

**Item 6.****Development Application: 905 South Dowling Street, Zetland - D/2024/1055****File Number:** D/2024/1055**Summary****Date of Submission:** 21 November 2024

Amended drawings and additional information were submitted on 21 March 2025 and between 25 March and 10 April 2025.

**Applicant/Owner:** Karimbla Properties (No. 60) Pty Ltd**Architect** MHND Union and Allford Hall Monaghan Morris**Developer:** Meriton**Planning Consultant:** Meriton**Design Advisory Panel:** 13 February 2025**Cost of Works:** \$158,890,894

**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 retail uses which are permissible with consent in the zone.

**Proposal Summary:** Approval is sought for a mixed-use development on the Southern (S) stage of the broader Suttons redevelopment site comprising:

- Construction of four buildings containing a total of 241 apartments including:
  - Two mixed-use buildings (Buildings S1 and S2); and
  - Two residential flat buildings (Buildings S3 and S4).
- Construction of 3 and 4 basement levels containing 233 car parking spaces, 324 bicycle parking spaces and 22 motorcycle parking spaces.

- Mulgu Park is to be subject of a separate development application.

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 Agreements**

Two planning agreements apply to the site:

- VPA/2022/18 securing environmental performance initiatives and provision of 3,696sqm of non-residential gross floor area; and
- VPA/2023/10 securing construction and dedication of public infrastructure including new roads, footpath widening, Mulga 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.

MHND Union and Allford Hall Monaghan Morris were selected as the winning scheme. The proposed development is generally consistent with the winning scheme and the recommendations of the selection panel have been addressed in this report.

### **Notification**

The application was notified for a period of 28 days between and 16 December 2024 and 3 February 2025. Two submissions were received with one in support and one objecting to the proposal. The objection raised issues related to the provision of shopping centres, retail outlets, open space and public transport.

**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 the ground floor of Buildings S3 and S4, and on Level 1 of all buildings. 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 21 March 2025 to address issues raised by Council and the DAP. The amended proposal adequately addresses the issues raised, as detailed in this report, subject to the recommended conditions of consent.

The proposed development responds appropriately to the surrounding development and provides a built form that is generally consistent with the desired future character of the Green Square Epsom Park locality, reflected by the general and site-specific development controls that apply to the site. 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 captured by 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) City of Sydney Act 1988 and City of Sydney Regulation 2016
- (iii) Water Management Act 2000
- (iv) Sydney Water Act 1994 and Sydney Water Regulation 2017
- (v) Sydney Airport Referral Act 1996
- (vi) Airports Act 1996 (Cth) and Civil Aviation (Building Control) Regulation 1988

- (vii) State Environmental Planning Policy (Transport and Infrastructure 2021)
- (viii) State Environmental Planning Policy (Resilience and Hazards) 2021
- (ix) State Environmental Planning Policy (Housing) 2021
- (x) State Environmental Planning Policy (Biodiversity and Conservation) 2021
- (xi) State Environmental Planning Policy (Sustainable Buildings) 2022
- (xii) Sydney Local Environmental Plan 2012
- (xiii) Sydney Development Control Plan 2012
- (xiv) City of Sydney Interim Floodplain Management Policy 2012
- (xv) City of Sydney Guidelines for Waste Management in New Developments.
- (xvi) Sydney Landscape Code Volume 2: All development except single dwellings
- (xvii) City of Sydney Public Art Policy 2011
- (xviii) City of Sydney Public Art Strategy 2011
- (xix) City of Sydney Interim Guidelines for Public Art in Private Development 2006
- (xx) City of Sydney Community Engagement Strategy and Community Participation Plan 2022
- (xxi) City of Sydney Development Contributions Plan 2015
- (xxii) City of Sydney Affordable Housing Program 2023

**Attachments:**

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

## 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/2024/1055 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 schemes of the competitive design alternatives processes 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. The site was previously known as 118-130 Epsom Road and 905 South Dowling Street, Zetland prior to the consolidation of the land, registered on 27 September 2024. It is irregular in shape with an area of approximately 40,866sqm.
2. The application relates to the third stage (South) of the former Suttons redevelopment, as defined in the concept approval (D/2023/724), which is located within the southern area of the site bound by Peters Street (future road) to the north, Link Road to the east, Epsom Road to the south and neighbouring buildings to the west. This stage is known as 'Stage 3 South'. Stage 3 South is an irregular shape with an area of approximately 12,916sqm.
3. The site is currently subject to active site preparation. Demolition of the former car sales and service centre was undertaken in early 2024 under development consent D/2023/720 and remediation of the land and the construction of the internal roads and infrastructure commenced in late 2024 under development consent D/2023/753. Early works are underway to construct the basement for this stage of the development under development consent D/2024/1074 granted in March 2025.
4. The site is located within the Epsom Park locality of the Green Square, a new neighbourhood characterised by a mixture of land uses, predominantly residential with a variety of commercial or retail, and recreation areas including Gunyama Park Aquatic and Recreation Centre. The site is approximately 0.8-1km from Green Square Town Centre. The site is subject to flooding.
5. The surrounding area comprises a range of residential, commercial and mixed-use developments within the broader Green Square urban renewal area, including:
  - (a) North: Stage 1 NE which was approved under D/2024/816 in March 2025
  - (b) East: Mixed-use development on the opposite side of Link Road.
  - (c) South: Mixed-use development on the opposite side of Epsom Road.
  - (d) West: A recently completed mixed-use development directly adjoining the site
6. A site visit was carried out on 10 March 2025.

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



**Figure 1:** Aerial view of site and surrounds





**Figure 2:** Site viewed from the Epsom Road frontage



**Figure 3:** Site viewed from the Link Road frontage

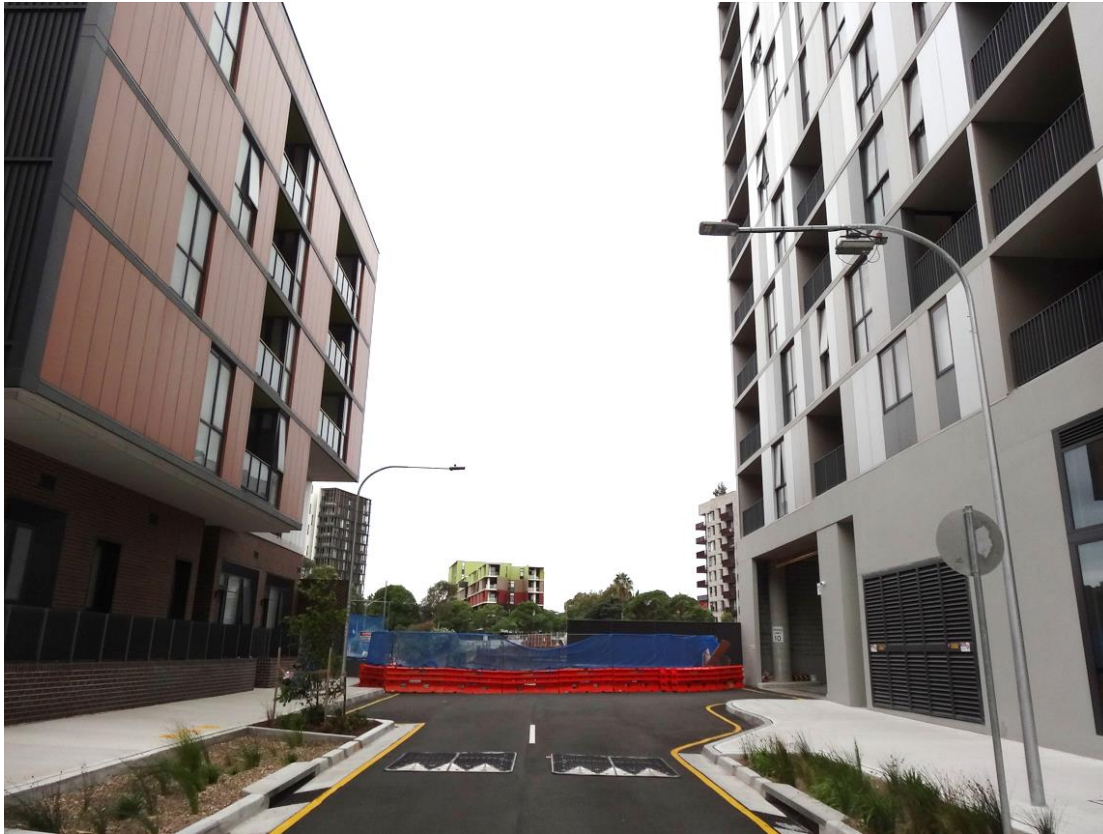




**Figure 4:** Site viewed from the Rose Valley Way frontage



**Figure 5:** The neighbouring building to adjoin Building S3 to the west as viewed from Epsom Road, with the site viewed in the background



**Figure 6:** The adjoining part of Rose Valley Way with the site viewed in the background



**Figure 7:** The adjoining part of Peters Street with the site viewed in the background

## History Relevant to the Development Application

### Planning Proposal

8. 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 and
  - (d) a 1,200sqm supermarket to be provided on the site
9. The amendments to the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 commenced on 3 May 2024.

### Development Applications

10. 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 9 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 consent was modified (D/2023/724/A) on 13 March 2025 to modify Condition 2 (Approved Development), Condition 6 (Floor Space Ratio), Condition 11 (Residential Land Use), Condition 21 (Landscape Design), Condition 28 (Trees Identified For Removal), Condition 29 (Trees That Must Be Retained), Condition 35 (Signage Strategy).

A Modification application (Mod B) was lodged on 2 April 2025 to facilitate further changes to the concept envelope concurrently with the detailed design of Stage 2 NW (D/2024/1029) and this subject application for the detailed design application 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 on 13 March 2025 for a detailed development application for construction of a mixed-use development comprising a mixed-use 26-storey tower with 228 apartments and a childcare centre and supermarket on the lower levels, an 8-storey residential flat building with 72 apartments, and 28 townhouses, over basement parking for 418 cars, and associated landscaping.

**Stage 2 North-West**

- **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.
- **D/2024/1029** - A Development Application was lodged on 18 November 2024 for site preparation and construction of a mixed-use development on the North Western blocks, comprising 8 new buildings and 3 basement levels. The buildings include 3 mixed-use buildings (A, B and E) and 5 residential buildings (C, D, F, G and H). The application is also being considered by the Central Sydney Planning Committee on 8 May 2025.

**Stage 3 South (subject site)**

- **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.

**Voluntary Planning Agreement**

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

**VPA/2022/18**

12. 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
13. 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.
14. The electric vehicle charging requirements are also required by Section J of the National Construction Code (NCC).

15. 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 is recommended requiring detailed design documentation to be prepared as part of the Construction Certification process.

**VPA/2023/18**

16. 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
17. 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**

18. A competitive design process was held for each stage of the site, with the process for Stage South concluding on 23 October 2024.
19. Of the 3 schemes presented, the scheme by MHND Union and Allford Hall Monaghan Morris was selected as the most capable of demonstrating design excellence and was declared the winner.
20. The Competitive Design Alternatives Report, dated 18 September 2024 is provided at Attachment D. The key principles and qualities of the designs to be maintained and areas for further resolution identified by the Panel are addressed in the 'Discussion' section of this report.

**Amendments**

21. Following a preliminary assessment of the proposed development by Council Officers, a request for amended plans and additional information was sent to the applicant on 21 February and 7 March 2025. The request related to:
  - (a) inconsistencies with the concept approval (D/2023/753)
  - (b) calculation of gross floor area
  - (c) natural cross ventilation
  - (d) acoustics attenuation to mitigate road noise
  - (e) solar shading
  - (f) retail and pedestrian interface
  - (g) unit size and layout
  - (h) overshadowing to neighbouring apartments

- (i) materials
  - (j) public domain including relationship with basements
  - (k) wind environment
  - (l) landscaping
  - (m) loading dock design and capacity
  - (n) waste management
  - (o) physical and 3D model
  - (p) easement documentation
22. The applicant responded to the request on 21 March 2025 and between 25 March to 10 April and submitted the following information:
- (a) amended architectural plans
  - (b) solar tally tables
  - (c) amended landscape plans
  - (d) amended traffic advice
  - (e) Operational Waste Management Plan
  - (f) loading dock management plan
  - (g) easements documentation
  - (h) amended acoustic report
  - (i) amended wind report
  - (j) amended reflectivity report
  - (k) total floor area plans (affordable housing contribution calculation)

### **Proposed Development**

23. The application (as amended) seeks consent for a mixed-use development comprising:
- (a) construction of 4 buildings containing a total of 241 apartments
  - (b) construction of basements of three, and four levels containing 233 car parking spaces, 8 car share spaces 22 motorcycle spaces and 324 bicycle spaces
  - (c) site landscaping



24. The proposal includes a total gross floor area (GFA) of 23,749sqm, comprising 22,769sqm of residential gross floor area and 980sqm of retail gross floor area.
25. Vehicle access to the site is provided to Building S2 via Rose Valley Way, with a ground floor loading dock and a ramp down to the basement. Vehicle access to Building S1 is provided via the North-East stage of development and vehicle access to Building S4 is provided via the North-West stage of development. Building S3 has no basement level, however parking and storage has been provided for these apartments in the Building S2 and S4 basements.
26. A summary of each proposed building is outlined below.
  - (a) Building S1
    - 8 storey mixed-use building
    - 60 apartments
    - 404sqm of ground floor retail
    - 590.3sqm of communal roof terrace
    - Vehicle access to basement parking via Block NE1 to the north



**Figure 8:** Photomontage of Building S1 and S2 viewed from future Mulgu Park

## (b) Building S2

- mixed-use building with 14 storey tower and 6 to 7 storey podium
- 114 apartments
- 551sqm of ground floor retail
- 1047sqm of communal terrace on Levels 6 and 7
- pool, spa and gym located on Level 1
- vehicle access to loading dock and basement parking from Rose Valley Way



**Figure 9:** Photomontage of Building S1 and S2 viewed from future Mulgu Park

## (c) Building S3

- 7 storey residential building
- 23 apartments
- 79.4sqm of communal roof terrace on Level 6
- no basement parking





**Figure 10:** Photomontage of Building S3 and S4 viewed from future Defries Avenue

(d) Building S4

- residential building with heights ranging from 5, 6 and 8 storeys
- 44 apartments
- 340sqm of communal roof terrace on Level 5
- vehicle access to basement parking via Block NW-2 to the north



**Figure 11:** Photomontage of Building S4 viewed from future Defries Avenue

27. Demolition of the existing structures has been undertaken under a separate consent (D/2023/720). Early works on the Stage 3 South site, including excavation, have also been separately approved (D/2024/1074).
28. Typical floor plans of the proposed development are provided below. The full set of drawings are provided in Attachment B.

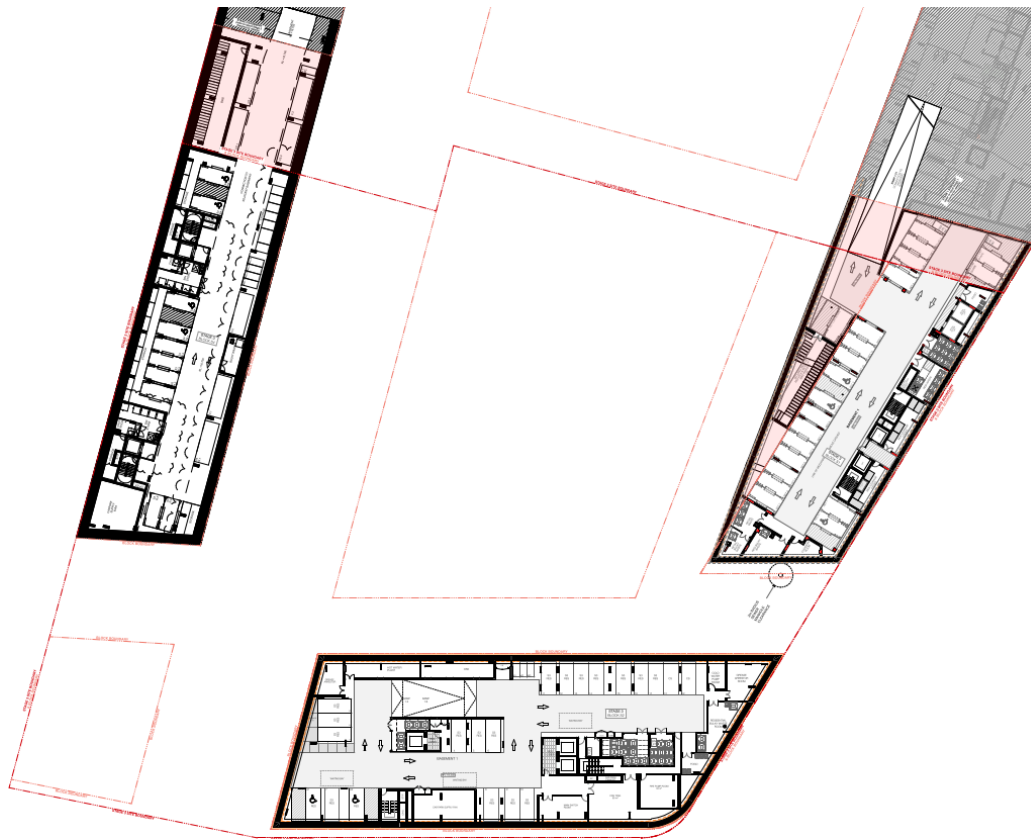




**Figure 12:** Proposed site plan



**Figure 13:** Proposed ground floor plan



**Figure 14:** Proposed basement typical floor plan

## Assessment

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

## Airports Act 1996

30. 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.
31. The Airports (Protection of Airspace) Regulations 1996 relevantly identifies the area above the OLS to be prescribed airspace.
32. 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)..
33. The site is subject to an Obstacle Limitation Surface of 51m. The proposed development has a maximum height of 75.65m AHD and will penetrate the OLS by 24.65m.
34. Controlled Activity Approvals for the building envelopes of buildings S1, S2, and S4 were issued for the consent approval (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.



**Water Management Act 2000**

35. 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.
36. The proposed basement would intersect the ground water table and therefore a licence is required for dewatering. Whilst the bulk excavation associated with the basement construction was approved under D/2024/1074 'early works', also integrated development, the application involves the construction of the basement slab and may require dewatering to continue until the basement is tanked.
37. Water NSW issued General Terms of Approval on 20 February 2025 which are included in the schedules within the recommended conditions of consent at Attachment A.
38. The requirements of the Water Management Act and EP&A Act are therefore satisfied.

**Sydney Water Act 1994**

39. The application is subject to Section 78 of the Sydney Water Act 1994 and was referred to Sydney Water for comment.
40. Sydney Water responded on 22 January 2025 and 10 April 2025 and provided advice and conditions which have been included in the recommended conditions of consent at Attachment A.

**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 South under D/2024/1074. The early works consent required a Section A Site Audit Statement 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, as required by section 4.6 of the Policy, that the site will be made suitable for the proposed uses.

**State Environmental Planning Policy (Housing) 2021**

36. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.

**Chapter 2 - Affordable housing**

37. A condition of consent is recommended requiring payment of an affordable housing contribution prior to the issue of any Construction Certificate.
38. 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.
39. 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.

**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 3 or more floors and containing 4 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, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement satisfies Section 29 of the Environmental Planning and Assessment Regulation 2021.
43. An assessment of the proposal against the design principles is provided as follows:
- (a) Principle 1: Context and Neighbourhood Character

The proposed development responds to the desired future character of the Epsom Park neighbourhood. The development provides a range of dwelling types and retail development to provide for the housing and day to day needs of the community.

- (b) Principle 2: Built Form and Scale

The proposed built form is consistent with the concept approval envelope, subject to the modifications proposed under the concurrent modification application (D/2023/724/A). The design of the buildings has been articulated and within the building envelopes and do not occupy the whole of the envelopes as required by Conditions (7) and (8) of the concept approval. The proposed development includes differing building typologies which respond to the street layout and new public open spaces.

(c) Principle 3: Density

The proposed development density is consistent with the concept approval which established an apportionment of the permitted floor space within each stage of the development. The overall density of the development is moderated by the variety in dwelling typologies and dwelling mix.

(d) Principle 4: Sustainability

The proposed development incorporates ecologically sensitive design principles aimed to reduce the embodied carbon emissions through construction and energy and water use during the long-term operation of the building.

The proposed development also includes the sustainability measures required to be provided in accordance with the applicable planning agreement (VPA/2022/10).

(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 development provides a satisfactory level of amenity for the future residents. The development achieves the relevant amenity objectives in part 4 of the ADG, in particular with respect to solar access, natural cross ventilation, apartment size and layout, and private and communal open space.

(g) Principle 7: Safety

The proposed development promotes safety and security for the residents. Clear distinction is provided between the public and private domain. The building designs ensure that areas with poor passive surveillance are minimised and concealed entrapment areas are avoided.

Internal lobbies and hallways are provided with natural light and are well proportioned. The number of dwellings accessed from a single corridor is limited promoting familiarity between residents. Apartments located at ground level have separate direct access from the street which promotes good passive surveillance of the streets and shared zones.

(h) Principle 8: Housing Diversity and Social Interaction

The proposed development provides a variety of dwelling types, and the dwelling mix generally consistent with the DCP provisions, supporting housing diversity and choice within the Epsom Park neighbourhood.

All buildings provide rooftop communal open spaces which provide opportunities for social interaction between residents. The communal open spaces provide a high level of amenity with a landscaped setting and facilities to support the use and enjoyment of the spaces by the residents and their visitors.

The buildings provide large foyer spaces and areas within hallways and lobbies where incidental social interaction can also occur.

(i) Principle 9: Aesthetics

The proposed development provides a variety of building typologies and aesthetics, being designed by different architects in collaboration. The podium and tower of building S2 are expressed with complementary facade expressions, with the tower utilising vertical proportioning.

The development is also softened by roof top landscaping visible from the upper levels of the proposed development and surrounding development.

The use of materials is of high quality and supported, subject to conditions.

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.

2E Building Depth	Consistency	Comment
12-18m (glass to glass)	Partial compliance	<p>Building S1 has a depth of 18.5m and Buildings S3 and S4 have a depth of 18m which are acceptable.</p> <p>Building S2 has a building depth of 17.3m at the midpoint and extends up to 28.7m at the deepest point of the podium and 27m for the tower. The building depths were established as part of the concept DA and given that individual apartment comply with the apartment depth provisions in objective 4D the proposal is acceptable.</p>

2F Building Separation	Consistency	Comment
<p>Up to 4 storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> <li>12m between habitable rooms / balconies</li> <li>9m between habitable and non-habitable rooms</li> <li>6m between non-habitable rooms</li> </ul>	Yes	The proposal complies.

<b>2F Building Separation</b>	<b>Consistency</b>	<b>Comment</b>
<p>5 to 8 storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul>	Partial compliance	The fifth level of Building S4 is 6m from the western boundary to achieve a 12m building separation shared across both sites. The proposal is acceptable given that the neighbouring building provides a greater level of separation and as a condition is recommended requiring obscure glazing to the habitable rooms (studies) on this elevation.
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> <li>• 24m between habitable rooms / balconies</li> <li>• 18m between habitable and non-habitable rooms</li> <li>• 12m between non-habitable rooms</li> </ul>	Yes	The proposal complies.

<b>3D Communal and Public Open Space</b>	<b>Consistency</b>	<b>Comment</b>
Communal open space has a minimum area equal to 25% of the site.	Yes	42.3% communal open space is provided.
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 proposal complies.

<b>3E Deep Soil Zones</b>	<b>Consistency</b>	<b>Comment</b>
Deep soil zones are to have a minimum area equivalent to	Consistent with the Concept DA	The Concept DA located the Stage 3 South deep soil zone as Mulgu Park.

<b>3E Deep Soil Zones</b>	<b>Consistency</b>	<b>Comment</b>
7% of the site and have a minimum dimension of 6m		

<b>3F Visual Privacy</b>	<b>Consistency</b>	<b>Comment</b>
Up to 4 storeys (12 metres): <ul style="list-style-type: none"> <li>6m between habitable rooms / balconies</li> <li>3m between non-habitable rooms</li> </ul>	Yes	The proposal complies subject to conditions.
5 to 8 storeys (25 metres): <ul style="list-style-type: none"> <li>9m between habitable rooms / balconies</li> <li>4.5m between non-habitable rooms</li> </ul>	Yes	The proposal complies subject to conditions.
Nine storeys and above (over 25m): <ul style="list-style-type: none"> <li>12m between habitable rooms / balconies</li> <li>6m between non-habitable rooms</li> </ul>	Yes	The proposal complies subject to conditions.
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Partial compliance	The proposal is compliant except for some studies in Building S4. A condition is recommended that these study windows have obscure glazing.

<b>4A Solar and Daylight Access</b>	<b>Consistency</b>	<b>Comment</b>
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living	No, but acceptable	The applicant states that 69.3% (167/241) of apartments receive 2 hours of direct sunlight at midwinter.



<b>4A Solar and Daylight Access</b>	<b>Consistency</b>	<b>Comment</b>
rooms and private open spaces.		Council's assessment has concluded that 68% (163/241) of apartments receive a minimum of 2 hours of direct sunlight at midwinter. This is a minor non-compliance with the numerical design criteria of 70% and is acceptable.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	No, but acceptable	18% of apartments receive no sun at midwinter. On balance, this is acceptable given that the overall amenity of the apartments is good.

<b>4B Natural Ventilation</b>	<b>Consistency</b>	<b>Comment</b>
All habitable rooms are naturally ventilated.	No, conditioned to comply	<p>All living rooms and bedrooms are naturally ventilated.</p> <p>However, a number of studies have been proposed that are not adjacent to an external wall and have no window. Studies are habitable rooms.</p> <p>Design modification conditions are recommended to ensure that these apartments are redesigned to ensure that all habitable rooms are naturally ventilated. Refer to discussion section below.</p>
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	60% (116/193) of apartments within the first 9 storeys are naturally cross ventilated. This excludes apartments that are reliant on alternative natural ventilation.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The proposal complies.

4C Ceiling Heights	Consistency	Comment
Habitable rooms: 2.7m	Yes	Floor-to-floor heights of 3.3m have been provided and are capable of accommodating 2.7m ceiling heights for habitable rooms and 2.4m ceiling heights for non-habitable rooms.
Non-habitable rooms: 2.4m	Yes	
If located in mixed-use areas – 3.3m for ground and first floor to promote future flexibility of use.	Partial compliance	3.3m is not achieved at ground floor level of Buildings S3 and S4, and at the first floor ceiling heights of all buildings. A Clause 4.6 variation request was submitted as the SEPP identifies this control as a development standard. This is discussed further under the Discussion heading below.

4D Apartment Size and Layout	Consistency	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35sqm</li> <li>• 1 bed: 50sqm</li> <li>• 2 bed: 70sqm</li> <li>• 3 bed: 90sqm</li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.</p>	Yes	The proposal complies.
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.	No, conditioned to comply	<p>All living rooms and bedrooms have compliant window sizes.</p> <p>However, a number of studies have been proposed that are not adjacent to an external wall and have no window.</p> <p>Design modification conditions are recommended to ensure that these apartments are redesigned to ensure</p>

4D Apartment Size and Layout	Consistency	Comment
		that all habitable rooms are naturally ventilated. Refer to discussion section below.
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 compliance	The proposal generally complies. Some exceedances are proposed, ranging from 1-2m, however, on balance it is considered that adequate amenity is maintained.
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• master bedroom: 10sqm</li> <li>• all other bedrooms: 9sqm</li> </ul> <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Partial compliance	<p>The minimum bedroom sizes comply.</p> <p>The minimum bedroom dimensions generally comply, and where exceedances are proposed these are 2.9m which is a minor numerical non-compliance and acceptable.</p> <p>The proposal was amended to replace a number of undersized bedrooms with studies. Where studies are approved a condition is recommended that they have fixed desks and are to only be used as studies. This is discussed further under the Discussion heading below.</p>
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• One-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>	Partial compliance	One bedrooms comply, whilst other apartments generally comply and where exceedances are proposed these are limited to 3.85m and minor numerical non-compliances.
4m minimum width for cross over and cross through apartments.	Yes	The proposal complies.

<b>4E Private Open Space and Balconies</b>	<b>Consistency</b>	<b>Comment</b>
<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 proposed apartments achieve the minimum balcony area and depth requirements.
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	The 1 ground floor apartment in Building S3 and 3 ground floor apartments in Building S4 comply.

<b>4F Common Circulation and Spaces</b>	<b>Consistency</b>	<b>Comment</b>
The maximum number of apartments off a circulation core on a single level is 8.	Partial compliance	Building S1 has 4 levels which have 9 apartments off a circulation core. 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	Building S2 is over 10 storeys and has 76 apartments sharing 2 lifts, which complies.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	The proposal complies. A condition is recommended that the study windows onto common circulation spaces in Building S4 are to have obscure glazing to ensure privacy is maintained.

4F Common Circulation and Spaces	Consistency	Comment
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	The proposal complies.

4G Storage	Consistency	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> <li>1 bed: 6m<sup>3</sup></li> <li>2 bed: 8m<sup>3</sup></li> <li>3 bed: 10m<sup>3</sup></li> </ul> <p>(Minimum 50% storage area located within unit)</p>	Yes	<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> <p>Storage (and parking) for apartments in Building S3 are proposed within the basements of Buildings S2 and S4 as Building S3 does not have any basement levels. This outcome is acceptable and conditions are recommended to ensure that they remain in the same lot as the S3 apartment via a Stratum Subdivision, with easements for access.</p>

4J Noise and Pollution	Consistency	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	<p>The layout and design of the building along Link Road minimises the number of apartments fronting the busy road. The design of the road facing facade incorporates measures to provide acoustic attenuation to achieve the relevant noise criteria for habitable rooms. Conditions are recommended to ensure these measures are detailed and implemented.</p>

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

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

Provision	Consistency	Comment
<p>Car parking</p> <p>Must be equal to or greater than the recommended minimum amount of car parking specified in Part 3J of the ADG</p>	Yes	<p>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 maximum's, there is no minimum, and the proposal complies.</p>
<p>Internal area for each apartment</p> <p>Must be equal to or greater than the recommended minimum internal area for the apartment type in Part 4D of the ADG</p>	Yes	<p>Each apartment complies with the recommended internal area for the apartment type.</p>
<p>Ceiling heights</p> <p>Must be equal to or greater than the recommended minimum ceiling heights specified in Part 4C of the ADG</p>	No, but Clause 4.6 supported	<p>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.</p> <p>In mixed-use areas, the 3.3m ground and first floor development standard is to promote future flexibility of use.</p> <p>The applicant has submitted a Clause 4.6 request relating to the ceiling heights at ground floor level of Buildings S3 and S4, and the first floor ceiling heights of all buildings. This is discussed further under the Discussion heading below.</p>

## State Environmental Planning Policy (Sustainable Buildings) 2022

### Chapter 2 Standards for residential development - BASIX

46. A BASIX Report been submitted with the development application. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

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

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



**Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network****Clause 2.48 Determination of development applications – other development**

48. The application is subject to Clause 2.48 of the SEPP as the development will be carried out immediately adjacent to an electricity substation.
49. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised. The condition recommended by Ausgrid have been included in the recommended conditions of consent at Attachment A.

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

50. The application is subject to Clause 2.120 of the SEPP as the site is adjacent to Epsom Road and Link Road which has an annual average daily traffic volume of more than 20,000 vehicles and the development is likely to be adversely affected by road noise or vibration.
51. The consent authority must not grant development consent to development for the purposes of residential accommodation unless it is satisfied that appropriate measures will be taken to ensure the following LAeq noise levels are not exceeded:
  - (a) bedroom - 35dB(A) at any time between 10pm and 7am; and
  - (b) other habitable rooms (excluding a kitchen, hallway or bathroom) - 40dB(A) at any time.
52. The design of the eastern elevation of Buildings S1 and S2 includes the following measures detailed in the submitted acoustic report to mitigate road noise:
  - (a) attenuated plenums
  - (b) acoustically treated soffit
  - (c) low level windows located behind the balustrading
53. The application satisfies Clause 2.120 subject to conditions of consent.

**Clause 2.122 Traffic generating development**

54. 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**

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

**Part 2 Permitted or prohibited development**

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	<p>The site is zoned MU1 mixed-use. The proposed development is defined as residential flat buildings and retail premises.</p> <p>Both of these uses are permissible with consent in the zone. The proposal generally meets the objectives of the zone.</p>

**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 <i>Mulgu Precinct</i> in SLEP which includes an Alternative Height of Buildings map with heights of:</p> <p>S1 - 35m</p> <p>S2 - 27m (podium), 55m (tower)</p> <p>S3 - 27m</p> <p>S4 - 30m</p> <p>The concept approval established the maximum permitted building envelope.</p> <p>The proposed development complies with the development standards and the approved building envelopes, as proposed to be modified concurrently.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 2:1 or 81,542sqm is permitted across the site, being the sum of the floor space ratio in this clause (1.5:1) and clause 6.14 <i>Community Infrastructure floor space in Green Square</i> (0.5:1).</p> <p>In addition, a design excellence bonus of 10% may be permitted under clause 6.21D(3)(b) of SLEP.</p> <p>The maximum permitted gross floor area was apportioned to each development stage by the concept approval with a maximum GFA of 21,900sqm (excluding</p>

Provision	Compliance	Comment
		<p>any design excellence bonus) apportioned to Stage South.</p> <p>The proposed development was the subject of competitive design process. A maximum GFA of 24,090sqm is therefore permitted should the consent authority resolve to award the design excellence bonus.</p> <p>The proposed development has a GFA of 23,749sqm and complies.</p>
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the development standard prescribed under Clause 148 of the State Environmental Planning Policy (Housing) 2021. 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 does not contain and is not adjacent to heritage items and is not located in a heritage conservation area.
5.21 Flood Planning	Yes	The subject site is identified as being subject to flooding. 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.

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

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.14 Community infrastructure floor space at Green Square	Yes	The proposed development is eligible for additional floor up to 0.5:1 for the provision of community infrastructure.

Provision	Compliance	Comment
		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.
Division 4 Design excellence		
6.21C Design excellence	Yes	<p>The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development within the Epsom Precinct and will contribute positively to the character of the area.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence.</p>
Clause 6.21D(3)(b) Competitive Design Process	Yes	<p>A building demonstrating design excellence is eligible for an amount of additional floor space, to be determined by the consent authority, up to 10%.</p> <p>The proposed development is the subject of a competitive design competition.</p>
Division 5 Site specific provisions		
Clause 6.60J Mulgu Precinct	Yes	<p>The proposal is subject to the site-specific provisions in clause 6.60J of the LEP.</p> <p>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, and in itself satisfies the requirement for</p>

Provision	Compliance	Comment
		<p>a site-specific DCP in accordance with section 4.23 of the Act.</p> <p>The clause includes an <i>Alternative Height of Buildings</i> map to which the concept plan relied upon.</p> <p>Where the <i>Alternative Height of Buildings</i> 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 with a maximum of 1,510.3sqm (including the design excellence bonus) apportioned to the south stage. The concurrent modification application proposes to reduce this to 980.1sqm (including the design excellence bonus).</p> <p>The application includes 980sqm of non-residential GFA and therefore complies with condition (6) of the concept approval as proposed to be modified. The combined non-residential GFA of the 3 stages equates to approximately 5% and complies.</p>

#### Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing	Yes	<p>The site is located within Category C.</p> <p>A maximum of 217 residential car parking spaces are permitted based on the proposed number of dwellings and the apartment mix.</p> <p>The proposed development includes 217 residential car parking spaces and complies with the relevant development standards.</p> <p>It is noted that during the assessment the proposal was modified to remove 2</p>

Provision	Compliance	Comment
		parking spaces by removing the label relating to the parking space number. A condition is recommended that 2 additional retail parking spaces are provided, given that the physical space for parking of a car remains, and as the maximum number of residential spaces have been exhausted.
7.7 Retail premises	Yes	<p>The site is located within Category F.</p> <p>A maximum of 20 retail car parking spaces are permitted based on the proposed gross floor area for the purpose of retail premises.</p> <p>The proposed development includes 12 retail car parking spaces and complies with the relevant development standards.</p>
Division 3 Affordable housing		
7.13 Contribution for purpose of 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> <p>Total floor area plans were submitted calculating 31,865sqm of residential TFA and 1,203sqm of non-residential TFA.</p> <p>Accordingly, a contribution of \$11,273,869.46 is required to be imposed. 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/2024/1074 and a condition is recommended requiring it to be complied with for these works
7.16 Airspace operations	Yes	Buildings S1, S2 and S4 of the proposed development will penetrate the Obstacle Limitation Surface as shown on the

Provision	Compliance	Comment
		Obstacle Limitation Surface Map for Sydney Airport.  The concurrence of Sydney Airport Corporation, as a proxy for the Civil Aviation Safety Authority, was received under the concept approval and a controlled activity approval was issued by Flysafe under the Airports (Protection of Airspace) Regulation 1996 for each building.
7.17 Development in areas subject to airport noise	N/A	The subject site is not located within ANEF Contour 20 or higher and as such, is not subject to the requirements of this clause.
7.19 Demolition must not result in long term adverse visual impact	Yes	Development consent for demolition was granted under D/2023/720.
7.20 Development requiring or authorising preparation of a development control plan	Yes	A 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

56. 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

57. The site is located within the Epsom Park locality of Green Square. The proposed development is in keeping with the unique character and the design principles of the Epsom Park locality. These include encouraging retail in suitable locations.

#### Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	N/A	Public domain elements were approved under D/2023/753. There are no through site links required noting the site includes future public roads.



Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	<p>A solar isolation study has been provided demonstrating that the proposed development complies with the site-specific requirements for sunlight to Mulgu Park.</p> <p>Reports relating to wind effects and reflectivity have been submitted, and are acceptable subject to conditions that incorporate the recommendations of these reports.</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 an additional 10% floor space pursuant to clause 6.21D(3)(d) of the LEP.</p> <p>The bonus floor space has been accommodated within the approved concept development, as proposed to be modified, and appropriately addresses considerations as to the potential impacts of that additional floor space.</p>
3.4 Hierarchy of Centres, City South	Yes	The application proposes minor retail development and will not have a negative impact upon the viability and economic role of planned centres.
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology. Conditions are recommended to ensure the protection of surrounding street trees.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements. Refer to SEPP (Sustainable Buildings) and discussion section.
3.7 Water and Flood Management	Yes	<p>The site is identified as being on flood prone land. See discussion under section 5.21 above.</p> <p>The proposed development includes 2 on site detention systems located in buildings S2 and S4 to manage stormwater flows.</p>

Provision	Compliance	Comment
3.8 Subdivision, Strata Subdivision and Consolidation	N/A	Subdivision of the site to create new lots for each development block and new roads was approved under development consent D/2023/753.
3.11 Transport and Parking	No, but acceptable	<p>The proposed vehicle and loading dock access driveway is located on Rose Valley Way and has a maximum width of 7.1m which does not comply with the DCP control of 3.6m. This is acceptable to accommodate larger trucks turning into the site, and given that no other vehicle entries have been provided throughout the site due to consolidated basements.</p> <p>Car share spaces are provided within the basement at the required rates.</p> <p>Bicycle and motorcycle parking has been provided within the basement for residents at the required rates.</p> <p>Underground car parks are proposed under public domain areas to be dedicated to Council. This is generally not permitted under the DCP except for tunnels connecting 2 parking areas to reduce the number of vehicle entries on the street. The DCP also outlines that where site constraints result in parking being located under a public street that only common areas, such as circulation space or unallocated visitor parking spaces, are to be allocated below the street. The application proposes visitor parking, car share spaces, motorcycle visitor parking and bicycle parking/storage under the future public domain. This is acceptable subject to conditions that the bicycle parking/storage remain in common property and are not included as part of residential lots during Strata Subdivision. There is also some large unallocated basement spaces located under the future public road and a condition is recommended to ensure that they remain as common property.</p> <p>The waste collection and loading area has been designed to accommodate</p>

Provision	Compliance	Comment
		Council's waste vehicle of 10.6m in length with a clearance of 4.5m in height, which is acceptable. A turntable is provided to allow the vehicle to enter and exit in a forward direction.
3.12 Accessible Design	Yes	A total of 36 out of 241 dwellings (15%) are designed to be adaptable.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	The proposed development is able to comply with the City of Sydney Guidelines for Waste Management in New Development, subject to a number of conditions recommended by Council's Cleansing and Waste unit.
3.16 Signage and Advertising	Able to comply	A condition is recommended requiring the provision of a signage strategy.

## Section 4 – Development Types

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

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	The proposed development is consistent with the concept plan, as proposed to be modified in terms of storeys.
4.2.2 Building setbacks	Partial compliance	The proposed building setbacks comply with the concept plan, as proposed to be modified in terms of setbacks, except for the ground floor level of Building S2 along the Epsom Road frontage. This is discussed in detail below.
4.2.3 Amenity		
4.2.3.1 Solar access	Partial compliance	<b><i>Solar access to proposed apartments</i></b>

Provision	Compliance	Comment
		<p>Refer to ADG assessment above.</p> <p><b><i>Overshadowing to neighbouring dwellings</i></b></p> <p>The proposed buildings will cause some additional overshadowing to 67 Epsom Road, which is located to the south of the site on the opposite side of Epsom Road.</p> <p>Solar analysis submitted with the subject DA shows that 10/12 of the Level 1 apartments of 67 Epsom Road will no longer receive 2 hours of solar access at midwinter, but the remaining 79 north facing apartments will maintain at least 2 hours of solar access at midwinter.</p> <p>The applicant has not submitted sufficient information to enable an accurate assessment of the percentage of apartments over the entire 67 Epsom Road development that receive 2 hours of solar access. However, there is sufficient information available to conclude that the overshadowing impacts to Level 1 are acceptable and anticipated from any comprehensive redevelopment of the subject site.</p>
4.2.3.2 Lightwells	No, conditioned to comply	<p>Apartments 126-526 of Building S4 contains a lightwell which is utilised as the only source of light and ventilation to a bedroom. A condition is recommended to ensure the bedroom and adjacent study is re-designed to allow suitable light and ventilation to the bedroom.</p>
4.2.3.3 Internal common areas	Yes	<p>Internal common areas and corridors are provided with some degree of daylight and outlook.</p>
4.2.3.4 Design features to manage solar access	Yes	<p>The proposal was amended to provide solar shading to the west facing elevation of Building S1, which is predominantly a glazed facade. A condition is recommended requiring further details of the solar shading design.</p>

Provision	Compliance	Comment
4.2.3.5 Landscaping	Yes	Landscape plans were provided with the application and have been assessed by Council's Landscape team, which are acceptable subject to conditions.
4.2.3.6 Deep Soil	Yes	Deep soil planting is provided as part of the broader development in accordance with the concept plan and is not warranted for individual buildings.
4.2.3.7 Private open space and balconies	Yes	Private open space is provided in generally in accordance with the ADG.
4.2.3.8 Common open space	Yes	Communal open space is provided in accordance with the ADG including at roof level.
4.2.3.9 Ventilation	No, conditioned to comply	Apartments 126-526 of Building S4 contains a lightwell which is utilised as the only source of light and ventilation to a bedroom. A condition is recommended to ensure the bedroom and adjacent study is re-designed to allow suitable light and ventilation to the bedroom.
4.2.3.10 Outlook	Yes	All apartments are provided with a reasonable outlook from the primary living area.
4.2.3.11 Acoustic privacy	Yes	The number of apartments facing Link Road, being a noisy road, has been minimised and acoustic attenuation measures integrated into the facade design to ensure the relevant noise criteria are met whilst maintaining natural ventilation.
4.2.3.12 Flexible housing and dwelling mix	No, but acceptable	<p>The DCP specifies the following dwelling mix:</p> <ul style="list-style-type: none"> <li>• 1 bedroom: 10-30%</li> <li>• 2 bedrooms: 40-75%</li> <li>• 3+ bedrooms: 10-100%</li> </ul> <p>The proposed dwelling mix is:</p>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>1 bedroom: 44%</li> <li>2 bedrooms: 41%</li> <li>3+ bedrooms: 15%</li> </ul> <p>The maximum number of 1 bedroom dwellings may be increased above 30% provided that the numbers of studio dwellings and 1 bedroom dwellings does not exceed 40% of the total dwellings proposed.</p> <p>No studio dwellings are proposed, and the number of 1 bedroom units exceeds the 40% DCP control, however, this is acceptable given the minor numerical non-compliance, that the number of 2 and 3 bedroom units are compliant, and that Stage 1 North East and Stage 2 North West comply with the maximum number of 1 bedroom dwellings for those stages, and noting that Stage 2 has 15% 1 bedroom units.</p>
4.2.3.13 Wind affected balconies	N/A	The proposal does not seek to utilise the wind affected balconies provisions in Clause 4.5A of the LEP.
4.2.3.14 Apartments with setback bedrooms	Yes	The proposed development does not contain any setback bedrooms.
4.2.4 Fine grain, architectural diversity and articulation	Yes	The proposed development provides fine grain architectural detailing which has been considered in collaboration across each building typology, creating diversity in design which complement one another.
4.2.6 Waste and recycling Management	Able to comply	Waste Management Plans were provided with the application and have been assessed by Council's Cleansing and Waste Unit. Conditions have been recommended to ensure that the waste and recycling is able to be managed in accordance with Council's relevant waste policies.

Provision	Compliance	Comment
4.2.8 Letterboxes	Yes	Mailrooms are provided within or adjacent to each building lobby in a secure but visible space.
4.2.9 Non-residential development in the B4 Mixed-Uses Zone	Yes	<p>The proposed development includes retail tenancies.</p> <p>Operation of each retail tenancy is proposed to be subject to separate application for development consent.</p> <p>Conditions are recommended to be applied to ensure that the proposed non-residential uses do not adversely impact the amenity of the residential component of the development or the surrounding area.</p>

### 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.
5.2.8 Highly visible sites	Yes	<p>The corner of Epsom Road and Link Road is identified as a highly visible site, in the location of building S2.</p> <p>The application provides a landmark building with tower in this location that exhibits design excellence and reinforces the significant view corridor.</p> <p>A condition is recommended requiring high quality public art to be provided within private land adjacent to the corner of Epsom Road and Link Road.</p>
5.2.11 Carparks under the public domain	Yes	<p>The application proposes tunnels under the public domain that connect to other car park areas as this reduces the number of vehicle entry and exits at street level which is acceptable under the DCP.</p> <p>Building S2 and S4 provide visitor parking spaces, car share spaces, and</p>

Provision	Compliance	Comment
		<p>bicycle parking room under the public domain.</p> <p>A condition is recommended to ensure that the bicycle parking remains part of common property and to re-design part of the Building S2 basement to ensure that private storage spaces do not encroach under the future public domain.</p>
5.3 Epsom Park	Yes	The proposed development is generally consistent with the objectives for Epsom Park.
5.3.2 Urban Design Principles	Yes	The proposed development is generally consistent with the urban design principles for Epsom Park, noting that in part these are affected by additional site-specific provisions.
5.3.4.3 Fences	Yes	Conditions are recommended relating to fences of Building S3 and S4
5.3.4.4 Other development	Yes	Active uses are provided along Epsom Road and Link Road, and also provided on the 'potential retail' streets of Rose Valley Way and Chimes Street.
5.3.5 Staging and implementation	Yes	<p>The subject application relates to the new buildings as part of Stage 3 (South) of the redevelopment of the overall site, with the adjoining roads and parks forming part of Stage 3.</p> <p>A condition is recommended requiring pedestrian and vehicle access to be provided by way of safe, accessible, well-lit roads and footpaths prior to the issue of any occupation certificate.</p> <p>The Voluntary Planning Agreement provides for the park and roads to be constructed and dedicated prior to the first Occupation Certificate for the final building in the stage.</p>
5.3.6.2 Local infrastructure	Yes	Local infrastructure and public domain elements are to be provided in accordance with the DCP under a



Provision	Compliance	Comment
		separate development consent (D/2023/753) for roads, and a development application (D/2015/179) for parks that is under assessment.
5.3.6.3 Movement and connectivity	Yes	<p>Driveway and access points are consistent with the approved concept plan which provides vehicle access to building S2 from Rose Valley Way.</p> <p>Vehicle access for buildings S1 and S4 are provided through the shared basement as opposed to the DCP recommended access from Defries Avenue to building S4 and optional vehicle access from Link Road to building S1. The consolidated entries and shared basements are the preferred outcome.</p>
5.3.6.4 Building layout, form and design	Partial compliance	<p>The proposed tower floor plate of 750sqm complies with subsection (3)(a)(ii) which limits the tower floor plate for Tower B to 750sqm.</p> <p>A solar isolation study has been provided demonstrating that 75% of the area of Mulgu Park receives a minimum of 4 hours' solar access during the prescribed period.</p> <p>The modification application to the Concept DA seeks to modify the solar zone design that applied to Building S4. It is noted that part of the building is located within the solar zone, that is only to be occupied by residential development subject to achieving the required levels of solar access outlined in the ADG. Stage 3 South achieves midwinter solar access to 68% of apartments which is acceptable.</p>
5.3.6.5 Land uses	Yes	Active frontages are provided along Epsom Road and Link Road for buildings S1 and S2 and also provided along the 'potential retail' frontages facing Chimes Street and Rose Valley Way towards the park. An active frontage is not provided to Epsom Road from building S3 given the small footprint

Provision	Compliance	Comment
		of the site which has no retail proposed at ground level.
5.3.6.6 Noise and ventilation	Yes	Refer to SEPP (Transport and Infrastructure) 2021 and ADG assessment under the relevant headings above.
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 environmental measures including the installation of electric vehicle chargers.

## Discussion

### Status of concept development applications and consents (D/2023/724)

58. 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.
59. The proposed development application is a detailed development application relating to the southern stage of the concept consent D/2023/724 in force for the site.
60. 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 preparation of this detailed development application. The proposed modification application is recommended for approval and is to be determined by CSPC prior to the determination of this application to ensure that the proposed development is consistent with the concept plan.
61. The subject application for Stage 3 South 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 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 Gross Floor Area (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"> <li>(a) - The building forms are appropriately modulated and articulated.</li> <li>(b) - The tall building (Building S2) is vertically proportioned.</li> <li>(c) - Block S4 incorporates a non-habitable western interface above 4 storeys. This part of the building is 5 storeys and the condition applies to the fifth level. To ensure compliance a condition is recommended that the study windows to apartment 431 and 439 have obscure glazing.</li> <li>(e) - The tower floorplate (Building S2) does not exceed 750sqm.</li> </ul>

Condition	Comment
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 is setback 3m rather than 6m as required by the condition. Due to the location of the basement ramp it is not possible to locate the gate 6m within the site. The 3m setback is acceptable given that this is the only building with vehicle access from this part of Rose Valley Way and as there is sufficient width to the shared zone for pedestrians or cyclists should the back of a car waiting to enter the site be across the public way. The condition is recommended to be modified in the concurrent Modification application to the Concept DA to ensure consistency across both applications.
Condition 18 - Waste Infrastructure	The proposed waste management arrangements are generally acceptable, subject to conditions.
Condition 19 - Acoustic Assessment	An Acoustic Impact Assessment was submitted with the application and is satisfactory.
Condition 20(b) - Deep Soil	South Stage is to provide 3,429sqm (as proposed to be amended under D/2023/724/B). The deep soil zone is provided within Mulgu Park which is not part of the detailed building DA.
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

Condition	Comment
	recommended to ensure the design amendments in the report are incorporated into the design.
Condition 25 - Communal Open Space	Communal open space equal to 42.3% 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.

62. 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**

63. 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'.
64. 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.
65. 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.
66. The proposed development achieves the 3.3m floor to ceiling height on the ground floor of Buildings S1 and S2. However, there are non-compliances relating to the ground floor of S3 (3.2m) and S4 (3.26m) and on Level 1 in each building (S1-S4). At first floor level, a floor to ceiling height of 2.7m is proposed, which results in a variation of 18%.

67. 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)

68. 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 5-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 liveable 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 (18%) and still provides adequate opportunity for varying uses above ground without compromising amenity and spatial requirements.

Given the detailed master planning 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)

69. 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)?

70. 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.
71. 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)?

72. 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

73. 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.

**Competitive design process - design excellence**

74. The design competition jury selected the MHND Union and Allford Hall Monaghan Morris scheme as the winning scheme. In the opinion of the jury, MHND Union and Allford Hall Monaghan Morris scheme was most capable of achieving design excellence, subject to a number of recommendations.
75. 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 jury for the competitive design process

<b>Key principles of the design to be maintained and developed</b>	
<b>Recommendation</b>	<b>Comment</b>
Compliance with Solar and Natural Cross Ventilation controls	The proposal achieves 68% solar access and 60% natural cross ventilation.
ESD initiatives and solid to void (window to wall) ratio	The proposal maintains this element.
Four individual building concepts – develop whilst maintaining architectural cohesion	The proposal maintains this element.
The approach to site and planning constraints such as Block S-3 setbacks	A Design Modification condition is recommended relating to the Building S3 Epsom Road ground level setback, which is discussed in detail below.
Retail spaces in Block S-1 and their relationship with the future public domain and supermarket on the North-East Stage	The proposal maintains this element.
Clearly defined lobby locations and visibility from Mulgu Park	A condition is recommended to amend the design of the Building S3 residential lobby, which is discussed in detail below.  The lobby locations and design for Buildings S1, S2 and S4 are acceptable.
Clarity of the tower form, transition to ground and being a clearly identifiable element	The proposal maintains this element.



<b>Key principles of the design to be maintained and developed</b>	
Calm and cohesive whilst achieving diversity with a sophisticated understanding of materiality, facade, and memory of place	The proposal maintains this element.
The through-site link in Block S-2 (east)	The proposal maintains this element.
Concept of bay windows	The proposal maintains this element.
Orientation of apartments away from Link Rd and Epsom Road towards Mulgu Park	<p>The lodged DA changed the apartment layout of Building S1 resulting in 3 apartments per level facing the noise source of Link Road.</p> <p>During the assessment, the proposal has been amended to provide one additional cross through apartment and reducing the number of single sided apartments facing Link Road to 2 per level. Additional information has been provided to demonstrate how noise affected apartments will be able to achieve simultaneous natural ventilation, and an appropriate condition is recommended.</p>
Clear, direct and high amenity entry sequence accessing apartments	The proposal maintains this element.
Services and core placement towards Link Road in Block S-1	The proposal maintains this element.
Generosity of publicly accessible areas and private domain at block edge – S-1 Colonnade, S-2 through-site link	The proposal maintains this element.
Well-proportioned lobbies with views to Mulgu Park, the streets or open space	The proposal maintains this element.
Location and control of fire egress away from Mulgu Park	The proposal maintains this element.
The interface of Block S-3 to the adjoining development to the west, including articulation and junction between buildings	Building S3 responds appropriately to the neighbouring building, subject to a condition relating to the Epsom Road setback at ground level which is discussed in detail below.

Key principles of the design to be maintained and developed	
Access to landscaped roof terrace in each block	The proposal maintains this element.

76. 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 recommendations of the jury for the competitive design process

Areas for further resolution and refinement through design development	
Recommendation	Comment
Development of the landscape and its consideration of the health and wellbeing of Country	The landscape plan submitted with the application has been reviewed by Council's Landscape Assessment Officer and is supported, subject to conditions.
Privacy issues between apartments within Block S-2 and configuration of apartments within floor plate creating long corridors	A condition is recommended to ensure that any privacy issues between apartments are minimised through fixed privacy treatments.  The proposal was amended to minimise long corridors.
Loading dock arrangement and location to minimise impact on public realm and achieve functionality. Blank facade to a park is less desirable than to Link Road.	Building S2 provides a loading dock access from Rose Valley Way in the location identified in the Concept DA.  A condition is recommended requiring high quality treatments to the vehicle and loading entrance to Building S2.
Consider CPTED issues in the resolution of the ground floor fronting Epsom Road – Architectural treatment should be employed to blank walls if unavoidable	The application proposes building services positioned forward of the retail setback. To improve the street presentation and address CPTED issues a condition is recommended requiring that the retail building line is moved forward to align with the positioning of the services. This is discussed in detail below.
Resolution of levels and accessibility across the site to ensure generosity of public access	A condition is recommended to ensure improved accessibility around the Building S2 ground plane. This is discussed in detail below.

Areas for further resolution and refinement through design development	
Balance between importance of Mulgu Park and Epsom Road	The proposal, subject to conditions, will result in suitable presentations to both Mulgu Park and Epsom Road.
Create a clear hierarchy of residential and non-residential uses along Epsom Road	The proposal prioritises retail uses at ground level along Epsom Road.
Develop Block S-1 facade to improve visual connection from balconies to Mulgu Park whilst protecting privacy and managing western solar access	The proposal has been amended to provide solar shading to the western facade of Building S1.
Resolution of Block S-2 deep corner apartments long entry corridors within common areas and units	The design of Building S2 was amended to minimise long corridors.
Internal unit planning – bedroom locations and kitchen locations should be revised to achieve best outcome	There are a number of internal unit planning issues remaining, that relate to 'studies' with no windows. This is discussed in detail below.

### Design Advisory Panel advice

77. The application was referred to the Design Advisory Panel (DAP) on 13 February 2025.
78. The DAP advice was incorporated into Council's Request for Information letter dated 6 March 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 does not support the change to yield due to noise and cross ventilation impacts.	<p>The change in yield refers to the increase in the number of apartments from 218 to 241 since the design competition. Amendments to Building S1 were the main contributor to the increase in yield, resulting in 3 apartments per level facing the noise source of Link Road. These amendments also reduced cross ventilation in Building S1.</p> <p>To respond to DAP's comment, the proposal has been amended to provide one additional cross through apartment</p>

DAP advice	Response
	and reducing the number of single sided apartments to 2 per level. Additional information has been provided to demonstrate how noise affected apartments will be able to achieve simultaneous natural ventilation, and an appropriate condition is recommended. Natural cross ventilation across the four Stage 3 South buildings is 60% and complies with the ADG. Therefore, the amended proposal is considered to be satisfactory.
The Panel does not support any bedrooms that do not have windows, or that have windows which open onto the common corridor. Any spaces that can fit a bed and do not have access to light and air are not supported.	The applicant has re-labelled these rooms as studies, however, a number of these rooms do not have a window and are non-compliant. Conditions are recommended to resolve this, which is discussed in detail below.
The Panel believes that a greater analysis of sun shading is required, noting lack of shading (eg west face of Building S1).	The proposal was amended to provide sun shading to the western facade of Building S1. A condition is recommended to ensure that the design of the sun shading is high quality.
The Panel does not support any departures from controls.	When assessed against the objectives of the controls, the amended proposal is considered to be acceptable, subject to a number of conditions as discussed throughout this report.
On S4, the north facing apartments are overshadowed and further refinements are needed to improve access to light.	Building S4 has been designed to maximise midwinter solar access.
On S2, the screening to northern vehicle entry needs improvement and should be recessed as far as possible.	The proposal was amended to provide a security gate and a condition is recommended to ensure that the design is high quality.
On S2, the Panel recommends continuous pedestrian access along the north facade.	Some minor amendments were made to the pedestrian circulation areas for Building S2, which is discussed in detail below.
The Panel does not support painting of facade materials. Use of brick, terracotta, or concrete	The proposed materials were amended to replace the painted concrete finish

DAP advice	Response
where colour is integral to the material is recommended.	with a stained finish (ecotone). This is acceptable.
On S1, the Panel notes that the awning window will not satisfy ADG cross ventilation requirements.	Window operability has been amended to ensure compliance with the ADG.
On S1, further testing is recommended to ensure that the windows angled in plan perform thermally.	The proposal has been reviewed by Council's Environmental Sustainability Advisor who advised that the amended proposal is acceptable.
The Panel recommends further clarification of the landscape proposition, addressing pedestrian and vehicle circulation and driveway access.	The landscape plan submitted with the application has been reviewed by Council's Landscape Assessment Officer and is supported, subject to conditions.

### Ground floor plane - Building S2

79. The ground floor of Building S2 contains a number of retail tenancies as well as residential lobbies, vehicle entry, loading dock and buildings services including substation, water meter, gas meter and fire brigade booster. There is also a through site link that connects Rose Valley Way with Epsom Road.
80. The Design Competition Selection Panel recommended the further resolution of levels and accessibility across the site to ensure generosity of public access. The Design Advisory Panel recommended continuous pedestrian access along the north facade.
81. The applicant made some minor amendments to the Building S2 ground floor plane, however, issues remain, including the lack of coordination between the building columns, external pathways and the shopfronts. There are level changes across the site and a number of stairs are proposed. A design modification condition is recommended that required improved design resolution which will address access and ensure high quality interface with the public domain.

82. The site is subject to a 2.5m ground floor setback in accordance with the concept approval. Services along the Epsom Road frontage have been proposed with a nil setback. To ensure that the services are not prominent within the Epsom Road streetscape a design modification condition is recommended that extends the retail tenancies towards Epsom Road. A modification to the ground floor setbacks in the concurrent modification application to the Concept DA will ensure consistency between the detailed design DA and the Concept DA.

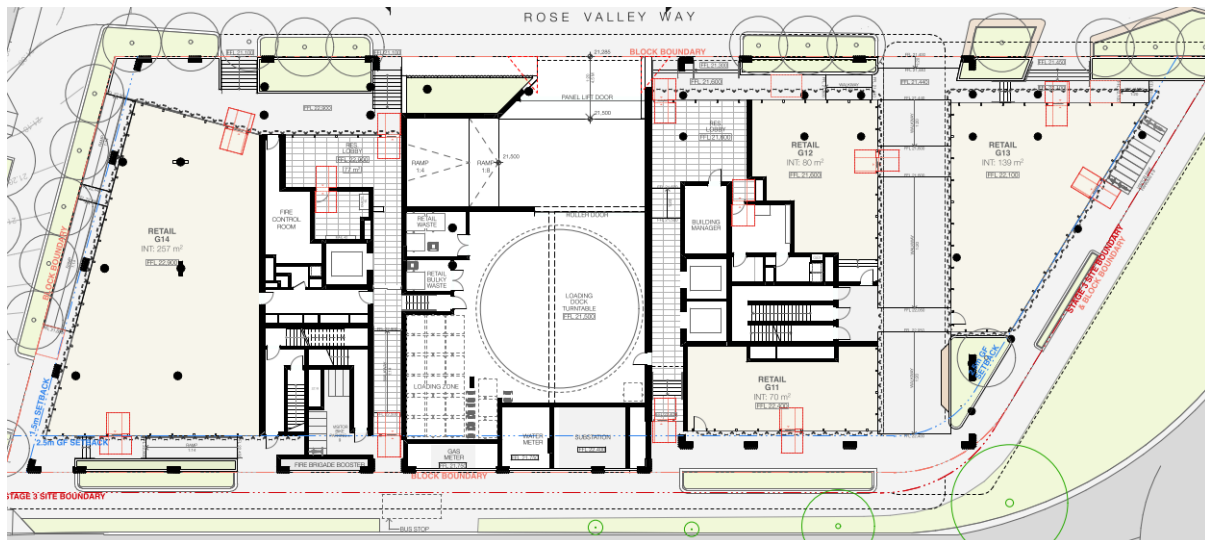
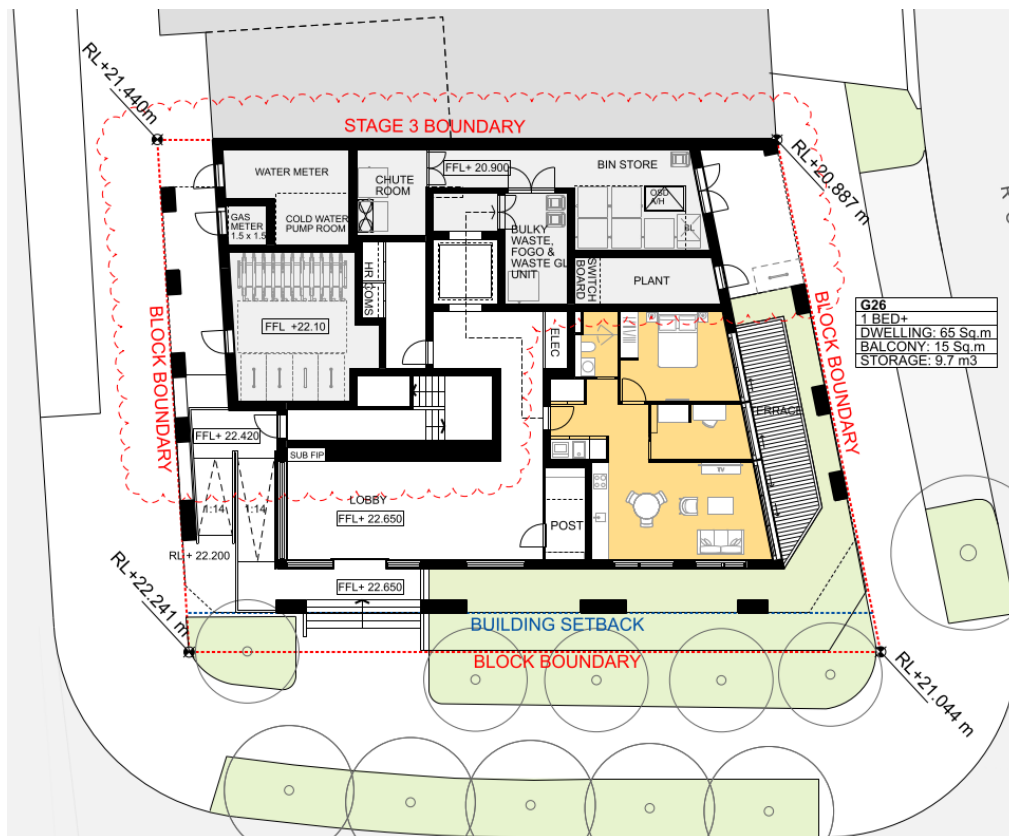


Figure 15: Building S2 ground floor plan

### Ground floor plane - Building S3

83. The Epsom Road frontage of Building S3 is subject to a 2.5m ground floor setback under the Concept DA, and this matches the adjoining building to the west. The proposed ground level setback is compliant with the 2.5m control, however, an access ramp is proposed within the front setback. Additionally, the glass line of the lobby is set behind the building line, which does not activate the street.
84. A design modification condition is recommended that requires the lobby to be re-designed so that the glass line is consistent with the front setback and that the level change, including ramp and stairs, is dealt with inside the lobby. This will result in an improved streetscape outcome.



**Figure 16:** Building S3 ground floor plan

### Internal unit planning - Studies without a window

85. The application originally proposed a number of small rooms that were identified as bedrooms, with a number of these rooms not having a window. The applicant made amendments to identify these rooms as studies.
86. Studies that have a window are acceptable. A condition is recommended that these studies have fixed desks and must not be used as bedrooms.
87. The proposed studies without windows result in the following issues:
  - (a) They contravene the National Construction Code which require habitable rooms to be naturally ventilated. Studies are defined as habitable rooms.
  - (b) They contravene Part 4B of the Apartment Design Guide relating to natural ventilation, which states that all habitable rooms are to be naturally ventilated.
  - (c) They contravene Part 4D of the Apartment Design Guide relating to apartment size and layout, which states that 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.
  - (d) They do not reflect the Design Advisory Panel's advice that "Any spaces that can fit a bed and do not have access to light and air are not supported."



88. Design modification conditions are recommended to ensure that the internal planning of apartments with studies without a window are re-designed to remove the studies. Examples of the design solutions include relocating bathrooms into these spaces and increasing the internal living area, or by increasing the bedroom size or re-designing the study as a walk-in-robe. Selected examples are shown below.



**Figure 17 and 18:** Sketch of re-design relocating bathrooms to studies and increasing living area



**Figure 19 and 20:** Sketch of re-design replacing studies with walk-in robes

## Consultation

### Internal Referrals

89. The application was discussed with Council's;
- (a) Building Services
  - (b) Environmental Health

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

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

### **External Referrals**

#### **Sydney Water**

91. The application is subject to the requirements of Section 78 of the Sydney Water Act 1994 and was referred to Sydney Water for comment.
92. Sydney Water responded on 22 January and 10 April 2025 and provided conditions which have been included in the recommended conditions of consent.

#### **Ausgrid**

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

#### **Sydney Airport**

95. 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.

96. 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).
97. 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 75.65m and will therefore penetrate the OLS.
98. 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

99. Pursuant to Section 2.122 of the SEPP (Transport and infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for comment.
100. Comments were received on 3 February 2025. Conditions of consent were recommended which are included in Attachment A.

### Water NSW

101. 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.
102. General Terms of Approval were issued by Water NSW on 20 February 2025 and have been included in the recommended conditions of consent.

### Advertising and Notification

103. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 28 days between 16 December 2024 and 3 February 2025. A total of 1998 owners and occupiers were notified and 2 submissions were received, with 1 in support and 1 objection.

104. The submission in support raised the following issues:

- (a) **Issue:** The development should get underway as soon as possible as it will increase housing density, provide public art and a new park area, and increase housing affordability.

**Response:** These comments are noted.

105. The submission in objection raised the following issues:

- (a) **Issue:** Prioritising commercial spaces such as shopping centres and retail outlets would better serve the local community.

**Response:** The Stage 3 South site is part of the broader redevelopment of the site which includes a proposed supermarket as part of the Stage 1 North East site, as well as a number of retail tenancies as part of Stage 3 South as well as for Stage 1 and 2.

- (b) **Issue:** Open space should be available for residents

**Response:** Development applications D/2025/178 (Stage 2 North West) and D/2025/179 (Stage 1 North East and Stage 3 South) have recently been lodged for the delivery of new public open spaces (parks) within the site.

- (c) **Issue:** Additional public transport infrastructure should be put in place before any further residential development

**Response:** Public transport options include bus and train services in proximity to the site.

## Financial Contributions

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

106. 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.
107. Credits have been applied for the most recent past use of the site.
108. A condition relating to this local infrastructure contribution has been included in Attachment A. The condition requires the contributions to be paid prior to the issue of a construction certificate.
109. 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 written accordingly to reflect this.

### Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

110. 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.
111. 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.
112. 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 1,203sqm of non-residential TFA and 31,865sqm of residential TFA.

113. 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 \$11,273,869.46.
114. 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**

115. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
116. The site is located within 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.
117. A condition relating to the Housing and Productivity Contribution is included in the recommended conditions of consent.
118. 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**

119. Environmental Planning and Assessment Act 1979
120. Sydney Airport Referral Act 1996
121. Water Management Act 2000
122. Sydney Water Act 1994

### **Conclusion**

123. 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.
124. The application seeks consent for a detailed development application for the Stage 3 South 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.

125. 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.
126. 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.
127. The proposed development is consistent with the design intent of the winning schemes of the competitive design alternatives processes for the site, held in accordance with the City of Sydney Competitive Design Policy.
128. Matters raised by internal and external referrals have been adequately addressed as discussed within this report.
129. The application was notified in accordance the requirements of the EP&A Regulations 2021 and the City's Public Participation Plan. Two submissions were received.
130. 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

Matthew Girvan, Area Coordinator