

# **Attachment C**

**S.4.55(1A) Statement of Environmental Effects**

10 July 2024

Matthew Girvan – Area Coordinator  
City of Sydney  
Level 2, 456 Kent Street  
Sydney NSW 2000

Dear Matthew,

**SECTION 4.55(1A) MODIFICATION APPLICATION – D/2021/1418  
ACACIA APARTMENTS – 330 BOTANY ROAD, ALEXANDRIA CONCEPT DA**

This application has been prepared by Ethos Urban on behalf of City West Housing (the proponent) pursuant to a section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent D/2021/1484 relating to 330 Botany Road, Alexandria.

The proposed modifications relate to a range of minor amendments to the maximum building envelope to accommodate the Competitive Design Alternatives Process winning scheme by AJC Architects and to correct conditions of consent relating to tree removal after further arboricultural investigation was undertaken.

The proposed modifications are summarised as follows:

- Amendments to the maximum building envelope to accommodate lift overruns, parapets, roof slab and minor portion of walls.
- Amendments to conditions of consent to reference the amended building envelope drawings and to correct the indicative tree removal.

The application should be read in conjunction with:

- Amended Building Envelope Drawings prepared by AJC Architects (**Attachment A**).
- Detailed DA Arborist Report prepared by Arterra (**Attachment B**).

## 1.0 Background

### 1.1 Concept DA

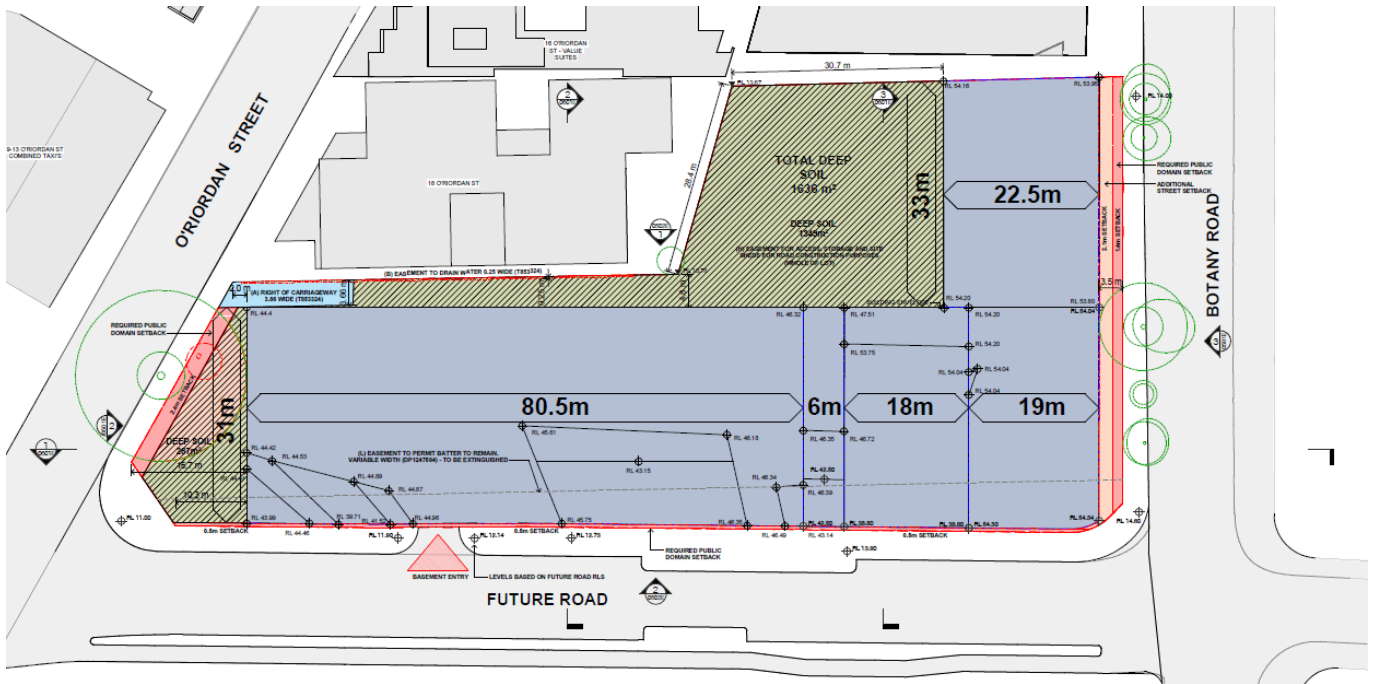
On 12 September 2023, a Concept DA (D/2021/1484) was approved by the City of Sydney CEO under delegated authority from the Central Sydney Planning Committee (CSPC) for a mixed-use development comprising affordable housing, commercial/retail floorspace and car parking accessed via the new Green Square to Ashmore Connector Road (GS2AC Road). Specifically, the Concept DA was granted approval for:

*Concept approval for a building envelope for a mixed use development comprising retail and commercial uses and shop top housing for the purpose of providing affordable housing, with a vehicular access location from the Green Square to Ashmore Connector Road and public benefits including dedication of land for footpath widening to each of its three street frontages.*

Condition 5 of the Concept DA required amended building envelope plans to be submitted to Council to clearly indicate the proposed easement and areas of deep soil. Subsequently, amended building envelope plans were submitted, and Condition 5 was confirmed as satisfied by Council on 29 September 2023. The amended site plan is provided at **Figure 1**.

Key features of the approved Concept DA include a maximum height of RL54.34 on the south-eastern corner of the building envelope and a height of RL 46.49 in the middle of the southern boundary of the building envelope (inclusive of 10% additional height subject to design excellence, as proposed through the completed Competitive Design Alternatives Process.

The Concept DA envelope also allowed for an indicative separation between the two mixed-use buildings of 18m at ground level. It is noted that this separation is marked on the Concept DA approved plans as indicative only.



**Figure 1** Approved Concept DA Building Envelope Site Plan

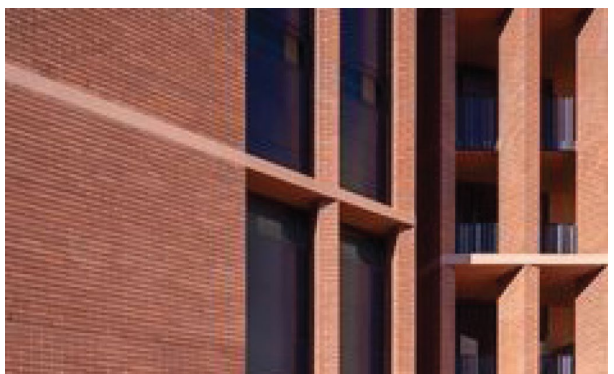
Source: SJB

## 1.2 Competitive Design Alternatives Process

Subsequent to the Concept DA approval, in accordance with Section 4.3 of the *City of Sydney Competitive Design Policy 2020*, a Competitive Design Alternatives Process was held in late 2023, commencing on 13 October 2023. The purpose of this competitive design alternatives process was to select the scheme that exhibited the highest quality architectural, landscape and urban design solution in response to the Competitive Design Alternatives Process Brief prepared. Three architectural teams were invited to participate in the competitive design alternatives process and included (in alphabetical order):

- AJC Architects.
- EM BE CE Studio.
- SJB Architects.

The Selection Panel's assessment and decision making was based on the Competitor's final submission and presentations. Following the final presentations, the Selection Panel selected AJC Architects as the winning architect given the proposal provided an innovative approach to the constraints of the site and was the most robust in concept. In addition to this, the scheme also provided a high level of amenity for residents, including daylight and natural ventilation to all rooms in the development through an innovative approach to massing. Photomontages of the winning scheme are provided at **Figure 2**.



**Figure 2** Photomontage of the selected AJC Architects competition entry

Source: AJC Architects

### 1.3 Detailed DA

A Detailed DA is formally lodged with Council concurrently to this modification, for the mixed-use development subject to AJC's competition winning scheme. Prior to the Detailed DA being lodged, the proponent undertook ongoing consultation with Council officers on the design which included, at a high level, discussion on the modifications required to the Concept DA.

Specifically, the Detailed DA as lodged seeks approval for:

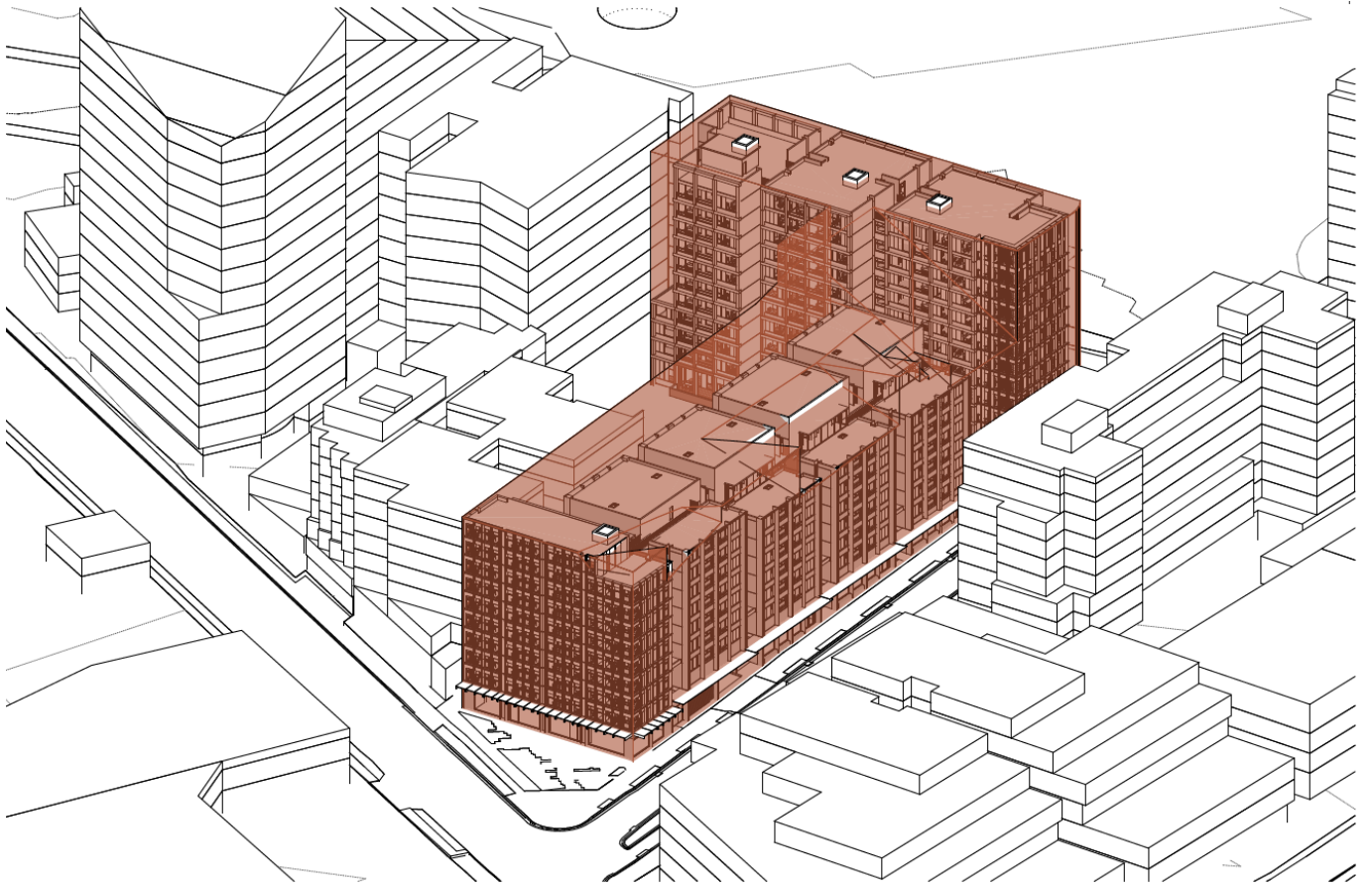
- Site preparation works including demolition, bulk excavation and tree removal.
- Construction and operation of two mixed-use buildings of up to 10-storeys and 12-storeys in height, comprising:
  - 9 levels of affordable rental housing in Cores A, B, C, D and E, and 11 levels of affordable rental housing in Cores H, G and F, equating to 255 affordable rental units.
  - Lobbies at the Ground Level of each building.
  - Non-residential ground floor, equating to 937m<sup>2</sup> of floor space.
- Construction of a part below, part above-ground parking/basement for parking and servicing, with vehicle access from the new GS2AC road, comprising:
  - 18 car parking spaces.
  - 2 motorcycle spaces.
  - 292 bicycle parking spaces.
  - Loading dock facilities, including 3 spaces.
- Landscaping and public domain works, including:
  - Incorporation of new trees, paving and seating.
  - Provision of ground plane central communal open space, and pockets of public open spaces.
  - Rooftop communal open space area at Core H.
- Remediation of the site, as needed.
- Extension and augmentation of services and infrastructure as required.

### 1.4 Proposed Modification

The AJC competition winning scheme protruded beyond the approved building envelope in several locations, to a minor extent. The Detailed DA seeking approval for construction of the development also included some protrusions beyond the envelope, generally consistent with those endorsed with the competition winning scheme.

As such, this modification application is made to amend the Concept DA to reflect the detailed design of the proposed development.

A 3D image showing the detailed design and the approved building envelope is provided at **Figure 3**. The extent of protrusions can be seen in this image.



**Figure 3** Comparison between detailed design of the development and the approved building envelope

Source: AJC Architects

## 2.0 Proposed Modifications to the Consent

The proposed modifications relate to a range of minor amendments to the maximum building envelope to accommodate the Competitive Design Alternatives Process winning scheme by AJC Architects and to correct conditions of consent relating to tree removal after further arboricultural investigation was undertaken.

Specifically, the proposed modifications include:

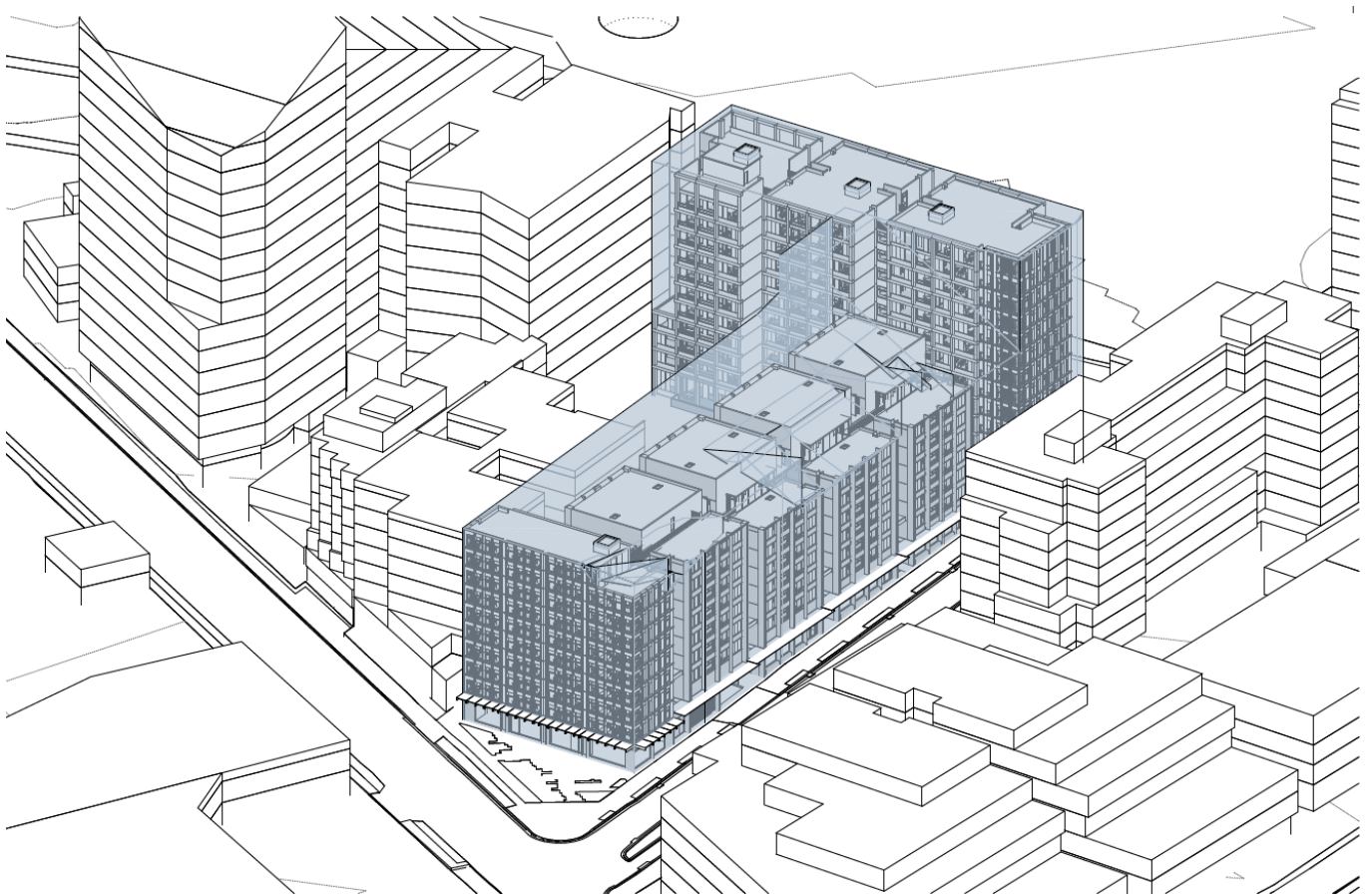
- Amendments to the maximum building envelope to accommodate lift overruns, parapets, roof slab and minor portion of walls.
- Amendments to conditions of consent to reference the amended building envelope drawings and to correct the indicative tree removal.

The proposed modifications are described in greater detail below.

### 2.1 Modifications to the Development

#### 2.1.1 Concept Envelope

The Detailed DA proposes several minor variations to the concept envelope as approved under D/2021/1484. The amendments are due to design development through the competitive design process and post competition phase. These modifications are required to support the design excellence outcome identified, and in part, were supported by the Selection Panel. The protrusions beyond the approved envelope are shown at **Figure 3**. The proposed amended envelope is shown at **Figure 4**, with the detailed design contained within the amended envelope (with the exception of awnings over the public domain). The proposed amended building envelope site plan is shown at **Figure 5**.

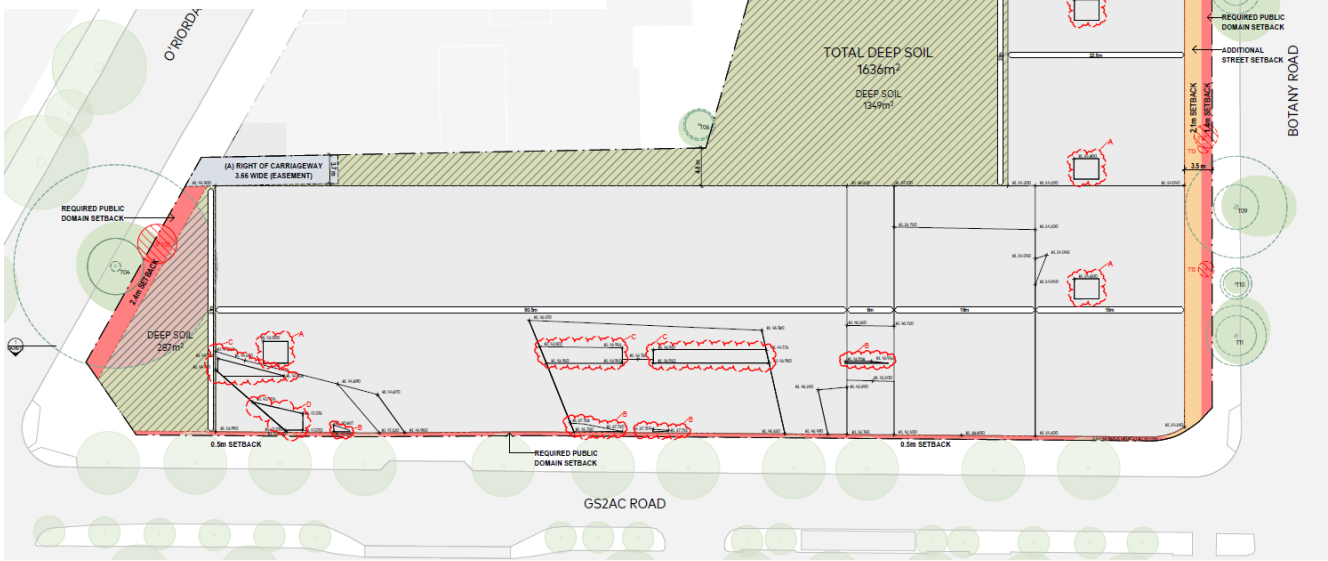


**Figure 4** Proposed amended building envelope with detailed design contained within

Source: AJC Architects

## Schedule of Amendments

- A Amended to accommodate lift overrun
- B Amended to accommodate parapet
- C Amended to accommodate roof slab & parapet
- D Amended to accommodate minor portion of wall, roof slab & parapet

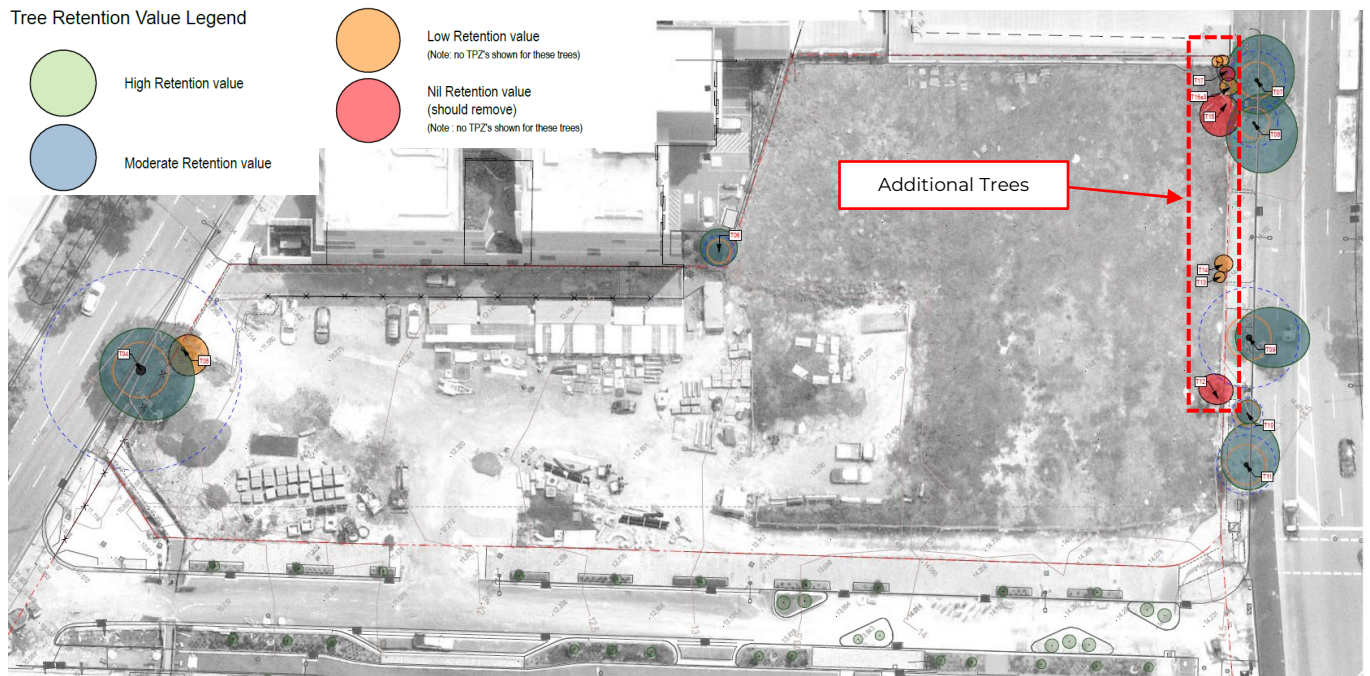


**Figure 5** Proposed amended building envelope site plan, modifications shown in red

Source: AJC Architects

### 2.1.2 Correction to Tree Removal Condition

Further arboricultural investigations were undertaken by Arterra to inform the Detailed DA. Several small trees within the site were identified which did not exist at the Concept DA stage (too small to be considered trees). These trees are shown at **Figure 6** and **Attachment B**. All trees are of low to nil retention value. Consent to remove the trees is sought in the Detailed DA, however modifications to the conditions of the Concept DA are required to allow the Detailed DA to seek their removal.



**Figure 6** Tree identification plan, new trees shown in red box

Source: Arterra



## 2.2 Modification to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **bold strike through** and words to be inserted are shown in **bold italics**.

### (2) APPROVED DEVELOPMENT

(a) Development must be in accordance with Development Application No. D/2021/1484 dated 20 December 2021 and the following drawings prepared by **SJB AJC** Architects:

Drawing Number	Drawing Name	Date
<del>SK-0103E/14</del> <b>DA0103E REV 18</b>	Envelope – Site Plan	<del>29/05/2023</del> <b>08/07/2024</b>
<del>SK-0501E/11</del> <b>DA0501E REV 12</b>	Envelope – Elevation – East & West	<del>24/05/2023</del> <b>08/07/2024</b>
<del>SK-0502E/17</del> <b>DA0502E REV 18</b>	Envelope – Elevation – North & South	<del>29/05/2023</del> <b>08/07/2024</b>
<del>SK-0601E/11</del> <b>DA0601E REV 12</b>	Envelope – Sections	<del>24/05/2023</del> <b>08/07/2024</b>

**Reason:** To ensure the consent accurately references the amended building envelope drawings.

### (21) TREES IDENTIFIED FOR REMOVAL

(a) For the purposes of the competitive design process and subsequent DA for the detailed design of the building the tree detailed in Table 1 below is identified for removal.

(b) No consent is granted or implied for any tree removal works under this consent. Consent for tree removal must be sought under a subsequent DA for the detailed design of the building.

Table 1 – Tree Removal:

Tree No	Botanical (Common Name)	Location
5	<i>Cupressus macrocarpa</i> (Monterey Cypress Pine)	330 Botany Road
<b>12</b>	<b><i>Robinia pseudoacacia</i></b> <b>(Black Locust)</b>	<b>330 Botany Road</b>
<b>13</b>	<b><i>Corymbia citriodora</i></b> <b>(Lemon Scented Gum)</b>	<b>330 Botany Road</b>
<b>14</b>	<b><i>Eucalyptus botryoides</i></b> <b>(Bangalay)</b>	<b>330 Botany Road</b>
<b>15</b>	<b><i>Robinia pseudoacacia</i></b> <b>(Black Locust)</b>	<b>330 Botany Road</b>
<b>16</b>	<b><i>Eucalyptus microcorys</i> x 3</b> <b>(Tallowood)</b>	<b>330 Botany Road</b>
<b>17</b>	<b><i>Cinnamomum camphora</i></b> <b>(camphor Laurel)</b>	<b>330 Botany Road</b>

**Reason:** As described earlier in this report, trees 12-17 were identified from further arboricultural investigations undertaken to inform the Detailed DA, which did not exist as “trees” at the time of the Concept DA. Condition 21 currently only allows Tree 5 to be sought for removal in the Detailed DA. It is proposed to modify Condition 21 to ensure the Detailed DA can seek removal of the low/nil retention trees 12-17 at the site.

### 3.0 Substantially the Same Development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if 'it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)'.

The development as proposed to be modified, is substantially the same development as that originally approved in that:

- The proposed modifications to the building envelope are minor and only seek to reflect minor detailed design development changes resulting from the Detailed DA.
- The proposed modifications do not seek to amend the approved land use – which will remain as an affordable housing and commercial and retail mixed-use development.
- The proposed modifications do not result in a change to the overall gross floor area (GFA) or floor space ratio (FSR).
- The proposed modified development does not give rise to any new or different potential environmental impacts compared to the approved development in terms of relevant matters at section 4.15.
- The public benefits delivered by the approved development in the form of a high-quality built form outcome that contributes positively to the visual amenity of the street will continue to be provided.
- The proposed modifications do not alter the development's compliance with the relevant statutory planning instruments and development control plan.
- The proposed modifications will not result in any new environmental impacts other than those considered as part of the Detailed DA.

## 4.0 Planning Assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *'it is satisfied that the proposed modification is of minimal environmental impact'*. Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The assessment undertaken in the Statement of Environmental Effects (SEE) submitted with the originally approved DA and Council's assessment report remains unchanged except where addressed below.

### 4.1 State Environmental Planning Policies

**Table 1** Summary of consistency with State Environmental Planning Policies

Plan	Assessment
State Environmental Planning Policy (Resilience and Hazards) 2021	No changes to the development have been made which would impact the contamination status of the site.
State Environmental Planning Policy (Housing) 2021	The modified proposed development continues to be consistent with the nine design principles listed within Chapter 4 of the Housing SEPP. No changes are proposed to the compliance as per the Detailed DA.
State Environmental Planning Policy (Sustainable Buildings) 2022	No changes to the development have been made which would impact the sustainability and energy of the proposal.
State Environmental Planning Policy (Transport and Infrastructure) 2021	No changes to the development have been made which would impact the traffic and transport access of the site.

### 4.2 Sydney Local Environmental Plan 2012

An assessment of compliance and the key provisions of the Sydney Local Environmental Plan 2012 for the amended building envelope is provided in **Table 2** below.

**Table 2** Summary of consistency with the Sydney Local Environmental Plan 2012

Plan	Assessment
Clause 2.3 Zone Objectives and Land Use Table	The site is zoned E3 Productivity Support. This modification application does not alter the Detailed DA's compliance with the objectives of the E3 Productivity Support zone. The proposal will continue to: <ul style="list-style-type: none"> <li>• Support the viability of the Green Square Town Centre through the provision of shops and residential accommodation.</li> <li>• Increase employment opportunities near existing transport infrastructure.</li> <li>• Support the day to day needs of workers by providing affordable housing near existing transport infrastructure.</li> </ul>
Clause 4.3 – Height of Buildings	The modified envelope increases in height to part 40.6m, and part 33.25m to accommodate lift overruns. This exceeds the LEP height limit of 40m and 33m by up to 0.6m (1.5%). A Clause 4.6 Variation Request is made with the Detailed DA to seek approval of the variation. The Clause 4.6 Variation Request demonstrates that the proposal achieves the objectives of the building height development standard and that there are sufficient environmental planning grounds to support the variation notwithstanding the minor height breach.
Clause 4.4 – Floor Space Ratio	N/A
Clause 5.10 – Heritage Conservation	No change as a result of the proposed modifications.
Clause 5.21 – Flood Planning	No change as a result of the proposed modifications.
Clause 6.21C – Design Excellence	No change as a result of the proposed modifications.
Clause 6.21D – Design Excellence	No change as a result of the proposed modifications. The modification seeks to accommodate the competition winning design.

Clause 7.5 – Residential Flat Buildings, Dual Occupancies and Multi Dwelling Housing	No change as a result of the proposed modifications.
Clause 7.6 – Office Premises and Business Premises	
Clause 7.7 – Retail Premises	
Clause 7.9 – Other Land Uses	
Clause 7.13A – Affordable housing in Business Area	No change as a result of the proposed modifications.
Clause 7.14 – Acid Sulfate Soils	No change as a result of the proposed modifications.
Clause 7.20 – Development Requiring or Authorising Preparation of a Development Control Plan	No change as a result of the proposed modifications.
Clause 7.25 – Sustainable Transport on Southern Employment Land	No change as a result of the proposed modifications.

### 4.3 Sydney Development Control Plan 2012

Compliance with the Sydney DCP 2012 remains unchanged in light of the proposed modifications.

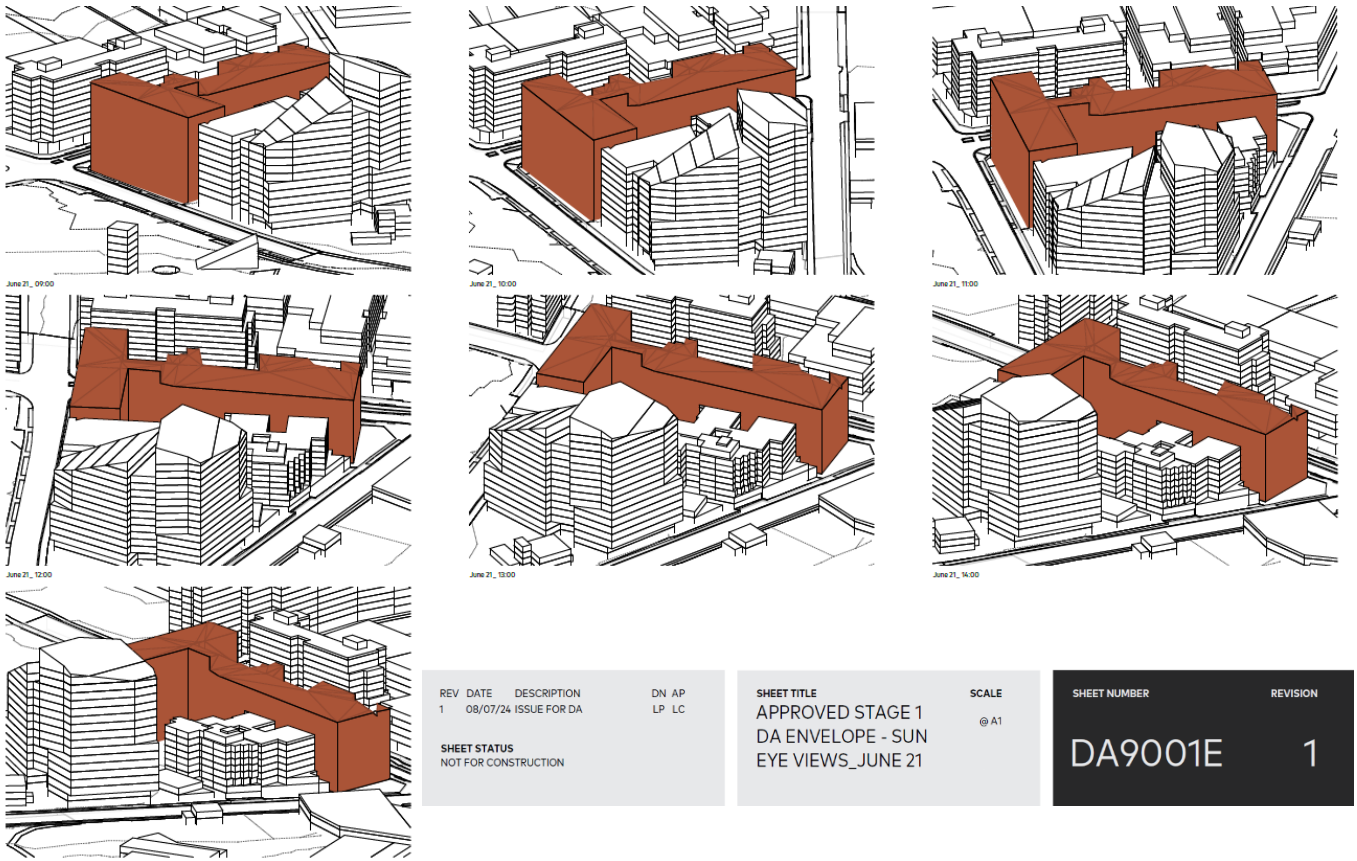
### 4.4 Overshadowing

AJC Architects have undertaken an overshadowing study for the modified development (refer to **Attachment A**). This study has examined the overshadowing from the approved and proposed building envelope within the context of existing overshadowing from surrounding buildings within the immediate vicinity of the site. The change in overshadowing is minimal and largely imperceptible from the approved to the amended building envelope.

Mid-winter sun-eye diagrams showing the approved building envelope and proposed amended envelope are provided at **Figure 7** and **Figure 8**, respectively, which show the change is minor.

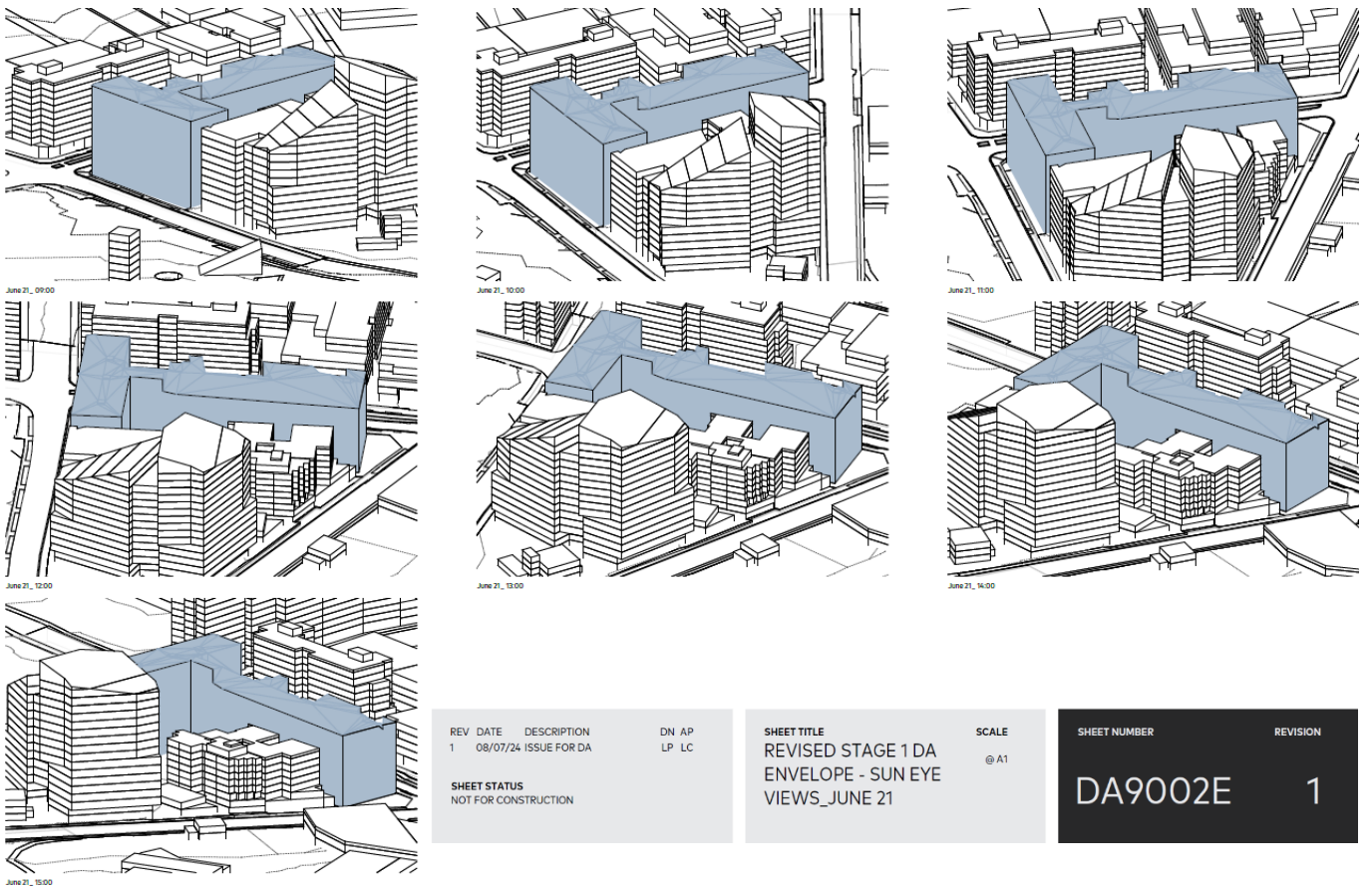
### 4.5 Visual Impact

The modified development will have a negligible impact on the visual appearance of the proposal, as compared to the approved built form. The modifications to the envelope are minor and the additional height to accommodate the lift core is located centrally within the buildings and is not visible from the surrounding public domain.



**Figure 7** Hourly sun-eye diagrams of approved building envelope, mid-winter

Source: AJC Architects



**Figure 8** Hourly sun-eye diagrams of proposed amended building envelope, mid-winter

Source: AJC Architects

## 4.6 Reasons for Granting Consent

The reasons for the CSPC granting consent, and how the modifications continue to achieve these reasons, are set out in **Table 3**.

**Table 3** CSPC reasons for granting consent

Reasons	Comment in respond of Modification Application
The concept proposal is for a building envelope for a mixed-use development including commercial uses and residential apartments for the purpose of providing affordable housing.	The proposed modified development does not seek to change the approved uses.
The proposal secures public benefits comprising land dedication and embellishment works for footpath widening and payment of a monetary contribution towards community infrastructure provision in Green Square.	The proposed modifications do not seek to change the public benefit offer.
The mixed-use development contains shop-top housing for the purposes of affordable housing and may be carried out on the land which is identified as "Business Area" on the Locality and Site Identification Map and in accordance with the provisions contained at clause 7.13A of the Sydney Local Environmental Plan 2012.	The modified development does not impact potential compliance with clause 7.13A.
The proposed envelope complies with the 33m to 40m height controls pursuant to clause 4.3 and are capable of accommodating development that complies with the floor space ratio controls pursuant to clauses 4.4, 6.14 and 6.21D of the Sydney Local Environmental Plan 2012.	Minor exceedances of the height limit are proposed (up to 1.5%) to accommodate lift overruns that provide access to the upper level affordable housing units. A Clause 4.6 Variation Request accompanies the Detailed DA and seeks approval for this variation.
The concept proposal is capable of satisfying the relevant objectives of the Sydney Development Control Plan 2012.	The modified development does not impact the ability for the objectives to be achieved.
The concept proposal and Design Excellence Strategy establish a concept building envelope and suitable parameters for a competitive design process. Subject to the recommended conditions, the proposed envelopes can accommodate a detailed building design of an appropriate bulk and scale, that responds to the character of the area, and which is capable of achieving design excellence.	The modified development seeks to accommodate the competition winning scheme so that the Detailed DA can achieve design excellence.

## 4.7 Minimal Environmental Impact

The proposed modifications are considered to be of minimal environmental impact in accordance with section 4.55(1A) of the EP&A Act for the following reasons:

- Changes to the approved envelope are extremely minor in nature and do not noticeably impact the visual appearance of the envelope.
- Overshadowing impacts are negligible as demonstrated in **Section 4.4**.
- The proposed modifications do not seek to amend the approved land use – which will remain as an affordable housing and commercial and retail mixed-use development.
- The proposed modifications do not result in a change to the overall GFA or floor space ratio FSR.
- There is no change to the public benefits associated with the VPA executed for the site.

## 5.0 Conclusion

The proposed modifications seek to introduce a number of detailed design and condition changes to enhance the development as a result of the outcomes of the Competitive Design Alternatives Process and post-competition design development. Corresponding changes to the consent condition as described throughout this report facilitate the site's future development as proposed.

In accordance with section 4.55(1A) of the EP&A Act, Council may modify the consent as:

- The consent, as proposed to be modified, is substantially the same development as development for which the consent was granted.
- The proposal, as proposed to be modified, will result in minimal environmental impacts.
- The proposal remains generally consistent with the relevant plans, policies and controls.
- The proposal will not result in any adverse unreasonable impacts to the amenity of surrounding land uses.
- Supporting technical studies which accompany this modification application and the Detailed DA confirm that the environmental impacts associated are manageable and will not give rise to any new adverse impacts.
- The proposed development remains to be suitable for the site and is in the public interest.

Overall, the proposed modifications to the development seek to fine-tune the scheme and represent a net community and resident benefit in terms of functionality and amenity.

In light of the above, we therefore recommend that the proposed modification is supported by Council.

Yours sincerely,



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