

Item 5.**Development Application: 905 South Dowling Street, Zetland - D/2024/1029****File Number:** D/2024/1029**Summary**

Date of Submission: 18 November 2024. Amended drawings and additional information were submitted on 19 March 2025.

Applicant/ Owner: Karimbla Properties (No. 60) Pty Ltd

Architect: Crone Architects

Developer: Meriton

Design Advisory Panel: 13 February 2025

Cost of Works: \$179,041,410

Zoning: The site is zoned MU1 - Mixed-Use under the Sydney Local Environmental Plan 2012. The proposal comprises a mixed-use development including residential and commercial uses which are permissible with consent in the zone.

Proposal Summary: Approval is sought for a mixed-use development on the Stage 2 North-Western (NW) portion of the broader Suttons redevelopment site comprising:

- Construction of 8 buildings containing a total of 280 apartments including:
 - Four mixed-use buildings (Buildings A, B, E and F); and
 - Four residential flat buildings (Buildings C, D, G and H).
- Construction of a part 2, part 3 level basement containing 317 car parking spaces, 321 bicycle parking spaces and 26 motorcycle parking spaces; and
- Site landscaping.

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

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

The approved concept plan for the site is proposed to be modified concurrently with this application (D/2023/724/B) to address inconsistencies between the concept plan and this detailed development application.

Voluntary Planning Agreement

The site is subject to 2 planning agreements:

- VPA/2022/18 secures environmental performance initiatives and provision of 3,696sqm of non-residential gross floor area.
- VPA/2023/10 secures construction and dedication of public infrastructure including new streets, footpath widenings, Mulgu Park, and extension of the Green Square trunk drain.

The public domain works associated with the development are to be constructed under a separate development consent (D/2023/753).

Competitive design process

A competitive design process was held for the site in accordance with clause 6.21D of the SLEP 2012.

Crone with Youssofzay + Hart were selected as the winning scheme. The proposed development is generally consistent with the design intent of the winning scheme and the recommendations of the selection panel have been addressed in this report.

Notification

The application was notified between 26 November 2024 and 14 January 2025. No submissions were received.

Clause 4.6 request

A written request has been submitted in relation to the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide, as this is deemed a development standard under Section 148 of the State Environmental Planning Policy (Housing) 2021.

The recommended 3.3m ceiling height is not achieved on Level 1. The applicant's request to vary the ceiling height development standard is supported in this instance.

Assessment

The Design Advisory Panel (DAP) reviewed the proposal on 13 February 2025. Amended plans were submitted on 19 March 2025 to resolve concerns raised by Council and the DAP, particularly in relation to design integrity, site servicing, active uses and landscape setbacks.

The since updated proposal addresses these concerns, as outlined in this report, subject to the recommended conditions of consent.

The proposed development, as amended, comprises a built form that is generally consistent with the desired future character of the Green Square Epsom Park locality, reflected by the general and site-specific planning controls that apply to the site. Where variations to the built form controls are proposed, these are considered to result in improved public domain and amenity outcomes.

The development achieves a standard of architectural design that demonstrates design excellence in accordance with clause 6.21C of the SLEP 2012 and will contribute significant public benefits outlined in the Planning Agreements.

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

Development Controls:

- (i) Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021
- (ii) Sydney Airport Referral Act 1996
- (iii) Water Management Act 2000
- (iv) Sydney Water Act 1994 and Sydney Water Regulation 2017
- (v) State Environmental Planning Policy (Transport and Infrastructure 2021)
- (vi) State Environmental Planning Policy (Resilience and Hazards) 2021
- (vii) State Environmental Planning Policy (Housing) 2021
- (viii) State Environmental Planning Policy (Sustainable Buildings) 2022
- (ix) Sydney Local Environmental Plan 2012
- (x) Sydney Development Control Plan 2012
- (xi) City of Sydney Development Contributions Plan 2015
- (xii) City of Sydney Affordable Housing Program

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Ceiling Heights
- D. Competitive Design Alternatives Report

Recommendation

It is resolved that:

- (A) the request to vary the ceiling height development standard 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/2024/1029 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the recommended conditions of consent, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the ceiling heights development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening the development standard.
- (C) The development is permissible with consent in the MU1 - Mixed-Use zone and is consistent with the objectives of the zone.
- (D) The proposal has been assessed against the aims and objectives of the relevant planning controls including the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012, and State Environmental Planning Policy (Housing) 2021. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances or are to be resolved by the recommended conditions of consent.
- (E) The proposed development demonstrates design excellence in accordance with the relevant provisions and matters for consideration in clause 6.21C of the Sydney Local Environmental Plan 2012.
- (F) The proposed development is consistent with the design intent of the winning scheme of the competitive design alternatives process for the site, held in accordance with the City of Sydney Competitive Design Policy.
- (G) The proposed development has a form, bulk and massing that is suitable for the site and its context and is appropriate in the setting of the Green Square Epsom Park locality.

Background

The Site and Surrounding Development

1. The broader site has a legal description of Lot 72 in Deposited Plan 1310004 and is known as 905 South Dowling Street, Zetland. It is irregular in shape with an area of approximately 40,866sqm.
2. This application relates to the second stage of the former Suttons redevelopment, located in the north-western corner of the site as outlined in the Concept DA (D/2023/724). This stage is known as 'Stage 2 NW'.
3. The Stage 2 NW site is bound by Zetland Avenue (future road) to the north, Defries Avenue (future road) to the east, Peters Street to the south and George Julius Avenue (future road) to the west. It is irregular in shape with an area of approximately 10,761sqm.
4. The site previously contained a car sales and service centre (Suttons), which was demolished in early 2024 under development consent D/2023/720. Remediation of the land and construction of internal roads commenced in late 2024 under development consent D/2023/753. The Stage 2 NW site is currently undergoing early works approved separately in March 2024 under D/2024/1073.
5. The site is located directly east of the Green Square Town Centre and sits within the Epsom Park portion of the Green Square urban renewal area. The Epsom Park locality is identified as a new neighbourhood characterised by a mixture of land uses, including residential with a variety of commercial, retail, and recreation uses. The site is identified as being subject to flooding.
6. A site visit was carried out on 6 March 2025. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Link Road looking north-east



Figure 3: Site viewed from Link Road looking south-west



Figure 4: Site viewed from Epsom Road looking east



Figure 5: Site viewed from Peters Street looking east



Figure 6: Site viewed from George Julius Avenue looking north-east



Figure 7: Site viewed from Defries Avenue looking south

History Relevant to the Development Application

Planning proposal

7. A site-specific planning proposal was prepared by the City following a request by Meriton Group Pty Ltd to change the site's planning controls. The planning proposal allowed for a redistribution of height, with additional height in some locations balanced with areas of height reduction. The planning proposal allowed for alternative building heights up to 90m, subject to a site-specific provision which secures:
 - (a) exceedance of BASIX targets
 - (b) minimum 4% non-residential gross floor area
 - (c) no additional height awarded for design excellence
 - (d) a 1,200sqm supermarket to be provided on the site
8. The amendments to the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 commenced on 3 May 2024.

Development Applications

9. The following applications are relevant to the current proposal.

Broader redevelopment site

- **D/2023/720** - Development consent was granted on 3 November 2023 for demolition of all existing structures to accommodate the future redevelopment of the site.
- **D/2023/724** - Deferred commencement development consent was granted on 28 June 2024 for a Concept development application for building envelopes for a mixed-use development comprising nine individual development blocks ranging in height between one and 25 storeys; concept design for public domain works including new streets, public open spaces and trunk drainage; and indicative land uses including basement car parking, storage and services, ground floor retail, commercial uses and a centre-based childcare facility, and residential uses. The application was made operational on 5 July 2024.

The application was accompanied by Voluntary Planning Agreement (VPA/2023/10) for community infrastructure identified in the Sydney Development Control Plan 2012 for Epsom Park precinct including roads, Mulgu Park, 2 pocket parks, footpath widening along Epsom Road and an extension of the Green Square trunk drain.

Modification A was approved on 13 March 2025 to modify the concept envelope in accordance with the detailed design DA for Stage 1 NE (D/2024/816).

Modification B was lodged on 2 April 2025 to facilitate further changes to the concept envelope concurrently with this subject application for the detailed design of Stage 2 NW and the detailed design for Stage 3 South (D/2024/1055).

- **D/2023/753** - Development consent was granted on 5 August 2024 for construction of streets (kerb to kerb), sewer, stormwater and water supply infrastructure, remediation and subdivision.

Stage 1 North-East

- **D/2024/844** - Development consent was granted on 16 December 2024 for early works including shoring and bulk excavation for two-three levels of basement to facilitate Stage 1 (North-East) of the future mixed-use development.
- **D/2024/816** - Development consent was granted by the Central Sydney Planning Committee on 13 March 2025 for a Stage 2 application for construction of a mixed-use development comprising a mixed-use 27-storey tower with 230 apartments and a 125 place childcare centre and supermarket on the lower levels, an 8-storey residential flat building with 72 apartments, and 28 townhouses, over basement parking for 444 cars, and associated landscaping.

Stage 2 North-West (subject site)

- **D/2024/1073** - Development consent was granted on 7 March 2025 for early works including shoring and bulk excavation for a part 2, part 3 level basement within the North-West stage of the future development.

Stage 3 South

- **D/2024/1074** - Development consent was granted on 18 March 2025 for early works including shoring and bulk excavation for three and four levels of basements to facilitate the South stage of the future development.
- **D/2024/1055** - A Development Application was lodged on 21 November 2024 for site preparation and construction of a mixed-use development on the southern blocks, comprising four new buildings with three and four basement levels. The buildings include 2 mixed-use buildings and 2 residential buildings.

Voluntary Planning Agreement

10. The site is subject to two Planning Agreements as follows:

VPA/2022/18

11. The first Planning Agreement was entered into as part of the Planning Proposal and included several sustainability related provisions including:
 - (a) BASIX stretch targets
 - (b) dual-reticulation recycled water system
 - (c) electric vehicle charging capabilities
12. The BASIX stretch targets were superseded by the Sustainable Buildings SEPP 2022. The proposed development complies with the requirements of the SEPP and therefore is deemed to meet this requirement of the Planning Agreement.
13. The electric vehicle charging requirements are also required by Section J of the National Construction Code (NCC).

14. The dual-reticulation recycled water system is to ensure the buildings can utilise recycled water once a connection to the broader system is available. A condition has been recommended requiring detailed design documentation to be prepared as part of the Construction Certification process.

VPA/2023/18

15. The second Planning Agreement was entered into as part of the Concept DA and includes:
 - (a) construction of internal streets and footpath widening (to be dedicated to Council)
 - (b) construction of Mulgu Park (subject to a separate application)
 - (c) extension of the Green Square trunk drain
16. The required public domain works are subject to separate development applications including D/2023/753 for the internal streets, footpaths and trunk drain and D/2025/179 for the construction of Mulgu Park.

Competitive design process

17. A competitive design process was held for the Stage 2 NW site between April and June 2024.
18. Of the three schemes presented, the scheme prepared by Crone Architects (lead architect) and Youssofzay + Hart (emerging architect) was selected as the most capable of demonstrating design excellence and was declared the winner.
19. In November 2024, the City was advised by Youssofzay + Hart that they would no longer be proceeding with the project beyond the competition. The City's Chief Planner considers that the requirements of the site's Design Excellence Strategy, Competitive Design Alternatives Process brief, and the City of Sydney Competitive Design Policy have been fulfilled in this instance, notwithstanding this decision.
20. The Competitive Design Alternatives Report is provided at Attachment D to this report. The key principles and qualities of the competition scheme to be maintained and areas for further resolution identified by the Selection Panel are addressed in the 'Discussion' section of this report.

Amendments

21. A preliminary request for information and amendments was sent to the applicant on 23 January 2025, containing technical issues primarily relating to waste management, transport and access and landscaping.
22. Following consultation with the DAP on 13 February 2025, a further request for information and amendments was sent to the applicant on 24 February 2025.
23. The following key issues were identified:
 - (a) Consistency with the Concept DA - The proposal must demonstrate compliance with the Concept DA conditions and envelope. Where changes are required, these must be sought under a separate Section 4.55 modification.

- (b) Gross floor area - The proposed residential GFA exceeded the maximum permitted under the Concept DA by 286.7sqm.
 - (c) Apartment Design Guide inconsistencies:
 - (i) Solar access - Calculated as being 59.6%, which was inconsistent with the objectives of the ADG, with a request to improve.
 - (ii) Natural cross ventilation - Calculated as being 55%, which was inconsistent with the objectives of the ADG, with a request to improve.
 - (iii) Acoustic attenuation - The Acoustic Report was to be amended to demonstrate that the DCP noise criteria and ADG natural ventilation criteria can be achieved simultaneously.
 - (iv) Building separation and visual privacy - Various inconsistencies with ADG separation distances were to be addressed.
 - (d) Materiality - A revised materials and finishes schedule was requested in accordance with the DAP advice.
 - (e) Facade design - Changes were requested to address the Selection Panel's comments in relation to the Gunyama Park (western) facade and the Zetland Avenue (northern) facade.
 - (f) Zetland Avenue active edge - Active uses were requested along Zetland Avenue in accordance with the DCP.
 - (g) Ground floor landscape setbacks - Non-compliances with the ground floor landscape setbacks were to be addressed.
 - (h) Building breaks - Pedestrian links between Buildings A/B and D/E were to be a clear minimum of 2 storeys high.
 - (i) Servicing strategy - Issues were identified relating to loading dock size, waste storage areas and the co-location of vehicles and service vehicles.
 - (j) Landscaping - Technical issues were identified, as well as recommendations to improve the useability of the ground floor communal open space.
 - (k) Waste management - Various issues were raised relating to the loading dock, waste storage areas, bulky waste, and infrastructure needed to support the transfer of waste from the basement to the loading dock.
 - (l) Wind - The Pedestrian Wind Assessment used different wind testing criteria to the Stage 1 NE site.
24. The applicant responded to the request on 19 March 2025 and submitted the following information:
- (a) Amended architectural plans and landscape plans
 - (b) Acoustic Report
 - (c) Wind Report

- (d) Traffic Report and Loading Dock Management Plan

Proposed Development

25. The application (as amended) seeks consent for a mixed-use development comprising:
- (a) construction of eight buildings containing a total of 280 apartments
 - (b) construction of a part two, part three level basement containing 317 car parking spaces
 - (c) site landscaping.
26. The proposal includes a total gross floor area (GFA) of 28,104sqm, comprising 27,222sqm of residential gross floor area and 882sqm of retail gross floor area.
27. Vehicle access to the site is provided to Building F via Defries Avenue, with a ground floor loading dock and a ramp down to the basement.
28. A summary of each proposed building is outlined below.
- (a) **Building A** - 14 storey mixed-use building on the corner of George Julius Avenue and Zetland Avenue with ground floor retail and 64 residential apartments above.



Figure 8: Photomontage of Building A viewed from future Zetland Avenue/ Gunyama Park

- (b) **Building B** - 8 storey mixed-use building facing Zetland Avenue with ground floor retail and 36 residential apartments.



Figure 9: Photomontage of Building B viewed from future Zetland Avenue

- (c) **Building C** - 3 storey residential flat building facing Letitia Street with 9 apartments.



Figure 10: Photomontage of Building C viewed from future Letitia Street

- (d) **Building D** - 3 storey residential flat building on the corner of Letitia Street and the new public park with 9 apartments.

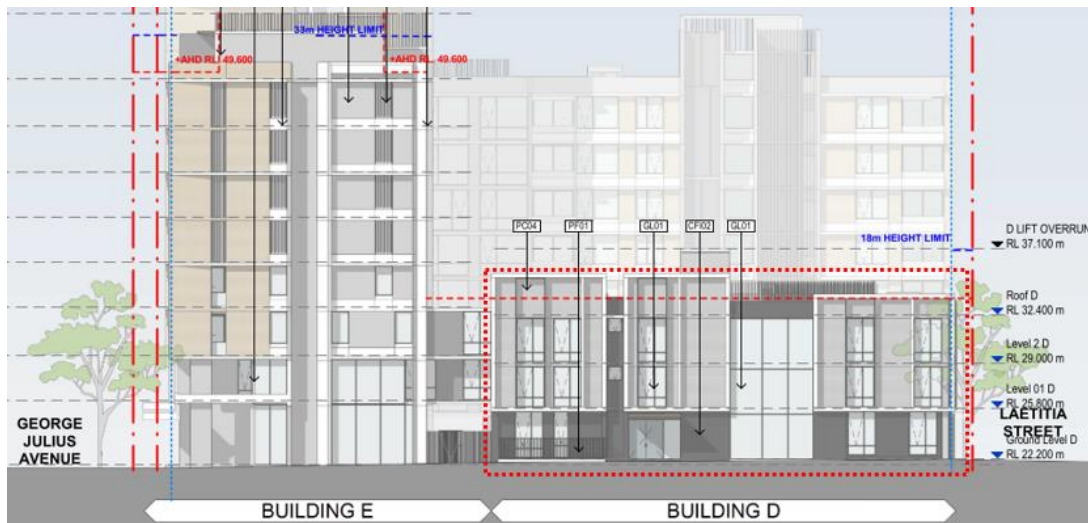


Figure 11: Southern elevation of Building D viewed from the new east-west public park

- (e) **Building E** - 9 storey mixed-use building facing George Julius Avenue with ground floor retail and 33 residential apartments above.



Figure 12: Building E viewed from future Gunyama Park

- (f) **Building F** - Part 8, part 7 storey mixed-use building on the corner of Zetland Avenue and Defries Avenue with ground floor retail and 61 residential apartments. Building F also contains the loading dock and basement access via Defries Avenue.



Figure 13: Building F viewed from the corner of future Zetland Avenue and Defries Avenue

- (g) **Building G** - Part 4, part 7 storey residential flat building facing Defries Avenue with 37 apartments.



Figure 14: Building G viewed from future Defries Avenue

- (h) **Building H** - 8 storey residential flat building on the corner of Defries Avenue and Peters Street with 31 apartments.



Figure 15: Building H viewed from future Defries Avenue

29. Demolition of the existing structures has been undertaken under a separate consent (D/2023/720). Early works on the Stage 2 NW site, including excavation, have also been separately approved (D/2024/1073).
30. Typical floor plans of the proposed development are provided below. Additional drawings are provided in Attachment B.



Figure 16: Proposed ground floor plan



Figure 17: Typical floor plan (Level 2 shown)

Assessment

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

Airports Act 1996

32. 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.
33. Airports (Protection of Airspace) Regulations 1996 identifies the area above the OLS to be 'prescribed airspace.'
34. Under that Regulation 6(1), 'prescribed airspace' includes 'the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services - Aircraft Operations surface (PANS - OPS).
35. The site is subject to an Obstacle Limitation Surface of 51m. The proposed development has a maximum height of approximately 52.3m and will therefore penetrate the OLS.
36. Controlled Activity Approvals for the building envelopes were issued for the Concept DA (D/2023/724) on 31 May 2024. The proposed detailed DA is consistent with the maximum height specified in these approvals and therefore the approvals may continue to be relied upon.

Water Management Act 2000

37. The application is considered integrated development pursuant to section 4.46 of the EP&A Act because an approval is required under sections 89 and 90(2) of the Water Management Act 2000.
38. General Terms of Approval were issued by WaterNSW on 5 December 2024 and have been included in the recommended conditions of consent.

Sydney Water Act 1994

39. The application is subject to the requirements of Section 78 of the Sydney Water Act 1994 and was referred to Sydney Water for comment.
40. Sydney Water responded on 18 December 2024 and provided conditions which have been included in the recommended conditions of consent.

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

32. The aim of SEPP (Resilience and Hazards) 2021 - Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
33. Consent was granted for the remediation of the site under D/2023/753 and commenced in late 2024. Consent was also granted for early works for Stage NW under D/2024/1073. The early works consent required a Section A Site Audit Statement (SAS) to be obtained prior to the commencement of the physical construction works.
34. The same requirement is recommended to be imposed on this consent to ensure that the SAS is obtained prior to commencement of the physical construction works the subject of this application.
35. On this basis, the consent authority can be satisfied that the site will be made suitable for the proposed uses, as required by section 4.6 of the SEPP.

State Environmental Planning Policy (Housing) 2021**Chapter 2 - Affordable housing**

36. A condition of consent is recommended requiring payment of an affordable housing contribution prior to the issue of any Construction Certificate.
37. Section 7.32 of the EP&A Act applies to the development application because:
 - (a) the SEPP (Housing) 2021 identifies a need for affordable housing within each area of the State;
 - (b) the consent authority is satisfied either that the proposed development will or is likely to reduce the availability of affordable housing within the area; and

- (c) Section 222B of the Environmental Planning and Assessment Regulation 2021 states that section 7.32 of the EP&A Act applies to a development application to carry out development in the City of Sydney local government area.
- 38. The recommended affordable housing contribution is authorised to be imposed on the development by Clause 7.13 (Contribution for purpose of affordable housing) of the Sydney Local Environmental Plan 2012 for development of land in Green Square involving the erection of a new building the gross floor area of which is more than 200 square metres.
- 39. This matter is discussed in further detail under the heading 'Financial Contributions' below.

Chapter 4 - Design of Residential Apartment Development

- 40. The aim of Chapter 4 is to maintain the design quality of residential apartment development in New South Wales.
- 41. 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.
- 42. The applicant has submitted a design verification statement and design report prepared by Greg Crone (NSW Architects Reg. No. 3929) 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.
- 43. An assessment of the proposal against the design quality is provided as follows:
 - (a) Principle 1: Context and Neighbourhood Character

The site is highly accessible, being situated 4km south of Sydney CBD and well serviced by public transport networks.

The site is surrounded by different building typologies, comprising predominantly residential and retail uses. New multi-residential buildings have been delivered at the property boundaries.

The main focus of this site is contributing a central pedestrian spine, cross site connectivity and street amenity within the Epsom Park locality.
 - (b) Principle 2: Built Form and Scale

The mass of the proposed scheme is well articulated along its base, which helps to reduce the visual bulk of the forms.

The ground plane interfaces well with the streetscape, offering landscaped setback zones as a buffer to the street. The podium has an articulated design with rounded columns that extend up the building to create an architectural play in the facade across the building.

The built form and scale is generally in accordance with the Concept DA.

(c) Principle 3: Density

The proposal includes a total of 280 apartments and provides good residential mix. The proposed density is consistent with the planning controls and is therefore considered to be appropriate to the site and its context.

(d) Principle 4: Sustainability

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

(e) Principle 5: Landscape

The development provides extensive landscaping on both the ground floor and rooftops. The proposed landscaping considers water and soil management, solar access, micro-climate, tree canopy coverage, habitat values and the preservation of green networks.

(f) Principle 6: Amenity

The proposed buildings provide diverse apartment typologies and meets the objectives of the ADG in relation to apartment amenity.

The proposal provides unobstructed views for Buildings A and E on the upper levels and all residential lobbies contain glazing for daylight. Adequate solar access and natural ventilation is achieved.

(g) Principle 7: Safety

The development has been designed to minimize the opportunity for crime through principles of passive surveillance and active frontages.

Private open space, living areas and retail frontages are generally located at ground level. These apartments provide surveillance to the internalised landscape zones and the public domain.

Residential and retail entry points are clearly identified along facade frontages and all apartments have secure lift access.

(h) Principle 8: Housing Diversity and Social Interaction

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

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

(i) Principle 9: Aesthetics

The applicant submits that the proposed buildings are united by a consistent material palette, including coloured concrete, white, light-colour and grey brick, glass and lightweight cladding panels.

Landscaping enhances the ground level and highlights the communal areas on the rooftop.

The structural blades at the ground floor visually represent the vertical grid, contrasting with the horizontal elements that break up the facade.

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

2F Building Separation	Consistency	Comment
<p>Up to 4 storeys (approximately 12m):</p> <ul style="list-style-type: none"> 12m between habitable rooms / balconies 9m between habitable and non-habitable rooms 6m between non-habitable rooms 	Partial	<p>There are some locations where the recommended building separation distances are not achieved. Conditions of consent are recommended to ensure the objectives of the controls are met.</p> <p>Refer to the 'Discussion' section for further details.</p>
<p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> 18m between habitable rooms / balconies 12m between habitable and non-habitable rooms 9m between non-habitable rooms 		
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> 24m between habitable rooms / balconies 		

2F Building Separation	Consistency	Comment
<ul style="list-style-type: none"> 18m between habitable and non-habitable rooms 12m between non-habitable rooms 		

3D Communal and Public Open Space	Consistency	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	<p>Approximately 1,949.4sqm of communal open space is provided on the ground floor and approximately 1,732.5sqm is provided on the rooftops of Buildings A, B, F and G.</p> <p>This equates to 34% of the site area.</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).	Yes	The required amount of solar access is achieved for communal open space areas.

3E Deep Soil Zones	Consistency	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Yes	11% deep soil is provided.

3F Visual Privacy	Consistency	Comment
<p>Up to 4 storeys (12 metres):</p> <ul style="list-style-type: none"> 6m between habitable rooms / balconies 	Partial	There are some instances where separation between buildings does not comply with the ADG. Conditions are

3F Visual Privacy	Consistency	Comment
<ul style="list-style-type: none"> 3m between non-habitable rooms 		<p>recommended to ensure visual privacy is achieved.</p> <p>Refer to the 'Discussion' section for further details.</p>
<p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> 9m between habitable rooms / balconies 4.5m between non-habitable rooms 		
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> 12m between habitable rooms / balconies 6m between non-habitable rooms 		
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	Adequate separation is provided between habitable rooms and circulation spaces.

4A Solar and Daylight Access	Consistency	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	No but acceptable	<p>The amended plans state that 68% of apartments (191 out of 280) receive 2 hours of direct sunlight in midwinter.</p> <p>Council's review of the solar analysis found that 66.4% of apartments (186 out of 280) achieve the required solar access.</p> <p>This non-compliance is considered acceptable on balance.</p>

4A Solar and Daylight Access	Consistency	Comment
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	12% of apartments (34 out of 280) receive no direct sunlight.

4B Natural Ventilation	Consistency	Comment
All habitable rooms are naturally ventilated.	Yes	The proposal complies.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	No but acceptable	<p>The amended plans state that 61.2% of the apartments within the first 9 storeys are naturally cross ventilated.</p> <p>Council's review of natural cross ventilation indicates that 57.7% of apartments achieve genuine natural cross ventilation. This is considered to be acceptable.</p>
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The cross-through apartments do not exceed 18m in depth.

4C Ceiling Heights	Consistency	Comment
Habitable rooms: 2.7m	Yes	2.7m ceiling heights are provided to habitable rooms.
Non-habitable rooms: 2.4m	Yes	3.3m is not achieved on the first floor across the development.
If located in mixed-use areas – 3.3m for ground and first floor to promote future flexibility of use.	No, but Clause 4.6 request supported	A Clause 4.6 variation request was submitted with the application as this control is identified as a development standard. See

4C Ceiling Heights	Consistency	Comment
		further details in the 'Discussion' section below.

4D Apartment Size and Layout	Consistency	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35sqm • 1 bed: 50sqm • 2 bed: 70sqm • 3 bed: 90sqm 	Yes	The minimum apartment sizes are achieved.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	The proposal complies.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	The proposal complies.
8m maximum depth for open plan layouts.	Partial	The proposal generally complies. Where exceedances are proposed, these are minor (generally less than 1m) and adequate amenity is maintained.
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> • master bedroom: 10sqm • all other bedrooms: 9sqm <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	The proposal complies.

4D Apartment Size and Layout	Consistency	Comment
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m 	Yes	The proposal complies.
4m minimum width for cross over and cross through apartments.	Yes	The proposal complies.

4E Private Open Space and Balconies	Consistency	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	The minimum size requirements for balconies are generally achieved. The plans indicate that a small number of 2 bedroom apartments do not comply, however this may be a drafting error. A condition of consent is recommended to address this.
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	A minimum area of 15sqm is provided to ground floor apartments.

4F Common Circulation and Spaces	Consistency	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Partial	Block F has 9 apartments off the circulation core on each level. This is considered to be a minor non-compliance and will not cause adverse amenity impacts.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	The proposal complies.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed.	Yes	The proposal generally complies. Apartment 804 in Building A has a window that opens onto the communal open space. A condition of consent is recommended that requires the window to be moved north as far as possible (away from the usable communal space area).
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Windows are provided to all common circulation spaces.

4G Storage	Consistency	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ 	Yes	<p>Storage is provided to all apartments.</p> <p>A condition is recommended requiring a storage schedule and plans to be submitted prior to the issue of a Construction Certificate to ensure storage areas remain compliant through construction level design documentation.</p>

4G Storage	Consistency	Comment
(Minimum 50% storage area located within unit)		

4J Noise and Pollution	Consistency	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	All apartments are capable of natural ventilation and provide acceptable acoustic amenity.

Clause 148 - Non-discretionary development standards for residential apartment development

If the following non-discretionary development standards are complied with the consent authority cannot require more onerous standards for the matters.

Provision	Compliance	Comment
Car parking Must be equal to or greater than the recommended minimum amount of car parking specified in Part 3J of the ADG	Yes	The minimum car parking requirements for residents and visitors is the car parking requirement prescribed by the relevant Council. As the LEP car parking controls are maximums, there is no minimum, and the proposal complies.
Internal area for each apartment Must be equal to or greater than the recommended minimum internal area for the apartment type in Part 4D of the ADG	Yes	Each apartment complies with the recommended internal area for the apartment type.
Ceiling heights Must be equal to or greater than the recommended minimum ceiling heights specified in Part 4C of the ADG	No, but Clause 4.6 request supported	The proposal complies with the 2.7m ceiling height development standard for habitable rooms and 2.4m ceiling height development standard for non-habitable rooms. In mixed-use areas, the 3.3m ground and first floor development standard is to promote future flexibility of use.

Provision	Compliance	Comment
		The applicant has submitted a Clause 4.6 request relating to the ceiling heights on the first floor for all buildings. This is discussed further under the 'Discussion' heading below.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 2 Standards for residential development - BASIX

45. A BASIX Report has been submitted with the development application. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in to 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

Clause 2.48 Determination of development applications – other development

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

Clause 2.122 Traffic generating development

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

Local Environmental Plans

Sydney Local Environmental Plan 2012

48. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the MU1 - Mixed-Use zone. The proposal contains residential flat buildings and mixed-use buildings with ground floor commercial uses and residential apartments above, which are permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	<p>The site is subject to the site-specific provisions in clause 6.60J - Mulgu Precinct of SLEP 2012, which includes an Alternative Height of Buildings map.</p> <p>The Concept DA established the maximum permitted building heights, which comply with the LEP.</p> <p>The proposed development complies with the concept envelopes, as amended by D/2023/724/B.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 2:1 or 81,542sqm is permitted across the entire site, being the sum of the floor space ratio in this clause (1.5:1) and clause 6.14 Community Infrastructure floor space in Green Square (0.5:1).</p> <p>In addition, a design excellence bonus of up to 10% may be permitted under clause 6.21D(3)(b) of SLEP.</p> <p>The concept approval apportioned maximum gross floor area to each development stage (Condition 6 of D/2023/724/A).</p> <p>The Stage 2 NW site was allocated a total GFA of 25,550sqm (excluding any design excellence bonus).</p> <p>The proposed development was the subject of competitive design process. A maximum GFA of 28,105sqm is therefore permitted, should the consent authority resolve to award the design excellence bonus.</p> <p>The proposed development has a GFA of 28,104sqm, which complies.</p>
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the ceiling height development standard under the ADG. A Clause 4.6 variation request has been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is not identified as a heritage item and is not within a heritage conservation area. There are no heritage items in the vicinity of the site.
5.21 Flood planning	Yes	<p>The subject site is identified as being subject to flooding.</p> <p>The application was accompanied by a site-specific flood risk assessment which identified the relevant flood planning levels and demonstrated compliance with those levels based on the City's Interim Flood Management Policy.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
6.14 Community infrastructure floor space at Green Square	Yes	<p>The proposed development is eligible for additional floor up to 0.5:1 for the provision of community infrastructure.</p> <p>The additional floor space was accounted for in the concept application and the maximum permitted floor space was apportioned to each stage of the site as specified in condition (6) of the concept approval, and as outlined above.</p>
6.21C Design excellence	Yes	<p>The proposed buildings are of a high standard of architectural design and use materials and detailing that are compatible with the existing development in the Green Square Epsom Park locality.</p> <p>The development will contribute positively to the character of the Epsom Park area and will improve the quality and amenity of the public domain.</p> <p>The development adequately addresses streetscape constraints and provides bulk and massing that is compatible with neighbouring buildings and the planning controls.</p>

Provision	Compliance	Comment
		<p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The development is considered to exhibit design excellence in accordance with the requirements of this clause, subject to the recommended conditions of consent.</p>
6.21D Competitive design process	Yes	<p>A competitive design process was held for the Stage 2 NW site.</p> <p>Crone with Youssofzay + Hart were selected as the winning scheme. The proposed development is generally consistent with the design intent of the winning scheme. The recommendations of the selection panel have been addressed in the 'Discussion' section below.</p> <p>The building is therefore eligible for up to 10% additional floor space ratio. See 'Floor Space Ratio' assessment above under clause 4.4.</p>
Division 5 Site specific provisions		
Clause 6.60J	Yes	<p>The proposal is subject to the site-specific provisions in clause 6.60J of the LEP.</p> <p>As per clause 6.60J(3), development consent must not be granted to development on land to which this clause applies unless a development control plan has been prepared. The approved concept plan relied on the site-specific development control plan, as amended by the planning proposal gazetted in May 2024. This satisfies the requirement for a site-specific DCP in accordance with section 4.23 of the Act.</p> <p>Clause 6.60J(4) includes an Alternative Height of Buildings Map, which the concept plan relied upon.</p>

Provision	Compliance	Comment
		<p>Where the Alternative Height of Buildings map applies, the consent authority is to be satisfied that at least 4% of the GFA of all buildings on the land is used for non-residential purposes.</p> <p>Condition 6 of the concept approval apportioned the maximum non-residential GFA to each development stage. A maximum of 882sqm (when including the design excellence bonus) is apportioned to Stage 2 NW (as amended under Modification B).</p> <p>The application includes 882sqm of non-residential GFA and therefore complies with condition 6 of the concept approval.</p> <p>The 4% requirement for non-residential GFA is achieved across the site.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
<p>7.5 Residential flat buildings, dual occupancies and multi dwelling housing</p> <p>7.7 Retail premises</p>	Yes	<p>Residential parking</p> <p>A total of 296 residential spaces are permitted, comprising 271 residential and 25 visitor spaces.</p> <p>The proposal includes 271 residential spaces and 25 visitor spaces totalling 296 residential spaces, which complies.</p> <p>Retail parking</p> <p>17 retail parking spaces are provided, which complies.</p>
Division 3 Affordable housing		
7.13 Affordable housing	Yes	<p>The site is located within Green Square and involves the erection of a new building. The affordable housing levy contribution of 3% for residential Total Floor Area (TFA) and 1% for non-residential TFA applies.</p>

Provision	Compliance	Comment
		<p>Total floor area plans were submitted calculating 38,821sqm of residential TFA and 955sqm of non-residential TFA.</p> <p>Accordingly, a contribution of \$13,675,439.62 is required. Subclause 7.13(2) satisfies Section 7.32 of the Act.</p>
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	An Acid Sulfate Soils management plan was approved under D/2023/753 and D/2024/1073 and is required to be complied for these works.
7.15 Flood planning	Yes	<p>The site is identified as being subject to flooding.</p> <p>A flood report accompanies the application demonstrating that the development is able to comply with the City's Interim Floodplain Management Policy and satisfies the provisions of the standard.</p>
7.16 Airspace operations	Yes	The concurrence of Sydney Airport Corporation, as a proxy for the Civil Aviation Safety Authority, has been received as part of the Concept DA.
7.20 Development requiring or authorising preparation of a development control plan	Yes	A site-specific development control plan was prepared in conjunction with the planning proposal and was considered in the assessment of the concept approval.

Development Control Plans

Sydney Development Control Plan 2012

49. 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

50. The site is located within the Green Square - Epsom Park locality (2.5.5). The proposed development is in keeping with the unique character and the design principles of the Epsom Park locality as it:
- (a) contributes new buildings in a location where residents can enjoy proximity to the City, access to the Green Square Town Centre, good transport links, public parks and recreational facilities
 - (b) contributes to the strong urban character through the delivery of new streets, high quality architecture and a mix of uses
 - (c) provides permeability through the site to maximise pedestrian movement
 - (d) provides suitable retail and residential uses
 - (e) appropriately addresses Zetland Avenue
 - (f) provides smaller buildings where appropriate to the urban character

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	Public domain works including the new streets and public parks have been sought under separate applications.
3.1.5 Public Art	Yes	<p>A Preliminary Public Art Strategy prepared by Aileen Sage was approved as part of the Concept DA.</p> <p>A site-wide Developed Public Art Strategy was submitted with this application, as well as the Stage 2 detailed design DAs for the North-Eastern and Southern sites (D/2024/816 and D/2024/1055).</p> <p>The site-wide approach to the development and delivery of public art across the precinct is supported by Council's Public Art team. The plan includes opportunities for public art within the future Mulgu Park and the east-west linear link through the Stage 2 NW site (subject site) and Stage 1 NE site.</p> <p>The site-wide Public Art Plan was considered in detail under the Stage 1 NE application (D/2024/816). The assessment concluded that:</p>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> the provision of public art in Mulgu Park was supported, subject to further details clearly defining the public art elements; the provision of public art in the linear park link requires further work; and the budget was to be increased from 0.25% to 0.35%. <p>Given the public art is to be delivered in a site-wide approach, including the Stage 2 NW site (subject site), it is appropriate to include the same condition of consent for public art that was imposed on the detailed design DA for Stage 1 NE (D/2024/816). This condition requires the Public Art Strategy to be further developed and the budget to be increased.</p>
3.2.1 Improving the public domain	Yes	<p>Overshadowing effects of new buildings on publicly accessible open space are to be minimised between the hours of 9am to 3pm on 21 June.</p> <p>The new east-west public open space located to the south of the Stage 2 NW site will be largely shadowed by the proposed buildings in midwinter. This was anticipated in the concept DA due to the location of tall buildings on the northern side of the park.</p> <p>The development will not adversely impact solar access to Gunyama Park in midwinter.</p> <p>Minor additional shadows will be cast on Mulgu Park between 2-3pm in midwinter. However, adequate solar access is maintained to Mulgu Park in accordance with the controls.</p>
3.2.4 Footpath awnings	Yes	<p>Continuous awnings are required along Zetland Avenue.</p> <p>The proposal includes awnings for part of this frontage. A condition of consent is</p>

Provision	Compliance	Comment
		recommended to ensure the awning is extended along the entire retail frontage.
3.2.6 Wind effects	Yes	<p>Conditions of consent are recommended to ensure the design changes identified in the Wind Report are incorporated into the plans.</p> <p>Refer to the 'Discussion' section for further details.</p>
3.2.7 Reflectivity	Yes	<p>Light reflectivity from building materials on facades must not exceed 20%. A condition of consent is recommended to ensure this is complied with.</p> <p>This condition also requires the recommendations of the submitted Reflectivity Assessment to be implemented in the design.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The proposed development was the subject of a competitive design process and is eligible for up to 10% additional floor space pursuant to clause 6.21D(3)(d) of the SLEP 2012.</p> <p>The additional floor space has been accommodated within the approved concept development (as proposed to be modified), which considered the potential impacts of that additional floor space.</p>
3.4 Hierarchy of Centres, City South	Yes	The site is located within the Green Square Town Centre Primary Trade Area. The development provides an appropriate amount of retail uses to activate the Zetland Avenue frontage.
3.5 Urban Ecology	Yes	<p>Two trees are proposed for removal, being a Lemon Scented Gum and a Chinese Hackberry Tree (exempt species). The removal of these trees is supported by Council's Tree Management unit.</p> <p>The proposal includes 15% canopy coverage across the site, which complies.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.

Provision	Compliance	Comment
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under section 7.15 above.
3.11 Transport and Parking	Yes	<p>The development includes a total of 317 car parking spaces. This includes 271 residential spaces, 25 residential visitor spaces, 17 retail spaces and 4 car share spaces. The parking spaces comply with the maximum permitted in the SLEP 2012.</p> <p>26 motorcycle spaces and 7 service vehicle spaces are also provided, which complies.</p> <p>321 bicycle parking spaces are provided, which complies with the minimum requirements.</p> <p>There are some outstanding issues relating to transport and access that are recommended to be addressed by condition of consent. These include:</p> <ul style="list-style-type: none"> • The swept paths demonstrate that a 6m driveway width on Defries Avenue is adequate. This is to be incorporated into the design. • The swept paths for Council's 10.6m waste vehicle are to include 600mm clearance and demonstrate no conflicts with the bin holding room. • Scraping appears to occur on the vertical clearance swept paths for the short ramps. • Other minor changes are required to the motorbike parking location, median dividers, bicycle parking design and the end of trip facilities.
3.12 Accessible Design	Yes	42 adaptable apartments have been provided, which equates to 15%.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.

Provision	Compliance	Comment
3.14 Waste	Yes	<p>Waste storage areas are provided within the basement levels, with waste loading and collection to be undertaken from the ground floor loading dock.</p> <p>A condition of consent is recommended requiring a revised Loading and Servicing Management Plan to ensure potential conflicts between service vehicles, including waste collection, and general vehicles will be mitigated.</p> <p>Other conditions of consent have been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed-Use Developments

Provision	Compliance	Comment
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	<p>The concept plan approved building envelopes which specified height in storeys for each block. The proposal complies with the height in storeys in the concept plan.</p> <p>Refer to Section 5.3.6 of the SDCP 2012 for site specific height requirements.</p>
4.2.2 Building setbacks	Yes	<p>The proposal is generally consistent with the ground and upper level setbacks required by the concept approval.</p> <p>There are some minor instances where ground floor balconies/ terraces encroach the setbacks. These non-compliances are localised and will not have adverse impacts on the public domain.</p>
4.2.3.1 Solar access	Partial compliance	<p><i>Solar access to proposed apartments</i></p> <p>The amended plans state that 68% of apartments (191 out of 280) receive 2 hours of direct sunlight in midwinter.</p>

Provision	Compliance	Comment
		<p>Council's review of the solar analysis found that 66.4% of apartments (186 out of 280) achieve the required solar access.</p> <p>This inconsistency with the ADG recommendation is considered acceptable as the objectives of this provision are achieved.</p> <p><i>Overshadowing to neighbouring dwellings</i></p> <p>The proposed buildings will cause some additional overshadowing to 8-12 Peters Street, which is located south of the site.</p> <p>Solar analysis submitted with the subject DA and the Concept DA demonstrate that the required 2 hours of solar access to living rooms and private open spaces is maintained to approximately 72% of apartments at 8-12 Peters Street, which is consistent with the ADG.</p>
4.2.3.3 Internal common areas	Yes	Internal common areas are provided with access to daylight.
4.2.3.5 Landscaping	Yes	<p>The overall quantum and location of landscaping and communal open space across the development is supported.</p> <p>However, there are a number of issues relating to the detailing of landscape areas that remain unresolved. Conditions are recommended to require detailed landscape drawings to be submitted prior to the Construction Certificate for above ground works.</p>
4.2.3.6 Deep Soil	Yes	11% deep soil is provided.
4.2.3.7 Private open space and balconies	Yes	Private open space in the form of balconies/ courtyards are provided to all apartments.
4.2.3.8 Common open space	Yes	Approximately 1,949.4sqm of communal open space is provided on the ground floor and approximately 1,732.5sqm is

Provision	Compliance	Comment
		<p>provided on the rooftops of Buildings A, B, F and G.</p> <p>This equates to 34% of the site area, which complies with the 25% requirement.</p>
4.2.3.9 Ventilation	Yes	All habitable rooms are naturally ventilated.
4.2.3.10 Outlook	Yes	An acceptable outlook is provided to all apartments.
4.2.3.11 Acoustic privacy	Yes	An Acoustic Report was submitted with the application which demonstrates that compliance with the noise criteria can be achieved.
4.2.3.12 Flexible housing and dwelling mix	Yes	<p>The DCP specifies the following dwelling mix:</p> <ul style="list-style-type: none"> • 1 bed: 10-30% • 2 bed: 40-75% • 3+ bed: 10-100% <p>The proposed dwelling mix is:</p> <ul style="list-style-type: none"> • 1 bed: 15% • 2 bed: 62% • 3 bed: 23%
4.2.4 Fine grain, architectural diversity and articulation	Yes	The development provides an appropriate scale, modulation and facade articulation to ensure the buildings respond to their context.
4.2.6 Waste and recycling Management	Yes	Conditions have been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

Provision	Compliance	Comment
4.2.9 Non-residential development in the B4 Mixed-Uses Zone	Yes	Amenity impacts from the proposed development including acoustic impacts, visual privacy, traffic and overshadowing have been considered throughout this report. The specific use and fit out of retail tenancies will be subject to separate development consent.

Section 5 – Specific Areas

Provision	Compliance	Comment
5.2 Green Square	Yes	The proposed development is generally consistent with the objectives for the Green Square area.
5.3 Epsom Park	Yes	The proposed development is generally consistent with the objectives for the Epsom Park locality, as outlined in the subheadings below.
5.3.1 Epsom Park Urban Strategy	Yes	The proposed development is consistent with the Epsom Park Urban Strategy. Specifically, the proposal provides low buildings along Letitia Street, an active edge along Zetland Avenue, accommodates the required new streets and open spaces, provides high quality buildings sympathetic to the local character and provides appropriate height transitions to surrounding areas, with taller buildings fronting Zetland Avenue.
5.3.2 Urban design principles	Yes	The proposed development is consistent with the urban design principles for Epsom Park, noting that in part these are affected by additional site-specific provisions below.
5.3.3 Local infrastructure and public domain	Yes	Local infrastructure and public domain elements are to be provided in accordance with the DCP under a separate development consent (D/2023/753).
5.3.3.3 Movement and connectivity	Yes	Vehicle access is provided via Defries Avenue into the ground floor loading dock and basement access within

Provision	Compliance	Comment
		Building F. This is consistent with the approved concept plan.
5.3.4 Building form and design	Yes	The proposal generally complies with the built form and height outlined in the DCP, with some minor exceptions. Building height in storeys is considered further in the 'Discussion' section below.
5.3.4.1 Building setbacks	Yes	The proposal is generally consistent with the building setbacks specified in the Concept DA.
5.3.4.3 Fences	Yes	A condition of consent is recommended that requires details of the ground level street interfaces, demonstrating high quality resolution of landscaping and planter design, fencing, paths, stairs and public domain levels.
5.3.4.4 Other development	Yes	Active uses are provided on the ground floor facing Zetland Avenue as required.
5.3.5 Staging and implementation	Yes	The development of this site can occur independently and does not rely on infrastructure from adjacent sites.
5.3.6 118-130 Epsom Road and 905 South Dowling Street, Zetland		
5.3.6.2 Local infrastructure and public domain	Yes	Public open space is provided as per the locations identified in the DCP. Consent for these spaces has been sought separately under D/2025/178.
5.3.6.3 Movement and connectivity	Yes	Vehicle access is provided via Defries Ave in accordance with the DCP.
5.3.6.4 Building layout, form and design	Partial compliance	Slight variations are proposed to the height in storeys diagram in the DCP. Refer to the 'Discussion' section for further details.
5.3.6.5 Land use	Yes	Active frontages are provided along Zetland Avenue as required.
5.3.6.6 Noise and ventilation	Yes	The Acoustic Report demonstrates that the noise criteria and natural ventilation can be achieved simultaneously.

Provision	Compliance	Comment
5.3.6.7 Contamination	Yes	Remediation of the land is being undertaken under D/2023/753. A Site Audit Statement confirming the land is suitable for the proposed uses is required to be obtained prior to commencement of building works.
5.3.6.8 Ecologically Sustainable Development	Yes	A condition is recommended requiring compliance with the planning agreement (VPA/2022/18), which includes additional environmental measures including the installation of electric vehicle chargers.

Discussion

Consistency with concept approval

51. Pursuant to section 4.24(2) of the EP&A Act, where a concept development application for a site remains in force the determination of any future development application in respect to that site cannot be inconsistent with the concept consent.
52. The subject application relates to the detailed design of the north-western stage of the Concept DA (D/2023/724/A) in force for the site.
53. The approved concept plan is proposed to be modified (D/2023/724/B) concurrently under section 4.55(1A) of the Act to address inconsistencies with the concept plan arising through the design competition and this detailed development application. The proposed modification application is recommended for approval and is to be determined by CSPPC prior to the determination of this application to ensure that the proposed development is consistent with the concept plan.
54. The subject application for Stage 2 NW is consistent with the conditions of the Concept DA (as proposed to be amended), as follows:

Table 1: Review of the proposal against the conditions of the Concept DA

Condition	Comment
Condition (2) Approved Development	The proposed development is consistent with the amended concept plans, as proposed to be modified under D/2024/724/B.
Condition (4) Compliance with VPA	The proposal is consistent with the VPAs that apply to the site.

Condition	Comment
Condition (5) Building Height	The proposed development complies with the heights specified on the concept plans, as amended by D/2024/724/B.
Condition (6) Floor Space Ratio	The proposed GFA complies with the maximum GFA permitted by this condition, as amended by D/2024/724/B.
Condition (9) Competitive Design Process	A competitive design process has been conducted. The proposal is considered to exhibit design excellence in accordance with the SLEP 2012.
Condition (10) Detailed Design of Building	<p>The proposal complies with the relevant clauses of this condition as follows:</p> <ul style="list-style-type: none"> (a) - The building forms are appropriately modulated and articulated. (b) - The tall building (Building A) is vertically proportioned. (c) - Conditions are recommended to ensure the design of the south-eastern extent of Block NW-2 incorporates visual privacy measures to maintain privacy for 8-12 Peters Street. The tower floorplate (Building A) does not exceed 550sqm.
Condition (11) Residential Land Use	The proposal is consistent with the objectives of the ADG and DCP provisions specified in this condition.
Condition (12) Preliminary loading and servicing management plan	A Preliminary Loading and Servicing Management Plan was submitted with the DA.
Condition (13) Security Gates	A security gate is proposed at the basement ramp, which complies with the 6m setback requirement.
Condition (18) Waste Infrastructure	The proposed waste management arrangements are generally acceptable, subject to conditions.

Condition	Comment
Condition (19) Acoustic Assessment	An Acoustic Impact Assessment was submitted with the application and is satisfactory.
Condition (20)(a) Deep Soil	NW Stage is to provide 1,200sqm (as proposed to be amended under D/2023/724/B). The detailed DA complies with this requirement.
Condition (21) Landscape	The proposal complies with the landscape requirements.
Condition (22) Land Contamination	The proposal satisfies the requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land.
Condition (24) Wind Assessment	A Wind Assessment was submitted with the application. A condition of consent is recommended to ensure the design amendments in the report are incorporated into the design.
Condition (25) Communal Open Space	Communal open space equal to 34% of the site area has been provided.
Condition (26) Environmentally Sustainable Development	The required ESD targets have been addressed.
Condition (27) Public Art	A condition of consent is recommended requiring further development of the site-wide public art proposal.
Condition (29) Trees that must be retained	The required trees are retained.
Condition (32) Flood Planning Levels	The proposal complies with the required Flood Planning Levels.
Condition (35) Signage Strategy	A condition is recommended requiring submission of a signage strategy.

55. As demonstrated above, the proposed development is consistent with the concept consent in force for the site, as proposed to be amended under D/2023/724/B being considered concurrently with this application.

Clause 4.6 variation request - Ceiling heights

56. Section 148 of the Housing SEPP contains development standards for particular matters relating to residential development that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. This includes the recommended ceiling heights specified in Part 4C of the Apartment Design Guide (ADG), which is described as a 'non-discretionary development standard'.
57. If non-discretionary development standards are not complied with, Section 4.15(3) of the EP&A Act 1979 allows the consent authority to apply Clause 4.6 when determining the development.
58. Part 4C of the ADG requires development in mixed-use areas to provide floor to ceiling heights of 3.3m for ground and first floor to promote future flexibility of use.
59. The proposed development achieves (and exceeds) the 3.3m floor to ceiling height on the ground floor. However, there are localised non-compliances on Level 1 in each building (A-H). In these locations, a floor to ceiling height of 2.9m is proposed, which results in a variation of 13%.
60. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the floor to ceiling height 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)

61. The applicant seeks to justify the contravention of the ceiling heights development standard on the following basis:
 - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The applicant refers to the first method of the five-part test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the standard is unreasonable or unnecessary. This method seeks to demonstrate that the objectives of the development standard are achieved notwithstanding the non-compliance with the standard.
 - (ii) A summary of the applicant's assessment against the objectives of the ceiling heights development standard is provided below:

Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access

The proposed variation is minor and will not impact the development achieving sufficient natural ventilation and daylight access. Apartments which do not meet the required ceiling height achieve good solar access and natural light.

Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well proportioned rooms

The proposed units comply with the relevant requirements for unit size and depth under the ADG creating high quality and livable spaces optimising a sense of space and outlook.

The heights are still well above the minimums required under the NCC and ADG for all other residential levels, with no low bulkheads in habitable rooms.

Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building

The non-compliance is minor in nature (13%) and still provides adequate opportunity for varying uses above ground without compromising amenity and spatial requirements.

Given the detailed masterplanning that has been undertaken for this site, it is unlikely that the residential units located on Level 1 will be converted to non-residential uses in the future.

- (iii) In summary, the applicant submits that the development is consistent with the objectives of the height of buildings development standard. Therefore, compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) Ground level floor to ceiling heights exceed the minimum 3.3m requirement, providing increased flexibility for ground floor uses and high visibility to pedestrians and vehicles.
 - (ii) The development was the subject of a detailed Planning Proposal, Concept Plan, Competitive Design Process, and design excellence process which consistently proposed residential uses at Level 1 and residential uses on ground floor where active frontages are not required.
 - (iii) The overall development achieves the minimum non-residential floor space requirement established under the site-specific LEP. There is limited demand for additional non-residential floor space in this location.

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

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

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

63. The applicant has relied upon the first test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case.

64. The applicant has satisfactorily demonstrated that the proposal meets the objectives of the ceiling heights development standard, notwithstanding the non-compliance.

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

65. The applicant has sufficiently demonstrated that there are sufficient environmental planning grounds to justify contravening the standard. The proposed floor to ceiling heights will provide acceptable amenity for future occupants and the minimum non-residential floor space requirements are met elsewhere within the site.

Conclusion

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

Distribution of gross floor area

67. The Stage 2 NW site is permitted a maximum GFA of 25,550sqm (excluding any design excellence bonus), pursuant to clause 4.4 of the SLEP 2012 and captured in Condition 6 the concept consent (D/2023/724/A).

68. Condition 6 of the concept consent (as currently worded prior to Modification B) apportions the maximum GFA for Stage 2 NW as follows:

- Total GFA - 25,550sqm
 - Residential GFA - 24,693sqm
 - Non-residential GFA - 857sqm

69. When considering the available up to 10% additional floor space, the maximum GFA permitted is as follows:

- Total GFA - 28,105sqm
 - Residential GFA - 27,162sqm
 - Non-residential GFA - 943sqm

70. This application proposes the following distribution of GFA:

- Total GFA - 28,104sqm
 - Residential GFA - 27,222sqm
 - Non-residential - 882sqm

71. The total GFA of 28,104sqm complies with the maximum permitted for the site. However, the distribution does not strictly comply, with a higher proportion of residential GFA and lower proportion of retail GFA than specified in concept consent.

72. The concurrent modification to the concept consent (D/2023/724/B) therefore seeks to amend Condition 6 to reflect the proposed redistribution.

73. No objections are raised to the proposed redistribution of floor space. Importantly, the maximum permitted GFA is not exceeded and there will be no material adverse impacts from this change. Sufficient non-residential floor space is provided on the ground floor along George Julius Avenue and Zetland Avenue. The objectives of the DCP in relation to active frontage and land uses are achieved notwithstanding this minor change.
74. It is also noted that the proposed redistribution does not inhibit the proposal's ability to comply with the obligations of the VPA requiring a minimum of 4% of the total GFA across the site to be non-residential.

Competitive design process - design excellence

75. A competitive design process was held for Stage 2 NW between May and July 2024. Of the three competing teams, Crone with Youssofzay + Hart were selected as having the scheme most capable of achieving design excellence and were declared the winner.
76. The key principles of the design to be maintained and developed identified by the Selection Panel are outlined in Table 2 below. The development application adequately retains the design integrity and key aspects of the winning scheme, subject to conditions of consent.

Table 2: Assessment of compliance with the recommendations of the Selection Panel

Key principles of the design to be maintained and developed	
Recommendation	Comment
General landscape approach across the site	The overarching elements of the landscape approach including permeability and openness, biodiversity, canopy provision and open space locations have been maintained.
Continued consideration of the health and wellbeing of Country through landscape and public art	The proposal provides opportunities for native gardens, inclusive spaces and health of country through landscape, as well as public art opportunities.
Approach to materiality is to be maintained	<p>Changes have been made to the proposed materials post-competition.</p> <p>In particular, the brick selection of 'Lohas Brick Tenere Smooth' has been replaced with brick pattern precast in light brown.</p> <p>Refer to the 'Discussion' section for further details.</p>

Key principles of the design to be maintained and developed	
Omission of the low rise building in Block NW-2	This has been maintained. Refer to the 'Discussion' section for further details on the proposed building layout.
Opening of the courtyard in Block NW-2 fronting Letitia Street	This has been maintained.
Awnings over the retail areas in line with the DCP	Awnings have been provided, except for the retail tenancies in Building F. A condition to address this is recommended.
Visual permeability throughout the site, achieved largely due to the gaps between building blocks	<p>Permeability has been maintained on the ground plane. However, the gaps between building blocks have been filled in.</p> <p>This is discussed further under the 'Design Advisory Panel advice' heading below.</p>
Simplicity of internal layout planning	The internal layout planning has generally been maintained.
Acknowledgement and integration of public art	The proposed site-wide public art approach is supported, subject to further design development.
Quantum of deep soil provided	The competition scheme provided 17% deep soil. The proposed development includes 11% deep soil, which complies with the ADG and DCP.
Open space (east-west link) to the north of 8-12 Peters Street	This has been maintained and is being considered separately under D/2025/178.
Clearly defined building entries and lobby planning within tall buildings	Building entries have generally been maintained.
Composition of Zetland Avenue facade	Changes have been made during the assessment to ensure the composition of the Zetland Avenue facade in the competition is maintained.

77. The Selection Panel also identified areas for further resolution and refinement through design development, outlined in Table 3 below.

Table 3: Assessment of compliance with the areas for further resolution and refinement identified by the Selection Panel

Areas for further resolution and refinement	
Recommendation	Comment
External gallery access to all low-rise buildings should be removed	External gallery access has been removed.
Dual lifts should be utilised across the development	Dual lifts have been incorporated across the development, except for the smaller buildings (C and D). As these buildings are only 3 storeys, a single lift is acceptable.
Relationship of central low-rise building to landscape east and west must improve – no solely ground floor bedrooms and living room must be on ground floor	The central low-rise building (Building C) now has single storey apartments on 3 levels.
Central low rise building of 4 storeys is acceptable only if bulk is minimised	The height of the central low rise building has been reduced from 4 storeys to 3 storeys.
Physical connection of the low rise building to the mid/high rise to the north is not successful and not necessary	The physical connection between Buildings B and C has been removed. Building C is now self-contained and has its own lift.
Pedestrian link to Defries Avenue adjacent to the carpark entry needs to improve by avoiding a dog leg and providing greater visual connection. Levels need to be resolved	<p>This pedestrian link between Buildings F and G, adjacent to the carpark entry, has been removed.</p> <p>The applicant submits that this link has been removed due to urban design and CPTED concerns.</p> <p>An east-west link is provided further south between Buildings G and H.</p>
Blank wall on corner of Defries and Zetland needs to be improved/opened up with greater activation of the public realm/ retail to corner is a possibility	The blank wall in this location has been replaced with glazing servicing the new Building F residential lobby.

Areas for further resolution and refinement	
Further development of the conceptual weave approach is needed, especially on Gunyama Park façade and its connection to the Zetland Avenue tower façade.	<p>The shading elements on this facade were simplified post-competition.</p> <p>The amended plans submitted during the assessment sought to reinstate some of the elements of the Gunyama Park facade from the competition scheme.</p> <p>Further design changes are required to this facade to improve thermal performance. Refer to the 'Gunyama Park facade' section below for further details.</p>
Basement efficiency and loading dock configuration	<p>The loading dock has been amended to be located on the ground floor rather than in the basement.</p> <p>This location is acceptable, subject to conditions of consent to ensure the orderly use of the loading dock and basement access. Refer to the 'Servicing Strategy' discussion below.</p>
Include a pool and other communal facilities in line with the brief	A pool and communal facilities have been provided on Level 4 of Building G.
Simplified access to low-rise building east of Letitia Street via foyer of the building fronting Defries Avenue	The low-rise building east of Letitia Street (Building G) has been amended to provide simplified access.
Current ground plane along Zetland Avenue to the east does not comply with active frontage – consider flexible home office arrangement	The plans were amended during the assessment to provide active uses on this frontage, instead of residential apartments.
Further development of Defries elevation is needed	The Defries Avenue elevation has been further developed and is considered to be acceptable.
Ensure design development of Letitia Street and east-west link progresses in full consultation with the CoS to ensure delineation between public and private land and compliance with City of Sydney standards	The design of the east-west link is being assessed separately under D/2025/178.

Design Advisory Panel advice

78. The application was referred to the Design Advisory Panel (DAP) on 13 February 2025.
79. The DAP advice was incorporated into Council's Request for Information letter dated 24 February 2025. A summary of the DAP advice and the applicant's response is provided below.

Table 4: Assessment of the proposal against Design Advisory Panel advice

DAP advice	Response
The Panel notes that the scheme has removed building breaks and articulation in order to reduce building heights, as agreed with the City's design subcommittee.	The DAP's support of the removal of building breaks in order to lower building heights is noted.
Pedestrian links should be a minimum of 2-storeys high and open (not glazed) at their entries.	<p>The pedestrian links between Buildings A/B and D/E remain on the ground floor only and have not been amended to be a minimum of 2 storeys high.</p> <p>The applicant submits that 2 storey links cannot be provided as they inhibit the ability to achieve the required commercial objectives.</p> <p>Indents have been provided to the facade to give the visual representation of a building break.</p>
Further resolution of apartments overlooking each other at the corners.	<p>This has not been adequately addressed.</p> <p>A condition of consent is recommended that requires visual privacy screening to be incorporated to certain bedrooms where overlooking is an issue.</p>
High quality materials are important to compliment the building's architectural simplicity. The Panel does not support a reduction in material quality from the design competition scheme.	<p>The brick pattern precast in lieu of the high quality brick proposed in the design competition (Lohas Brick Tenere Smooth) has been maintained by the applicant.</p> <p>Refer to the 'Materials and Finishes' section below for further details.</p>

DAP advice	Response
The change in the façade to Zetland Avenue is too dominant in its horizontal expression. The Panel supports the proportions and expression of the design competition scheme.	Amendments have been made to this elevation to reintroduce the expression of the competition scheme.
Further resolution of the Zetland Avenue façade to improve thermal performance.	Solid to void ratio has been increased to improve thermal performance.
The Panel supports the long-term vision of active uses along Zetland Avenue and recommends that spaces should be provided at the ground floor available for retail, commercial or workshop uses in the long term.	The ground floor along Zetland Avenue has been amended to include retail premises.
The Panel does not support any departures from DCP setbacks at the ground floor interface.	Changes have been made to comply with the ground floor setbacks in the Concept DA.
The Panel recommends further resolution of the waste management area. Considerations may include moving the vehicle crossing further north in order to get a workable north-south ramp, or a turntable for garbage trucks.	Changes have been made to improve the functionality of the loading dock. Refer to the 'Servicing Strategy' discussion below.
Further consideration of landscaping is required to ensure that adequate soil volumes are provided for the number of trees proposed, and that spaces are useable and furnished with appropriate amenities.	Changes have been made to soil volumes. A condition of consent is recommended to further resolve the proposed landscaping.

Building height and layout

80. The site is subject to varying building height in storeys controls, in accordance with the Concept DA, as shown in Figure 18 below.

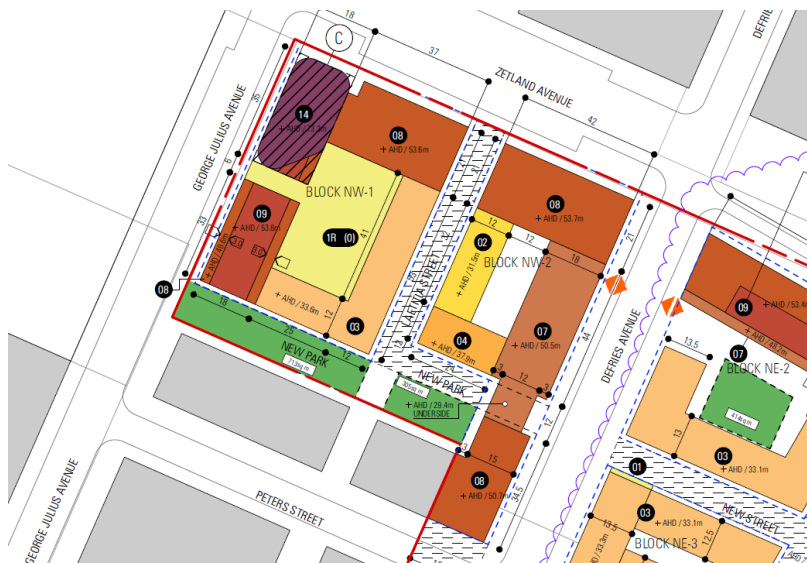


Figure 18: Approved Concept Plan showing building height in storeys

81. Through the competitive design process, the architects opted to depart from the building layout established in the Concept DA, which comprises a predominantly enclosed perimeter courtyard massing with few opportunities for air flow and connection of open space.
82. Instead, the competition scheme broke up the building form to create opportunities for permeability and connected open space, as shown in Figure 19 below.

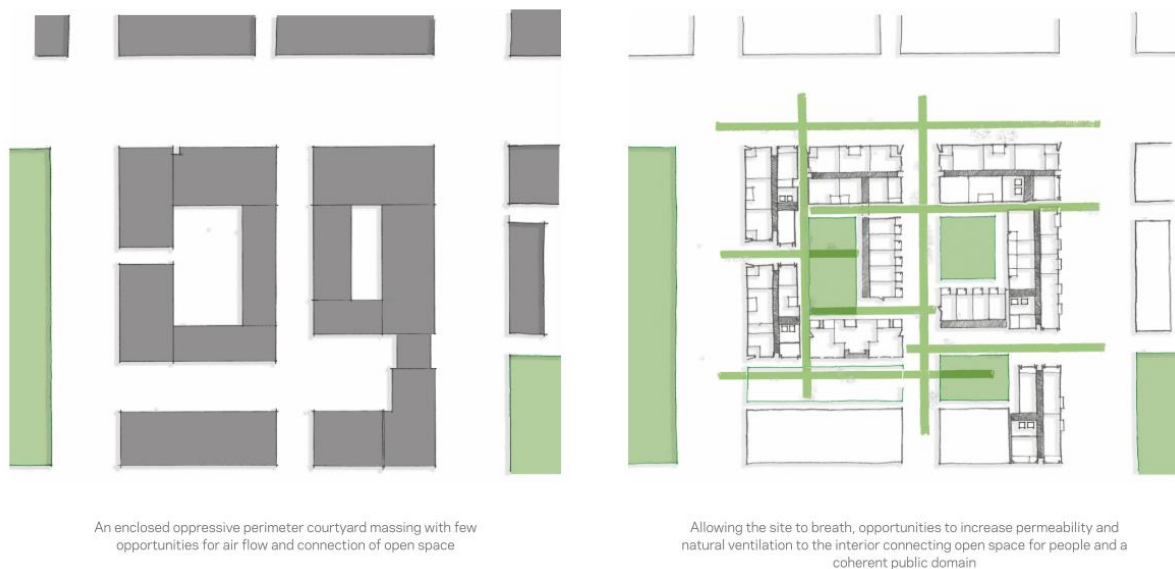


Figure 19: Concept DA building layout (left) vs proposed competition scheme building layout (right)

83. The key changes to the built form in the proposed development include:
- (a) building breaks between Buildings B/C and C/D, resulting in Building C being a stand alone building;
 - (b) deletion of the 2 storey building on the eastern side of Letitia Street; and
 - (c) additional building breaks on the ground plane to increase permeability.
84. The proposed changes to the building massing were supported by both the Selection Panel during the competitive design process and the DAP during the DA assessment.
85. Overall, the changes result in improved outcomes for this site including increased permeability, improved opportunities for natural cross ventilation, greater connection between open space areas and improved residential amenity for apartments.
86. These changes are proposed to be captured in the concurrent Section 4.55 modification to the Concept DA to ensure consistency.

Building separation and visual privacy

87. Section 2F of the ADG contains recommended building separation distances between apartments within a site.
88. There are several locations where the recommended building separation distances are not achieved between the proposed buildings. Council's Request for Information therefore requested further information to demonstrate how visual privacy is achieved where the non-compliances occur.
89. The amended plans contain several locations where visual privacy has not been adequately addressed. Recommendations to improve visual privacy in selected locations are summarised below:
- (a) Between Buildings A and E

6.7m separation is provided between habitable rooms, whereas the ADG recommends 12m up to 4 storeys and 18m up to 8 storeys.

A condition is recommended requiring the south facing living room windows on Building A to be treated with obscure glazing.

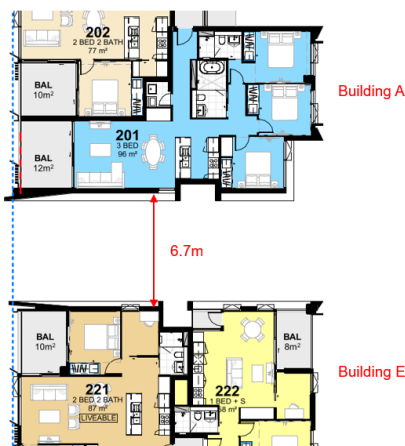


Figure 20: Building separation between Buildings A and E

(b) Between Buildings G and H

12m separation is provided between habitable rooms, whereas the ADG recommends a minimum of 18m above 4 storeys.

A condition is recommended requiring the south facing windows of Building G to include fixed vertical privacy louvres angled to the south-east.

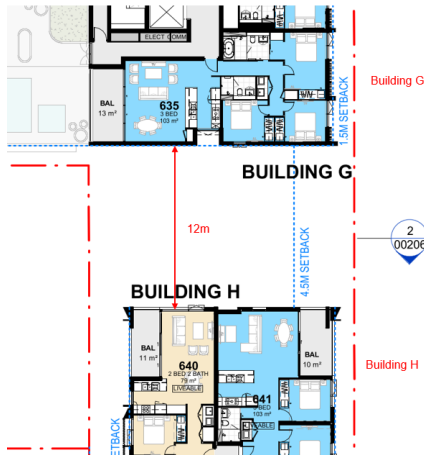


Figure 21: Building separation between Buildings G and H

(c) Internal corner apartments

Due to the building layout established in the Concept DA, there are various instances of apartments overlooking each other at the internal corners.

Conditions are recommended to address overlooking between the internal corners shown in Figure 22 below.

This also applies to the internal corner between Building H and the adjoining building at 8-12 Peters Street.



Figure 22: Locations of internal corners where visual privacy conditions are recommended

(d) Between Building E and 8-12 Peters Street

Condition 10(d) of the concept consent requires visual privacy measures to the southern elevation of Buildings D and E to maintain privacy for residents at 8-12 Peters Street.

A building separation of 16m is proposed. The ADG recommends 18m building separation above Level 4 between habitable rooms / balconies.

A condition is recommended that requires the south facing balconies and bedroom windows on Building E from Level 4 and above to include fixed external privacy louvres.

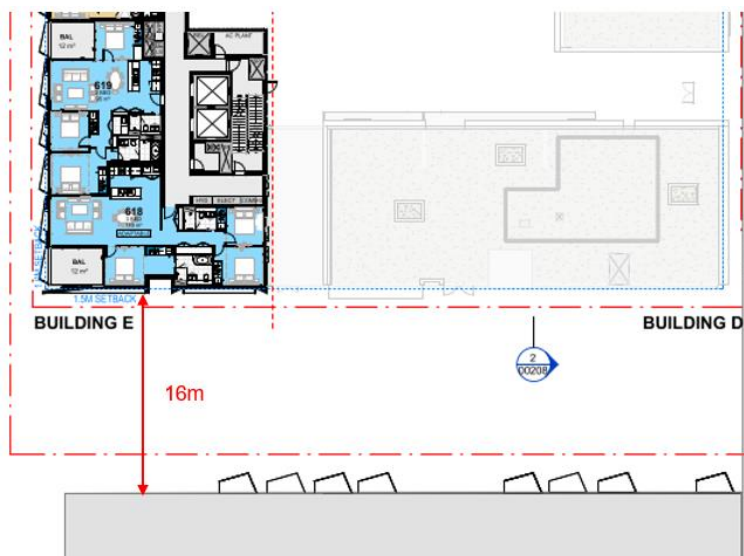


Figure 23: Building separation between Building E and 8-12 Peters Street

Gunyama Park facade

90. The competitive design process scheme incorporated a conceptual weave approach for the Gunyama Park (western) facade of Buildings A and E. This concept was an important element of the winning scheme and the Selection Panel recommended that it be further developed, with particular attention to the performance and orientation of the hoods to maximise solar protection.
91. Council's Request for Information letter, following consultation with the DAP, advised that further work was required to this facade to address the Selection Panel's recommendation, and specifically requested that:
 - (a) any hoods relate to the orientation of the building and provide genuine shading to vision glazing;
 - (b) thermal performance of the facade be improved; and
 - (c) the increased glazing and loss of solidity overall compared to the competition scheme was not supported and should be improved.
92. Design amendments have been made to the facade to reinstate some of the design elements of the competition scheme, including hoods over the windows.

93. However, there remains a loss of solidity overall compared to the competition scheme and lack of solar shading. There are also visual privacy issues, particularly on the lower levels closer to the park.
94. A condition of consent is therefore recommended that requires:
- (a) Extending the facade treatment to Level 1 (which currently has no solar / visual privacy treatment);
 - (b) Translucent or perforated balustrades on Levels 1 and 2 for visual privacy; and
 - (c) Additional operable screens where no screens are currently proposed.

Materials and finishes

95. The scheme submitted as part of the competitive design process featured high quality materials and finishes, including the use of brick across all buildings in 'Lohas Brick Tenere Smooth'.
96. The approach to materiality was identified by the Selection Panel as a strong element of the scheme to be retained during design development.

MATERIALS & FINISHES

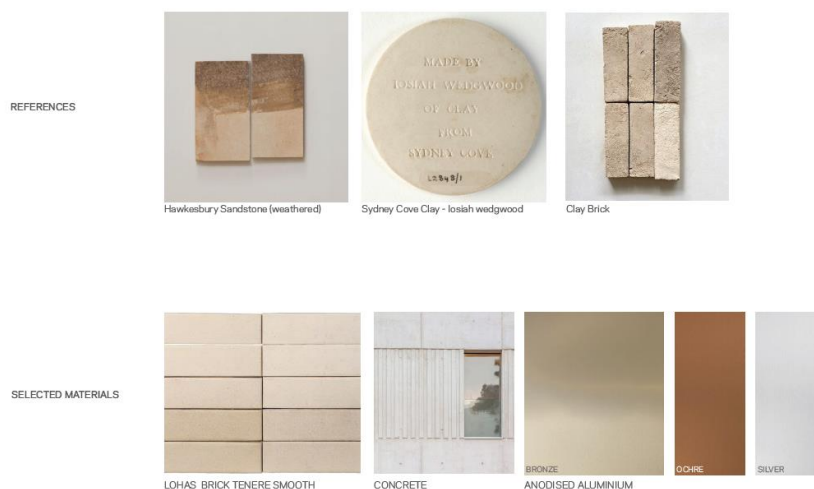


Figure 24: Materials and finishes schedule proposed in the competitive design process

97. The materials and finishes schedule submitted with the DA was more generic in comparison, proposing painted precast concrete, no brick specification and grey tinted glazing.
98. The Design Advisory Panel considered the high quality materials to be important to the building's architectural simplicity and did not support a reduction in material quality from the design competition scheme.
99. Council's Request for Information therefore requested a revised materials and finishes schedule that included a high quality face brick specification (not precast with a brick pattern or brick snaps in precast) and clear non-tinted glazing to windows and balustrades.

100. On 10 March 2025, the applicant wrote to Council advising that the proposal would include a brick formliner product, which is precast with a brick pattern.
101. Council officers requested further information on this product, demonstrating that the product is durable long term and how the treatment to corners will present the same as traditional bricks. This information has not been provided by the applicant.
102. A condition is recommended that requires further details of the brick patterned precast to be submitted to ensure the material provides a high quality finish as close as possible to the 'Lohas brick tenere smooth' face brick proposed in the competitive design process.

Wind mitigation

103. A revised Pedestrian Wind Assessment prepared by CPP Wind Engineering Consultants was submitted in response to Council's Request for Information.
104. The wind assessment identifies areas of non-compliance with the safety criteria and provides recommendations to improve these areas. The recommendations of the wind report have not been incorporated into the amended plans.
105. Conditions of consent are recommended to ensure the plans adequately capture the wind mitigation measures recommended in the report, as follows:
 - (a) Location 2 (north-western corner of Building A on the ground floor) fails the safety criteria. Figure 14 of the report shows that an awning on this frontage provides some protection for pedestrians. However, the awning shown in Figure 14 stops at the lobby entrance, where the most protection is needed. A condition is recommended that requires the awning to continue over the lobby entrance.



Figure 25: Extract from the Pedestrian Wind Assessment showing the required awning to Building A. It is recommended that the awning continue over the lobby entrance.

- (b) Location 4 (south-western corner of Building E on the ground floor) fails the safety criteria. The wind report recommends a screen in this location, south of the lobby entrance. This has been included in the recommended condition.

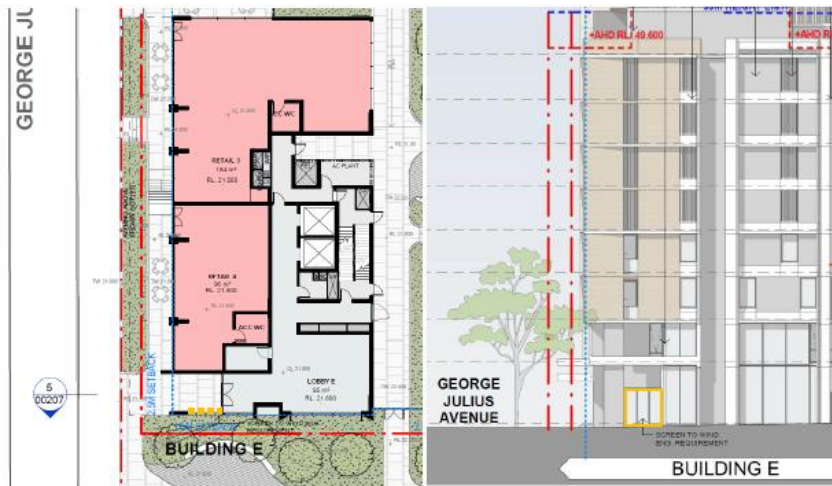


Figure 26: Extract from the Pedestrian Wind Assessment showing the recommended screen at the Building E lobby entrance

- (c) The rooftop of Building A is rated as 'Pedestrian Standing' and 'Pedestrian Walking'. This is not appropriate for the various seating areas proposed. To achieve the 'Pedestrian Sitting' comfort levels, the wind report recommends the addition of an enclosed pergola on the rooftop. A condition of consent is recommended that requires localised areas of pergola over the proposed seating areas.
- (d) The recommended condition also requires an amended Wind Report to be submitted to confirm that the above changes achieve the required wind mitigation outcomes.

106. The proposal will adequately ameliorate adverse wind conditions, subject to satisfaction of the recommended condition of consent for wind mitigation.

Site servicing

- 107. The scheme submitted as part of the competitive design process proposed all servicing to be undertaken within the basement. Vehicle and servicing access was provided from Defries Avenue in Building F, with a single ramp down to the basement as shown in Figure 27 below.
- 108. The Selection Panel supported this arrangement and recommended the retention of basement efficiency and the loading dock configuration throughout design development.

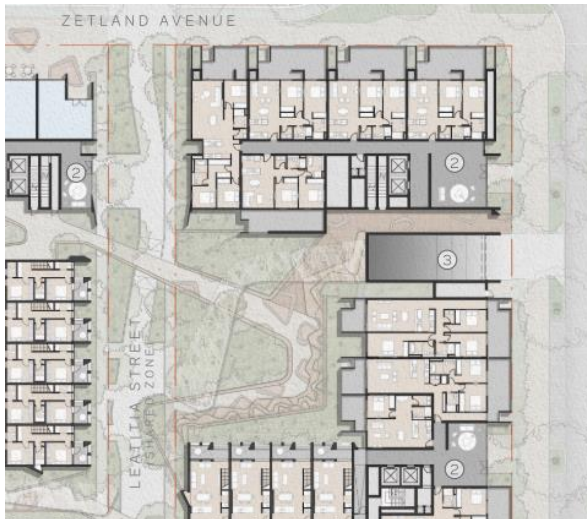


Figure 27: Ground floor plan showing the servicing strategy proposed in the competitive design process, with all servicing to be undertaken within the basement.

109. The application now proposes a ground floor loading dock co-located with a ramp down to the basement, as shown in Figure 28 below.

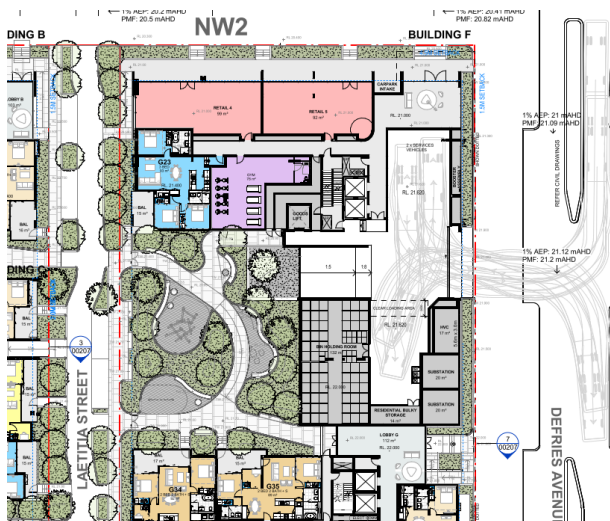


Figure 28: Proposed ground floor loading dock

110. Changes have been made to the proposed ground floor loading dock throughout the assessment to address issues relating to the size and location of the bin storage rooms and the co-location of car access and service vehicle access.
111. The amended loading dock design is generally supported. The applicant has submitted swept paths to demonstrate that Council's 10.6m waste vehicle can enter forward into the northern dock and reverse back into the southern dock for waste collection, followed by reversing out of the site in a forward motion.
112. However, conditions of consent are recommended to ensure potential conflicts between service vehicles using the loading dock, vehicles entering/ exiting the basement and pedestrians are avoided to ensure safety.

113. It is recommended that a revised Preliminary Loading and Servicing Management Plan be submitted prior to the issue of a Construction Certificate to address the following:
- (a) demonstrate how waste bins, removalist deliveries and retail deliveries can be transferred to and from the loading area with minimal impact to the public domain
 - (b) include signal system to prevent vehicles from entering the site from Defries Avenue when a heavy vehicle is exiting the site
 - (c) demonstrate how unimpeded access will be provided for residential collection vehicles to access the loading dock between 6am and 6pm on collection days or until all scheduled residential waste collections
 - (d) demonstrate how the three loading dock areas (2 on the north side and one on the southern side of the driveway) will remain clear during Council waste collection
 - (e) outline how loading and servicing activities will be managed to occur outside of peak traffic hours
 - (f) demonstrate strategies improve pedestrian and traffic safety by managing conflicts between cars using the ramp and trucks accessing/ reversing in the loading dock, particularly during large Council truck movements in the dock areas
114. The overall servicing strategy is therefore supported subject to the Preliminary Loading and Servicing Management Plan addressing the above issues.

Consultation

Internal Referrals

115. The application was discussed with Council's:

- (a) Environmental Health
- (b) Environmental Projects
- (c) Landscaping
- (d) Urban Design
- (e) Public Domain
- (f) Surveyors
- (g) Transport and Access
- (h) Tree Management
- (i) Public Art
- (j) Waste Management

116. The above have provided recommended conditions of consent, which have been included in Attachment A.

External Referrals

Sydney Water

117. The application is subject to the requirements of Section 78 of the Sydney Water Act 1994 and was referred to Sydney Water for comment.
118. Sydney Water responded on 18 December 2024 and provided conditions which have been included in the recommended conditions of consent.

Ausgrid

119. Pursuant to clause 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
120. A response was received raising no objections to the proposed development.

Sydney Airport

121. 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.
122. The Airports (Protection of Airspace) Regulations 1996 relevantly identifies the area above the OLS to be prescribed airspace. Under regulation 6(1), 'prescribed airspace' includes 'the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services - Aircraft Operations surface (PANS - OPS).
123. The OLS above this site is at a height of 51m AHD above existing ground level. The proposed development has a maximum height of approximately 52.3m and will therefore penetrate the OLS.
124. Controlled Activity Approvals for the building envelopes were issued for the Concept DA (D/2023/724) on 31 May 2024. The proposed detailed development is consistent with the maximum height specified in these approvals and therefore the approvals may continue to be relied upon.

Transport for NSW

125. The application was referred to Transport for NSW (TfNSW) in accordance with Clause 2.122 - Traffic generating development of the State Environmental Planning Policy (Transport and Infrastructure) 2021. Recommended conditions of consent have been provided by TfNSW which are included in Attachment A.

Water NSW

126. The application is considered integrated development pursuant to section 4.46 of the EP&A Act because an approval is required under sections 89 and 90(2) of the Water Management Act 2000.
127. General Terms of Approval were issued by WaterNSW on 5 December 2024 and have been included in the recommended conditions of consent.

Advertising and Notification

128. In accordance with the City of Sydney Community Participation Plan 2024, the proposed development was notified and advertised between 26 November 2024 and 14 January 2025. A total of 1,904 properties were notified and no submissions were received.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

129. The City of Sydney Development Contributions Plan 2015 applies to the site. The development is subject to a section 7.11 local infrastructure contribution under this Plan.
130. Credits have been applied for the most recent past use of the site.
131. A contribution of \$5,557,633.72 is payable. A condition relating to this local infrastructure contribution has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contributions to be paid prior to the issue of a construction certificate.
132. In this instance, contribution may be offset by the requirements and obligations identified in the relevant Voluntary Planning Agreement (VPA/2023/10). The recommended condition has been amended accordingly to reflect this.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

133. As discussed in the section above titled 'State Environmental Planning Policy (Housing) 2021', the application meets the requirements of section 7.32(1) and (3) of the EP&A Act 1979 allowing the imposition of a condition requiring the delivery of affordable housing by way of land dedication or monetary contribution.
134. The site is located within the Green Square affordable housing contribution area. The proposed development involves the erection of new buildings with a gross floor area greater than 200sqm. Therefore, the development is subject to the requirements of section 7.13 relating to a contribution for the purpose of affordable housing.
135. The contribution amount payable is calculated based on the total floor area (TFA) of the proposed development. TFA calculation plans have been submitted, which identify 955sqm of non-residential TFA and 38,821sqm of residential TFA.
136. The contribution amount is calculated at a rate of \$11,646.80 per square metre, for 3% of the residential TFA and 1% of the non-residential TFA. This results in a contribution of \$13,675,439.62.
137. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is appropriate and required. A condition of consent is recommended requiring payment prior to the issue of any Construction Certificate.

Housing and Productivity Contribution

138. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
139. The site is located with the Greater Sydney region, the development is a type of residential and commercial development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.
140. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.
141. The proponent may be entitled to a full or partial discount because the subject application is a subsequent development application to a concept application granted consent before the commencement of the Housing and Productivity Contribution Order 2023. However, the proponent is to obtain the discount from the Department of Planning, Housing and Infrastructure rather than the discount being applied by the consent authority.

Relevant Legislation

142. Environmental Planning and Assessment Act 1979.
143. Sydney Airport Referral Act 1996
144. Water Management Act 2000
145. Sydney Water Act 1994

Conclusion

146. The application has been assessed in accordance with section 4.15(1) of the Act and is considered satisfactory subject to the recommended conditions of consent at Attachment A.
147. The application seeks consent for a detailed development application for the Stage 2 NW portion of the approved concept plan for the site. The proposed development is consistent with the approved concept plan, as proposed to be modified (D/2023/724/B). The application has been assessed against and meets the relevant provisions of the Sydney Local Environmental Plan 2012 and the objectives of the Sydney Development Control Plan 2012.
148. The requirements of Chapter 4 of the Housing SEPP have been met. The proposed development is consistent with the design quality principles and the objectives of the NSW Apartment Design Guide.
149. The proposed development demonstrates design excellence in accordance with the relevant provisions and matters for consideration in clause 6.21C of the Sydney Local Environmental Plan 2012.

150. The proposed development is consistent with the design intent of the winning scheme of the competitive design alternatives process for the site, held in accordance with the City of Sydney Competitive Design Policy.
151. Matters raised by internal and external referrals have been adequately addressed as discussed within this report.
152. The application was notified in accordance the requirements of the EP&A Regulations 2021 and the City's Public Participation Plan. No submissions were received.
153. Subject to the recommended conditions of consent, the proposed development is considered to be in the public interest and is recommended for approval.

GRAHAM JAHN, AM

Chief Planner / Executive Director City Planning, Development and Transport

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