

**Item 6.****Development Application: 330 Botany Road, Alexandria, D/2024/581**

File No: D/2024/581

**Summary****Date of Submission:** 17 July 2024

Amended plans received 4 October 2024

**Applicant:** City West Housing**Architect/Designer:** AJC Architects**Developer:** City West Housing**Owner:** City West Housing**Planning Consultant:** Ethos Urban**DAP Meeting Date:** 12 September 2024**Cost of Works:** \$171,086,787**Zoning:** E3 Productivity Support**Proposal Summary:** A detailed development application for a affordable rental housing comprising 225 dwellings, 8 ground floor retail/commercial tenancies, car and bicycle parking, waste room, services, signage, landscaping, civil works and remediation.

The proposed development is Integrated Development under the Water Management Act 2000 Section 91, therefore requiring General Terms of Approval (GTAs) to be issued by WaterNSW. Water NSW issued GTAs on 2 October 2024.

This subject application (D/2024/581) requires a minor amendment to the approved D/2021/1484 Stage 1 concept envelope which was determined by CSPC on 12 September 2023 as a deferred commencement consent subject to a Voluntary Planning Agreement (VPA) being entered into between the Council of the City of Sydney and City West Housing. D/2021/1484 development consent was active on 26 September 2023 as the VPA was registered on title.

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

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

**Development Controls:** Environmental Planning and Assessment Act 1979  
Environmental Planning and Assessment Regulations 2021  
Water Management Act 2000  
State Environmental Planning Policy (Housing) 2021  
State Environmental Planning Policy (Resilience and Hazards) 2021  
State Environmental Planning Policy (Transport and Infrastructure) 2021  
State Environmental Planning Policy (Biodiversity and Conservation) 2021  
State Environmental Planning Policy (Planning Systems) 2021  
Sydney Local Environmental Plan 2012 (SLEP 2012)  
Sydney Development Control Plan 2012 (SDCP 2012)

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Height of Building

## Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.3 Height of Building in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application Number D/2024/581 subject to the conditions set out in Attachment A to the subject report.

## Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
  - (i) 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 Clause 4.3 Height of Building development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney LEP 2012; and
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the E3 Productivity Support zone, Clause 4.3 Height of Buildings development standard and Clause 4.4 Floor Space Ratio development standard; and
  - (iii) the proposal has been assessed against the aims and objectives of the relevant planning controls, including the State Environmental Planning Policy (Housing) 2021, Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012. Where non-compliances exist, they have been demonstrated to be acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent; and
  - (iv) the development achieves a high standard of architectural design, materials and detailing, and will contribute positively to the public domain. The development achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore exhibits design excellence in accordance with Clause 6.21C of the Sydney Local Environmental Plan 2012; and
  - (v) the Stage 1 concept approval, D/2021/1484 is proposed to be amended concurrently with this D/2024/581 and ensures that the concept and detailed design envelopes are consistent; and
  - (vi) the proposal is consistent with the design and intent of the winning scheme from the Competitive Design Alternatives Process (Council reference CMP/2021/3).

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 10 DP 1247504, known as 330 Botany Road, Alexandria. It is irregular in shape with area of 6,709sqm. It has a frontage of 61.6m to Botany Road to the east, a frontage of 132.9m to the Green Square to Ashmore Connector (GS2AC) Road ('Ngamuru Avenue') to the south and a frontage of 32.5m to O'Riordan Street to the west.
2. The site benefits from development consent D/2021/1484, relating to the Stage 1 Concept Building Envelope approval. This approval involved a VPA and land dedication to the City of Sydney Council around the peripheries of the site at Botany Road, the GS2AC Road ('Ngamuru Avenue') and O'Riordan Street. It resulted in approximately 228.2sqm being dedicated to the City of Sydney Council.
3. Levels at the site fall from the south-east corner (RL 14.782) to its south-west corner (RL 10.687) by 4.095m.
4. The previously existing warehouse buildings were demolished between 2019 and 2020. The site has remained vacant since this time and used occasionally for stockpiles of materials and soil.
5. A right of carriageway 3.66m in width and approximately 17m to 19m in depth, affects the north-west corner of the site and benefits the adjacent property to the north at 18 O'Riordan Street. Other easements affect the site including an easement to drain water 0.55m wide which runs along the northern boundary with 18 O'Riordan Street.
6. To the north at 326-328 Botany Road is a low-rise warehouse building. This site has development consent (D/2021/700/B) for a 10-storey commercial building.
7. To the north-west at 16 and 18 O'Riordan Street are two 8-storey hotel developments.
8. To the east and off the eastern side of Botany Road is 377-495 Botany Road, Zetland, which is currently vacant.
9. To the south-east at the intersection of Botany Road and Geddes Avenue is 499 Botany Road which is a construction site for the building 'Alba', a 15 storey mixed use residential development undertaken by 'Bridgehill'.
10. To the south and off the southern side of Ngamuru Avenue is 338 Botany Road which is presently owned by the City with development consent (D/2019/87) for a Stage 1 concept development and pending / under assessment D/2024/273 for a Stage 2 detailed design of a 10-storey mixed use development included 111 affordable housing dwellings with ground floor commercial uses. St George Community Housing is the developer for this site.
11. The site is not identified as a heritage item. It is not in the vicinity of a heritage item, nor is it located within a heritage conservation area.
12. The site is located within flood prone land and subject to the Sydney Development Control Plan 2012 flood controls.
13. The site is located within the locality of North Alexandria, which is within both the Green Square urban renewal area and the Southern Enterprise Area. Its Botany Road frontage is within the Village Main Streets signage zone.

- 14. A site visit was carried out on 22 October 2024. Photos of the site and surrounds are below.



Figure 1: Aerial view of site and surrounds (Near Map September 2024)



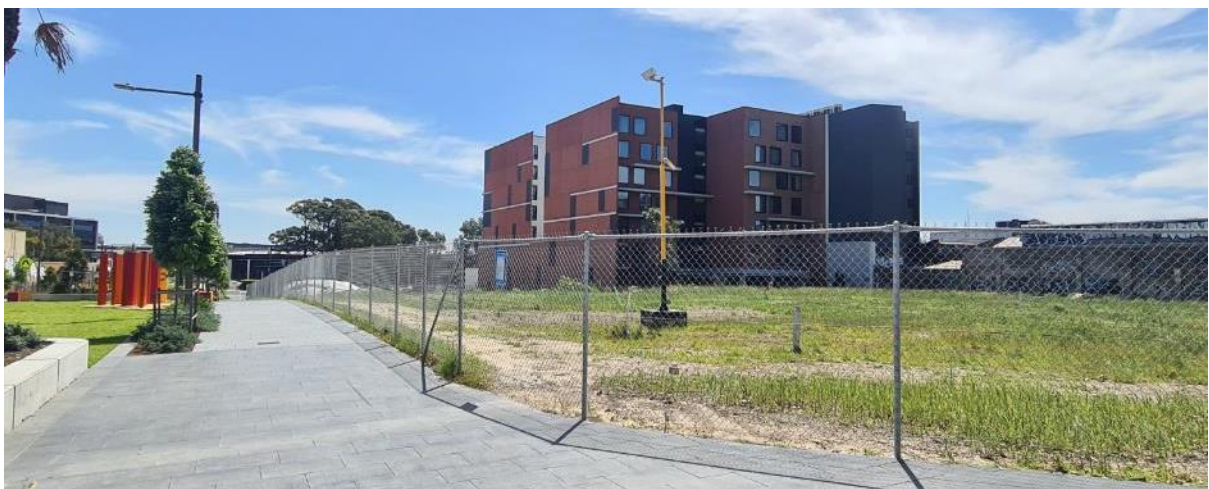
Figure 2: Aerial oblique view of site and surrounds (Near Map May 2023)



**Figure 3:** View looking west, of the subject site at the western frontage to Botany Road



**Figure 4:** View looking west, at the eastern end of Ngamuru Avenue that separates the subject site and 338 Botany Road



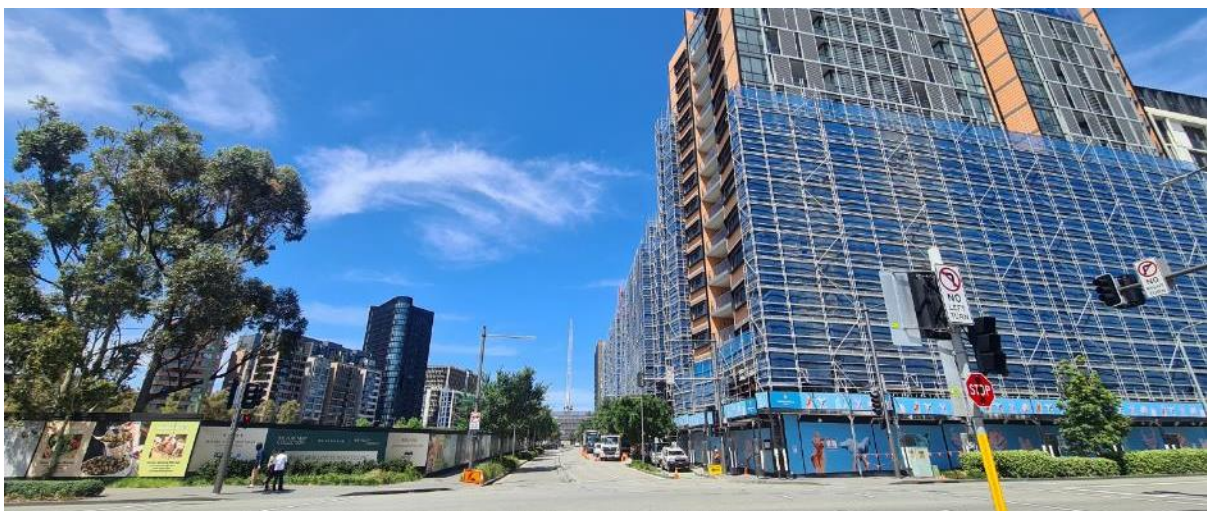
**Figure 5:** View looking west with the subject site fenced off, Ngamuru Avenue on the left and the Veriu Hotel at 18 O'Riordan Street in the background



**Figure 6:** View looking north, of the subject site fenced off



**Figure 7:** View looking west along Ngamuru Avenue, subject site (right) and 338 Botany Road (left)



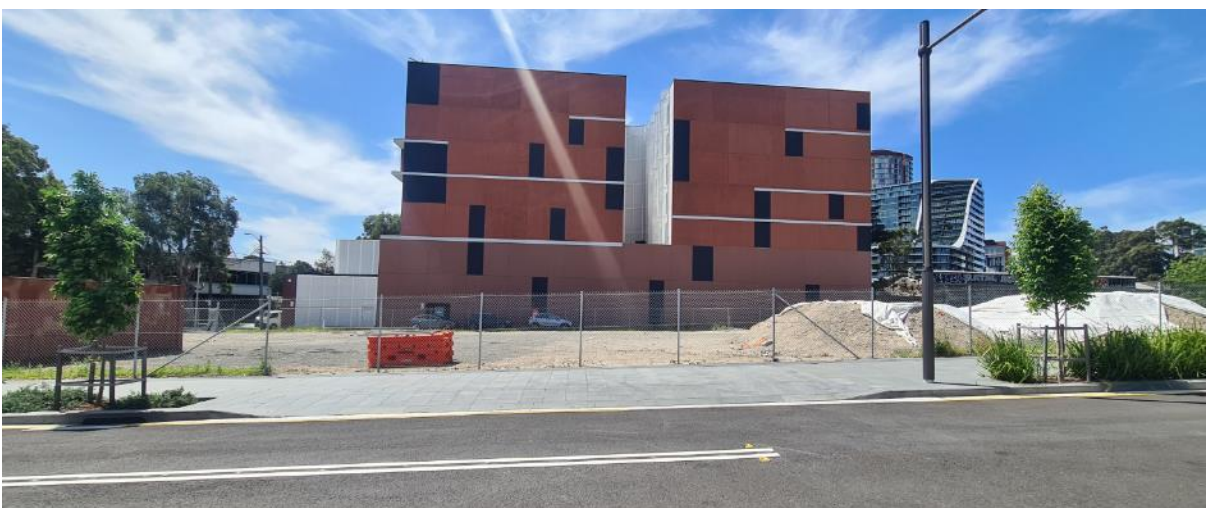
**Figure 8:** View looking east to 499 Botany Road, the 'Alba' development by 'Bridgehill'



**Figure 9:** View looking east over the subject site and to the Green Square Town Centre



**Figure 10:** View looking north over the subject site and to the Veriu Hotel at 18 O'Riordan Street



**Figure 11:** View looking north at the driveway access to Ngamuru Avenue





Figure 12: View looking east at the site's western frontage to O'Riordan Street



Figure 13: View looking east at the subject site's existing driveway access at O'Riordan Street

## History Relevant to the Development Application

### Development Applications

15. The following applications are relevant to the current proposal:

- **D/2011/1855** – on 12 December 2011 development consent was granted for alterations and additions to an existing warehouse building and for the use of the ground and first floors for office and warehouse uses.
- **D/2012/1491** – on 19 November 2012 development consent was granted for the fit out of the ground floor, mezzanine and part of the first floor of the existing industrial warehouse building for temporary light industrial use for the period 1 November 2012 to 3 March 2013.

- **Planning Proposal:** minor Policy and Housekeeping Amendment to Sydney Local Environmental Plan 2012
  - On 30 November 2017 and 11 December 2017 respectively, the Central Sydney Planning Committee (CSPC) and the Council approved the Planning Proposal to amend the Floor Space Ratio (FSR) Map to reflect the redistribution of floor space to the individual development parcels to be created upon the subdivision of Council owned sites at:
    - 94-104 Epsom Road (Epsom Road Depot) and 132-140 Joynton Avenue (Gunyama Park and Aquatic Centre), Zetland; and
    - 330-338 Botany Road and 20 O’Riordan Street, Alexandria, located along the Ngamuru Avenue.
  - These revised controls came into force once the site was subdivided and other requirements were addressed.
- **D/2017/1341** – on 13 June 2018 development consent was granted for consolidation and subdivision of four existing lots in two stages:
  - Stage 1 to create 4 new lots - two for use as Affordable Housing Developments, one for a future road (Lot 11) and one as a small residual lot to be transferred; and
  - Stage 2 to dedicate Lot 11 as public road.
- **S/2018/58** – on 21 December 2018 subdivision certificates were issued for subdivision into four lots.
- **D/2021/1484** - on 12 September 2023 the Central Sydney Planning Committee (CSPC) issued a deferred commencement development consent for the "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". On 29 September 2023, the development consent was issued.
- **CMP/2021/3** - Competitive Design Alternatives Process was held in 2023. AJC Architects, EM BE CE Studio and SJB Architects were the three competitors. It commenced on 13 October 2023, final presentations to the selection panel (Lee Hillam of DunnHillam, Michael Zanardo of Studio Zanardo, John Carfi of Aqualand and Matthew Allen of Bates Smart) were made on 29 November 2023. The selection panel identified AJC Architects as the winning scheme in December 2023 - refer to Figure 14 for each competitor's Botany Road render.
- **PDA/2024/15**- was lodged with Council on 5 February 2024 for "mixed-use development for affordable rental housing (240 apartments) with ground level retail/commercial". Council issued the PDA advice letter on 6 May 2024.
- **D/2021/1484/A** - was lodged with Council on 17 July 2024 to modify the approved concept building envelopes in accordance with the detailed Stage 2 design submitted for D/2024/581. This D/2021/1484/A is being assessed concurrently to the subject D/2024/581.

- **D/2024/581** - was lodged with Council on 17 July 2024 for the "Stage 2 application for construction of two mixed use buildings 9 storeys to 12 storeys in height, with one level of basement, for the purpose of 255 affordable housing units and ground floor commercial/retail uses.



**Figure 14:** CMP/2021/3 competitor renders as viewed from Botany Road

### Compliance Action

16. The site is not subject to any compliance action by Council.

### Amendments

17. Following a preliminary assessment of the proposed development by council officers, a request for additional information and amendments was sent to the applicant on 12 September 2024. The items requested included the following amendments and information:
  - Gross Floor Area (GFA) - the proposed enclosure of unit balconies at the Botany Road and O'Riordan Street, where glazing is greater than 1.4m in height is considered GFA. It was requested that the applicant update their GFA calculation plans to include those enclosed balcony areas.
  - 3D Cad Model - Council's Model Team requested changes to the 3D CAD model to rectify inconsistencies between the CAD model and the submitted architectural plans.
  - Engineering - further details on Flood Planning Levels were required in the flood report and architectural plans and additional information on the stormwater water design and catchment was required.
  - Remediation Action Plan (RAP) - was required to be updated to clearly identify that the areas of land dedicated to Council will be remediated and that the RAP is reviewed by the NSW EPA.
  - Waste - the split of waste bins (6 x 240L and 44 x 1,100L) bins is appropriate and a greater number of 240L bins need to be provided. As per previous advice during the Pre-DA, a 50/50 split should be designed. This will ensure that City West Housing and Council can manage the movement and collection of bins efficiently.

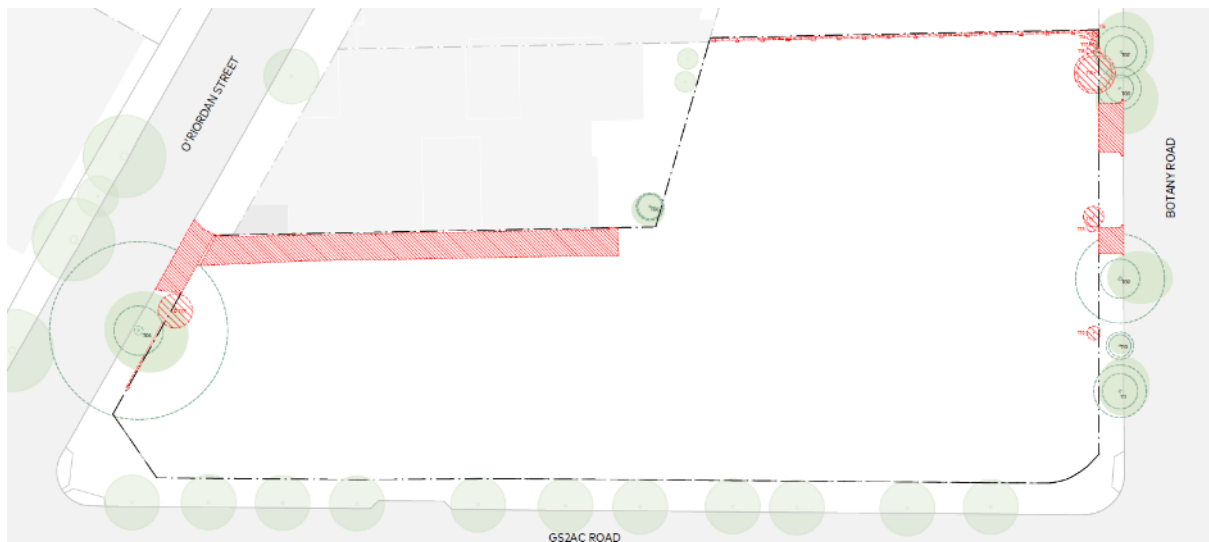
- Access and Transport - amended swept path diagrams are needed as the submitted diagrams suggest several collision points between the truck and the walls/columns within the basement. The diagrams also need to use Council's 10.6m waste truck size with the 600mm side clearance.
  - Landscaping - additional details of paving material, green roof maintenance, tree stratavault design and tree species and sizes were requested.
  - Public Domain Lighting - is required to comply with AS1158 - Public Lighting Standards and the lighting strategy/plan will be required to be submitted to Council for approval.
18. The applicant responded to the request on 4 October 2024, and submitted the following information:
- RFI response letter and detailed matrix of changes
  - amended architectural drawings
  - amended landscape and public domain plans
  - amended landscape statement of compliance
  - amended civil and stormwater drawings
  - amended swept path diagrams for the waste truck within the basement level
  - amended flood assessment letter
  - amended RAP
  - amended concept building envelope drawings.
19. The applicant provided further information on 25 October 2024, including amended swept path diagrams and basement level plan (sheet no. D2001 revision)
20. The applicant provided amended gross floor area calculations on 30 October 2024.

### **Development**

21. The application seeks consent for the following:
- site preparation works including relatively minor demolition and bulk excavation works, tree removal and remediation works
  - construction of two mixed-use buildings of up to 10-storeys and 12-storeys in height (inclusive of the ground floor level), comprising:
    - 10 levels of affordable rental housing in Cores A, B, C, D and E which fronts O'Riordan Street and the GS2AC Road
    - 12 levels of affordable rental housing in Cores H, G and F which fronts Botany Road
  - a total of 255 affordable rental units, consisting of:

- 161 x 1 bedroom units,
- 66 x 2 bedroom units,
- 28 x 3 bedroom units.
- lobbies and individual lift cores at the ground level of each building core
- commercial / retail ground floor tenancies (937msqm of floor space)
- basement level with 18 car parking spaces, bicycle parking, loading dock, waste storage rooms and plant rooms. Vehicular access to the basement level is provided via the crossing at the Ngamuru Avenue frontage.
- landscaping, tree planting and public domain works
- ground floor communal open space and Core H rooftop communal open space.

22. Plans and elevations of the proposed development are provided below.



**Figure 15:** Demolition plan

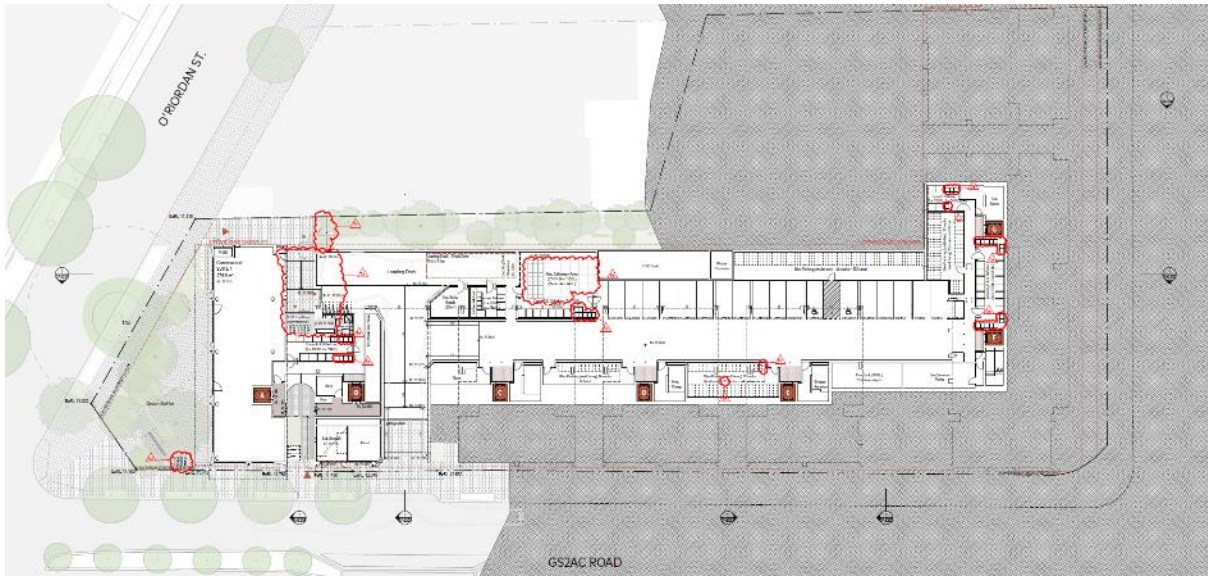


Figure 16: Basement floor plan



Figure 17: Ground floor plan



Figure 18: Level 1 floor plan



Figure 19: Level 2 floor plan



Figure 20: Level 3 floor plan



Figure 21: Level 4 floor plan





Figure 22: Level 5 floor plan

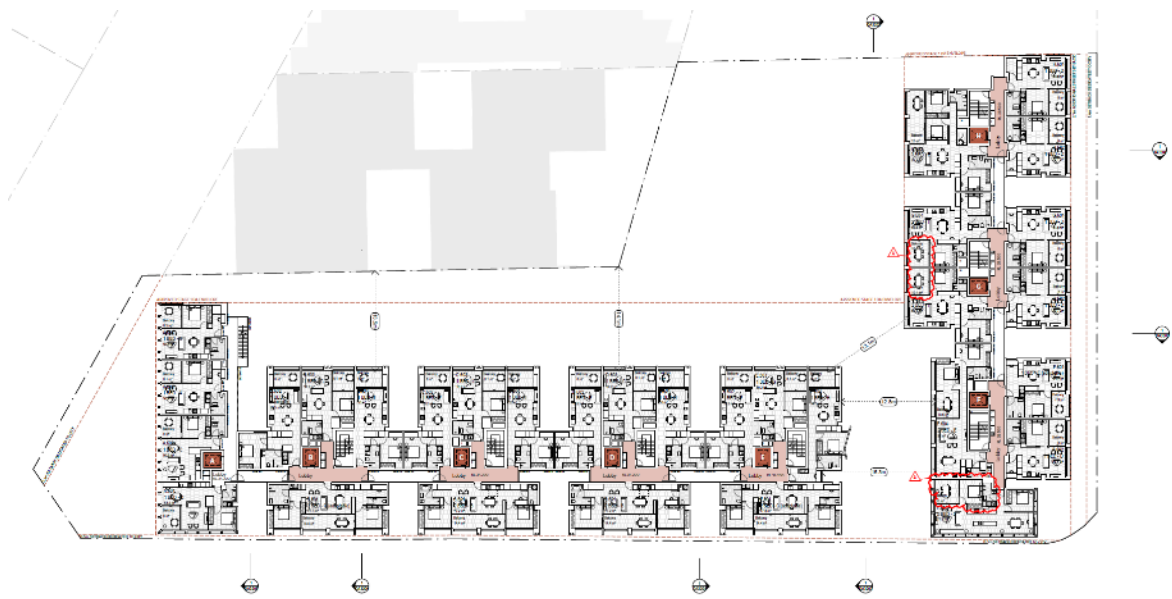


Figure 23: Level 6 floor plan



Figure 24: Level 7 floor plan



Figure 25: Level 8 floor plan

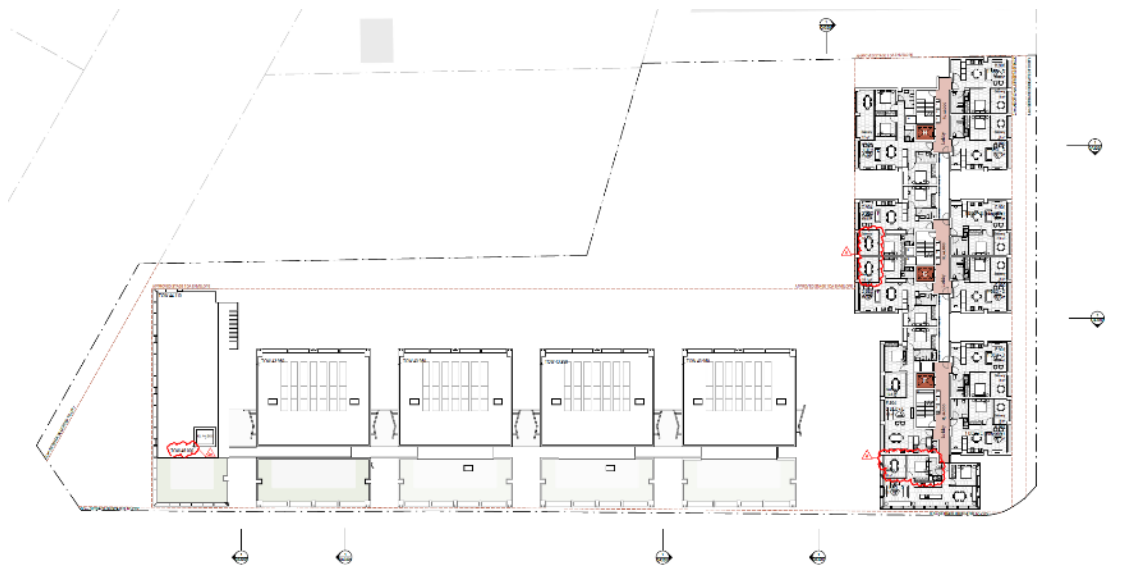


Figure 26: Level 9 floor plan

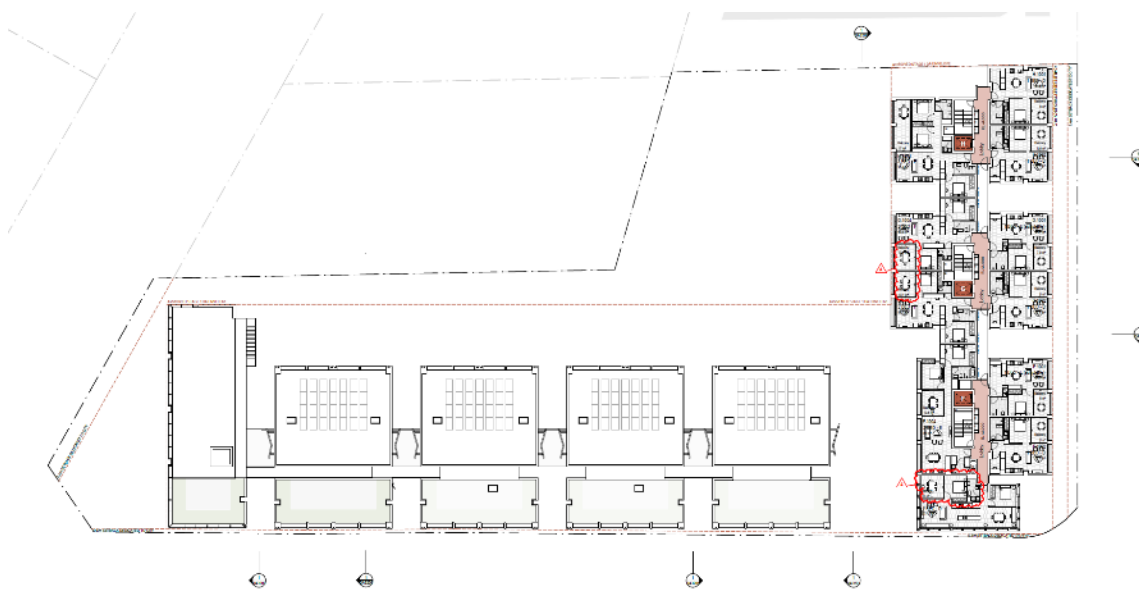


Figure 27: Level 10 floor plan

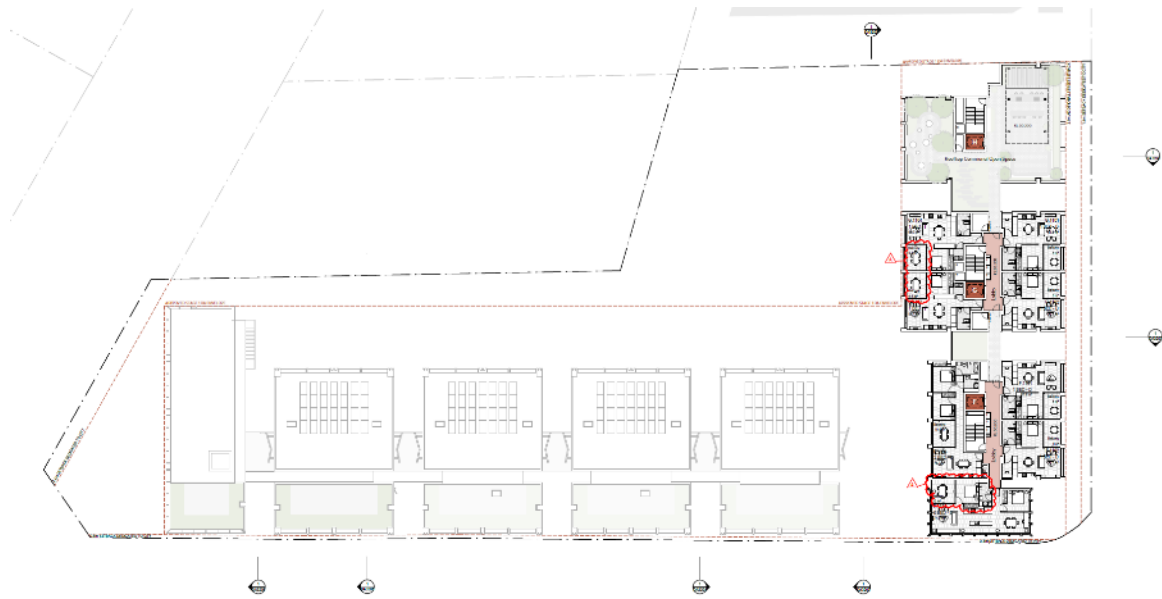


Figure 28: Level 11 floor plan

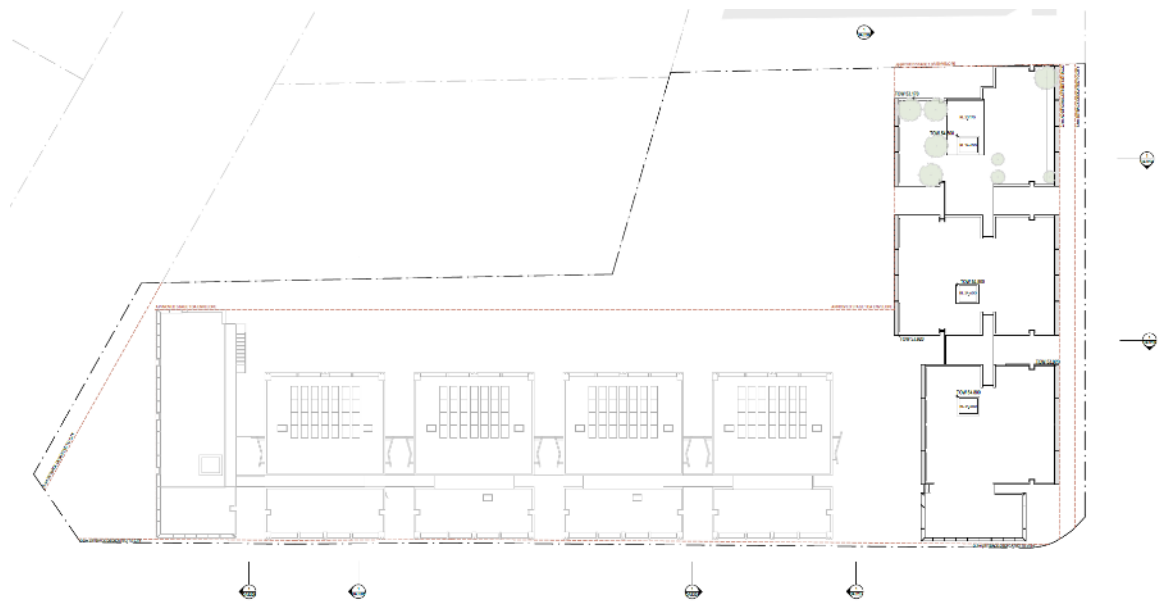


Figure 29: Roof plan



Figure 30: East elevation (Botany Road)



Figure 31: Southern elevation (GS2AC Road)



Figure 32: Western elevation (O'Riordan Street)



Figure 33: Botany Road architectural render



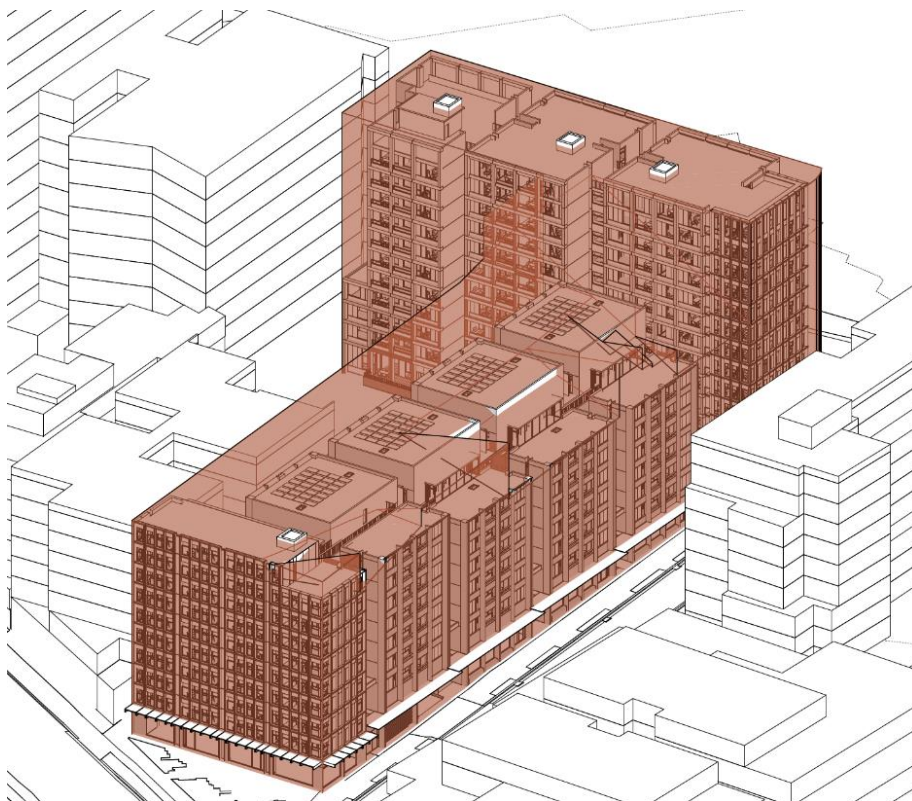
**Figure 34:** O'Riordan Street architectural render



**Figure 35:** Internal landscaped communal open space architectural render

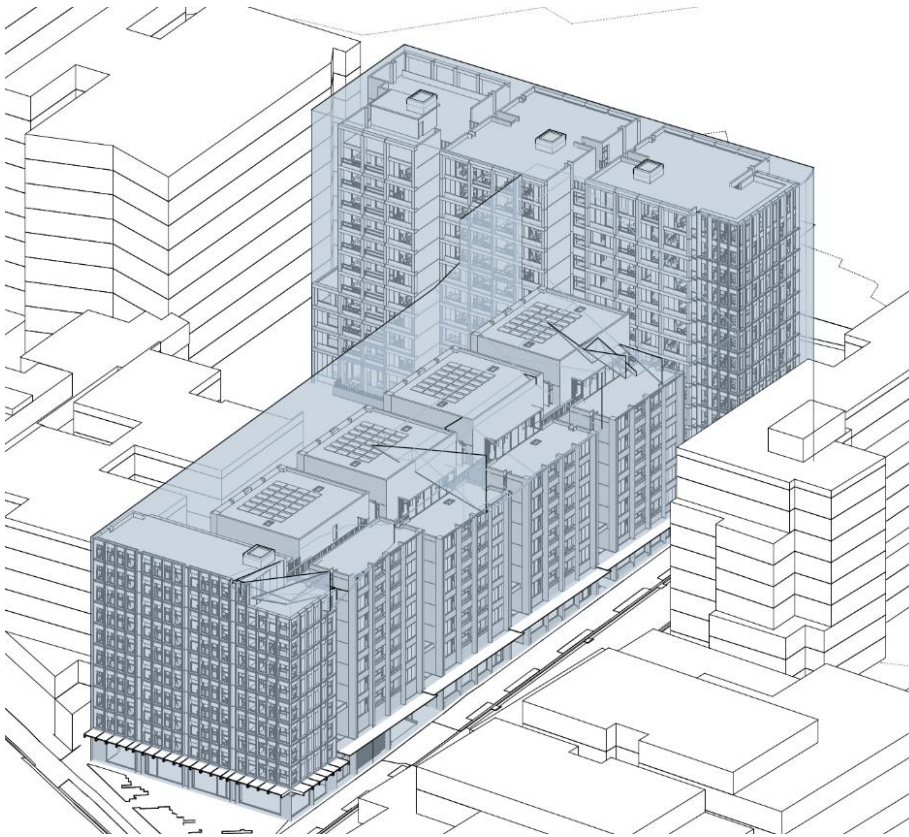


**Figure 36:** Height of Building encroachments



**Figure 37:** Proposed built form encroachments outside of the building envelope approved by D/2021/1484





**Figure 38:** Proposed built form and proposed S.4.55(1A) D/2021/1484/A amended building envelope

## Assessment

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

## State Environmental Planning Policies

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

24. 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.
25. The applicant has submitted Appendix Q1 - Remedial Action Plan prepared by JBS&G and Appendix Q2 - Audit Advice prepared by Senversa dated 4 July 2024. The recent site investigations have identified the following contaminants as present on the site:
  - Heavy metals - fill materials are present across the development site and are impacted with elevated levels of heavy metals (typically As, Cr, Cu, Pb, Ni and Zn), semi and non-volatile petroleum hydrocarbons and polycyclic aromatic hydrocarbons (PAHs).

- Petroleum hydrocarbon - contamination historically associated with petroleum storage and handling on the former Mobil service station, were present at the western extent of the site. Significant remedial works have already been undertaken to address these contaminants and remove all associated petroleum infrastructure. Notwithstanding the extent of remedial works on the former Mobil service station, point sources of elevated levels of petroleum hydrocarbons have been found to persist in the western portion of the site.
- Asbestos Containing Material (ACM) - have been identified in some samples of fill-based soils. Noting the sampling methods adopted, and the absence of asbestos as a target analyte in some assessments, there is considered to be no basis to attempt to delineate the extent of asbestos within fill-based soils. The whole of the fill-based soils across the development site should be considered to be potentially impacted with asbestos.
- Chlorinated ethene vapours - have been identified in the central and eastern portions of the site. By comparison of levels measured in 2020 to 2021, these levels appear to have reduced significantly following the demolition of the site and removal of site pavement.

26. The RAP proposes:

- (a) the preferred remedial option for the heavy metal, asbestos and PAH impacted fill-based soils on the site is management on-site by long term containment
- (b) a long term environmental management plan (EMP) is required
- (c) the Council dedicated land will be excluded from any on-site containment and will be required to be remediated to the satisfaction of Council
- (d) validation assessment of the RAP post works.

27. The Council's Environmental 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.

28. 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**

29. The proposed development is for the purpose of affordable housing and to be under the management and operation of social housing provider - City West Housing.

30. 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.

31. The proposal does not constitute State Significant Development (SSD) as under clause 1.9 (2A) (a) of the Sydney LEP, the Green Square Urban Renewal Area is specifically carved out of the application of Division 1 of Part 2 of Chapter 2 of the Housing SEPP (IFAH Division). This means the elements of section 26A of Schedule 1 to the Planning Systems SEPP are not satisfied, and this development is not declared to be SSD under the in-fill affordable housing threshold.
32. Section 7.32 of the EP&A Act 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. Clause 7.13 (Contribution for purpose of affordable housing) of the SLEP 2012 also allows for circumstances where an affordable housing contribution may be levied for development of land in Green Square. However, in determining whether a development meets the criteria for the application of an affordable housing contribution GFA used for the provision of affordable housing is excluded. Accordingly, a contribution is not applied in this instance.

#### **Chapter 4 - Design of Residential Apartment Development**

33. The aim of Chapter 4 is to improve the design quality of residential apartment development in New South Wales.
34. 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.
35. The applicant has submitted Appendix B - Design Report and Design Verification Statement, prepared by AJC Architects dated July 2024 with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.
36. An assessment of the proposal against the design quality is provided as follows:
  - (a) Principle 1: Context and Neighbourhood Character

The site is located within the Green Square Urban Renewal Area which is in a state of transition. The proposed design responds to the planned future character of the precinct, recently approved developments and the existing industrial character of the area particularly along Botany Road. It will contribute to the vitality of the area through the introduction of a significant new development with direct frontage to Ngamuru Avenue (Ashmore to Green Square connector), which provides public transport, pedestrian and cycle links along with large planters providing shaded seating areas for public gatherings and public art. The site is within 200m of the Green Square train station and near bus stops providing future residents with a high level of accessibility via a range of public and active transport options.

The form and massing of the building is consistent with the scale of development envisaged in the locality and with recently approved development.

(b) Principle 2: Built Form and Scale

The Green Square precinct is currently in a state of transition from former industrial and warehousing uses to a mixed-use local centre. The built form and scale of this proposal is compatible with that envisaged in the Concept Approval (D/2021/1484 and subsequent Modification A which is under assessment) and with the applicable planning controls. The building mass is articulated into elements to create a variety of facades, articulation, massing and architectural character to represent a group of buildings rather than a single building.

(c) Principle 3: Density

The development provides a suitable number and variety of affordable housing apartment types, with appropriate amenity for occupants. The proposed overall density of development is generally consistent with that envisaged under the relevant planning controls and the Concept Approval and is acceptable given the context.

The Statement of Environmental Effects lodged and the Applicant's response to the RFI dated 4 October 2024 presents that the development complies with the maximum permitted FSR that is permitted by the SLEP 2012. Notably, the development benefits from FSR bonuses pursuant to Cl.6.14 Community Infrastructure, and Cl.6.21 Design Excellence.

Council had raised in the RFI that the proposed design by partially enclosing balconies with glazing/wall greater than 1.4m in height at the Botany Road and O'Riordan Street frontages contributes to GFA. Whilst the applicant has excluded those partially enclosed balconies from GFA, Council has included those areas in the assessment of FSR and it is concluded that the development still achieves compliance with the maximum permitted FSR. Council is satisfied that the proposed development is of a reasonable scale that is envisioned for the locality and site.

(d) Principle 4: Sustainability

The proposed design has focused on reducing the demand on resources through the use of passive strategies. These passive strategies are supplemented with building systems to reduce ongoing resource use. The applicant has submitted Appendix R - Ecological Sustainable Development (ESD) report prepared by Gradwell Consulting dated 10 July 2024. A summary of the ESD strategies are as follows:

- Within the constraints of the site, the dwellings have been orientated to provide a reasonable level of solar access in mid-winter, providing passive heating and improving daylight penetration in winter
- The building form has been designed to accommodate a good level of naturally ventilated dwellings to provide passive cooling
- Material selection is intentionally robust, reducing ongoing maintenance
- Horizontal and vertical projections are proposed to reduce solar gains on facades
- Rainwater reuse tanks are to be installed to reduce water consumption.

(e) Principle 5: Landscape

The public domain creates a series of varied communal spaces for residents. Substantial communal open space is proposed within the centre of the site at ground level and supplemented with an additional rooftop offering.

The proposed public and private domain areas within the development have been designed in regard to the following principles:

- develop a positive identity to the development
- activation throughout all times of the day and year
- adaptable and flexible spaces
- appropriate for residential scale
- amenity for residents and their visitors
- strong connection between spaces
- safe and accessible
- robust materiality.

Council's Landscape Officer and Tree Management Officer have reviewed the detailed landscape design and are satisfied subject to the recommended conditions of consent.

(f) Principle 6: Amenity

Buildings have been designed to provide dwellings with solar access, day light access, natural ventilation, outlook, privacy and access to a range of open spaces. The dwellings provide functional, efficient layouts with the provision for adequate storage.

The development offers a range of unit sizes/types and includes 15% of the total number of dwellings designed to meet the requirements of AS4299-1995 Adaptable housing. Additionally, all apartments are proposed to achieve silver level liveable housing requirements.

Each building is provided with their own lift core and the buildings are designed to allow for residents to move between building cores via external pedestrian bridges. At the ground floor, there is a large landscaped and paved communal open space as well as a rooftop communal open space located at building Core H.

(g) Principle 7: Safety

The proposed scheme has been designed to minimise the opportunities for crime in accordance with CPTED principles of surveillance, access control, territorial reinforcement and space management. The following principles demonstrate this approach:

- building entrances are clearly identifiable, highlighted through the use of building form and the articulation of materials.
- private open space and living areas are located along upper-level frontages to provide activated spaces that allow good surveillance of surrounds.
- residential entry points and circulation areas are clearly separated from public areas without compromising passive surveillance.
- a secure entry system linked to the apartments allows access through the external entry point upon confirmation from inside.

(h) Principle 8: Housing Diversity and Social Interaction

The development is 100% affordable rental housing with a range of dwelling types proposed. The development accommodates a mix of 1, 2 and 3 bedroom dwellings in a range of sizes, configurations and mix that responds to City West Housing's tenant's requirements. The proposal includes the following:

- 161 x 1 bedroom apartments (63%),
- 66 x 2 bedroom apartments (26%),
- 28 x 3 bedroom apartments (11%).

The proposal is designed to be indistinguishable from privately developed housing and be well integrated within the neighbourhood. The architecture strives to create a sense of dignity for residents who will be proud to call it their home. Various communal spaces are proposed throughout the site. These include a wide range of uses to support opportunities to bring people together and promote a sense of community.

(i) Principle 9: Aesthetics

The development strives to be engaging, inviting and attractive in its aesthetics. The intent of the design is to:

- establish an architectural language that is appropriate to the context
- use simple facades across the development that include articulation of feature horizontal and vertical components and elements
- use texture and colour that appropriately reflect the nature of the building, with the use of contrast and highlighting of feature architectural elements

- use a considered selection of materials and textures to breakdown the mass of the building yet maintain a limited palette for cohesion over the whole
- the material palette selected for the building are quality selections, modern in nature, low maintenance minimally painted surfaces chosen both to be sympathetic and appropriate to the context and to the building’s predominant residential use.

37. 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 as well as in Appendix B - Design Report and Design Verification Statement, prepared by AJC Architects dated July 2024

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Yes	Building Cores A to H are designed appropriately with unit depths typically being less than 12m.

2F Building Separation	Compliance	Comment
Up to four storeys (approximately 12 metres): <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul>	Yes	The proposal includes 2 buildings; building 1 with Cores A,B,C,D,E and building 2 with Cores F,G,H.  The development achieves the minimum 6m separation for the first 4 storeys of the proposed two buildings at the site. The other immediately adjoining developments are for non-residential uses and the ADG is not applicable.  The entire development is also within the approved Concept Envelope approved under D/2021/1484.
Five to eight storeys (approximately 25 metres): <ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies</li> <li>• 12m between habitable and non-habitable rooms</li> </ul>	Yes	The proposal includes 2 buildings; building 1 with Cores A,B,C,D,E and building 2 with Cores F,G,H.  The development achieves the minimum 9m separation for 5-8 storeys of the proposed two buildings at the site. The other immediately adjoining developments are for non-residential uses and the ADG is not applicable.

2F Building Separation	Compliance	Comment
<ul style="list-style-type: none"> <li>9m between non-habitable rooms</li> </ul>		<p>The entire development is also within the approved Concept Envelope approved under D/2021/1484.</p>
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> <li>24m between habitable rooms / balconies</li> <li>18m between habitable and non-habitable rooms</li> <li>12m between non-habitable rooms</li> </ul>	<p>Yes</p>	<p>The proposal includes 2 buildings; building 1 with Cores A,B,C,D,E and building 2 with Cores F,G,H.</p> <p>The development achieves the minimum 12m separation for 9+ storeys of the proposed two buildings at the site. The other immediately adjoining developments are for non-residential uses and the ADG is not applicable.</p> <p>The entire development is also within the approved Concept Envelope approved under D/2021/1484.</p>
<p>At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.</p>	<p>N/A</p>	<p>The site is not at the boundary of a zone change.</p>

3D Communal and Public Open Space	Compliance	Comment
<p>Communal Open Space (COS) has a minimum area equal to 25% of the site.</p>	<p>Yes</p>	<p>2,852sqm (44%) of COS is proposed. This includes the ground floor and Core H rooftop.</p>
<p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).</p>	<p>Partial compliance</p>	<p>The ground floor COS is limited in receiving solar access due to the D/2021/700 approved 10-storey commercial building. The submitted shadow diagrams have taken into account this approved built form. As part of the Concept Approval of D/2021/1484 for the development site, rooftop COS was explored and encouraged as a means to provide COS with solar access.</p>



3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Yes	The development provides 1241sqm (19%) of deep soil area, exclusive of the plastic cell stratavaults around tree planting.

3F Visual Privacy	Compliance	Comment
Up to four storeys (12 metres): <ul style="list-style-type: none"> <li>• 6m between habitable rooms / balconies</li> <li>• 3m between non-habitable rooms</li> </ul>	Yes	<p>The proposal includes 2 buildings; building 1 with Cores A,B,C,D,E and building 2 with Cores F,G,H.</p> <p>The development achieves the minimum 6m separation for the first 4 storeys of the proposed two buildings at the site.</p> <p>The entire development is also within the approved Concept Envelope approved under D/2021/1484.</p>
Five to eight storeys (25 metres): <ul style="list-style-type: none"> <li>• 9m between habitable rooms / balconies</li> <li>• 4.5m between non-habitable rooms</li> </ul>	Yes	<p>The proposal includes 2 buildings; building 1 with Cores A,B,C,D,E and building 2 with Cores F,G,H.</p> <p>The development achieves the minimum 9m separation for 5-8 storeys of the proposed two buildings at the site.</p> <p>The entire development is also within the approved Concept Envelope approved under D/2021/1484.</p>
Nine storeys and above (over 25m): <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 6m between non-habitable rooms</li> </ul>	Yes	<p>The proposal includes 2 buildings; building 1 with Cores A,B,C,D,E and building 2 with Cores F,G,H.</p> <p>The development achieves the minimum 12m separation for 9+ storeys of the proposed two buildings at the site.</p> <p>The entire development is also within the approved Concept Envelope approved under D/2021/1484.</p>

<b>4A Solar and Daylight Access</b>	<b>Compliance</b>	<b>Comment</b>
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	180 of the 255 units (71%) receive at least 2 hours of solar access.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	35 of 255 units (13.7%) receive no direct sunlight.

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	<p>The first 9 storeys of the development, being Level ground to Level 8 as labelled on the architectural plans, +60% of the units as naturally cross ventilated.</p> <p>The applicant has submitted Appendix J - Noise and Vibration Impact Assessment and Appendix H - Natural Ventilation Report which consider the partial enclosure of balconies at the Botany Road and O'Riordan Street frontages for noise mitigation and how natural cross ventilation is achieved.</p> <p>The assessment of the concept D/2021/1484, concluded that the Competitive Design Process and future detailed design DA will need to address natural cross ventilation. At the time of assessing D/2021/1484, 49 of 111 (44.14%) of apartments were naturally cross ventilated. Those apartments affected by road noise and being required to be partially enclosed were excluded from the natural cross ventilation calculation. Condition 12 of D/2021/1484 required a 'kit of parts' design to address road noise and natural cross ventilation.</p>

4B Natural Ventilation	Compliance	Comment
		<p>Condition 12 was satisfied on 29 September 2023. The 'kit of parts' report at Section 3.2 describes that an alternative solution is applied, where all noise affect units are excluded from the consideration of cross ventilation and that those noise affected units will provide natural ventilation through the use of windows and/or plenums.</p> <p>With the plenum design and/or low-level windows from the balconies to the bedroom/living, all noise affected units will be ventilated and the total number of units that are ventilated equates to 197 units of the 255 (77%).</p> <p>In accordance with the 'kit of parts' and alternative solution agreed to by the satisfaction of Condition 12 in D/2021/1484, by excluding all noise affect balconies, calculating natural cross ventilation in accordance with Part 4B of the ADG, there are 86 of 143 (60%) of units which are naturally cross ventilated.</p> <p>The applicant's Appendix H - Natural Ventilation Report contains diagrams of those units which are included / excluded for the calculation of natural cross ventilation.</p>

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	The minimum 2.7m floor to ceiling heights are achieved.
Non-habitable rooms: 2.4m	Yes	The minimum 2.4m floor to ceiling heights are achieved.
Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.	Yes	Two-storey apartments are designed the Ground Floor and Level 1 Floor and the Level 7 Floor and Level 8 Floor. These units achieve the minimum 2.7m and 2.4m floor to ceiling heights.

4C Ceiling Heights	Compliance	Comment
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Partial compliance	<p>At the ground floor, a floor to ceiling height greater than 3.3 appears to be achievable. Note that this is not dimensioned on the architectural plans, and is reliant on Council's measurements from scaled plans.</p> <p>The first-floor level is accepted with a floor to ceiling height of less than 3.3m as this is for a purely residential and affordable housing purpose.</p>

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35sqm</li> <li>• 1 bed: 50sqm</li> <li>• 2 bed: 70sqm</li> <li>• 3 bed: 90sqm</li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.</p>	Yes	<p>Studio - N/A as none are proposed</p> <p>1 beds - exceed 50sqm</p> <p>2 beds - exceed 70sqm</p> <p>3 beds - exceed 90sqm</p>
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	Habitable rooms are provided with a window that is at least 10% of the floor area.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	Compliance is achieved.

4D Apartment Size and Layout	Compliance	Comment
8m maximum depth for open plan layouts.	Yes	Compliance is achieved.
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• master bedroom: 10sqm</li> <li>• all other bedrooms: 9sqm</li> </ul> <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	Bedroom areas and dimensions are compliant.
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>	Yes	Living and dining room widths are compliant.

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments are to have a minimum balcony area of 4sqm with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10sqm with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12sqm with a minimum depth of 2.4m.</p>	Yes	Minimum balcony areas and dimensions are achieved.

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15sqm and a minimum depth of 3m.	Yes	Ground floor units in Cores C, D, E, F,G,H include POS areas that are greater than 15sqm.

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	Each 'community' is designed around a lift core. Each core has no more than 8 units circulating off a lift core.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	Each 'community' is designed around a lift core. Each core has no more than 40 units sharing a single lift core.  A total of 8 lift cores are provided to service 255 units, average of 31.87 units per lift core.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	Compliance is achieved.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Compliance is achieved.

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> <li>• Studio: 4m<sup>3</sup></li> <li>• 1 bed: 6m<sup>3</sup></li> <li>• 2 bed: 8m<sup>3</sup></li> <li>• 3 bed: 10m<sup>3</sup></li> </ul> <p>(Minimum 50% storage area located within unit)</p>	Yes	Compliance is achieved with all storage located internal to the units

4J Noise and Pollution	Compliance	Comment
<p>Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?</p>	Yes	<p>A Noise and Vibration Impact Assessment (Appendix J) of the applicant's package has been provided. This report identifies that Botany Road and O'Riordan Street experience high noise levels from vehicles. To protect the residential amenity of those units which front those roads, partially enclosed balconies have been designed.</p>

### State Environmental Planning Policy (Sustainable Buildings) 2022

38. The aims of this Policy are as follows:

- (a) to encourage the design and delivery of sustainable buildings
- (b) to ensure consistent assessment of the sustainability of buildings
- (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored
- (d) to monitor the embodied emissions of materials used in construction of buildings
- (e) to minimise the consumption of energy
- (f) to reduce greenhouse gas emissions
- (g) to minimise the consumption of mains-supplied potable water
- (h) to ensure good thermal performance of buildings.

**Chapter 2 Standards for residential development - BASIX**

39. A BASIX Certificate has been submitted with the development application no.1754814M\_02.
40. The BASIX certificate 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 certificate are implemented.

**State Environmental Planning Policy (Transport and Infrastructure) 2021**

41. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

**Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations****Clause 2.120 – Impact of road noise or vibration on non-road development**

42. The application is subject to Clause 2.120 of the SEPP as the site is adjacent to State Classified Roads - Botany Road and O'Riordan Street which each have an annual average daily traffic volume of more than 20,000 vehicles and the development is likely to be adversely affected by road noise or vibration.
43. The applicant includes Appendix J - Noise and Vibration Impact Assessment prepared by Renzo Tonin and Associates dated 5 July 2024. In order to achieve compliance with the relevant noise criterion under the Clause 2.120 of the Transport and Infrastructure SEPP, the proposed units which front Botany Road and O'Riordan Street have been designed with a partially enclosed balcony where glazing is to a height of 75% of the façade and for the Botany Road fronting units only, an additional measure of acoustically design ceiling soffits. With this design those units which front the busy roads are capable of complying with the noise criteria.
44. The application satisfies Clause 2.120 subject to conditions of consent.

**Local Environmental Plans****Sydney Local Environmental Plan 2012**

45. 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	<p>The site is located in the E3 Productivity Support zone.</p> <p>The proposed development is defined as a mixed-use development comprising residential accommodation development (affordable housing) and commercial and is permissible with consent in the zone, via Clause 7.13A Affordable Housing in Business Area of SLEP 2012. The proposal meets the objectives of the zone, specifically "to provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres".</p>

**Part 4 Principal development standards**

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>The site contains two maximum permitted height of building standards, being 40m (W1 code) and 33m (U2 code).</p> <p>The proposed development exceeds the height of building standard in isolated areas for the Core A, F, G, H lift shaft encroachment - refer to Figure 36 and 40 for a visual illustration.</p> <ul style="list-style-type: none"> <li>• Lift Core A is proposed at 33.25m, a 250mm exceedance (0.8% variation),</li> <li>• Lift Core F is proposed at 40.05m, which is a 50mm exceedance (0.05% variation),</li> <li>• Lift Core G is proposed at 40.2m, a 200mm exceedance (0.2% variation),</li> <li>• Lift Core H is proposed at 40.6m, a 600mm exceedance (1.5% variation),</li> </ul>

Provision	Compliance	Comment
		<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>
<p>4.4 Floor space ratio</p>	<p>Yes</p>	<p>The site has an area of 6,709sqm inclusive of the land to be dedicated to Council.</p> <p>The site is permitted with a base FSR of 2:1. However, the site also benefits from bonus FSR permitted by:</p> <ul style="list-style-type: none"> <li>• SLEP 2012 Cl.6.14 Community Infrastructure - additional 1.5:1</li> <li>• SLEP 2012 Cl.6.21 Design Excellence - additional 10%</li> </ul> <p>Therefore, a maximum permitted FSR of 3.85:1 is permitted by SLEP 2012.</p> <p>The applicant's calculations have excluded those partially enclosed balconies, however, as they are an outer wall that exceeds a height of 1.4m, Council considers that these spaces are in fact GFA and included in the calculation of FSR.</p> <p>With consideration of the above, Council has undertaken a calculation of GFA by including those partially enclosed balconies and determined that there is an addition 990sqm of GFA which the applicant has not included.</p> <p>Therefore, the total proposed GFA is in fact 20,442sqm (3.04:1) which is still compliant with the maximum permitted FSR.</p> <p>On 30 October 2024, the applicant submitted amended GFA calculation plans which include the partially enclosed balconies as GFA and identify that the proposed FSR is 3.03:1 (20,317sqm). This complies with the maximum permitted FSR.</p>

Provision	Compliance	Comment
4.6 Exceptions to development standards	Yes	<p>Refer to above departure from Cl.4.3 Height of Building development standard. The maximum proposed variation is 1.5% and a Clause 4.6 variation request has been lodged with this application.</p> <p>See further details in the 'Discussion' section below.</p>

### Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.21 Flood Planning	Yes	<p>The site is identified as being located on Flood Prone Land and Condition no.26 of D/2021/1484 requires that this detailed design development application demonstrate compliance with the minimum required flood planning levels.</p> <p>The extent of flood affectation based on Council's Geocortex mapping is that the site's peripheries at the O'Riordan Street frontage are affected by the 1% AEP and that approximately 15% of the site area is identified as being affected by the PMF.</p> <p>Council's Public Domain unit have reviewed the relevant flood information submitted by the applicant and is satisfied that the development achieves compliances with the minimum required flood planning levels and the objectives of Cl.5.21 of SLEP 2012.</p>

### Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.14 Community infrastructure floor space at Green Square	Yes	The proposed development is eligible for an additional floor space ratio of 1.5:1 for community infrastructure, being within the Area 9 locality.

Provision	Compliance	Comment
		<p>The concept DA D/2021/1484 and the associated VPA include the public benefit in the form of land dedications along all three street frontages; Botany Road, Ngamuru Avenue and O'Riordan Street, and physical public domain works in those areas.</p> <p>The proposed development satisfies the objectives of this clause.</p>
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The subject development application for the detailed design of a 10-storey to 12-storey mixed use development with 255 affordable rental housing units is of a high standard and uses materials and detailing which are compatible with the desired future character and built form for the area and streetscape. It is envisaged that the proposed development will contribute positively to the character of the area.</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. The development therefore achieves design excellence.</p>
6.21D Competitive Design Process	Yes	<p>The site has been subject to a Competitive Design Alternatives Process (CMP2021/3) pursuant to Cl.6.21.</p> <p>AJC Architects, EM BE CE Studio and SJB Architects were the three competitors.</p> <p>The competition commenced on 13 October 2023, final presentations were made on 29 November 2023 to the selection panel, consisting of; Lee Hillam of DunnHillam, Dr Michael Zanardo of Studio Zanardo, John Carfi of Aqualand and Matthew Allen of Bates Smart.</p>

Provision	Compliance	Comment
		The selection panel identified AJC Architects as the winning scheme in December 2023 - refer to Figure 14 for each competitor's Botany Road render.

**Part 7 Local provisions – general**

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing	Yes	<p>The site is mapped as being located within the Category B Land Use and Transport Integration Map.</p> <p>Within Category B, the maximum permitted parking rates under this Cl.7.5 are:</p> <ul style="list-style-type: none"> <li>• studio - 0.2 spaces</li> <li>• 1 bedroom - 0.4 spaces</li> <li>• 2 bedroom - 0.8 spaces</li> <li>• 3+ bedroom - 1.1 spaces</li> <li>• The proposed 255 units would require a maximum of 148 car parking spaces based on the below breakdown:                             <ul style="list-style-type: none"> <li>• 161 x 1 beds = 64</li> <li>• 66 x 2 beds = 53</li> <li>• 28 x 3 beds = 31</li> </ul> </li> </ul> <p>The proposal includes the provision of 4 residential car parking spaces within the basement floor plan.</p> <p>Additionally, 3 car share parking spaces are provided.</p> <p>The proposed therefore complies.</p>

Provision	Compliance	Comment
7.7 Retail premises	Yes	<p>A total of 937sqm of commercial floor area is proposed.</p> <p>The site is located within the Category E Public Transport Accessibility Level area. Category E requires 1 car parking space per 60sqm of gross floor area for retail purposes.</p> <p>The 937sqm of retail floor area would require a maximum of 15.6 (round to 16) car parking spaces.</p> <p>The proposed development includes the provision of 8 retail car parking spaces within the basement floor level.</p> <p>The proposed therefore complies.</p>
Division 3 Affordable housing		
7.13 Affordable Housing	Yes	<p>This provision allows for circumstances where an affordable housing contribution may be levied for development of land in Green Square.</p> <p>However, GFA used for the provision of affordable housing is excluded.</p> <p>The proposal also includes a retail / commercial ground floor component which has an area of 937sqm for which an affordable housing contribution could be levied.</p> <p>Given that this retail / commercial GFA is minor and ancillary to the main affordable housing use, and that the development is by a community housing provider, it is considered that a contribution is not warranted in this instance.</p>
7.13A Affordable Housing in Business Area	Yes	<p>This provision permits residential flat buildings or mixed-use developments for the purpose of affordable rental housing in business zones, where the development is to provide affordable rental housing, by or on behalf of a public authority or social rental housing</p>

Provision	Compliance	Comment
		<p>provider, and the development is compatible with the surrounding area.</p> <p>The proposed mixed-use development with a commercial/retail ground floor and affordable rental housing units above, is 10-12 storey in height and is of a consistent bulk and scale and use with the surrounding area.</p>
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	<p>The site is located on land with class 5 and class 3 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.</p>
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 received subject to conditions of consent.</p>
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>Cl.7.20(2)(d) is a trigger for consideration.</p> <p>Pursuant to the provisions of Section 4.23(2) of the Environmental Planning and Assessment Act 1979, the lodgement of a concept proposal DA may be considered by the consent authority as satisfying this obligation.</p> <p>The site benefits from D/2021/1484 for the concept approval and there are no significant adverse impacts to non-residential uses in the area, therefore this Clause 7.20 has been satisfied.</p>

Provision	Compliance	Comment
7.25 Sustainable transport of southern employment land	Yes	<p>The applicant has submitted Appendix I - Transport Impact Assessment which includes a Preliminary Green Travel Plan.</p> <p>Both the Transport Impact Assessment and Preliminary Green Travel Plan has been submitted with the application and are both considered acceptable.</p> <p>The proposal includes minimal car parking and is considered to promote sustainable transport modes and minimise traffic congestion. This is acceptable given the close proximity to the Green Square Train Station.</p>
7.26 Public art	Yes	<p>Public Art is proposed on site at the Ngamuru Avenue frontage and at the O'Riordan Street frontage. The applicant has submitted Appendix P - Public Art Strategy. This has been reviewed by Council's Public Art unit and is considered satisfactory.</p>
7.27 Active Street Frontages	Yes	<p>The site is located on land identified as 'Active Street Frontages'. The proposed development includes commercial / retail uses which front the public domain at the ground level. This design will create a vibrant and active interface with the street.</p>

## Development Control Plans

### Sydney Development Control Plan 2012

46. 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

47. The site is located within North Alexandria locality. The proposed development is in keeping with the unique character and the design principles of the locality. Specifically subject to the recommended conditions of consent, the proposal is consistent with the following design principles outlined for the locality:

- (d) Provide a range of day-to-day services like childcare, retail and food and drink.



- (e) Provide higher amenity in the public domain and better urban outcomes, with defined streets, new connections where required, positive landscape spaces, and improved relationships between buildings and the public domain.
- (g) Achieve a sensitivity to scale, fine grain character and materiality in the north-block and surrounding buildings.
- (h) Balance maximised street activation and street/building interface with the industrial character of buildings in the north-block of limited doors and windows.
- (i) Present high-quality frontages to the Liveable Green Network and public open spaces.
- (j) A high-quality public domain is to be realised through the careful design of frontages, through-site links, setbacks, loading and access, and through the screening of warehouses and industrial uses with active uses in the mid-block.
- (k) Harness the place-making opportunities which are presented by the canals and Liveable Green Network.
- (n) Improve way finding, amenity and legibility with more connections and better arranged streets, and
- (o) Increase permeability through the precinct with more crossing points along major roads, well-designed streets and through-site connections to facilitate comfortable walking both within and around the precinct.

**Section 3 – General Provisions**

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>The proposed development will make a positive contribution to the public domain.</p> <p>The proposed built form and massing relates positively to the Botany Road, Ngamuru Avenue and O’Riordan Street frontages, by physical breaks in form and diverse material and finishes.</p> <p>The inclusion of new public art will provide a visually interesting environment and private/public interface.</p> <p>The land dedication at each of these three frontages will also assist in creating a welcoming environment, consistent with the DCP public domain setback requirements.</p>

Provision	Compliance	Comment
		<p>The proposed development is contained within the approved building envelope under D/2021/1484, aside from the newly proposed awning structures - refer to Figure 37 and 38 for location of encroachments. These awning structures will assist in providing appropriate shade protection through the public domain and are permitted by Condition 8 and 11 of D/2021/1484.</p>
3.2. Defining the Public Domain	Yes	<p>The proposal has been designed to address and activate all three frontages: Botany Road, GS2AC Road and O'Riordan Street.</p> <p>Appropriate materials and finishes are proposed to clearly identify the separation from public and private.</p> <p>All external lighting will comply with the relevant Australian Standard and be subject to a public domain lighting strategy plan condition.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The proposal is considered to represent design excellence and is consistent with the design excellence strategy approved as part of the Concept DA - D/2021/1484.</p> <p>The proposed development exceeds the base 2:1 FSR development standard and seeks to rely on the bonus FSR permitted by Cl.6.14 and Cl.6.21 of SLEP 2012.</p> <p>Council is satisfied that the proposed development achieves the objectives and intentions of this section and demonstrates Design Excellence.</p>
3.4 Hierarchy of Centres, City South	Yes	<p>The site is located within the Green Square Primary Trade Area but not within the Green Square Town Centre or other identified villages and neighbourhood centres.</p>

Provision	Compliance	Comment
		<p>The proposed commercial / retail tenancies with a total combined area of 937sqm would not negatively impact the viability or economic role of the planned centres within the southern areas of the City.</p>
3.5 Urban Ecology	Yes	<p>The applicant has submitted Appendix F - Arboricultural Impact Assessment Report.</p> <p>The proposed development seeks to remove 7 trees - T5 at the O'Riordan Street frontage, and T12, T13, T14, T15, T16, and T17 at the Botany Road frontage. Each of the 7 trees sought for removal have been identified as low retention trees and have a trunk diameter of less than 200mm aside from T5 which is 370mm.</p> <p>Council's Tree Management Officer has reviewed the arborist report and plans, and no objection is raised with those trees sought for removal.</p> <p>The proposed development will not have any adverse detrimental ecological impacts on the site or locality.</p>
3.6 Ecologically Sustainable Development	Yes	<p>The proposal satisfies the Sustainable Buildings SEPP and Basix environmental requirements.</p>
3.7 Water and Flood Management	Yes	<p>The site is affected by the 1%AEP and PMF flood events. The site is also located within the Alexandra Canal catchment.</p> <p>The applicant has submitted Appendix V - Flood Impact Statement. The submitted architectural plans have been able to demonstrate that the minimum flood planning levels have been achieved.</p> <p>Council's Public Domain officers have reviewed this information, and no objection is raised subject to the recommended conditions of consent.</p>

Provision	Compliance	Comment
		The development is able to comply with the City's Interim Floodplain Management Policy and satisfies the provisions of the standard.
3.8 Subdivision, Strata Subdivision and Consolidation	N/A	N/A - no strata subdivision is proposed, and the development will remain under the management and operation of affordable rental housing provider - City West Housing.
3.9 Heritage	N/A	N/A - the site is not affected by any heritage items and is not within a Heritage Conservation Area.
3.11 Transport and Parking	Yes	<p>The site is mapped as being located within the Category B Land Use and Transport Integration Map. Within Category B, the maximum permitted parking rates are listed under Cl.7.5 of SLEP 2012 - refer to the SLEP 2012 compliance table.</p> <p>The proposed development includes the provision of 15 car parking spaces (4 for residential, 3 for car share, 8 for commercial / retail) plus an additional 3 for SRV loading and 1 HRV loading dock.</p> <p>Furthermore, the development provides a total of 292 bicycle parking bays - comprised of: 255 resident bicycle parking bays (1 per proposed dwelling), 26 visitor bicycle parking bays and 11 commercial / retail bicycle parking bays.</p> <p>The applicant has submitted Appendix I - Transport Impact Assessment report which identifies that the proposed development achieves compliance with SLEP 2012 Part 7 Div 1 parking rates and SDCP 2012 Section 3.11 parking rates. Furthermore, this Transport Impact Assessment report includes a Preliminary Green Travel Plan to demonstrate that the development promotes sustainable travel means.</p>

Provision	Compliance	Comment
		The proposed complies with Section 3.11.
3.12 Accessible Design	Yes	<p>The applicant has submitted Appendix W - Accessibility Report, which concludes that the proposal has a high level of compliance with the Disability (Access to Premises – Buildings) 2010, the National Construction Code 2022 addressing Access and Egress, Lift services, Sanitary facilities and the Australian Standards referenced by the National Construction Code.</p> <p>15% of the proposed affordable rental housing dwellings are to be adaptable dwellings in accordance with AS.4299 - Adaptable Housing.</p> <p>A condition is recommended to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the NCC.</p>
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>At the time of lodgement, the proposal sought to provide predominately 1,100L bins only. For the entire development it was proposed to provide 6 x 240L waste bins and 44 x 1,100L waste bins.</p> <p>As per the advice to the applicant and developer at the time of the Pre-DA (PDA/2024/15), Council's preference is for a 50/50 split of 240L bins and 1,100L bins. The rationale behind this split is so that residents to still have safe and practical access to a typical 240L bin and not just the large and bulky 1,100L bins.</p> <p>Following the submission of amended information on 4 October 2024 and 25 October 2024, the development proposes a 50/50 split - 38 x 240L bins and 39 x 1,100L bins.</p>

Provision	Compliance	Comment
		<p>As this 50/50 split was the advice provided at the time of PDA/2024/15, the design is accepted for this D/2024/581.</p> <p>A condition is recommended to ensure the development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>
3.15 Late Night Trading Management	N/A	N/A - no commercial / retail uses are proposed at this time. Those uses will be subject to future development applications or complying development certificates.
3.16 Signage and Advertising	N/A	N/A - no signage is proposed by this development application.
3.17 Contamination	Yes	<p>The applicant has submitted Appendix Q1 - Remedial Action Plan prepared by JBS&amp;G and Appendix Q2 - Audit Advice prepared by Senversa dated 4 July 2024.</p> <p>The Appendix Q2, NSW EPA Accredited Site Auditor has confirmed that the site can be made suitable subject to the successful implementation of the RAP and validation.</p> <p>The preferred remedial strategy is cap and contain and the site be subject to a long term environmental management plan. This will be required via conditions of consent.</p>

## Section 4 – Development Types

## 4.1 4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	<p>The DCP building heights are superseded and the Concept Approval - D/2021/1484 building envelope is the appropriate measure for compliance.</p> <p>The proposed detailed design is contained within the approved D/2021/1484 building envelope except as proposed to be modified by D/2021/1484/A which is under assessment and being assessed concurrently.</p>
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	The proposed development achieves the minimum floor to floor heights as required by the Housing SEPP 2021 Chapter 4.
4.2.2 Building setbacks		
4.2.2 Building setbacks	Yes	<p>The DCP building setbacks are superseded and the Concept Approval - D/2021/1484 building envelope is the appropriate measure for compliance.</p> <p>The detailed design is contained within the approved D/2021/1484 building envelope except as proposed to be modified by D/2021/1484/A which is under assessment and being assessed concurrently.</p>
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	The DCP requires development applications to demonstrate the shadow impact on neighbouring development between 9:00am and 3:00pm at the winter solstice. New development should not create additional overshadowing onto a neighbouring dwelling (unless very minor) where that dwelling currently receives less than 2 hours' direct sunlight to habitable rooms and 50% of the private open space.

Provision	Compliance	Comment
		<p>The proposal is accompanied by a shadow analysis prepared in accordance with the control. The analysis identifies that there will be some overshadowing impacts to the (not yet approved or constructed) southern neighbouring site at 338 Botany Road Alexandria which is the affordable rental housing development proposed by St George Community Housing. Based on the submitted shadow diagram analysis, the extent of overshadowing is reasonable and acceptable.</p> <p>Furthermore, the proposed development is largely contained to the approved building envelope of D/2021/1484 aside from minor point encroachment of several lift shafts.</p>
4.2.3.3 Internal common areas	Yes	The internal circulation spaces have access to natural light.
4.2.3.5 Landscaping	Yes	A detailed landscape plan which identifies an area of 3,107sqm (48%) is provided, is acceptable subject to conditions.
4.2.3.6 Deep Soil	Yes	A detailed landscape plan which a deep soil area of 1,241sqm (19%). This achieves compliance with the deep soil area require by the ADG and is acceptable subject to conditions.
4.2.3.7 Private open space and balconies	Yes	All units comply with the ADG private open space requirements and minimum balcony area and dimensions.
4.2.3.8 Common open space	Yes	COS is provided at the ground floor area as well as the Botany Road Core H building rooftop. A total COS area of 2,852sqm (44%) is proposed. This achieves compliance with the ADG and this section of SDCP 2012.
4.2.3.9 Ventilation	Yes	The first 9 storeys of the development, being Level ground to Level 8 as labelled on the architectural plans, +60% of the units as naturally cross ventilated.



Provision	Compliance	Comment
		<p>The applicant has submitted Appendix J - Noise and Vibration Impact Assessment and Appendix H - Natural Ventilation Report which consider the partial enclosure of balconies at the Botany Road and O'Riordan Street frontages for noise mitigation and how natural cross ventilation is achieved.</p> <p>The assessment of the concept D/2021/1484, concluded that the Competitive Design Process and future detailed design DA will need to address natural cross ventilation. At the time of assessing D/2021/1484, 49 of 111 (44.14%) of apartments were naturally cross ventilated. Those apartments affected by road noise and being required to be partially enclosed were excluded from the natural cross ventilation calculation. Condition 12 of D/2021/1484 required a 'kit of parts' design to address road noise and natural cross ventilation.</p> <p>Condition 12 was satisfied on 29 September 2023. The 'kit of parts' report at Section 3.2 describes that an alternative solution is applied, where all noise affect units are excluded from the consideration of cross ventilation and that those noise affected units will provide natural ventilation through the use of windows and/or plenums.</p> <p>With the plenum design and/or low-level windows from the balconies to the bedroom/living, all noise affected units will be ventilated and the total number of units that are ventilated equates to 197 units of the 255 (77%).</p> <p>In accordance with the 'kit of parts' and alternative solution agreed to by the satisfaction of Condition 12 in D/2021/1484, by excluding all noise affect balconies, calculating natural cross ventilation in accordance with Part 4B of the ADG, there are 86 of 143 (60%) of units which are naturally cross ventilated.</p>

Provision	Compliance	Comment
		<p>The applicant's Appendix H - Natural Ventilation Report contains diagrams of those units which are included / excluded for the calculation of natural cross ventilation.</p>
<p>4.2.3.10 Outlook</p>	<p>Yes</p>	<p>Units are oriented appropriately.</p>
<p>4.2.3.11 Acoustic privacy</p>	<p>Yes</p>	<p>The applicant has submitted Appendix J - Noise and Vibration Impact Assessment to consider the impacts of road noise on those units fronting Botany Road and O'Riordan Street. To achieve compliance with the relevant noise criteria under the Transport and Infrastructure SEPP 2021, those units which front the busy roads are required to incorporate a higher glazed element at the balcony. This results in 75% of the balcony façade area being enclosed and the top 25% of the space open to the elements.</p> <p>This proposed solution to deal with noise impacts is considered acceptable.</p>
<p>4.2.3.12 Flexible housing and dwelling mix</p>	<p>Yes</p>	<p>The SDCP 2012 requires a bedroom mix of:</p> <ul style="list-style-type: none"> <li>• Studio: 5%-10%,</li> <li>• 1 beds: 10%-30%</li> <li>• 2 beds: 40%-75%</li> <li>• 3+ beds: 10%-100%.</li> </ul> <p>The proposed development provides:</p> <ul style="list-style-type: none"> <li>• 1 beds: 63%</li> <li>• 2 beds: 26%</li> <li>• 3+ beds: 11%.</li> </ul> <p>The proposed mix has been designed to best meet the needs of City West Housing and their tenants household demographics.</p>

Provision	Compliance	Comment
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The detailed design is generally consistent with the approved building envelope approved by D/2021/1484.</p> <p>The proposed development provides a high level of articulation, diverse materials and finishes and is designed within a well considered landscape setting to fit within the desired future character for the locality.</p>
4.2.6 Waste and recycling Management	Yes	<p>Following the submission of amended information on 4 October 2024 and 25 October 2024, the development proposes a 50/50 split - 38 x 240L bins and 39 x 1,100L bins.</p> <p>A condition is recommended to ensure the development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>

**4.4 Section 5 – Specific Areas**

Provision	Compliance	Comment
5.2.3 Community infrastructure 5.2.10 Setbacks	Yes	<p>The concept approval - D/2021/1484 and associated VPA include a public benefit in the form of community infrastructure through land dedication and works within the public domain.</p> <p>In accordance with section 5.2.3 of the DCP, a 1.4m wide public domain setback for footpath widening is provided for along the Botany Road frontage and 0.5m wide footpath widening setback along Ngamuru Avenue and 2.4m wide footpath along the O'Riordan Street frontage has been provided and is registered on title.</p>
5.2.4 Local infrastructure 5.2.4.1 Street network	Yes	<p>The proposal provides for footpath widening at all frontages.</p>

Provision	Compliance	Comment
5.2.7 Stormwater management and waterways	Yes	<p>The applicant has submitted Appendix V - Flood Impact Assessment.</p> <p>Council's Water Assets team reviewed this assessment with the architectural plans and accepting of the proposal in regard to minimising flood risk to property and person. Suitable flooding conditions are recommended.</p>
5.2.9 Building design	Yes	<p>The proposal building design complies with the concept approval - D/2021/1484 and the relevant SDCP 2012 provisions and will provide for a high quality built form that addresses the street frontages, is responsive to the site context and will utilise appropriate materials and finishes.</p> <p>Further appropriate landscaping around the periphery of the site to improve the public domain and natural landscape setting.</p>
<b>5.8 Southern Enterprise Area</b>		
5.8.2.3 Affordable housing	Yes	<p>The proposal generally complies with the provisions of the DCP providing affordable rental housing on land earmarked for this use and with existing Concept approval. The proposal generally complies with, or is appropriate notwithstanding non-compliance with, relevant ADG requirements which prevail over the DCP as outlined herein.</p>
5.8.2.4 Addressing Land Use Conflict	Yes	<p>The proposal will not give rise to any land use conflict and is accompanied by adequate information which demonstrates that future residents will have appropriate amenity.</p>

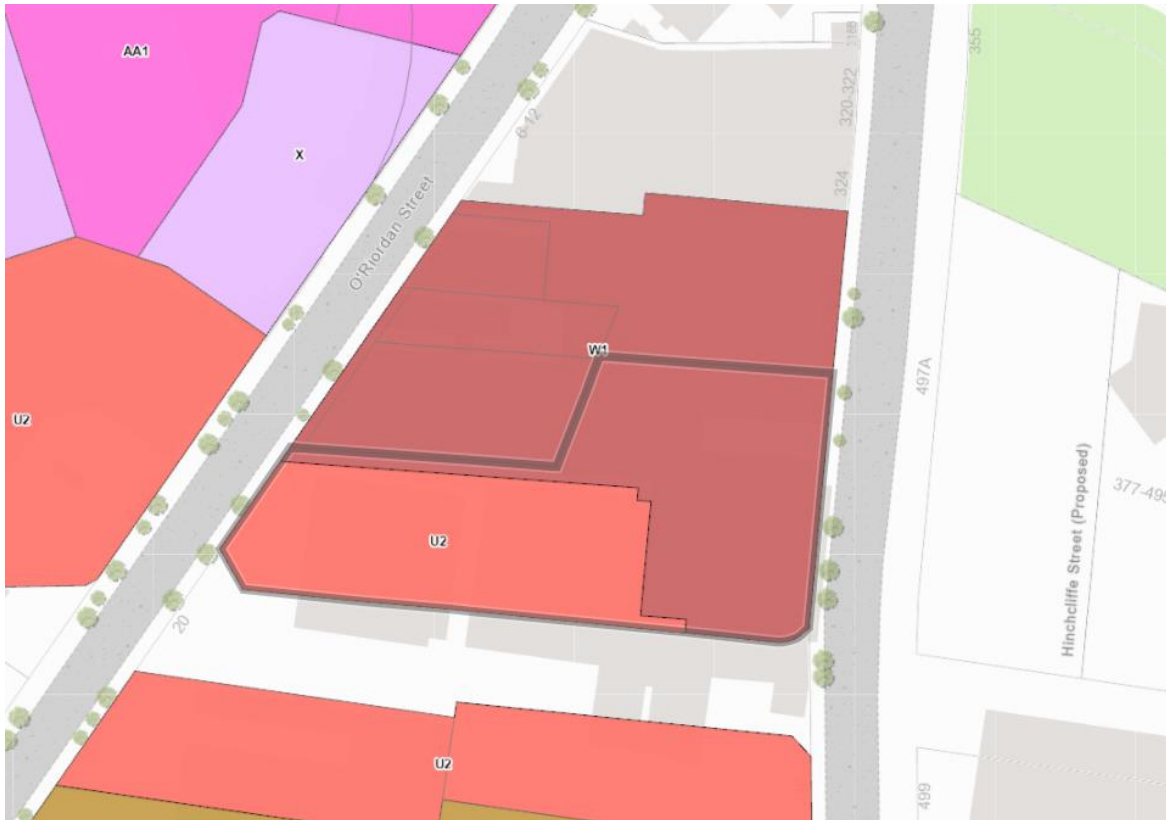
Provision	Compliance	Comment
<b>5.8.3 Development</b>		
5.8.3.2 Building height	No	<p>The site contains two maximum permitted height of building standards, being 40m (W1 code) and 33m (U2 code).</p> <p>The proposed development exceeds the height of building standard in isolated areas for the Core A, F, G, H lift shaft encroachment - refer to Figure 36 and 40 for a visual illustration.</p> <ul style="list-style-type: none"> <li>• Lift Core A is proposed at 33.25m, a 250mm exceedance (0.8% variation),</li> <li>• Lift Core F is proposed at 40.05m, which is a 50mm exceedance (0.05% variation),</li> <li>• Lift Core G is proposed at 40.2m, a 200mm exceedance (0.2% variation),</li> <li>• Lift Core H is proposed at 40.6m, a 600mm exceedance (1.5% variation),</li> </ul> <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>
5.8.3.3 Building alignment and setbacks	Yes	<p>The development generally complies with the concept building envelope approval under D/2021/1484 except as proposed to be modified by D/2021/1484/A. This modification to the building envelope is being assessed concurrently to this subject D/2024/581.</p>

Provision	Compliance	Comment
5.8.3.4 Active frontages and street level design	Yes	The development generally complies with the concept building envelope approval under D/2021/1484 except as proposed to be modified by D/2021/1484/A. This modification to the building envelope is being assessed concurrently to this subject D/2024/581.
5.8.3.5 Building layout and design	Yes	The proposal is appropriate in terms of building layout and design. The development will provide a high quality building form and amenity in accordance with the Concept DA approval - D/2021/1484.
5.8.3.6 Landscape and fencing	Yes	The proposed landscape design is supported subject to recommended conditions of consent.
5.8.3.7 Parking, access and loading and servicing	Yes	The proposed parking - car and bicycle, is suitable for the site and development.
5.8.3.8 Storage areas	Yes	All units are provided with storage areas in accordance with Council's requirements and/or the ADG.
5.8.5 Managing Transport Demand	Yes	A traffic assessment and green travel plan have been submitted with the application and are acceptable subject to conditions.
5.8.7 Environment	Yes	<p>The proposed stormwater design is acceptable subject to conditions.</p> <p>The proposed landscape design is acceptable subject to conditions.</p>

## Discussion

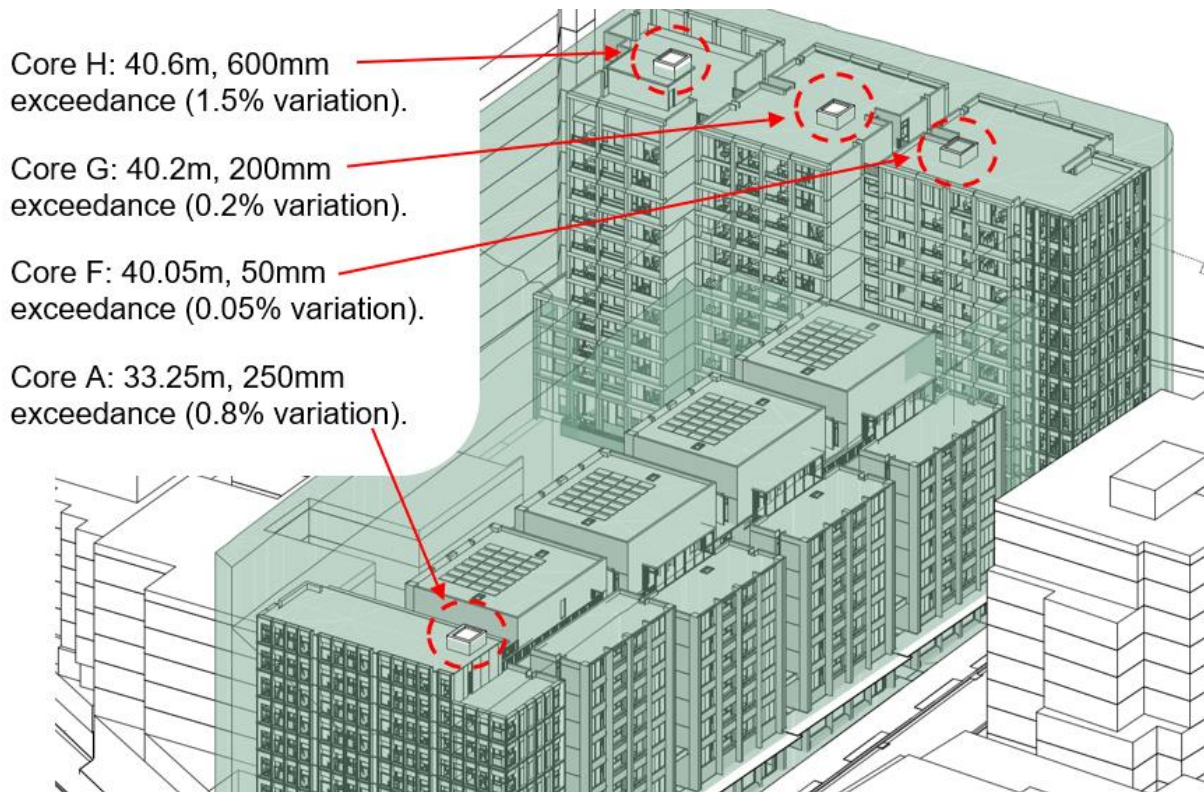
### Clause 4.6 Request to Vary a Development Standard - Height of Building - Cl.4.3 of SLEP 2012

48. The site is subject to two maximum height of building controls under Cl.4.3 of SLEP 2012, being 33m (U2) and 40m (W1) - see Figure 39 below.



**Figure 39:** SLEP 2012 Height of Building mapping

49. The proposed development has four point encroachments above the maximum permitted height of building development standard. The encroachments relate to lift shaft overruns for Core A, F, G, and H. The four point encroachment are listed below:
- Lift Core A is proposed at 33.25m, a 250mm exceedance (0.8% variation),
  - Lift Core F is proposed at 40.05m, which is a 50mm exceedance (0.05% variation),
  - Lift Core G is proposed at 40.2m, a 200mm exceedance (0.2% variation),
  - Lift Core H is proposed at 40.6m, a 600mm exceedance (1.5% variation),
50. The areas of encroachment are identified in the AJC Architects 3D view LEP height plane at Figure 36 and emphasised by a red circle in the below Figure 40.



**Figure 40:** Height of Building encroachments - emphasised

51. The applicant has submitted to Council Appendix K - Clause 4.6 Variation Request, in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard;

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

52. The applicant seeks to justify the contravention of the height of building development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

"The proposed development (inclusive of the variation) results in an appropriate height for the site and its context, as described below.



The proposed development is located on a prominent corner site, having three boundary frontages which do not adjoin any other building. Accordingly, the site has a unique opportunity to present a built form that responds to its context and constraints. The site is located in a highly urbanised context which is characterised by an array of multi-storey commercial and residential buildings fronting Botany Road and Geddes Avenue, as well as other developments on surrounding roads, varying in building heights from 3 to 20 storeys.

**North:** to the north fronting O’Riordan Street is a 6 storey hotel. Directly to the north on the Botany Road frontage are two sites with approval for redevelopment as large commercial buildings, of 10-storeys high at 326-328 Botany Road (D/2021/700), and 16-storeys high at 324-326 Botany Road (D/2021/894). Further north includes the 20 storey mixed-use building identified as Infinity, comprising of retail and residential uses. Northeast of the site is a 28 storey residential development identified as OVO.

**South:** to the south of the subject site is 511-515 Botany Road, comprising two 11 and 8 storey residential flat buildings which are both currently under construction. To the northeast of this site is 23 Geddes Avenue, identified as Uno, which is also currently under construction for a 14 storey residential flat building. Across Ngamuru Avenue at 338 Botany Road is the development site for a future 10-storey affordable rental housing development by St George Community Housing, for which a Detailed DA is currently under assessment (D/2024/273)

**East:** directly east of the site is Mirvac’s Green Square sites’ 8D, 8C, 19A and 19B. These sites are expected to be developed in the coming years into residential flat buildings. The site has been granted a building envelope which exceeds a maximum height of RL 101.59 (24 storeys).

**West:** of the subject site is characterised by largely industrial development with lower building height (between 1-3 storeys).

As such, it is clear that there is no homogenous character in the locality, nor homogenous LEP height limits, whereby a variation to the maximum building height control would prevent the achievement of the subject objective. Instead, the test is whether the height of the proposed building is appropriate to (i.e. compatible with) the site surrounds.

In light of this, it is noted that the design of the proposed development and height of the building has drawn on contextual cues from adjacent residential flat buildings as well as the maximum building height controls in the locality in order to deliver a development outcome that intrinsically fits into the neighbourhood context. In this sense, the proposed variation is appropriate to the site and its surrounding built form. Additionally, it is reiterated that the proposed variation pertains to the lift overrun and in this sense, the variation does not compromise the proposal’s integration with the character of this immediate portion of Alexandria."

And,

"In summary compliance with the building height development standard is considered unreasonable and unnecessary since it achieves the objectives of the building height development standard in clause 4.3(1) of the Sydney LEP 2012. In particular:

- The proposal, notwithstanding the variation, is of a height and scale that is appropriate for its context and surrounds.

- The variation does not impact the surrounding character area, nor does it impact any heritage or heritage conservation.

- Views from key public vantage points and surrounding buildings will not be negatively impacted by the proposed variation.

- The proposal is of a scale commensurate with surrounding buildings, and therefore does not impact height transitions between Green Square and adjoining lower density areas."

- (b) That there are sufficient environmental planning grounds to justify contravention of the height of building standard:

**"Extent of variation is minor** - the maximum extent of variation sought is 0.6m (1.5%) and 0.25m (0.8%) to the part 40m and 33m height of buildings control, although the breach only applies to the central portion of the rooftop caused by the lift overrun. The extent of the variation is considered to be relatively minor, particularly 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.

In *Choker v Georges River Council* [2022] NSWLEC 1415, a proposed contravention of 7.1% was regarded as being as generally akin to the circumstances in *Eather*. In the context of the current site, the proposed maximum contravention of 1.5% is akin to that in *Eather* and similar to that in *Choker*. The logic of those cases should apply to the proposed variation request.

Further, even when the numerical contravention is not small, a lack of amenity impacts (refer to the below sections) can be a reason (along with other reasons) advanced in support of environmental planning grounds: *Big Property Group Pty Ltd v Randwick City Council* [2021] NSWLEC 1161 at [49]). In *Big Property* the contravention was permitted — in part due to lack of adverse impacts — even though the numerical extent of the contravention was 43%."

**"Variation optimises provision of affordable rental housing and apartment amenity** - the additional built form provided above the prescribed height of buildings is attributed to the lift overrun...the proposed variation is justified because if strict compliance with the control was required, a suboptimal outcome would result with a lower number of affordable rental housing dwellings provided at the site.

The proposed development seeks to respond to comments made by the Competition Selection Panel, in particular by reviewing opportunities to rationalise the extent of rooftop communal open space and provided more affordable rental apartments at the upper levels. The proposed development has been designed to retain the design of the competition winning scheme where possible and has also included additional affordable rental housing units in place of some of the rooftop communal open space in response to the Selection Panel comments. As a result, several lift overruns (which are required to provide access to the upper-level apartments and communal open space) protrude marginally beyond the maximum building height development standard. If strict compliance was enforced with the development standard, less affordable rental housing would be provided.

Avoiding this suboptimal outcome and achieving the proposed superior outcome of more affordable rental housing in the current housing crisis climate, without material adverse impacts on others. This is considered an environmental planning ground to warrant the proposed variation to the current building height control."

**"No Additional Overshadowing Impacts** - in particular, the variation will not result in additional adverse overshadowing impacts to the surrounding public realm or existing residential receivers surrounding the site. The shadow diagrams provided as part of the Architectural Plans (Appendix A to the SEE) provides a demonstration of the shadows cast by the development at the proposed 40.6m and 33.25m heights. This provides that on 21 June (being the worst-case scenario), the additional height does not cast any additional shadows."

**"No Adverse Visual Impacts from the Public Domain** - the proposed variation will not have any adverse visual impacts when viewed from public domain areas surrounding the site. Principally, this is a result of the overrun's setback from the parapet, which means that the portion of the development exceeding the height limit is indiscernible from the public domain."

"In conclusion, there are sufficient environmental planning grounds to justify contravening the development standard as:

- The extent of the variation is considered to be minor, particularly in the context of surrounding development (and planned development).
- The variation allows for more affordable rental housing to be provided in the development that if strict compliance was enforced.
- The additional height will not result in adverse environmental impacts including overshadowing, privacy, and views.

- The proposal demonstrates substantive compliance with other built form controls, which ensures that the proposed variation does not result in the proposal being out of character with the built form capacity afforded the site under the Sydney LEP 2012 development standards.
- The proposed development, inclusive of the variation, achieves key aims of the Sydney LEP 2012, as well as key objects of the EP&A Act."

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

53. 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)?

54. The applicant has specifically demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the development meets the objectives of Clause 4.3, it fits within the context and character of the area and surrounding buildings and/or approved development, notwithstanding non-compliance with the numerical standard.
55. A detailed discussion of the applicant's submission with regard to the objectives of the height of buildings development standard has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the standard is both unreasonable and unnecessary, to the extent of the variation proposed.

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

56. The applicant's variation request provides environmental planning grounds specific to the circumstances of the site and locality to justify the extent of non-compliance with the Height of Buildings development standard.
57. The applicant has referenced the constraints of the site, minor nature of the encroachment, that there are no overshadowing or visual impacts from the encroachment and that to require strict compliance would result in a suboptimal outcome of providing less affordable rental housing. The applicant's request has demonstrated that there are sufficient environmental planning grounds to justify contravening the height of buildings development standard and that there is support for the variation.

#### Conclusion

58. For the reasons provided above the requested variation to Cl.4.3 Height of Buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

#### Partially Enclosed Balconies

59. The units proposed which front Botany Road and O'Riordan Street have been designed based recommendations from the acoustic reporting undertaken at the time of D/2021/1484 and alternatives solution / 'kit of parts' explored during the competitive design process.

60. Given the road noise impacts from Botany Road and O'Riordan Street, the preferred means to provide acoustic amenity to those units is by designing a partially enclosed balcony. This design is shown at Figure 41 below.
61. Road Noise - The partial enclosure of the balconies at the Botany Road and O'Riordan Street frontages along with the acoustically lined soffit at the Botany Road frontage only, ensures that those units are capable of complying with the relevant noise criteria stipulated by Section 2.120 of the Transport and Infrastructure SEPP 2021. The applicant's Appendix J - Acoustic Assessment report prepared by Ronzo Tonin and Associates is supportive of this design for acoustic attenuation.
62. GFA - At the time of lodgement, the applicant had excluded the partially enclosed balconies from the calculation of gross floor area. Following Council's request for additional information and changes, which advised the applicant that these areas are in fact GFA, the applicant on 30 October 2024 provided amended GFA calculation plans. These plans included the partially enclosed balconies as GFA and demonstrated that compliance with the maximum FSR is still achieved.
63. Cross Ventilation - the assessment of the concept D/2021/1484, concluded that the Competitive Design Process and future detailed design DA will need to address natural cross ventilation. At the time of assessing D/2021/1484, 49 of 111 (44.14%) of apartments were naturally cross ventilated. Those apartments affected by road noise and being required to be partially enclosed were excluded from the natural cross ventilation calculation. Condition 12 of D/2021/1484 required a 'kit of parts' design to address road noise and natural cross ventilation. Condition 12 was satisfied on 29 September 2023. The 'kit of parts' report at Section 3.2 describes that an alternative solution is applied, where all noise affect units are excluded from the consideration of cross ventilation and that those noise affected units will provide natural ventilation through the use of windows and/or plenums. With the plenum design and/or low level windows from the balconies to the bedroom/living, all noise affected units will be ventilated and the total number of units that are ventilated equates to 197 units of the 255 (77%). In accordance with the 'kit of parts' and alternative solution agreed to by the satisfaction of Condition 12 in D/2021/1484, by excluding all noise affect balconies, calculating natural cross ventilation in accordance with Part 4B of the ADG, there are 86 of 143 (60%) of units which are naturally cross ventilated. The applicant's Appendix H - Natural Ventilation Report contains diagrams of those units which are included / excluded for the calculation of natural cross ventilation.

1. protected balcony with 25% permanent opening to the top
- 2.. acoustically lined soffit
3. low height operable windows opening into the protected balcony



**Figure 41:** Proposed acoustic treatments for each frontage

**Consistency with Concept Approval D/2021/1484**

64. Pursuant to Section 4.24(2) of the Environmental Planning and Assessment Act 1979, where a concept development application for a site remains in force, a determination of any further development application in respect to that site cannot be inconsistent with the concept development consent.
65. The concept approval relating to this proposal is D/2021/1484.
66. A Section 4.55(1A) modification A has also been lodged with Council on 17 July 2024 to modify the approved building envelope to ensure that there is consistency between the concept approval and the detailed design. This Section 4.55(1A) - D/2021/1484/A is under assessment and will be determined concurrently with this subject D/2024/581.

67. As outlined below, the detailed design proposal is consistent with the conditions imposed on the Concept Development Consent, and the consent authority is satisfied that the development is substantially the same.

Condition No.	Concept Approval Condition	Compliance															
(1)	<p>STAGED DEVELOPMENT APPLICATION</p> <p>Pursuant to Division 4.22 of the Environmental Planning and Assessment Act 1979, this Notice of Determination relates to a concept development application. A subsequent development application (DA) is required for any works to be carried out on the site.</p>	<p>Yes - subject D/2024/581 for assessment</p>															
(2)	<p>APPROVED DEVELOPMENT</p> <p>(a) Development must be in accordance with Development Application No. D/2021/1484 dated 20 December 2021 and the following drawings prepared by SJB Architects:</p> <table border="1" data-bbox="443 1010 1099 1223"> <thead> <tr> <th>Drawing Number</th> <th>Drawing Name</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>SK-0103E / 14</td> <td>Envelope – Site Plan</td> <td>29/05/2023</td> </tr> <tr> <td>SK-0501E / 11</td> <td>Envelope – Elevation – East &amp; West</td> <td>24/05/2023</td> </tr> <tr> <td>SK-0502E / 17</td> <td>Envelope – Elevation – North &amp; South</td> <td>29/05/2023</td> </tr> <tr> <td>SK-0601E / 11</td> <td>Envelope - Sections</td> <td>24/05/2023</td> </tr> </tbody> </table>	Drawing Number	Drawing Name	Date	SK-0103E / 14	Envelope – Site Plan	29/05/2023	SK-0501E / 11	Envelope – Elevation – East & West	24/05/2023	SK-0502E / 17	Envelope – Elevation – North & South	29/05/2023	SK-0601E / 11	Envelope - Sections	24/05/2023	<p>Yes - except as proposed to be modified by D/2021/1484/A.</p>
Drawing Number	Drawing Name	Date															
SK-0103E / 14	Envelope – Site Plan	29/05/2023															
SK-0501E / 11	Envelope – Elevation – East & West	24/05/2023															
SK-0502E / 17	Envelope – Elevation – North & South	29/05/2023															
SK-0601E / 11	Envelope - Sections	24/05/2023															
(3)	<p>MATTERS NOT APPROVED</p> <p>The following items are not approved and do not form part of this concept development consent:</p> <p>(a) any demolition, tree removal, excavation, remediation and/or construction;</p> <p>(b) the height in storeys or street frontage height in storeys of the development;</p> <p>(c) the layout and number of residential apartments or non-residential tenancies;</p> <p>(d) the depth, extent, number, layout and design of basement levels and/or configuration of car parking;</p> <p>(e) the number of car parking spaces, bicycle spaces, car share or loading spaces/zones;</p> <p>(f) the precise quantum of floor space; and</p>	<p>Yes - subject to assessment of this D/2024/581.</p>															

Condition No.	Concept Approval Condition	Compliance
	(g) up to 10% design excellence uplift in floor space.	
(4)	<p><b>COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT</b></p> <p>The terms of the planning agreement entered into in accordance with the VOLUNTARY PLANNING AGREEMENT condition contained in the Deferred Commencement Conditions at Part A of this consent must be complied with.</p>	<p>Yes - deferred commencement conditions are satisfied, the D/2021/1484 consent is active and the VPA is registered on title.</p>
(5)	<p><b>DESIGN MODIFICATIONS – ENVELOPE DRAWINGS</b></p> <p>The design of the concept envelope must be modified as follows:</p> <p>(a) the easement drawn in light blue hatching on drawings titled Envelope - Site Plan (SK-0103E), Envelope – Elevation – East and West (SK-0501E) and Envelope – Sections (SK-0601E), must be amended to reflect the right of carriageway and easement adjacent to the northern boundary as specified on DP 1247504 and detailed in any related dealings and s88B instruments;</p> <p>(b) the area shaded in green and with black hatching to indicate deep soil and which is located between the envelope fronting the GS2AC Road and the northern boundary, is to be reconfigured to include that part of the area marked in light blue hatching to indicate Easement that is to be redrawn in accordance with (a) above (i.e. the easement area will be reduced and deep soil area increased);</p> <p>(c) both of the deep soil zones are to be annotated as DEEP SOIL and with the area of each separate deep soil zone in square metres also annotated on the drawing</p> <p>The modifications are to be submitted to and approved by Council’s Director City Planning, Development and Transport prior to the commencement of any competitive design process for the site.</p> <p>Note: The approved envelope encroaches on an easement for batter of variable width on a portion of the site adjacent to its frontage to the GS2AC Road. This easement benefits Council. It is recommended</p>	<p>Yes - Condition Satisfied letter issued on 29 September 2023.</p>



Condition No.	Concept Approval Condition	Compliance
	that the release of this easement is sought prior to lodgement of any subsequent DA for the detailed design of the building.	
(6)	<p><b>BUILDING HEIGHT</b></p> <p>(a) Building height proposed as part of any subsequent DA for the detailed design of the building must not exceed the heights expressed as RLs (AHD) shown on drawings listed in the APPROVED DEVELOPMENT condition above;</p> <p>(b) To be clear, this condition does not restrict development comprising building height:</p> <p style="padding-left: 40px;">(i) proposed or erected by or on behalf of a public authority on land identified in the Voluntary Planning Agreement for transfer (and/or dedication) for the purpose of public amenities such as street furniture, street lighting, landscape structures or the like;</p> <p style="padding-left: 40px;">(ii) located in the ground level common open space areas for the purpose of landscape structures and communal facilities that do not comprise floor space (or GFA) and do not compromise deep soil provision.</p>	Yes - the proposed detailed design complies with the heights / building envelope proposed under D/2021/1484/A.
(7)	<p><b>FLOOR SPACE RATIO</b></p> <p>The following applies to Floor Space Ratio:</p> <p>(a) The Floor Space Ratio (FSR) of development contained within the site must not exceed the maximum permitted FSR calculated in accordance with the Sydney Local Environmental Plan 2012.</p> <p>(b) Notwithstanding (a) above, the development contained within the site may be eligible for up to 10% additional floor space pursuant to the provisions of Clause 6.21D(3) of the Sydney Local Environmental Plan 2012 if the consent authority is satisfied that the subsequent DA for the detailed design of the building exhibits design excellence and is the result of a competitive design process.</p>	Yes - the detailed design FSR proposed under this D/2024/581 is compliant with the maximum permitted FSR inclusive of the bonuses permitted by Cl.6.14 and Cl.6.21D of SLEP 2012.
(8)	<b>DEVELOPMENT TO BE CONTAINED WITHIN ENVELOPE</b>	Yes - D/2021/1484/A as proposed to be modified is

Condition No.	Concept Approval Condition	Compliance
	The detailed design of the building must be contained within the approved envelope except for footpath awnings and/or projections beyond private property boundaries over or into the public road/footpath in accordance with the requirements of Schedule 4 of the Sydney DCP 2012.	consistent with the detailed design.
(9)	<p><b>DISTRIBUTION OF FLOOR SPACE WITHIN ENVELOPE</b></p> <p>The approved concept proposal envelope establishes the maximum parameters for the competitive design process and the future built form on the site. The detailed design of the building must not occupy the entirety of the envelope. The maximum permissible floor space of the detailed design must be consistent with the relevant provisions of the Sydney LEP 2012, the Sydney DCP 2012 and the conditions of this consent.</p>	Yes - the proposed 3:1 FSR is compliant with SLEP 2012.
(10)	<p><b>COMPETITIVE DESIGN PROCESS</b></p> <p>A competitive design process shall be conducted in accordance with the provisions of the Sydney Local Environmental Plan 2012 and:</p> <p>(a) in accordance with 'Design Excellence Strategy for 330-332 Botany Road, Alexandria dated 17 May 2023, prepared by Ethos Urban on behalf of City West Housing; and</p> <p>(b) prior to the lodgement of any subsequent DA for the detailed design of the building.</p> <p>The detailed design of the building/s must exhibit design excellence, in accordance with Clause 6.21C of Sydney Local Environmental Plan 2012.</p>	<p>Yes - the competitive design process - <b>CMP/2021/3</b> - was held in 2023. AJC Architects, EM BE CE Studio and SJB Architects were the three competitors. It commenced on 13 October 2023, final presentations to the selection panel (Lee Hillam of DunnHillam, Michael Zanardo of Studio Zanardo, John Carfi of Aqualand and Matthew Allen of Bates Smart) were made on 29 November 2023.</p> <p>The selection panel identified AJC Architects as the winning</p>

Condition No.	Concept Approval Condition	Compliance
		scheme in December 2023.
(11)	<p><b>DETAILED DESIGN OF BUILDINGS</b></p> <p>The design brief for the competitive design process and the building design submitted as part of any subsequent DA for the detailed design of the building, must address the following design requirements:</p> <p>(a) the design of the building fronting the Green Square to Ashmore Connector Road (the GS2AC Road) must minimise the difference between the internal ground floor level and the level of the public domain to minimise the creation of any physical barrier, such as steps or ramps, to the shop windows of commercial tenancies fronting the GS2AC Road, to increase the portion of the ground floor that is close to being at grade with the footpath, to maximise activation, visibility into and out of the commercial tenancies from the street and to maximise the number of direct entries to these tenancies from the street;</p> <p>(b) footpath awnings must be provided to all three street and road frontages;</p> <p>(c) common open space is to be provided in an area or areas of a useable size and configuration, directly and equitably accessed from common circulation areas, entries and lobbies, and designed so that the principal common open space area or areas achieve minimum solar access requirements as stated at provision 4.2.3.8 of the Sydney DCP 2012;</p> <p>(d) the building elevation to the new GS2AC Road must be broken into two or more building masses that present different architectural characters to the public domain in accordance with the design requirements of provision 4.2.4 of the Sydney DCP 2012. Including that these 'broken down' buildings are to be articulated into smaller elements and are to be separated by full height breaks in accordance with the separation, visual and acoustic privacy objectives of the Apartment Design Guide;</p> <p>(e) to account for construction tolerances and to minimise risks associated with encroachment, the detailed design of any part of the building fronting Botany Road must clearly demonstrate a minimum</p>	<p>(a) Yes - the level difference between the ground floor of each commercial tenancy and the public domain has been minimised by implementing numerous smaller tenancies along the street frontage, each tenancy can step down from to match contours of the land.</p> <p>(b) Yes - footpath awnings are provided.</p> <p>(c) Yes - large area of ground level COS is provided but does not receive the required amount of sun mid-winter. A rooftop COS which does receive solar access is proposed.</p> <p>(d) Yes - the building fronting the GS2AC Road is broken into 6 cores to create visual separation.</p> <p>(e) Yes - subject to the D/2021/1484/A envelope.</p> <p>(f) Yes - facades comprise a significant proportion of solid</p>

Condition No.	Concept Approval Condition	Compliance
	<p>setback of 20mm from the northern boundary of the site;</p> <p>(f) facades are to comprise a proportion of solid surfaces, preferably masonry material to reflect the established character of the area;</p> <p>(g) the corner of Botany Road and the GSAC Road is to be reinforced by appropriate massing and facade orientation;</p> <p>(h) rooftop structures such as plant rooms, solar panels, air conditioning and ventilation systems are to be incorporated into the design of the building and concealed within the roof form or located within a well-designed, integrated roof top element;</p> <p>(i) any design for a tall building (&gt;35m in height) is to be vertically proportioned in height, form and articulation.</p>	<p>and masonry surfaces. There are no expansive areas of glazing throughout the development.</p> <p>(g) Yes - massing and orientation to recognise the prominent corner has been considered.</p> <p>(h) Yes - mechanical services and rooftop plant is incorporated into the design of the building and within the building envelope.</p> <p>(i) Yes - vertical proportions achieved through materials and finishes.</p>
(12)	<p><b>ACOUSTIC / VENTILATION BRIEF</b></p> <p>Prior to the commencement of the competitive design process, a kit of acoustic privacy / natural ventilation solutions (the 'kit of parts') is to be submitted to and approved by Council's Area Planning Manager / Coordinator.</p> <p>The kit of parts is to provide a coordinated resource of design measures to mitigate noise as well as to achieve the natural ventilation requirements of the Apartment Design Guide and is to be appended to any competitive design process brief.</p> <p>The kit of parts must consolidate the recommendations contained in the:</p> <p>Acoustic Advice for Concept DA and Design Competition, ref. no. TM235-01F02 DA and Design</p>	<p>Yes - Condition Satisfied letter issued on 29 September 2023.</p>

Condition No.	Concept Approval Condition	Compliance
	<p>Competition Advice (r3), dated 7 December 2022 and as prepared by Renzo Tonin and Associates; and</p> <p>Natural Ventilation 330-332 Botany Road, Rev C, dated 1 December 2022 and as prepared by Flux Consultants Pty Ltd.</p> <p>The kit of parts must not include detail solutions based on the reference scheme.</p>	
(13)	<p>LANDSCAPE CONCEPT PLAN</p> <p>(a) The landscape plan titled 330 Botany Road, Alexandria / City West Housing, as prepared by Arcadia is not approved by this consent.</p> <p>(b) Prior to the commencement of any competitive design process for the site a landscape concept plan must be submitted to and approved by Council’s Area Planning Manager / Coordinator.</p> <p>(c) The landscape concept plan must:</p> <ul style="list-style-type: none"> <li>(i) be consistent with the approved concept envelopes as amended by the DESIGN MODIFICATIONS – ENVELOPE DRAWINGS condition above;</li> <li>(ii) provide a concise landscape strategy that identifies landscape constraints and setbacks;</li> <li>(iii) specify the requirements for the landscape spaces, including minimum areas of unimpeded deep soil areas, an urban canopy cover target of at least 15% of the site area within 10 years of completion, communal open space at ground level and on rooftops, green roofs, and substation locations;</li> <li>(iv) not contain indicative tree plantings in the right of carriageway that extends from O’Riordan Street part way along the northern boundary towards the east;</li> <li>(v) how retained street trees will be integrated into the design;</li> </ul>	<p>Yes - Condition Satisfied letter issued on 29 September 2023.</p>

Condition No.	Concept Approval Condition	Compliance
	(vi) establish a clear commitment to designing landscape sustainably and in a manner that integrates landscape and building design.	
(14)	<p><b>DETAILED LANDSCAPE PLAN</b></p> <p>(a) Any subsequent DA for the detailed design of the building must include a detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer. The plan must include:</p> <ul style="list-style-type: none"> <li>(i) Details of tree protection and methodology statements;</li> <li>(ii) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;</li> <li>(iii) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers;</li> <li>(iv) Location, numbers, type and supply of plant species, with reference to the relevant Australian Standard;</li> <li>(v) A minimum 15% canopy cover across the site, provided by trees that will reach a minimum height of eight metres;</li> <li>(vi) Deep soil provision in accordance with the DEEP SOIL condition below;</li> <li>(vii) New tree plantings with tree species that can achieve a minimum mature height of eight metres and canopy spread of five metres. Palms, fruit trees and species recognised to have a short life span will not be accepted;</li> <li>(viii) Tree selection shall include a diverse range of species which must be consistent with the expected mature heights and growth within the Sydney area;</li> <li>(ix) New trees must be planted in natural ground with adequate soil volumes to allow</li> </ul>	<p>Yes - a detailed landscape plan has been submitted with this D/2024/581 and is supported by Council's Landscape Architect subject to conditions.</p>

Condition No.	Concept Approval Condition	Compliance
	<p>maturity to be achieved. Planter boxes will not be accepted for tree planting;</p> <p>(x) New trees must be appropriately located away from existing buildings and structures to allow maturity to be achieved without restriction;</p> <p>(xi) Details of planting procedure and maintenance;</p> <p>(xii) Details of drainage, waterproofing and watering systems.</p> <p>(b) The detailed landscape plan must address the requirements of provisions 4.2.3.5 of the Sydney DCP 2012 and the relevant guidance provided in the City of Sydney Landscape Code, Volume 2, All Development Except Single Dwellings.</p>	
(15)	<p><b>DEEP SOIL</b></p> <p>Deep soil must be provided in the locations illustrated on the drawing titled Envelope Site Plan, SK-0103E, prepared by SJB and as modified in accordance with the DESIGN MODIFICATIONS – ENVELOPE DRAWING condition above. Deep soil zones must be unencumbered by structures within, above or below the zone except those constructed of lightweight materials such as timber decking or water permeable paving that allow for filtration of rainwater into the ground.</p>	<p>Yes - deep soil proposed by this D/2024/581 is consistent with the concept design.</p>
(16)	<p><b>WASTE AND RECYCLING MANAGEMENT</b></p> <p>(a) Prior to the commencement of any competitive design process for the site, a Waste Management Strategy (WMS) must be submitted to and approved by Council's Area Planning Manager / Coordinator and which once approved, may be appended to the design brief for the competitive design process. The WMS must address the following requirements:</p> <p>(i) estimates of waste streams (waste, recycling and food waste) that will be generated and the number of bins and collection frequency to manage the waste generated calculated in accordance with the rates specified in the City's Guidelines for Waste Management in New Developments;</p>	<p>Yes - Condition Satisfied letter issued on 29 September 2023.</p>

Condition No.	Concept Approval Condition	Compliance
	<p>(ii) the minimum spatial requirements (minimum room sizes, minimum door sizes, manoeuvring space, size of bin holding areas etc) for waste management systems and facilities based on the estimated waste generation of the ongoing operation of the development and must account for specified bin sizes (240L, 660L or 1100L);</p> <p>(iii) safe and convenient access for waste collection staff with a maximum walking distance from any entrance of a residential dwelling to the waste and recycling storage area is not to exceed 30 metres;</p> <p>(iv) maximum manual handling distance by council contractors of 10m;</p> <p>(v) waste management and collection must be accommodated wholly within the site;</p> <p>(vi) access for a 10.6m long Council garbage truck and vertical clearance of 4 metres clear of all ducts, pipes and other services;</p> <p>(vii) waste collection vehicles to be able to enter and exit the premises in a forward direction;</p> <p>(ix) waste management systems and facilities that promote safe and convenient access for all users;</p> <p>(x) separate waste storage area for residential and commercial aspects of developments. Commercial tenants must not have access to residential waste storage areas.</p> <p>(b) Details are to be provided with the subsequent DA for the detailed design of the building to demonstrate that adequately sized waste management facilities including waste storage areas and truck access and loading is provided in accordance with the relevant requirements of the Sydney DCP 2012 and the City's Guidelines for Waste Management in New Developments.</p>	
(17)	<p><b>ECOLOGICALLY SUSTAINABLE DEVELOPMENT</b></p> <p>Details are to be provided with the subsequent DA for the detailed design of the building to confirm that the</p>	<p>Yes - an ESD Report and BASIX Certificates have been provided with</p>



Condition No.	Concept Approval Condition	Compliance
	<p>building has adopted the following ESD targets set out in the Design Excellence Strategy referred to in COMPETITIVE DESIGN PROCESS condition above:</p> <ul style="list-style-type: none"> <li>(a) a BASIX energy score of 35 [or appropriate BASIX energy score as relevant to the State Environmental Planning Policy (Sustainable Buildings) 2022;</li> <li>(b) a BASIX water score of 40;</li> <li>(c) minimum 7 star NatHERS average rating across the development;</li> <li>(d) electrification of all building components, including in all dwellings, centralised services and commercial/retail premises;</li> <li>(e) inclusion of green roof elements in accordance with the City’s Green Roofs and Walls Policy;</li> <li>(f) inclusion of on-site renewable energy generation via photovoltaic panels; and</li> <li>(g) connection to the Green Square Town Centre recycled water system on Geddes Avenue and the new Green Square to Ashmore Connector Road.</li> </ul> <p>The ESD targets are to be included in the competitive design process brief and carried through the competition phase, design development, construction, and through to completion of the project.</p>	<p>this D/2024/581 which demonstrates the development will the requirements of the Sustainable Budlings SEPP.</p>
(18)	<p>RESIDENTIAL LAND USE</p> <p>(a) The residential component of the development must be designed to comply with the principles of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development, the guidelines of the Apartment Design Guide (the ADG), and the provisions of the Sydney DCP 2012, with particular attention to the following matters:</p> <ul style="list-style-type: none"> <li>(i) ADG objectives 2F Building separation and 3F-1 Visual privacy;</li> <li>(ii) ADG objective 4B-1 Natural ventilation;</li> <li>(iii) ADG objective 4B-3 Natural cross ventilation;</li> </ul>	<p>Yes - the proposed detailed design of D/2024/581 demonstrates compliance with the provisions of the ADG and DCP.</p>

Condition No.	Concept Approval Condition	Compliance
	<p>(iv) ADG objective 4J Noise and pollution – with noise and natural ventilation addressed through siting and layout, facade treatment and design and lastly through attenuated passive ventilation devices;</p> <p>(iv) DCP provision 3.2.3 Active frontages – with active frontages to be provided to the GS2AC Road frontage;</p> <p>(v) DCP provision 3.2.4 Footpath awnings – with a continuous awning to be provided to all three street frontages; and</p> <p>(vi) DCP provision 4.2.3.8 Amenity – Common open space – as it pertains to solar access to the principal useable common open space areas.</p> <p>(b) A BASIX certificate in accordance with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 must be submitted with any subsequent DA for the detailed design of the building.</p>	
(19)	<p><b>SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO COMPETITIVE DESIGN PROCESS</b></p> <p>(a) Prior to the commencement of any competitive design process for the site, an accurate 1:1 electronic CAD model of the envelope approved by this consent must be submitted to and approved by Council’s Area Coordinator Planning Assessments/Area Planning Manager for the electronic Visualisation City Model.</p> <p>(b) The data required to be submitted within the surveyed location must include and identify:</p> <p>(i) above ground envelope design in accordance with the development consent;</p> <p>(ii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information’s SCIMS Database with a Horizontal Position Equal to or better than Class C.</p>	<p>Yes - Condition Satisfied letter issued on 29 September 2023.</p>

Condition No.	Concept Approval Condition	Compliance
	<p>The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.</p> <p>(c) The electronic model must be constructed in accordance with the City’s 3D CAD electronic model specification. The specification is available online at <a href="http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements">http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements</a> Council’s Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.</p>	
(20)	<p><b>PUBLIC ART</b></p> <p>(a) The Preliminary Public Art Plan prepared by Amanda Sharrad for City West Housing and dated November 2021, has not been approved by this consent.</p> <p>(b) The Preliminary Public Art Plan must be modified as follows:</p> <p>(i) Remuneration for First Nations participants - the public art budget must be revised to specifically include a fee for First Nations community consultation participants;</p> <p>(ii) Indigenous Cultural Consultant(s) - it is noted that traditional Custodians and First Nations residents of the City West Housing development will be specifically consulted and involved throughout the process to ensure that the public art offering is culturally relevant and appropriate, it should be acknowledged that Indigenous Cultural Consultant(s) may be required on the project team to guide the consultation process;</p> <p>(iii) Marketing photography and publicity costs - the public art budget must be revised to exclude Marketing Photography and Publicity Costs. These costs must be re-directed to general development costs;</p> <p>(iv) Artwork lifespan - the artwork lifespan must be amended to be a minimum of 25 years, rather than 'up to' 25 years. The Artwork Life-Span section on page 20 is to be amended to include: "Artwork(s) should be commissioned</p>	<p>Yes - a public art plan has been submitted with this D/2024/581 and has been supported by Council's Public Art team subject to conditions of consent.</p>

Condition No.	Concept Approval Condition	Compliance						
	<p>with permanent intent and sustainability as a primary objective;</p> <p>(v) Maintenance - artwork maintenance requirements are to be amended to reflect a minimum life expectancy of 25 years, rather than 20 years. The wording in the Maintenance section on page 20, is to be adjusted to align with the wording and intent to commission artwork(s) with an anticipated lifespan of at least 25 years as detailed at (iv) above.</p> <p>(c) The Preliminary Public Art Plan modified in accordance with (b) above must be submitted as part of any subsequent DA for the detailed design of the building.</p>							
(21)	<p><b>TREES IDENTIFIED FOR REMOVAL</b></p> <p>(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.</p> <p>(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.</p> <p>Table 1 – Tree Removal:</p> <table border="1" data-bbox="443 1361 1082 1469"> <thead> <tr> <th data-bbox="443 1361 539 1413">Tree No</th> <th data-bbox="539 1361 874 1413">Botanical (Common Name)</th> <th data-bbox="874 1361 1082 1413">Location</th> </tr> </thead> <tbody> <tr> <td data-bbox="443 1413 539 1469">5</td> <td data-bbox="539 1413 874 1469"><i>Cupressus macrocarpa</i> (Monterey Cypress Pine)</td> <td data-bbox="874 1413 1082 1469">330 Botany Road</td> </tr> </tbody> </table>	Tree No	Botanical (Common Name)	Location	5	<i>Cupressus macrocarpa</i> (Monterey Cypress Pine)	330 Botany Road	<p>Yes - Appendix F - Arboricultural Impact Assessment Report has been submitted with this D/2024/581. It proposes to remove 6 additional trees; T12, T13, T14, T15, T16, and T17 at the Botany Road frontage.</p> <p>Council's Tree Management Officer has reviewed the arborist report and plans and no objection is raised with those trees sought for removal.</p>
Tree No	Botanical (Common Name)	Location						
5	<i>Cupressus macrocarpa</i> (Monterey Cypress Pine)	330 Botany Road						
(22)	<p><b>TREES IDENTIFIED FOR RETENTION</b></p> <p>(a) For the purposes of the competitive design process and subsequent DA for the detailed design of the building the trees detailed in Table 2 below are identified for retention.</p>	<p>Yes - these trees are being retained under D/2024/581.</p>						

Condition No.	Concept Approval Condition	Compliance																
	<p>Table 2 – Tree Retention:</p> <table border="1" data-bbox="443 383 1082 689"> <thead> <tr> <th>Tree No</th> <th>Botanical (Common Name)</th> <th>Location</th> </tr> </thead> <tbody> <tr> <td>1 - 4</td> <td><i>Melaleuca quinquenervia</i> (Broad-Leaved Paperbark)</td> <td>O’Riordan Street</td> </tr> <tr> <td>7</td> <td><i>Platanus x acerifolia</i> (London Plane)</td> <td rowspan="3">Botany Road</td> </tr> <tr> <td>8 &amp; 11</td> <td><i>Robinia pseudoacacia</i> ‘Frisia’ (Golder Robinia)</td> </tr> <tr> <td>9</td> <td><i>Melaleuca quinquenervia</i> (Broad-Leaved Paperbark)</td> </tr> <tr> <td>10</td> <td><i>Lophostemon confertus</i> (Brush Box)</td> <td></td> </tr> </tbody> </table>	Tree No	Botanical (Common Name)	Location	1 - 4	<i>Melaleuca quinquenervia</i> (Broad-Leaved Paperbark)	O’Riordan Street	7	<i>Platanus x acerifolia</i> (London Plane)	Botany Road	8 & 11	<i>Robinia pseudoacacia</i> ‘Frisia’ (Golder Robinia)	9	<i>Melaleuca quinquenervia</i> (Broad-Leaved Paperbark)	10	<i>Lophostemon confertus</i> (Brush Box)		
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(23)	<p>TREES IDENTIFIED FOR PROTECTION (trees on neighbouring sites)</p> <p>(a) For the purposes of the competitive design process and subsequent DA for the detailed design of the building the trees detailed in Table 3 below are identified for retention and protection.</p> <p>Table 3 – Trees to be protected:</p> <table border="1" data-bbox="443 1077 1098 1160"> <thead> <tr> <th>Tree No</th> <th>Botanical (Common Name)</th> <th>Location</th> </tr> </thead> <tbody> <tr> <td>6</td> <td><i>Corymbia maculata</i> (Spotted Gum)</td> <td>18 O’Riordan Street</td> </tr> </tbody> </table>	Tree No	Botanical (Common Name)	Location	6	<i>Corymbia maculata</i> (Spotted Gum)	18 O’Riordan Street	<p>Yes - tree is being retained and protected under D/2024/581.</p>										
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(24)	<p>STREET TREES AND DETAILED DESIGN APPLICATION</p> <p>(a) All street trees surrounding the site must be included for retention in any subsequent detailed design DA.</p> <p>(b) Any design elements (awnings, street furniture, footpath upgrades etc) within the public domain must ensure appropriate setbacks are provided from the street tree to allow maturity of the tree to be achieved.</p> <p>(c) The location of any new driveways must not require the removal of any existing street trees. The driveway must be appropriately set back so it does not have adverse impacts both below and above ground upon any existing street trees.</p>	<p>Yes - all street trees are being retained under D/2024/581.</p>																
(25)	<p>ACOUSTIC REPORT</p> <p>An Acoustic Impact Assessment must be undertaken by a suitably qualified acoustic consultant and submitted with any subsequent DA for the detailed design of the building in accordance with the</p>	<p>Yes - a noise and vibration impact assessment has been submitted</p>																

Condition No.	Concept Approval Condition	Compliance
	provisions of the Sydney Local Environmental Plan 2012, Sydney Development Control Plan 2012, the NSW Government's Development near Rail Corridors and Busy Roads - Interim Guideline and the State Environmental Planning Policy (Infrastructure) 2007.	with D/2024/581 and is acceptable.
(26)	<p><b>FLOOD PLANNING LEVELS</b></p> <p>Details must be submitted with any subsequent DA for the detailed design of the building to demonstrate compliance with the recommended flood planning levels specified in Table 1 of the report titled: 330-332 Botany Road and 20 O’Riordan Street, Alexandria Civil Engineering Flood Report revision 6, as prepared by Enstruct Group Pty Ltd and dated 9/12/22.</p>	Yes - a flood impact assessment report has been submitted with D/2024/581 and is acceptable.
(27)	<p><b>LAND CONTAMINATION</b></p> <p>(a) Any subsequent DA for the detailed design of the building must include reports and documentation to address the requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land.</p> <p>(b) The relevant reports and documentation may include but are not limited to the following:</p> <ul style="list-style-type: none"> <li>(i) L04 - Summary of LFG and ASS Works 330-338 Botany Rd Alexandria, Rev. A, reference no. JBS&amp;G 54768-141853, dated 4 November 2021 and as prepared by JBS&amp;G;</li> <li>(ii) Amended RAP reference no. 54768-136404 Rev. 1, dated 23 November 2022 and as prepared by JBS&amp;G;</li> <li>(iii) Interim Audit Advice No. 6, dated 25 November 2022 and as prepared by Senversa.</li> </ul>	Yes - a RAP and accredited NSW EPA auditor has reviewed the RAP.
(28)	<p><b>LAND DEDICATION – NO LONG-TERM ENVIRONMENTAL MANAGEMENT PLAN</b></p> <p>Any land that is to be dedicated to the City under the planning agreement entered into in accordance with the VOLUNTARY PLANNING AGREEMENT condition contained in the Deferred Commencement Conditions at Part A of this consent, must not be encumbered by an Environmental Management Plan or Long-Term Environmental Management Plan.</p>	Yes - the RAP identifies that those areas of land dedicated to Council will be remediated and not subject to a LTEMP.

Condition No.	Concept Approval Condition	Compliance
(29)	<p><b>PUBLIC DOMAIN CONCEPT PLAN</b></p> <p>Any subsequent DA for the detailed design of the building must include a public domain concept plan prepared in accordance with the Public Domain Manual and the City's Sydney Streets Code. It must illustrate all site frontages, including areas extending a minimum of 5m either side of the site boundary and to the road centerline.</p>	<p>Yes - a public domain plan has been submitted with this D/2024/581 and is supported by Council's Public Domain unit subject to conditions of consent.</p>
(30)	<p><b>SUSTAINABLE TRANSPORT ON SOUTHERN EMPLOYMENT LAND</b></p> <p>Any subsequent development application for the detailed design of the building must include information to address:</p> <p>(a) clause 7.25 of the Sydney Local Environmental Plan, which requires the development to promote sustainable transport modes and minimise traffic congestion. This may include but is not limited to:</p> <ul style="list-style-type: none"> <li>(i) how the development will address sustainable transport objectives set out in Sustainable Sydney 2030 to 2050;</li> <li>(ii) trip generation information and how this is to be catered for if on site car-parking is to be constrained; and</li> <li>(iii) details of bicycle parking and end of trip facilities, including, the numbers of bicycle parking spaces, showers, lockers, the layout, design and security of bicycle facilities in accordance with Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities, 'Austroads Bicycle Parking Facilities: Guidelines for Design and Installation', and provision 3.11.3 of the Sydney DCP 2013;</li> </ul> <p>(b) access and loading areas able to accommodate a Council waste collection vehicle 10.6m long and otherwise designed in accordance with the relevant requirements of provisions 3.11.6 and 3.11.13 of the Sydney DCP 2012.</p>	<p>Yes - a transport impact assessment has been submitted with D/2024/581 and compliance with SLEP 2012 parking rates and sustainable transport objectives are achieved.</p>

Condition No.	Concept Approval Condition	Compliance
(31)	<p><b>PARKING DESIGN</b></p> <p>The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities.</p>	<p>Yes - the car parking design complies with AS.2890.</p>
(32)	<p><b>SECURITY GATES</b></p> <p>Any detailed building design submitted as part of any subsequent DA that incorporates a car park accessed by a security gate, then that gate must be located at least 6 metres within the site from the property boundary with the street.</p>	<p>Yes - security gates are located 6m from the property boundaries.</p>
(33)	<p><b>ON SITE LOADING AREAS AND OPERATION</b></p> <p>The detailed building design must provide for all loading, unloading and servicing operations to be carried out within the confines of the site and so there is no obstruction of other properties/units or the public way.</p>	<p>Yes - loading and unloading within the loading dock basement floor plan is acceptable subject to conditions which require amended swept path diagrams.</p>
(34)	<p><b>VEHICLES ACCESS</b></p> <p>The detailed building design must allow for all vehicles to enter and depart the site in a forward direction.</p>	<p>Yes - forward entry and exist is achieved at the GS2AC Road frontage.</p>
(35)	<p><b>LOADING DOCK MANAGEMENT PLAN</b></p> <p>A Loading Dock Management Plan must be submitted as part of any subsequent DA for the detailed design of the building.</p> <p>The Loading Dock Management Plan must include the strategy for the management of all servicing of the site including delivery vehicles, garbage collection, service vehicles, removalist vehicles and should include information such as arrivals to the site, the anticipated</p>	<p>Yes - details of loading dock management are contained within in the transport impact assessment report submitted with D/2024/581.</p>



Condition No.	Concept Approval Condition	Compliance
	<p>numbers of arrivals per week, time of day of the arrivals, length of stay, vehicle type etc. along with how these will be managed to prevent disruption to public streets. The Loading Dock Management Plan must be able to respond to changes in the surrounding road environment and be updated accordingly.</p>	
(36)	<p><b>ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES</b></p> <p>The detailed design of the building must provide access and facilities for people with a disability in accordance with the Building Code of Australia.</p>	<p>Yes - an accessibility report has been submitted within this D/2024/581.</p>
(37)	<p><b>ADAPTABLE HOUSING</b></p> <p>The subsequent DA for the detailed design of the building is to provide the required number of residential units that are able to be adapted for people with a disability in accordance with provision 3.12.2 of the Sydney DCP 2012, the Building Code of Australia and Australian Standard AS4299.</p>	<p>Yes - 15% of the total number of dwellings are designed to AS4299-1995 Adaptable housing and all apartments achieve silver level liveable housing requirements.</p>
(38)	<p><b>SIGNAGE STRATEGY</b></p> <p>A detailed signage strategy must be submitted with any subsequent DA for the detailed design of the building. The signage strategy must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.</p>	<p>N/A - no signage is proposed by this D/2024/5881, a separate DA will be lodged with Council for a signage strategy at a later date.</p>
(39)	<p><b>INFORMATION FOR THE PURPOSE OF CALCULATING SECTION 7.11 CONTRIBUTIONS</b></p> <p>Any subsequent DA for the detailed design of the building must include the following information:</p> <p>(a) Gross floor area (GFA) schedules and diagrams for the proposed development for the purposes of calculating section 7.11 contributions and credits;</p>	<p>N/A - The City of Sydney Development Contributions Plan 2015 applies to the site.</p> <p>Affordable rental housing provided by a community</p>

Condition No.	Concept Approval Condition	Compliance
		<p>housing provider is excluded from the need to pay a contribution in accordance with section 1.3 of the Plan.</p> <p>Accordingly, no contribution is required.</p>

**Design Excellence**

- 68. Clause 6.21C provides that consent cannot be granted to a development to the erection of a new building unless the consent authority considers that the proposed development exhibits design excellence having regard to the matters outlined at cl 6.21C(2).
- 69. As outlined throughout this assessment report it is considered that the proposed building represents design excellence notably having regard to the bulk, massing and modulation of the building, environmental impacts, amenity, landscape design and the achievement of ESD.
- 70. The proposed development will provide 255 new affordable rental housing dwellings in a highly accessible location, will provide good amenity to the future residents and is of a suitable form, density and character to fit within the desired future character of the locality.
- 71. It is considered that the proposal achieves design excellence in accordance with the Cl.6.21C of SLEP 2012.

**Suitability of the site for the Development**

- 72. The site is situated within the Green Square Urban Renewal Area and is located within proximity to the Green Square Town Centre, amongst similar residential uses, particularly the southern neighbouring development application made by St George Community Housing for the affordable rental housing development at 338 Botany Road Alexandria, the proposed is suitable for the site.
- 73. The proposal is consistent with the height and scale of development approved and envisaged for both the Ashmore Connector and Botany Road and accordingly will not be overbearing or bulky in the streetscape. Further it provides a high quality interface with the public domain at all three road frontages. It is therefore considered that the site is suitable for the proposed development.

**Public Interest**

- 74. The proposal is in the public interest as the development will deliver 255 high quality affordable rental housing dwellings in a highly accessible area with excellence residential amenity and facilities. As assessed it will not have any detrimental effect on the public interest.

## Consultation

### Design Advisory Panel

75. The application was presented to the Design Advisory Panel on 12 September 2024.
76. The panel consisted of; Ken Maher (Chair), Kerry Clare, James Weirick, Emily McDaniel, Richard Johnson and Peter Mould.
77. A summary of the comments as recorded in the meeting minutes (advice sheet 23/2024) is as below:
  - (a) Council Officers presented the development application for 330 Botany Road, Alexandria, including construction of two mixed use buildings 9 storeys to 12-storeys in height, with 1 level of basement, for 255 affordable rental housing units and ground floor commercial uses. The Panel commended the team's comprehensive assessment and noted and recommended the following:
  - (b) The Panel commended the social commitment and achievement of providing a new public link and affordable rental housing on both sides of the street.
  - (c) The Panel commended the scheme's general arrangement as a series of linked cores.
  - (d) Minor refinement of one 7.8m<sup>2</sup> balcony in Core F to get closer to the 10m<sup>2</sup> requirement is recommended.
  - (e) The landscape area to the west of Core A has a high proportion of hardscape and could be further refined to reduce hard surfaces and increase planting and large trees for cooling this western aspect.
  - (f) A review of glazing areas, particularly to the west, is recommended to ensure that adequate solar shading is provided.

### Internal Referrals

78. The application was discussed with Council's:
  - (a) Cleansing and Waste
  - (b) City Access and Transport
  - (c) Environmental Health - Contamination
  - (d) Environmental Health - Noise
  - (e) Landscape Architect
  - (f) Public Domain and Waterway Assets
  - (g) Public Art
  - (h) Tree Management
  - (i) Urban Design (South B).

79. Upon the initial assessment of the lodgement plans and information additional information was requested as outlined at the 'Amendments' section of this assessment report. In summary, the issues included; gross floor area, 3D cad model, flood and stormwater engineering, remediation action plan details, waste bin sizes, swept path diagrams in the basement level, landscaping details, and public domain lighting.
80. The applicant submitted amended information on 4 October 2024, 25 October 2024 and 30 October 2024 in response to those matters raised in the formal request for additional information letter. The additional information has mostly addressed Council's issues and concerns and the proposal is acceptable subject to conditions of consent as recommended.

## External Referrals

### Ausgrid

81. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
82. A response was received on 17 September 2024 raising no objections to the proposed development subject to conditions of consent relating to streetlighting, works in proximity to existing overhead power lines and underground cables, and works in proximity to an existing substation. The agency referral response is saved as Council Reference TRIM 2024/482265-08.

### Sydney Airport

83. 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.
84. 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).
85. The Sydney Airport Airfield Infrastructure Technical Planning, as an authorised person of the CASA, on 1 August 2024 and 16 September 2024 provided approval for the controlled activity - Council Reference TRIM 2024/482265-02 and 2024/482265-14.
86. No conditions were required by Sydney Airport as the development will not constitute a significant hazard to aircraft operations and no obstacle lighting is required.
87. On 1 August 2024, Sydney Airport referred the application to the Australian Federal Government - Airspace Protection and Airport Safeguarding, Domestic Aviation and Reform, Department of Infrastructure, Transport, Regional Development, Communications and the Arts.
88. The Australian Federal Government provided recommended conditions on 8 November 2024 - Council Reference TRIM 2024/482265-16.

### Sydney Trains

89. Pursuant to Section 2.98 and 2.99 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Sydney Trains for comment, given the proximity of the development site to the rail corridor.

90. A response was received on 19 August 2024 raising no objections to the proposed development subject to conditions of consent relating to information that is to be submitted to Sydney Trains prior to a Construction Certificate being issued. The agency referral response is saved as Council Reference TRIM 2024/482265-06.

### **Transport for NSW**

91. Pursuant to Section 138 of the Roads Act 1993, the application was referred to Transport for NSW (TfNSW) for comment.
92. On 13 August 2024, TfNSW provided comments on the development and requested that the proposed vehicle crossing at the O'Riordan Street frontage be deleted and access only be provided off the GS2AC Road. The agency referral response is saved as Council Reference TRIM 2024/482265-03.
93. This crossing is being retained and is not a new crossing proposed. Furthermore, all vehicular access is provided via the GS2AC Road and not this existing crossing. The retention of the existing cross at the O'Riordan Street frontage will not contribute to any adverse impacts on the road network or safety. As a result, Council did not request this existing crossing to be removed and reinstated with kerb and gutter.

### **Water NSW**

94. Pursuant to Section 91 of the Water Management Act 2000, the application was referred to Water NSW for concurrence and as Integrated Development pursuant to Section 4.46 - 4.47 of the Environmental Planning and Assessment Act 1979.
95. General Terms of Approval were issued by Water NSW on 2 October 2024 and have been included in the recommended conditions of consent.
96. The agency referral response is saved as Council Reference TRIM 2024/482265-10 and 2024/482265-11.

### **Advertising and Notification**

97. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 24 July 2024 and 22 November 2024. A total of 44 properties were notified, and no submissions were received.

## Financial Contributions

### Contribution under Section 7.11 of the EP&A Act 1979

98. The City of Sydney Development Contributions Plan 2015 applies to the site. Affordable rental housing provided by a community housing provider is however excluded from the need to pay a contribution in accordance with section 1.3 of the Plan. A social housing provider is defined under the Housing SEPP and includes City West Housing, the Applicant. Accordingly, no contribution is required in this instance.

### Housing and Productivity Contribution

99. The development is not subject to a Housing and Productivity Contribution under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
100. While the site is located with the Greater Sydney region, the development is of a type listed in Schedule 2 of the Order as being exempt from the Housing and Productivity Contribution.

## Conclusion

101. The application proposes construction of a new 10 to 12 storey mixed use development comprising 255 dwellings for affordable rental housing, ground floor retail/commercial, and basement level with car parking, bicycle parking, waste storage and service rooms. The proposal also includes the land dedication to Council for footpath widening at each of the three frontages as per the VPA under D/2021/1484.
102. The development exceeds the maximum 33m and 40m building height development standard by a maximum of 600mm which equates to a variation of 1.5%. The area of the encroachment is limited to the lift overrun for 4 lift cores throughout the building. These encroachments are relatively minor and are not visible from the street and do not adversely impact on neighbouring residential development. As such, the height of building non-compliance does not contribute to adverse bulk and scale. A request to vary Clause 4.3 'Height of buildings' development standard has been received in accordance with Clause 4.6 of the Sydney LEP 2012. The statement demonstrates that compliance with the standard is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the land use zone and height of buildings development standard and the proposed departure to building height is supported in this instance.
103. Subject to conditions, the proposal is generally consistent with the applicable planning provisions including Chapter 4 of the Housing SEPP 2021, Sydney LEP 2012 and Sydney DCP 2012.
104. The proposal presents design excellence, with a high standard of architectural design, materials, finishes and a built form that is consistent with the future desired character of the area.

105. The development will also provide 255 affordable rental housing dwelling by a social housing provider and being managed by the social housing provider for the ongoing occupation of the building.
106. This is a detailed design development application following the approval of a concept development application (D/2021/1484). The development is consistent with the Concept DA Approval (D/2021/1484) and the modification A (D/2021/1484/A) which is also proposed at the time of writing this report.
107. The development is in the public interest and is recommended for approval subject to the conditions in Attachment A.

**GRAHAM JAHN AM**

Chief Planner / Executive Director City Planning Development and Transport

Gavin Ho, Senior Planner