous structural monitoring should be undertaken.	Monitoring will be undertaken throughout construction in accordance with the submitted Geotechnical Reports.
Transport and traffic impacts	
The development will cause increased residential traffic and congestion on local roads.	<p>540 car parking spaces are proposed, which complies with the maximum permitted by the SLEP 2012.</p> <p>The Traffic Report submitted with the application includes a forecast of traffic generation. When considering the previous vehicle movements from the Ausgrid depot, traffic generation from the proposed development is not considered to generate an unacceptable increase of</p>

Issue	Response
	<p>traffic movements. The numerous vehicle access points proposed and multiple traffic routes in and out will ensure traffic is distributed across the road network.</p> <p>The development density is consistent with the planning controls for the site and traffic impacts associated with this was considered as part of the broader precinct planning. The site is also serviced by public transport and provides 733 bicycle parking spaces.</p> <p>Refer to the 'Discussion' section for further details.</p>
<p>The northern section of Victoria Park Parade should be blocked off to vehicles and a 'road closure' created.</p>	<p>The public domain plans for the precinct require vehicle traffic through Victoria Park Parade. Traffic is to turn left in and left out of Victoria Park Parade from Zetland Avenue.</p> <p>The proposed vehicular traffic for Victoria Park Parade is consistent with the Epsom Park Circulation and Access plan in Figure 5.79 of the SDCP 2012. Consent for the new roads is sought separately under D/2024/601.</p>
<p>The carpark exhaust near Building C should be relocated further south.</p>	<p>Mechanical ventilation associated with the carpark exhaust will be subject to Australian Standards. Conditions are recommended in relation to carpark ventilation.</p>
<p>Clarification required regarding whether vehicle access is from Victoria Park Parade for basement parking for Buildings A and B.</p>	<p>Vehicle access to the basement of Buildings A and B is provided from Victoria Park Parade.</p>
<p>The vehicle access location on George Julius Avenue will exacerbate traffic congestion on Kirby Walk. An alternative driveway entrance should be provided on Defries Avenue.</p>	<p>The SDCP 2012 identifies vehicle access being provided from George Julius Avenue and Kirby Walk.</p> <p>Following consultation with Council, the DA proposes a consolidated car park entry for Buildings C, D and E from George Julius Avenue. This meets the intent of the SDCP 2012 with traffic</p>

Issue	Response
	<p>entering and exiting the site from the north.</p> <p>Defries Avenue is identified in the SDCP 2012 as a transport corridor and therefore vehicle access on this location is not preferred.</p>
<p>The light rail is proposed down Defries Ave into Zetland Avenue. The buildings on Defries Avenue should be setback to allow for the light rail.</p>	<p>The development is capable of accommodating potential transport corridors identified in the SDCP 2012.</p>
<p>Zetland Avenue should connect through to Link Road in both directions.</p>	<p>The design of Zetland Avenue is established by the City's public domain plans and is subject to a separate DA for public domain works (D/2024/601).</p>
<p>The location of Building D/E's service vehicle access may negatively impact the car park entrance to the EON building at 12 Victoria Park Parade on Kirby Walk.</p>	<p>Service vehicle access for Building groups D and E is proposed on George Julius Avenue. This location is unlikely to impact other car parking entrances on Kirby Walk.</p>
<p>Overdevelopment of the area</p>	
<p>The local area already contains too many apartment buildings.</p>	<p>This site has long been identified as an urban renewal site, as reflected by the planning controls in place since 2012. The proposal generally complies with the planning controls that apply to the site.</p>
<p>The development will cause a strain on local infrastructure such as water supply, sewage, and public transport.</p>	<p>The proposed development has been referred to Sydney Water and Ausgrid to consider impacts from the development on infrastructure capacity. Sydney Water and Ausgrid raised no objection to the proposed development, subject to conditions.</p> <p>Transport for NSW also reviewed the application and raised no objection subject to conditions. Transport for NSW is responsible for managing and planning public transport within the precinct.</p>
<p>There is a lack of schools and childcare centres in the area.</p>	<p>The planning controls for the site were developed with consideration of existing and planned infrastructure capacity.</p>

Issue	Response
	Green Square Public School is located immediately adjacent to the site. The DCP controls for Epsom Park also anticipate the delivery of a childcare centre. It is noted that the Concept DA for the neighbouring site to the south (Suttons site) identifies indicative uses including a centre-based childcare facility (D/2023/724).
The area needs an additional shopping centre.	The SDCP 2012 does not require a shopping centre to be delivered on this site. The proposed residential and retail uses are permissible with consent in the zone. It is noted that the Concept DA for the neighbouring site to the south (Suttons site) identifies indicative uses including a supermarket (D/2023/724).
Solar access	
The development will block sunlight to Gunyama Park.	The overshadowing impacts to Gunyama Park have been assessed and are acceptable. Refer to the 'Discussion' section for further details.
The development will block afternoon sunlight to apartments along Grandstand Parade and Victoria Park Parade.	Grandstand Parade and Victoria Park Parade are located to the north of the subject site. The shadow diagrams submitted with the application demonstrate that shadows from the proposed development in mid-winter will fall to the south-west, south and south-east.
Contamination	
Disturbance of contaminated land including asbestos could compromise air quality.	<p>Remediation of the site will be undertaken in accordance with the Remediation Action Plan, which has been reviewed by an NSW EPA accredited site auditor.</p> <p>Asbestos works will be conducted by appropriately licenced asbestos removal contractor. Conditions of consent in this regard are recommended.</p>

Issue	Response
View loss	
<p>The development will impact views from nearby apartment buildings. The following views were specifically referenced:</p> <ul style="list-style-type: none"> • 317/17 Grandstand Parade - View of Gunyama Park Sports Field. • 10 Victoria Park Parade - General views. • 433/11 Victoria Park Parade - Views from outside deck. • 19 Grandstand Parade - General views. 	<p>Some west facing apartments in buildings along Grandstand Parade and Victoria Park Parade currently enjoy views across the subject site towards the south and south-west.</p> <p>Having regard to the view sharing principles established in Tenacity Consulting v Warringah Council (2004) NEWLEC 140 ('Tenacity'), the following points are noted:</p> <ul style="list-style-type: none"> • The views to be affected are towards the south-west and are generally district views and/ or views of the Gunyama Park Sports Field as mentioned in the submissions. The views to be affected are generally without 'icons' as per Tenacity. • The views are obtained across the southern side boundaries of 17-19 Grandstand Parade, 10-12 Grandstand Parade and 9-11 Victoria Park Parade. The protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. • The portion of development that impacts the district views, being Buildings A, B and C, comply with all planning controls, meaning that the impacts are considered more reasonable. The view impacts do not arise from non-compliances. <p>Having regard to the principles of Tenacity, the view sharing achieved is considered acceptable on balance.</p>
Waste management	
<p>Retail waste and recycling between 18:00 and 5:00 is not acceptable.</p>	<p>The applicant submits that retail waste is proposed to be collected between 6am-10pm Monday to Friday and 8am-10pm</p>

Issue	Response
	on weekends and public holidays, consistent with the City's waste policy. A condition of consent is recommended that limits the hours of operation of the loading dock.
Acoustic impacts	
The development will cause increased ongoing noise levels from higher traffic and building operations.	<p>An Acoustic Report was submitted with the application which addresses operational noise impacts.</p> <p>Council's Environmental Health unit have reviewed the Acoustic Report and consider it to be satisfactory subject to conditions of consent which have been included in Attachment A.</p> <p>Refer to the 'Discussion' section for further details.</p>
Visual privacy	
The buildings will compromise the privacy of surrounding buildings including high windows facing south.	Visual privacy is considered in the 'Discussion' section of this report. The development provides adequate building separation to the boundary to achieve visual privacy in accordance with Part 3F of the ADG. Conditions of consent are also recommended to ensure visual privacy is achieved.
Landscaping and tree management	
The trees along Victoria Park Parade near Building C should be retained.	These trees are proposed to be retained.
The development will have environmental impacts such as the loss of green spaces.	<p>The site was previously used as an Ausgrid depot and contains minimal green spaces. It predominantly consists of concrete paving.</p> <p>The proposed development seeks to significantly increase the amount of deep soil, landscaping, tree planting and green roofs across the site. It also includes the provision of new public parks which will be delivered to Council. This is</p>

Issue	Response
	considered a significant improvement compared to the existing site.
Affordable housing	
The proposal does not provide any affordable housing. 5% of apartments should be affordable housing.	<p>The City of Sydney Affordable Housing Program applies to the site. This requires either the dedication of dwellings for affordable housing or making an equivalent monetary contribution in accordance with the program.</p> <p>As dwellings are not proposed to be dedicated for affordable housing, a condition of consent is recommended that requires payment of a monetary contribution for affordable housing. A payment of approximately \$28,042,370.94 will be required.</p>
Other issues	
The development should include a direct walkway from the southern end of Victoria Park Parade and Grandstand Parade through to Zetland Avenue and Joynton Avenue.	The proposal includes the extension of Grandstand Parade and Victoria Park Parade through to Zetland Avenue. Consent for these works is sought separately under D/2024/601.
Opening up Victoria Park Parade and Grandstand Avenue to Zetland Avenue will create safety and crime issues. These streets should remain closed off.	The SDCP 2012 and the City's Public Domain Concept Plans identify the extension of these streets as part of the redevelopment of this site. This is an important feature of the overall circulation and access strategy throughout the precinct.
The proposal must accommodate the extension of light rail along Joynton Avenue.	The proposed development will not prohibit future transport along Joynton Avenue.
Grandstand Parade and Victoria Park Parade should be one-way streets in opposite directions.	The SDCP 2012 and the City's Public Domain Concept Plans identify these streets as being two-way. The extension of these streets is considered separately under the public domain D/2024/601.
Fire safety should be achieved through deem to satisfy provision.	The development will be required to demonstrate compliance with the

Issue	Response
	Building Code of Australia in relation to fire safety.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

204. The City of Sydney Development Contributions Plan 2015 applies to the site. The development is subject to a section 7.11 local infrastructure contribution under this Plan.
205. Credits have been applied for the most recent past use of the site as an Ausgrid depot.
206. A condition relating to this local infrastructure contribution has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contributions to be paid prior to the issue of a construction certificate.
207. The section 7.11 contributions payable may be offset in accordance with the requirements and obligations identified in the Voluntary Planning Agreement.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

208. As discussed in the section above titled 'State Environmental Planning Policy (Housing) 2021', the application meets the requirements of section 7.32(1) and (3) of the EP&A Act 1979 allowing the imposition of a condition requiring the delivery of affordable housing by way of land dedication or monetary contribution.
209. The site is located within the Green Square affordable housing contribution area. The proposed development involves the erection of new buildings with a gross floor area greater than 200sqm. Therefore, the development is subject to the requirements of section 7.13 relating to a contribution for the purpose of affordable housing.
210. The contribution amount payable is calculated based on the Total Floor Area (TFA) of the proposed development. TFA calculation plans have been submitted, which identifies 1,170sqm of non-residential Total Floor Area (TFA) and 83,247sqm of residential TFA.
211. The contribution amount is calculated at a rate of 11,176.22sqm per square metre, for 3% of the residential TFA and 1% of the non-residential TFA. This results in a contribution of \$28,042,370.94.
212. A condition of consent is recommended requiring payment prior to the issue of any construction certificate.

Housing and Productivity Contribution

213. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
214. The site is located with the Greater Sydney region, the development is a type of residential and commercial development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.
215. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

Relevant Legislation

216. Environmental Planning and Assessment Act 1979
217. Sydney Airport Referral Act 1996
218. Water Management Act 2000
219. Sydney Water Act 1994

Conclusion

220. Approval is sought for a mixed use development comprising nine new buildings across five development sites, containing a total of 571 apartments.
221. The Public Benefit Offer has informed a draft Planning Agreement associated with the application which is to be publicly exhibited 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 draft Planning Agreement to be executed and registered on title prior to the consent becoming operational.
222. The proposal has been assessed against the aims and objectives of the relevant planning controls including the SLEP 2012, the SDCP 2012 and the Housing SEPP. Where non-compliances are proposed, they have been assessed in this report as being acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent.
223. The proposal achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future users of the site.
224. The development demonstrates design excellence in accordance with Clause 6.21C of the SLEP 2012. The development is consistent with the design intent of the winning schemes of the competitive design processes held for the site, in accordance with the City of Sydney Competitive Design Policy.

225. As a result of public notification, 38 submissions were received. The concerns raised in the submissions have been addressed as discussed within this report.
226. All matters raised by internal and external referrals have been adequately addressed as discussed within this report.
227. The proposed development is appropriate within its setting, demonstrates a design that responds to the constraints of the site and will positively contribute to the desired future character of the Green Square - Epsom Park locality. The proposal will provide residential and commercial uses and will contribute to the activation of the locality.
228. Subject to conditions, the development is in the public interest and is recommended for approval.

GRAHAM JAHN

Chief Planner / Executive Director City Planning Development and Transport

Samantha Kruize, Senior Planner