

Item 5.**Development Application: 155 Mitchell Road, Erskineville - D/2025/448****File Number: D/2025/448****Summary**

| | |
|-----------------------------|---|
| Date of Submission: | 3 June 2025 |
| Applicant: | Coronation Property Co Pty Ltd |
| Architect/Designer: | FJC |
| Developer: | Coronation Property Co Pty Ltd |
| Owner: | Erskineville Developments Pty Ltd |
| Planning Consultant: | Urbis |
| Heritage Consultant: | GBA Heritage |
| DAP: | Pre-lodgement Advice - 1 August 2024, 28 November 2024, and 11 February 2025 |
| Cost of Works: | \$568,650,460.00 |
| Zoning: | The site is zoned E1 Local Centre and MU1 Mixed-Use under the Sydney Local Environmental Plan 2012. The proposed development is a mixed-use development comprising 'residential flat buildings', 'shop-top housing' and 'retail premise'. The uses are permitted with consent within the relevant zones. |
| Proposal Summary: | <p>Development consent is sought to amend the approved concept consent (D/2015/966) relating to buildings F&I and G&H only, to convert the residential component to Build-to-Rent housing and affordable housing.</p> <p>The proposed development seeks to apply the in-fill affordable housing bonuses under Chapter 2 of SEPP (Housing) 2021 which permits up to an additional 30% floor area and height. The approved envelopes are proposed to be modified accordingly.</p> |

In addition to the City's affordable housing contributions applying, the application is accompanied by a public benefit offer (PBO) for the construction and ongoing operation of standalone on-site affordable to be managed by a Tier-1 community housing provider - Evolve Housing. This will be secured 'in perpetuity' on title exceeding the requirements of Chapter 2 of the Housing SEPP.

A detailed development application (D/2025/405) for the buildings the subject of this amending application has been assessed concurrently and is also reported to the CSPC for determination.

The application was notified for a period of 28 days between 4 June and 5 July 2025. 75 submissions were received.

The application is referred to the Central Sydney Planning Committee (CSPC) for determination as the proposed development is defined as a 'major development' for the purpose of the City of Sydney Act 1988.

Summary Recommendation: The development application is recommended to be delegated to the CEO to determine the application:

- following the conclusion of the public exhibition of the draft Voluntary Planning Agreement (VPA/2025/7), and consideration of any public submissions received in response; and
- subject to receipt of an approval from Federal Department of Infrastructure and Regional Development, Airspace Protection, Aviation and Airports, pursuant to the Airports (Protection of Airspace) Regulations 1996 and clause 7.16 of the Sydney Local Environmental Plan 2012.

Development Controls:

- (i) Environmental Planning and Assessment Act NSW 1979 and Environmental Planning and Assessment Regulations 2021
- (ii) City of Sydney Act 1988 and City of Sydney Regulations 2016
- (iii) Sydney Water Act 1994 and Sydney Water Regulation 2017
- (iv) Sydney Airport Referrals Act 1996
- (v) Airports Act 1996 (Cth) and Civil Aviation (Building Control) 1988

- (vi) Draft Sydney Local Environmental Plan 2012 (Planning Proposal - Policy and Housing Keeping Amendments 2023)
- (vii) Sydney Local Environmental Plan 2012 (Gazetted 24 April 2025)
- (viii) Sydney Development Control Plan 2012
- (ix) SEPP (Biodiversity and Conservation) 2021
- (x) SEPP (Housing) 2021
- (xi) SEPP (Industry and Employment 2021
- (xii) SEPP (Resilience and Hazards) 2021
- (xiii) SEPP (Sustainability) 2021
- (xiv) SEPP (Transport and Infrastructure 2021
- (xv) City of Sydney Interim Floodplain Management Policy 2012
- (xvi) City of Sydney Guidelines for Waste Management in New Developments
- (xvii) Sydney Landscape Code Volume 2: All development except single dwellings
- (xviii) City of Sydney Community Engagement Strategy and Community Participation Plan 2022
- (xix) City of Sydney Development Contributions Plan 2015
- (xx) City of Sydney Affordable Housing Program 2023
- (xxi) Housing and Productivity Order 2024

Attachments:

- (A) Recommended Conditions of Consent
- (B) Conditions of Consent (D/2015/966/I)
- (C) Amended Concept Plan Drawings
- (D) Clause 4.6 Variation Request - Height of Buildings
- (E) Submissions

Recommendation

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer (CEO) to determine Development Application number D/2025/448 following the conclusion of the public exhibition of the draft Voluntary Planning Agreement (VPA/2025/7), and consideration of any public submissions received in response;
- (B) authority be delegated to the Chief Executive Officer (CEO) to determine Development Application number D/2025/448 subject to receipt of an approval from Federal Department of Infrastructure and Regional Development, Airspace Protection, Aviation and Airports, pursuant to the Airports (Protection of Airspace) Regulations 1996 and clause 7.16 of the Sydney Local Environmental Plan 2012;
- (C) the Chief Executive Officer (CEO) consider granting deferred commencement development consent pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, subject to the recommended conditions requiring the Voluntary Planning Agreement to be executed and registered on title prior to the consent becoming operative, and the conditions of consent outlined in Attachment A to this report; and
- (D) the variation requested to Clause 4.3 'Height of buildings' development standard be upheld in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposed development satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to 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/CEO at the time of determining this application, the Committee is satisfied that:
 - (i) the applicant's written request relating to the maximum height of buildings development standard adequately addressed the matters required to be addressed under Clause 4.6 of the Sydney Local Environmental Plan 2012, that compliance with the respective development standards is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening the development standards.

- (C) The proposed development has been assessed against the aims and objectives of the relevant planning controls including the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012 and the State Environmental Planning Policy (Housing) 2021. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances of the case or can be resolved through the detailed development application.
- (D) The proposed development will provide on-site affordable housing in perpetuity.
- (E) The proposed development is capable of demonstrating 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 resulting from the amended building envelopes would have a form, bulk and massing that is suitable for the site and its context and is appropriate in the setting of the Ashmore Neighbourhood locality, when taking into consideration the additional floor space permitted to accommodate the on-site affordable housing.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 20 in DP 1290687 and is known as 155 Mitchell Road, Erskineville. The site is part of the broader Ashmore Estate site which is the subject of the approved concept plan (D/2015/966), sought to be amended under this application. The proposed development comprises the development blocks for buildings F&I and buildings G&H located at the southern end of the broader site.
2. The site is irregular in shape with an approximate area of 2.65 hectares. The site is bound by MacDonald Street (future) to the north, Mitchell Road to the east, Coulson Street to the south, and Hadfield Street to the west.
3. The site is located within the Ashmore Neighbourhood. The surrounding area is characterised by a mixture of land uses, primarily being residential and mixed-use, including:
 - (a) Development within the Ashmore Neighbourhood to the north and west comprises predominantly residential development between three- and eight-storeys in height, with the building directly to the north also including ground level retail.
 - (b) A 7,500sqm neighbourhood park, to be known as McPherson Park provided by the development, is under construction directly to the north.
 - (c) Development within the Coopers Estate heritage conservation area (C2) to the east comprises predominantly residential development, being terraced houses and three- four-storey residential flat buildings, with some retail along Mitchell Road.
 - (d) Development within Sydney Park Village to the south comprises predominantly residential development between four- and ten-storeys in height, with the building directly to the south also including ground level retail.
4. The site is an active construction site with early works for buildings F&I and G&H, and infrastructure within Kooka Walk south (future) progressing.
5. The site is identified as being subject to flooding. The development of the broader site includes flood mitigation measures including the construction of the Ashmore trunk drain under Kooka Walk and a detention basin within McPherson Park.
6. A site visit was carried out on 29 July 2025. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds

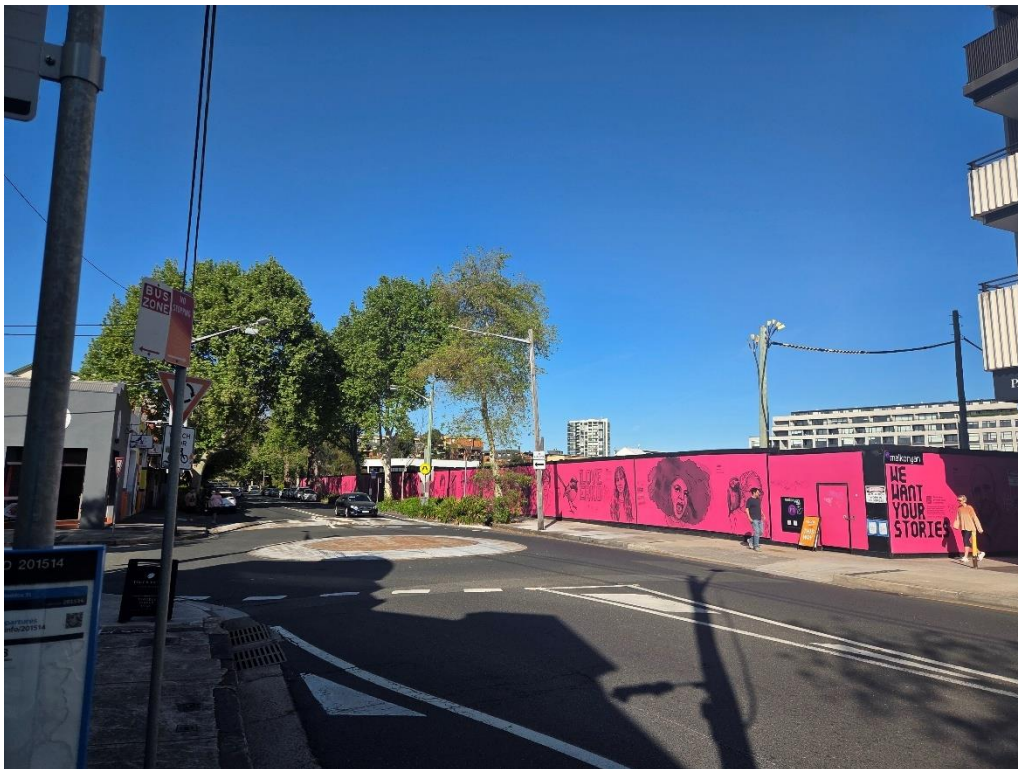


Figure 2: Site viewed from Mitchell Road facing south



Figure 3: Site viewed from Mitchell Road facing north



Figure 4: Site viewed from Coulson Street facing east



Figure 5: Site viewed from Hadfields Street facing north



Figure 6: Coopers Estate conservation area (Mitchell Road) facing southeast



Figure 7: Coopers Estate conservation area (Mitchell Road) facing southeast



Figure 8: Coopers Estate conservation area (Mitchell Road) facing southeast



Figure 9: Sydney Park Village (Coulson Street) facing southwest



Figure 10: Onea (Hadfields Street) facing southwest



Figure 11: Park Sydney Village (Mitchell Road) facing northwest

History Relevant to the Development Application

Development Applications

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

- **D/2015/966** – Development consent was granted on 3 March 2017, subject to deferred commencement, for a concept plan for a mixed-use precinct, including residential, commercial and recreation uses, including building envelopes for nine buildings ranging in height between two and eight storeys and concept design for public domain works including new streets, park and trunk drainage. The consent was made operational on 18 October 2017. The concept plan has been modified seven times (Modifications A-D, F-G & I).
- **D/2025/301** – Development consent was granted on 31 July 2025 for early works for block F&I including site preparation works, remediation, including installation of a borrow pit, bulk excavation, shoring and associated services to facilitate the future development.
- **D/2025/335** – Development consent was granted on 15 August 2025 for early works for block G&H including site preparation works, remediation, bulk excavation, shoring, and associated services to facilitate the future development. A modification application was lodged to reduce the extent of excavation (Mod A).

- **D/2025/405** – A development application was lodged on 22 May 2025 seeking consent for the detailed design of buildings F&I and G&H. The detailed design is a mixed-use development comprising retail premises, and build-to-rent and affordable housing. This application is reported to CSPC for determination concurrently.
- **D/2025/467** – A development application was lodged on 26 May 2025 seeking consent for construction of a stormwater culvert within Kooka Walk south.

Housing Delivery Authority

8. It is noted that the proposal may have been eligible to be declared State Significant Development (SSD) by Housing Delivery Authority (HDA). A development declared SSD is assessed by the Department of Planning, Housing and Infrastructure and would not be assessed by the City, reviewed by DAP or determined by the CSPC.
9. The applicant's lodgement of this development application with the City has enabled a favourable voluntary planning agreement to be negotiated that secures the affordable housing component ongoing as opposed to the provisions of the Housing SEPP only requiring the affordable housing component to be provided for 15 years.
10. The City is best placed to assess this development application noting the complex planning history for the site and the broader Ashmore Neighbourhood, and the sensitivities of the surrounding built environment.
11. Additionally, the development involves the delivery of significant public infrastructure and public domain areas which should be delivered in conjunction with the City.

Compliance Action

12. The site is not subject to any relevant compliance action.

Amendments

13. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 28 August 2025. The request related to:
 - (a) Amended Clause 4.6 written request regarding height of buildings standard
 - (b) Additional supporting information regarding solar access and overshadowing
 - (c) Amended concept building envelope plans
 - (d) Revised digital model.
14. The applicant responded to the request on 15 & 30 September, and 7 October 2025 and submitted amended plans, a revised Clause 4.6 written request and additional supporting information.

Proposed Development

15. The application seeks consent to amend the approved concept consent (D/2015/966/I), relating to buildings F&I and G&H only, as follows:
- Amend the permitted land uses to specify the residential accommodation being used for build-to-rent housing or affordable housing.
 - No change to the approved retail land uses located in Block F which includes a full-line supermarket and retail premises.
 - Amend Condition (8) Allocation of Floor Space to accommodate up to an additional 30% floor space as permitted by the in-fill affordable housing bonus in Chapter 2 of SEPP (Housing) 2021, subject to the allocation of the required affordable housing component in any detailed development application.
 - Amend the approved building envelopes by amended Condition (1) to accommodate:
 - the above floor space, including a corresponding additional 30% height as permitted by the In-fill Affordable housing bonus in Chapter 2 of SEPP (Housing) 2021, subject to the allocation of the required affordable housing component in any detailed development application
 - additional height - as justified by written request submitted pursuant to Clause 4.6 of SLEP 2012 which largely reflects the additional height permitted under the Draft Sydney Local Environmental Plan 2012 (Policy and House Keeping Amendments 2023) which is considered well advanced with Parliamentary Counsel and can be given significant weight and
 - built form amendments to:
 - maximise residential amenity
 - reflect the built forms consistent with the design competition winning schemes, as adapted
 - increase street wall heights and amend above street wall setbacks
 - increase building height, measured in storeys, to reflect the above height changes
 - amended ground level setback locations to accommodate retail activation along part of Mitchell Road.
 - Amended conditions (4), (7), (8), and (9) accordingly.
16. Plans and elevations of the proposed development are provided below.

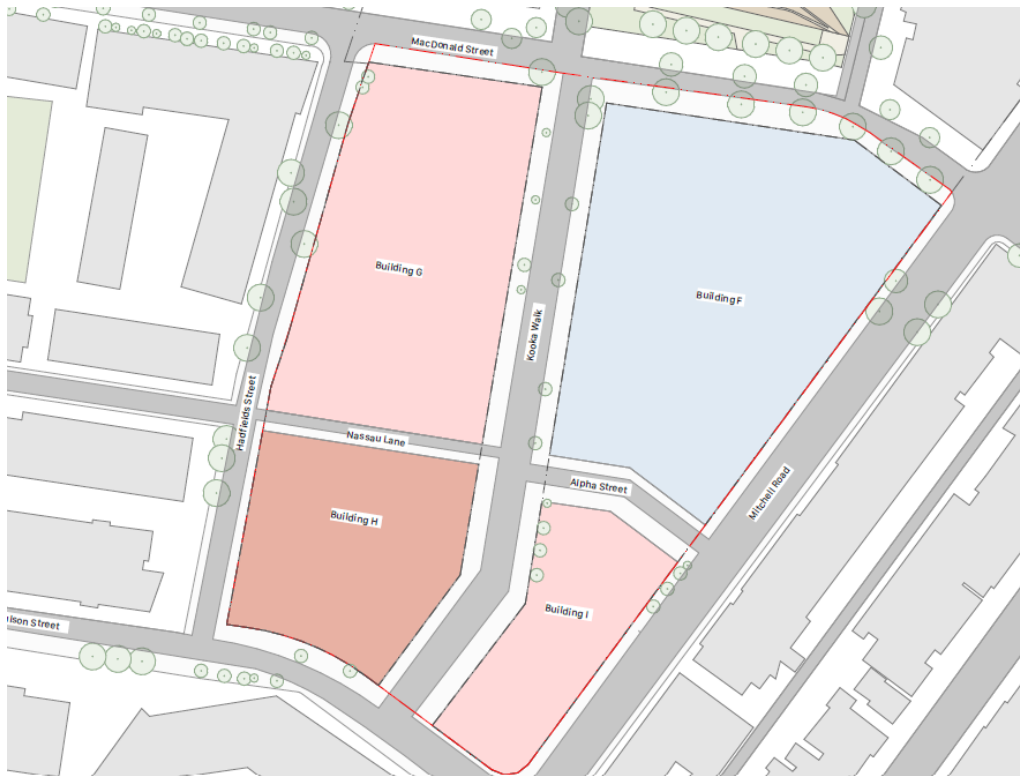


Figure 12: Proposed amended land uses plan



Figure 13: Proposed amended height in storeys plan, including street wall heights



Figure 14: Proposed amended ground and upper-level setback plans

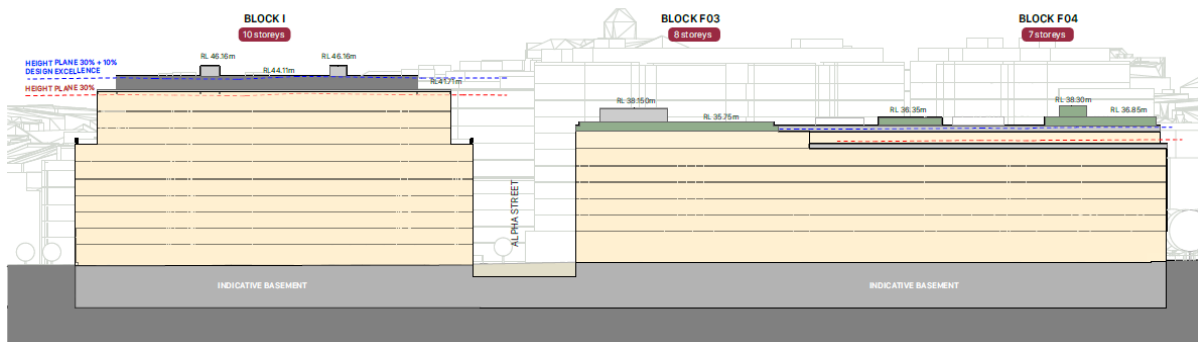


Figure 15: Proposed amended sections - buildings F and I (north-south) fronting Mitchell Road

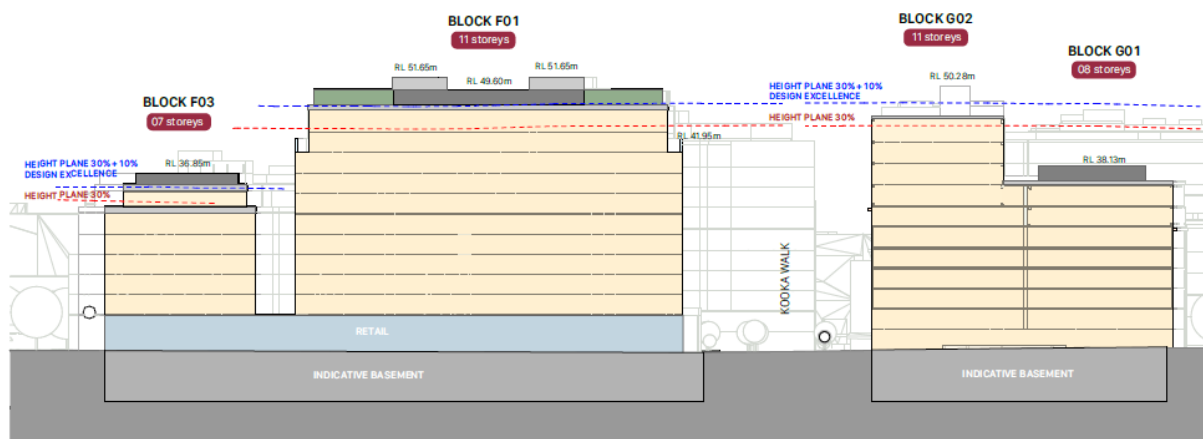


Figure 16: Proposed amended sections - buildings F and G (east-west) fronting Macdonald Street

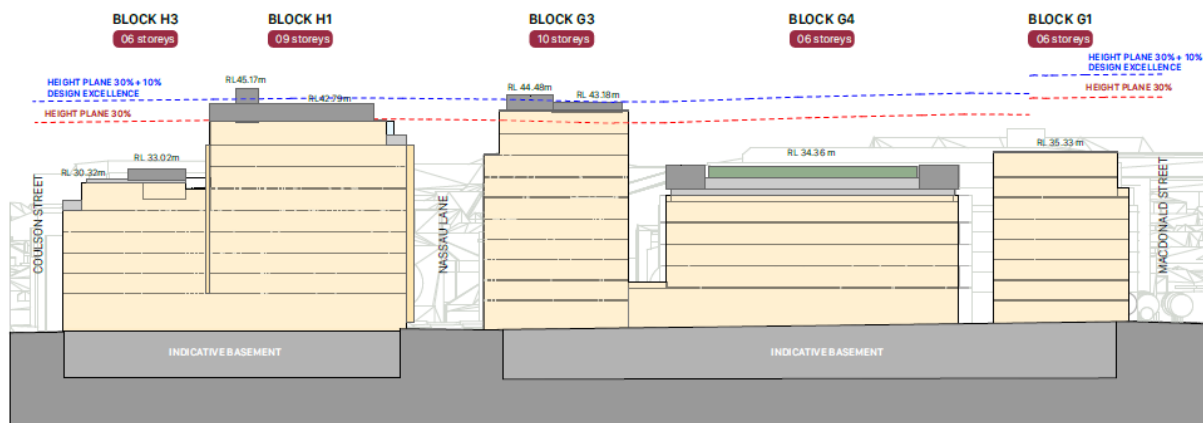


Figure 17: Proposed amended sections - buildings G and h (north-south) fronting Hadfields Street

Voluntary Planning Agreement

17. The application was accompanied by a Public Benefit Offer to enter into a Voluntary Planning Agreement with the City to provide on-site affordable housing in accordance with Chapter 2 In-fill affordable housing of the Housing SEPP, with the affordable housing provided in perpetuity.
18. The offer was accepted, and the VPA is being negotiated and drafted in association with the subject development application and accompanying detailed development application (D/2025/405).
19. The infill affordable housing is proposed to be managed by a Tier-1 registered community housing provider - Evolve Housing.

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

State Environmental Planning Policies

State Environmental Planning Policy (Housing) 2021

20. The relevant principles of SEPP (Housing) 2021 are as follows:
 - (a) enabling the development of diverse housing types, including purpose-built rental housing,
 - (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,

Chapter 2 Affordable Housing

Part 2 Development for affordable housing

Division 1 In-fill affordable housing

21. The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.
22. The proposed amendments to the approved concept plan seek to utilise the full 30% affordable housing bonuses afforded by Section 16 of the SEPP for floor space ratio and height respectively.

Additional floor space ratio

23. Section 16 permits an additional floor space ratio of up to 30%, greater than the maximum permitted floor space ratio applying to the site, based on the minimum affordable housing component as calculated in accordance with the below equation

affordable housing component = additional floor space ratio (as a percentage) ÷ 2

for example, where a 15% affordable housing component is provided, an additional floor space ratio of 30% would be available.

24. The additional floor space has been incorporated into the proposed amended concept building envelopes and approval is sought to amend Condition (8) *Gross Floor Area* to permit the additional floor space.
25. A full assessment and calculation of the additional floor space is undertaken under the 'Floor space' heading in the discussion below as there is an interrelationship between other provisions that must all be considered.

Section 19 Non-discretionary Development Standard

26. Section 19 of the SEPP includes non-discretionary development standards for affordable housing. Compliance with the non-discretionary development standards is a matter for the detailed development application. The non-discretionary development standards relate to site area, landscaped area, parking for affordable housing dwellings, and parking for non-affordable housing dwellings. The proposed amended concept plan is capable of complying with these non-discretionary standards or in the case of parking, may be subject to less onerous provisions under another environmental planning instrument.

Section 21 Period must be used for affordable housing

27. The provisions of the SEPP, specify at Section 21, that the affordable housing is to be provided for a minimum period of 15 years, which is complied with as the affordable housing component is to be provided in perpetuity. This is captured by the Public Benefit Offer and draft Voluntary Planning Agreement.

Chapter 3 Diverse Housing

Part 4 Build-to-rent housing

28. The proposed amending concept plan comprises residential accommodation, including build-to-rent housing under Chapter 3, Part 4 and affordable housing under Chapter 2 Part 1.

29. Development consent may be granted to build-to-rent housing for development for the purpose of a residential flat building or shop top housing on land zoned, relevantly, a zone where development for the purpose of residential flat buildings is permissible and zoned MU1 Mixed-Use. The site is zoned part E1 Local Centre, in which residential flat buildings are permissible and MU1 Mixed-Use, and therefore the proposed development is permissible.
30. Section 74 of the SEPP includes non-discretionary development standards for build-to-rent housing. Compliance with the non-discretionary development standards is a matter for the detailed development application. The non-discretionary development standards relate to building height, floor space, and parking. The proposed amended concept plan is capable of complying with these non-discretionary standards, subject the flexibility afforded by Clause 4.6 of the LEP or in the case of parking, may be subject to less onerous provisions under another environmental planning instrument.

Chapter 4 - Design of Residential Apartment Development

31. The aim of Chapter 4 is to improve the design quality of residential apartment development in New South Wales.
32. 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.
33. The applicant has submitted a design verification statement and design report prepared by FJC with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Section 29 of the Environmental Planning and Assessment Regulation 2021.
34. An assessment of the proposal against the design quality is provided as follows:

(a) **Principle 1: Context and Neighbourhood Character**

The proposed development is compatible with the context and neighbourhood character of the Ashmore Neighbourhood, intended to be a sustainable neighbourhood offering a variety of dwelling types. The current need for additional housing, in particular affordable housing, is relevant to context, not just within the Ashmore Neighbourhood but more broadly.

The proposed development gives regard to the lower scale residential neighbourhood to the east, noting the separation provided by Mitchell Road, and the stepping down in scale achieved through the provision of upper level setbacks along the Mitchell Road frontage. Further design development demonstrated by a detailed development application will further assist in providing a transition in scale to the adjoining area visually through the architectural expression of the upper levels to reduce the perceived scale of the development.

(b) **Principle 2: Built Form and Scale**

The scale, bulk and height are appropriate having regard to the desired future character of the neighbourhood and context. The built form seeks to maximise internal amenity.

The massing has been arranged to respond to the specific opportunities and constraints of the site. The height of the buildings purposefully reduces towards the eastern, southern and western edges of the site to reduce the potential impacts on the surrounding areas.

The building envelopes are set back from all boundaries, except where an active frontage is provided, providing a landscaped setback which softens the built forms, defining the landscape character of the neighbourhood and reducing the visual bulk of the buildings on the streetscape.

(c) **Principle 3: Density**

The amended concept plan complies with the maximum permitted gross floor area, derived from the approved floor area apportioned to the site, and the floor space bonuses permitted under Clause 6.21D of the Sydney LEP and Section 16 of the Housing SEPP.

(d) **Principle 4: Sustainability**

This matter is to be addressed by a detailed development application.

(e) **Principle 5: Landscape**

There are no substantive changes to the proposed landscaping noting that the approved deep soil landscaped setbacks and overall deep soil landscape requirements remain unchanged. A landscape concept plan has been approved for buildings F&I and buildings G&H and remain applicable for the detailed development application. In addition, the proposed building envelopes support the provision of rooftop communal open spaces, including landscaping (consistent with Condition 26A of the approved concept plan).

(f) **Principle 6: Amenity**

This matter is to be addressed by a detailed development application. Notwithstanding, the proposed building envelopes are capable of accommodating a development that would reasonably achieve the amenity related objectives of the ADG, having regard to flexibility required by Section 75 of the Housing SEPP.

(g) **Principle 7: Safety**

This matter is to be addressed by a detailed development application.

(h) **Principle 8: Housing Diversity and Social Interaction**

This matter is to be addressed by a detailed development application.

(i) **Principle 9: Aesthetics**

This matter is to be addressed by a detailed development application.

35. 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) | Capable of complying | The proposed concept building envelope exceed 18m in depth, however, can be designed to accommodate floor plates with a maximum depth of no greater than 18m (glass to glass). |

| 2F Building Separation | Consistency | Comment |
|--|-----------------------|-----------------------|
| Up to 4 storeys (approximately 12 metres): <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms | Partial inconsistency | See discussion below. |
| 5 to 8 storeys (approximately 25 metres): <ul style="list-style-type: none"> • 18m between habitable rooms / balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms | Partial inconsistency | See discussion below. |
| 9 storeys and above (over 25m): <ul style="list-style-type: none"> • 24m between habitable rooms / balconies • 18m between habitable and non-habitable rooms | Partial inconsistency | See discussion below. |

| 2F Building Separation | Consistency | Comment |
|---|--------------------|--|
| <ul style="list-style-type: none"> 12m between non-habitable rooms | | |
| At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m. | Yes | Land to the east is zoned R1 and generally comprises lower density development, predominantly terraced housing. The separation achieved through the proposed building setbacks and Mitchell Road provides adequate increased separation between dwellings. |

| 3B Overshadowing | Consistency | Comment |
|--|----------------------|--|
| <p>Living areas, private open space and communal open space should receive solar access in accordance with objectives 3D Communal and public open space and 4A Solar and daylight access.</p> <p>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.</p> | Capable of complying | Refer to discussion below. The detailed development application demonstrates compliance. |

| 3D Communal and Public Open Space | Consistency | Comment |
|--|----------------------|---|
| Communal open space has a minimum area equal to 25% of the site. | Capable of complying | The proposed concept envelopes accommodate communal open space areas at ground level and rooftops, with rooftop areas being prioritised in accordance with Condition 21A of the approved concept plans. |
| 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). | Capable of complying | <p>As above, rooftop communal open space areas are to be prioritised to maximise the amenity of these spaces.</p> <p>The detailed development application demonstrates compliance.</p> |

| 3E Deep Soil Zones | Consistency | Comment |
|---|----------------------|--|
| Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m. | Capable of complying | <p>Condition (20) of the approved concept plan required the preparation and approval of landscape concept plans. These were approved prior to the commencement of the competitive design process for each scheme. Buildings F&I and Buildings G&H were each required to achieve 10% deep soil, noting additional deep soil is accommodated with the public domain areas of the broader site.</p> <p>There are minor changes proposed to the configuration of the deep soil setbacks to accommodate the proposed detailed building designs but remain generally consistent with the approved landscape plans.</p> |

| 3F Visual Privacy | Consistency | Comment |
|--|-----------------------|-----------------------|
| <p>Up to 4 storeys (12 metres):</p> <ul style="list-style-type: none"> 6m between habitable rooms / balconies 3m between non-habitable rooms | Partial inconsistency | See discussion below. |
| <p>5 to 8 storeys (25 metres):</p> <ul style="list-style-type: none"> 9m between habitable rooms / balconies 4.5m between non-habitable rooms | Partial inconsistency | See discussion below. |
| <p>9 storeys and above (over 25m):</p> <ul style="list-style-type: none"> 12m between habitable rooms / balconies 6m between non-habitable rooms | Partial inconsistency | See discussion below. |

| 3F Visual Privacy | Consistency | Comment |
|--|----------------------|--|
| Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas. | Capable of complying | This is a matter for the detailed development application. |

| 4A Solar and Daylight Access | Consistency | Comment |
|---|----------------------|--|
| 70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces. | Acceptable | <p>This is a matter for the detailed development application.</p> <p>Testing of the proposed amended envelopes indicate that there is likely to be a variation to the solar access design criteria of around 10%.</p> <p>This is considered acceptable having regard to the site circumstances and the additional floor space required to achieve the on-site affordable housing.</p> <p>See discussion below.</p> |
| Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter. | Capable of complying | The detailed development application demonstrates compliance is achievable. |

| 4B Natural Ventilation | Consistency | Comment |
|--|----------------------|---|
| All habitable rooms are naturally ventilated. | Capable of complying | This is a matter for the detailed development application. |
| Minimum 60% of apartments in the first 9 storeys of the building are naturally cross ventilated. | Acceptable | <p>This is a matter for the detailed development application.</p> <p>Testing of the proposed amended envelopes indicate that there is likely to be a variation to the natural cross ventilation design criteria.</p> <p>See discussion below.</p> |

| 4B Natural Ventilation | Consistency | Comment |
|--|----------------------|--|
| Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line. | Capable of complying | This is a matter for the detailed development application. |

| 4C Ceiling Heights | Consistency | Comment |
|--|----------------------|--|
| Habitable rooms: 2.7m | Yes | This is a matter for the detailed development application. |
| Non-habitable rooms: 2.4m | Yes | |
| Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area. | Yes | |
| If located in mixed-use areas – 3.3m for ground and first floor to promote future flexibility of use. | Capable of complying | This is a matter for the detailed development application. |

| 4D Apartment Size and Layout | Consistency | Comment |
|---|----------------------|--|
| <p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35sqm • 1 bed: 50sqm • 2 bed: 70sqm • 3 bed: 90sqm <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each.</p> | Capable of complying | This is a matter for the detailed development application. |

| 4D Apartment Size and Layout | Consistency | Comment |
|--|----------------------|--|
| A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each. | | |
| 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. | Capable of complying | This is a matter for the detailed development application. |
| Habitable room depths are to be no more than 2.5 x the ceiling height. | Capable of complying | This is a matter for the detailed development application. |
| 8m maximum depth for open plan layouts. | Capable of complying | This is a matter for the detailed development application. |
| Minimum area for bedrooms (excluding wardrobes): <ul style="list-style-type: none"> • master bedroom: 10sqm • all other bedrooms: 9sqm Minimum dimension of any bedroom is 3m (excluding wardrobes). | Capable of complying | This is a matter for the detailed development application. |
| Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • 2-bedroom or more: 4m | Capable of complying | This is a matter for the detailed development application. |
| 4m minimum width for cross over and cross through apartments. | Capable of complying | This is a matter for the detailed development application. |

| 4E Private Open Space and Balconies | Consistency | Comment |
|--|----------------------|--|
| <p>Studio apartments are to have a minimum balcony area of 4sqm with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2m.</p> <p>2 bed apartments are to have a minimum balcony area of 10sqm with a minimum depth of 2m.</p> <p>3 bed apartments are to have a minimum balcony area of 12sqm with a minimum depth of 2.4m.</p> | Capable of complying | This is a matter for the detailed development application. |
| 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. | Capable of complying | This is a matter for the detailed development application. |

| 4F Common Circulation and Spaces | Consistency | Comment |
|---|----------------------|--|
| The maximum number of apartments off a circulation core on a single level is 8. | Capable of complying | This is a matter for the detailed development application. |
| For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40. | Capable of complying | This is a matter for the detailed development application. |
| 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 | Capable of complying | This is a matter for the detailed development application. |

| 4F Common Circulation and Spaces | Consistency | Comment |
|---|----------------------|--|
| rooms should be carefully controlled. | | |
| Daylight and natural ventilation are provided to all common circulation spaces. | Capable of complying | This is a matter for the detailed development application. |

| 4G Storage | Consistency | Comment |
|---|----------------------|--|
| <p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ <p>(Minimum 50% storage area located within unit)</p> | Capable of complying | This is a matter for the detailed development application. |

| 4J Noise and Pollution | Consistency | Comment |
|---|----------------------|--|
| Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings? | Capable of complying | This is a matter for the detailed development application. |

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 2 Standards for residential development - BASIX

36. The proposed concept plan includes residential development. The detailed development application will be required to be accompanied by a BASIX certificate.

Chapter 3 Standards for non-residential development

37. The proposed concept plan includes development, other than development for the purposes of residential accommodation, that involves the erection of a new building, if the development has an estimated development cost of \$5 million or more. Chapter 3 of the SEPP will therefor apply to the detailed development application.

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

38. 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.
39. The approved concept consent addressed site contamination and Condition (18) was imposed requiring the provisions of this SEPP (transitional provisions) to be satisfied for any subsequent detail development application.
40. The proposed land use changes under this amending concept application remain within the same land use categories, being retail premises and residential accommodation. The amended concept application does not introduce any more sensitive land uses that would require further assessment regarding site suitability or the potential for the land to be made suitable for the approved uses.
41. The approved early works consents (D/2025/301, D/2025/335 and D/2025/467 (under assessment)) included the required information and the consent authority was satisfied that the site could be made suitable for the proposed land uses subject to the implementation of the approved Remediation Works Plans.

State Environmental Planning Policy (Transport and Infrastructure) 2021

42. 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**Section 2.47 Excavation – corridors and transmission circuits**

43. The application is subject to Section 2.47 as the development involves the penetration of ground to a depth of at least 3 metres below ground level (existing) on land that is within 10 metres (measured radially) of the centreline of the Transgrid electricity supply corridor.
44. The proposed development is located at least 12.5m from the Transgrid electricity supply corridor located in Mitchell Road and therefore referral under this Clause was not required.

Section 2.48 Determination of development applications – other development

45. The application is subject to Section 2.48 of the SEPP as the development involves the penetration of ground within 2m of an electricity distribution pole and involves or requires the placement of power lines underground.
46. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

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

47. The application is subject to Section 2.120 of the SEPP of the policy. This section applies to development for the purpose of certain non-road development on land adjacent to a busy road, i.e., a freeway or other road with an average daily traffic frequency of more than 20,000 vehicles, and the consent authority considers is likely to be adversely affected by road noise and vibration.
48. The proposed development includes residential accommodation. The site fronts Mitchell Road along its eastern boundary which is identified as a busy road. It is considered likely that the development would be adversely affected by road noise, notwithstanding the lower traffic speeds along Mitchell Road.
49. The detailed development application will be required to address the noise criteria in sub-section 2.120(3).

Section 2.122 – Traffic-generating development

50. The application is subject to Clause 2.122 of the SEPP as the proposed development is traffic generating development as outlined in the Table in Schedule 3 to the SEPP.
51. Accordingly, the application was referred to Transport for NSW for a period of 21 days and no objection was raised.

Local Environmental Plans**Draft Sydney Local Environmental Plan 2012 - Policy and Housing Keeping Amendments 2023**

52. Planning Proposal PP-2024-709 is a relevant consideration under section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.
53. Relevantly, the planning proposal includes:
 - (a) LEP amendment 2 - Structures associated with green roofs

Additional miscellaneous provision allowing rooftop structures providing access to rooftop gardens or communal open spaces that, support social use of roof areas, to exceed the height of building shown for the land on the Height of Buildings Map.
 - (b) LEP amendment 8 - Design excellence processes

Amendment (4) to Clause 6.21D(3) to permit the consent authority to award a bonus of up to 10 per cent additional building height **and** up to 10 per cent additional floor space to a building demonstrating design excellence when considering a development application resulting from a competitive process.
54. The planning proposal was subject of public exhibition between 17 December 2024 and 14 March 2025.

55. The planning proposal was returned to the Department of Planning, Housing and Industry (DPHI) for assessment and drafting on 1 July 2025.
56. The relevant draft amendments are considered to be well advanced and should be afforded significant weight in the assessment of this application as addressed below. The amendments are currently with Parliamentary Counsel for drafting. The City understands that DPHI raised no substantive issues that would prevent the making of the amended LEP.

Sydney Local Environmental Plan 2012

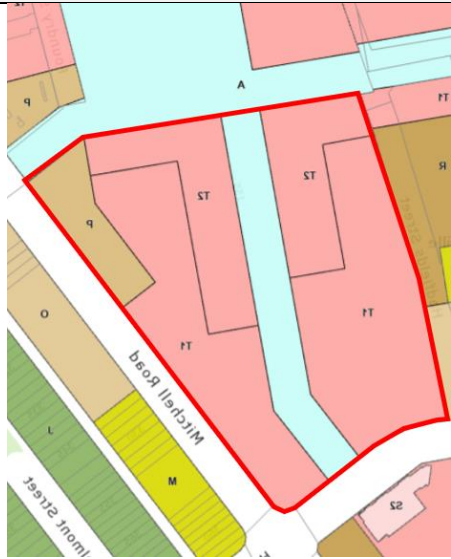
57. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

| Provision | Compliance | Comment |
|--|------------|---|
| 2.3 Zone objectives and Land Use Table | Yes | <p>The site is zoned E1 Local Centre and MU1 Mixed-Use. The proposed development is defined as:</p> <ul style="list-style-type: none"> residential flat buildings shop-top housing retail premises, including a shop (supermarket) <p>These uses are permitted with consent in the relevant zones.</p> <p>The proposal generally meets the objectives of the relevant zones.</p> |

Part 4 Principal development standards

| Provision | Compliance | Comment |
|--|-------------------------------------|---|
| 4.3 Height of buildings 4.6 Exceptions to development standards | No, subject to Clause 4.6 variation | The site is subject to a maximum permitted building height of 18m, 25m and 27m. |

| Provision | Compliance | Comment |
|-----------------------|------------|--|
| | |  <p>Figure 18: height map extract</p> <p>Section 16(3) of the Housing SEPP permits up to a 30% additional building</p> <p>The relevant maximum heights are outlined in detail in the 'Discussion' section below, to which the proposed development does not comply, and a request to vary the maximum height of buildings standard in accordance with Clause 4.6 has also been submitted.</p> |
| 4.4 Floor space ratio | Yes | <p>The approved concept plan apportioned the gross floor area across the 9 development blocks as indicated in condition (8) <i>Allocation of Floor Space</i>.</p> <p>F = 24,962.5sqm</p> <p>G = 18,941sqm</p> <p>H = 11,887.5sqm</p> <p>I = 7,933.5sqm</p> <p>Total = 63,725sqm</p> <p>Clause 6.21D(3)(b) permits an additional 10% floor space for building demonstrating design excellence resulting from a competitive process.</p> <p>Total = 70,097.5sqm*</p> <p>*Whilst the bonus is not awarded under the concept application, the potential to</p> |

| Provision | Compliance | Comment |
|---|----------------------------|--|
| | | <p>obtain the bonus is considered and is relevant to the calculation of the in-fill affordable housing bonus below.</p> <p>Section 16(1) of the Housing SEPP permits up to a 30% additional gross floor area as discussed earlier in this report.</p> <p>Total = 91,126.04sqm**</p> <p>**subject to a detailed DA achieving the design excellence bonus.</p> <p>Condition (8) <i>Allocation of floor space</i> is recommended to be amended to reflect the above, subject to any subsequent detailed development application (for buildings F&I and G&H) providing the corresponding provision of affordable housing (15%) in accordance with Chapter 2 of the Housing SEPP, in perpetuity in accordance with the PBO.</p> |
| 4.6 Exceptions to development standards | Refer to Discussion below. | <p>The proposed development seeks to vary the development standard prescribed under Clause 4.3. A Clause 4.6 written request has been submitted with the application.</p> <p>Refer to discussion below.</p> |

Part 5 Miscellaneous provisions

| Provision | Compliance | Comment |
|----------------------------|---------------------------|---|
| 5.10 Heritage conservation | Yes | <p>The site is located within the vicinity of the Cooper Estate heritage conservation area CA2. The building separation afforded by Mitchell Road is sufficient to ensure that the proposed development would not have an adverse impact on the heritage significance of the conservation area.</p> |
| 5.21 Flood planning | Yes, capable of complying | <p>The site is subject to flooding during the 1% Annual Exceedance Probability (AEP) and Probable Maximum Flood (PMF) events.</p> <p>A site-specific flood study has been submitted with the application and accompanying detailed applications and</p> |

| Provision | Compliance | Comment |
|-----------|------------|--|
| | | <p>recommends flood planning levels (FPLs) for the development.</p> <p>Council's Public Domain Unit has reviewed the proposed development. The detailed development application is to incorporate the relevant FPLs to ensure compliance with the City's Interim Floodplain Management Policy.</p> |

Part 6 Local provisions – height and floor space

| Provision | Compliance | Comment |
|------------------------------|---------------------------|--|
| Division 4 Design excellence | | |
| 6.21C Design excellence | Yes, capable of complying | <p>The proposed development is for concept building envelopes which are capable of accommodating future buildings which can exhibit design excellence in accordance with the objectives and matters for consideration in Clause 6.21C of the Sydney LEP 2012.</p> <p>Demonstration of design excellence is required before the award of any additional building floor space.</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 | Capable of complying | <p>The detailed development application is subject to these development standards and is required to demonstrate compliance.</p> |
| 7.5 Residential flat buildings, dual occupancies and multi dwelling housing | Capable of complying | <p>The permissible number of car parking spaces are determined by the quantum of commercial floor space, and the number and mix of residential dwelling</p> <p>The amended concept plan does not approve the size of location of basements.</p> |

| Provision | Compliance | Comment |
|---|----------------------|---|
| Division 3 Affordable housing | | |
| 7.13 Contribution for purpose of affordable housing | Yes | The detailed development application will be subject to an affordable housing contribution and will be calculated based on the Total Floor Area and allocation of uses of the detailed development. |
| Division 4 Miscellaneous | | |
| 7.14 Acid Sulfate Soils | Capable of complying | The site is located on land with class 3 Acid Sulfate Soils. This is a matter required to be addressed by the detailed development application. |
| 7.16 Airspace operations | No | <p>The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport.</p> <p>Flysafes are yet to provide approval. As outlined in the recommendations of this report, it is recommended that the application be delegated to the CEO for approval following receipt of the appropriate approval.</p> |
| 7.19 Demolition must not result in long term adverse visual impact | Not applicable | The developer obtained a complying development certificate for the demolition of the existing buildings. The site is currently an active construction site and hoardings have been installed, screening the site from the surrounding public domain. |
| 7.20 Development requiring or authorising preparation of a development control plan | Yes | In accordance with Section 4.23 of the Act, the approved concept plan (subject to approval of this amending concept application) will satisfy the obligation to prepare a development control plan. |
| 7.23 Large retail development outside of Green Square Town Centre and other planned centres | Yes | The proposed location of the mixed-use building which includes 'retail premises' is located within the E1 Local Centre zoned portion of the site and is not identified as Restricted Retail Development under this clause. |

| Provision | Compliance | Comment |
|---|----------------------|---|
| 7.33 Sustainability requirements for certain large commercial development | Capable of complying | <p>The proposed development does not comprise a <i>large commercial premise</i>.</p> <p>The proposed development may comprise a <i>prescribed shopping centre</i>. This is a matter required to be addressed by the detailed development application.</p> |

Development Control Plans

Sydney Development Control Plan 2012

58. 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

59. The site is located within the Ashmore Neighbourhood locality. The proposed development is in keeping with the unique character and the design principles of the locality.
60. The objectives in Table 1 are particularly relevant to the proposed development. It should be noted that several objectives are achieved through associated applications for the construction and delivery of public domain areas, such as Kooka Walk and McPherson Park.

Table 1: Relevant Ashmore Neighbourhood Objectives

| Objective | Comment |
|--|---|
| (a) Future development is to be of the highest quality, and sympathetic to the existing surrounding local character and history of Erskineville and Alexandria and their former industrial uses. | This is a matter for the detailed development application. |
| (c) Mix of dwellings to provided flexibility and choice | This is a matter for the detailed development application. |
| (d) Ensure building heights in Ashmore provide a transition to the surrounding conservation areas | Whilst it is noted that building heights have increased to accommodate the additional floor space required to achieve the on-site affordable housing, the height of buildings along Mitchell Road adjoining the conservation area include upper-level setbacks and will be required to provide a change in materiality and finishes to assist |

| Objective | Comment |
|---|---|
| | in the maintaining a visual transition in scale between the neighbourhoods. |
| (i) Create a strong landscaped character that unites development in Ashmore by setting back development from the public domain and providing native planting that is in accordance with the Council's Landscape Code. | The approved concept plan is consistent with this objective and there are only minor changes proposed to the configuration of the deep soil setbacks to accommodate the proposed detailed building designs. |
| (j) Introduce an appropriate mix of land uses with retail at ground level on MacDonald Street, adjacent to McPherson Park and some commercial uses at the intersection of MacDonald Street and Mitchell Road. | The approved concept plan is consistent with this objective and there are no changes proposed to the approved uses or their locations within the development. |
| (k) Protect key panoramic views from Sydney Park to the CBD skyline and King Street ridge and east-west views throughout the neighbourhood to enhance visual permeability. | The existing view from the eastern knoll in Sydney Park is largely retained. There is some impact to the eastern edge but is deemed acceptable as discussed below. |

61. The principles in Table 2 are particularly relevant to the proposed development.

Table 2: Ashmore Neighbourhood Principles

| Principles | Comment |
|--|---|
| <p>1 Transition of Building Heights</p> <ul style="list-style-type: none"> Transition in height to conservation areas Street walls heights with upper-level setbacks to Mitchell Road Locate higher buildings around McPherson Park | <p>Street wall heights have been increased and upper-level setbacks reduced to accommodate the additional floor space to achieve the onsite affordable housing. An upper-level setback to Mitchell Road has been retained.</p> <p>The detailed design is to incorporate a change in materiality and finishes to delineate the approved street wall heights and break down the increased heights of the street wall elevations.</p> <p>Larger buildings are located around McPherson Park, consistent with the park room approach taken for the broader Ashmore Estate site.</p> |

| Principles | Comment |
|--|--|
| 2 Land Uses <ul style="list-style-type: none"> Predominantly residential Local shops and services Open spaces | There are no changes proposed to the approved uses or their locations within the development. |
| 3 Public Domain <ul style="list-style-type: none"> McPherson Park and Kooka Walk Water sensitive urban design Landscaped setbacks | <p>There are no changes proposed to the delivery of the public domain.</p> <p>There are minor changes proposed to the configuration of the deep soil setbacks to accommodate the proposed detailed building designs.</p> |

Section 3 – General Provisions

| Provision | Compliance | Comment |
|--|------------|--|
| 3.1 Public Domain Elements | Yes | There is no substantive changes proposed to the public domain area required to be delivered in accordance with VPA/2017/39. |
| 3.2. Defining the Public Domain | Yes | <p>A Public Art Master Plan has previously been approved for the broader site.</p> <p>The design and implementation of public art is a matter for the detailed development application.</p> |
| 3.3 Design Excellence and Competitive Design Processes | Yes | <p>In this instance competitive design processes have already been undertaken for both buildings F&I and buildings G&H, respectively and are eligible for up to 10% additional floor space pursuant to Clause 6.21D(3)(b) of the LEP.</p> <p>The potential additional floor space has been accommodated within the amended concept plan envelopes.</p> |
| 3.4 Hierarchy of Centres, City South | Yes | There are no changes proposed to the approved uses or their locations which remain consistent with the intended hierarchy of centres, noting Ashmore's role as a Local Village. |

| Provision | Compliance | Comment |
|---|----------------------|---|
| 3.5 Urban Ecology | Yes | There are no substantive changes to the proposed deep soil area. The approved landscape concept plans remain relevant. Deep soil landscaped areas will include canopy tree planting improving urban canopy and the urban ecology of area. |
| 3.6 Ecologically Sustainable Development | Capable of complying | This is a matter for the detailed development application. |
| 3.7 Water and Flood Management | Yes | <p>The site is flood affected. The relevant flood planning levels have been considered in the design of the proposed amended building envelopes, noting the established FPLs influence building height.</p> <p>The VPA requires installation of dual reticulation water reuse infrastructure within Kooka Walk.</p> |
| 3.8 Subdivision, Strata Subdivision and Consolidation | Yes | <p>Site consolidation was addressed by condition (3) of the approved concept consent.</p> <p>Further subdivision will occur to create the development blocks and land to be dedicated or transferred to Council as public domain areas (Kooka Walk, Alpha Street and footpath widening).</p> |
| 3.9 Heritage | Yes | <p>The site is adjacent to the Cooper Estate Heritage Conservation Area.</p> <p>The physical and visual separation afforded by Mitchell Road ensures that the proposed development would not adversely impact the heritage significance of the adjacent conservation area.</p> |
| 3.11 Transport and Parking | Yes | This is a matter for the detailed development application. |
| 3.12 Accessible Design | Yes | This is a matter for the detailed development application. |
| 3.14 Waste | Yes | This is a matter for the detailed development application. |

| Provision | Compliance | Comment |
|------------------------------------|------------|---|
| 3.15 Late Night Trading Management | Yes | This is a matter for the detailed development application or subsequent applications for the operation of the non-residential premises. |
| 3.16 Signage and Advertising | Yes | Addressed by condition (45) of the approved concept consent. |

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 | Acceptable | <p>The proposed building height in storeys has been increased and is inconsistent with figure 5.144 of the DCP due to the application of the in-fill affordable housing bonus under the Housing SEPP.</p> <p>The additional floor space required to achieve the on-site affordable housing has been distributed through the site responding to the design principles for the Ashmore Neighbourhood, addressed above, and the specific context of the site.</p> <p>This is assessed in detail in the discussion below.</p> |
| 4.2.2 Building setbacks | Yes | There are only minor changes to the approved ground floor level setbacks. Refer to discussion below. |
| 4.2.3 Amenity | | |
| 4.2.3.1 Solar access | Acceptable | <p><i>Solar access to proposed apartments</i></p> <p>Refer to ADG assessment above.</p> <p><i>Overshadowing to neighbouring dwellings</i></p> <p>Refer to discussion below.</p> |

| Provision | Compliance | Comment |
|--|----------------------|--|
| 4.2.3.3 Internal common areas | Capable of complying | This is a matter for the detailed development application. |
| 4.2.3.4 Design features to manage solar access | Capable of complying | This is a matter for the detailed development application. |
| 4.2.3.5 Landscaping | Capable of complying | This is a matter for the detailed development application. |
| 4.2.3.6 Deep Soil | Capable of complying | <p>There are no changes proposed to the site deep soil requirements as outlined in the approved landscape concept plan.</p> <p>There are minor changes proposed to the configuration of the deep soil setbacks to accommodate the proposed detailed building designs.</p> |
| 4.2.3.8 Common open space | Capable of complying | There are no changes to Conditions (21) <i>Communal Open Space</i> and (21A) <i>Communal Open Space and Green Roof</i> of the approved concept plan. The proposed amended building envelopes accommodate sufficient communal open space areas, with rooftop areas prioritised. |
| 4.2.3.9 Ventilation | Capable of complying | This is a matter for the detailed development application. |
| 4.2.3.10 Outlook | Capable of complying | This is a matter for the detailed development application. |
| 4.2.3.11 Acoustic privacy | Capable of complying | This is a matter for the detailed development application. |
| 4.2.3.12 Flexible housing and dwelling mix | Capable of complying | This is a matter for the detailed development application. |
| 4.2.4 Fine grain, architectural diversity and articulation | Capable of complying | This is a matter for the detailed development application. |
| 4.2.6 Waste and recycling Management | Capable of complying | This is a matter for the detailed development application. |

| Provision | Compliance | Comment |
|---|----------------------|--|
| 4.2.9 Non-residential development in the MU1 Mixed-Use zone | Capable of complying | This is a matter for the detailed development application. |

Section 5 – Specific Areas

| Provision | Compliance | Comment |
|--|----------------------|--|
| 5.5.3 Local infrastructure and public domain | | |
| 5.5.3.1 Street network | Yes | The proposed development is consistent with the planned street network which is being delivered under separate development consents. |
| 5.5.3.4 Public Open Space | Yes | The proposed development is consistent with the planned public open space network being delivered under separate development consents. |
| 5.5.4.1 Solar Access | Acceptable | <p>The amended concept envelopes will likely overshadow the public space located directly to the south of Building I. See discussion below.</p> <p>The amended concept envelopes will not have any impact on solar access to McPherson Park.</p> |
| 5.5.4.2 Quality of landscaping and landscaped setbacks | Capable of complying | This is a matter for the detailed development application. |
| 5.5.7 Land use mix | Yes | There are no changes proposed to the approved uses or their locations. |
| 5.5.8 Building Layout, form and design | Capable of complying | This is a matter for the detailed development application. |
| 5.5.8.1 Height of buildings | Acceptable | The provisions of SEPP Housing prevail. See discussion below. |
| 5.5.8.2 Views | Acceptable | The existing views from the eastern knoll in Sydney Park are largely retained. There is some impact to the eastern edge but is deemed acceptable. See discussion below. |

| Provision | Compliance | Comment |
|---|----------------------|--|
| 5.5.8.3 Dwelling type and location | Capable of complying | This is a matter for the detailed development application. |
| 5.5.8.4 Building form and design | Capable of complying | This is a matter for the detailed development application. |
| 5.5.8.5 Typical ground floor condition for residential flat buildings | Capable of complying | This is a matter for the detailed development application. |
| 5.5.8.6 Fences | Capable of complying | This is a matter for the detailed development application. |
| 5.5.8.7 Building Materials | Capable of complying | This is a matter for the detailed development application. |
| 5.5.9.1 Other development | Capable of complying | This is a matter for the detailed development application. |
| 5.5.10 Biodiversity | Capable of complying | Deep soil landscaped areas will include canopy tree planting improving urban canopy and the urban ecology of area. |

Discussion

Reference scheme

62. Ordinarily a reference scheme is submitted to demonstrate that the proposed concept plan can be appropriately developed. This requirement is met through the submission of the accompanying detailed development application (D/2025/405) and provides a more certain representation of the future detailed design as the detailed development application has been subject to design development and is the result of the competitive design processes.
63. The proposed detailed design demonstrates how the proposed amended building envelopes can be developed having regard to the relevant planning controls and the context of the site.

Design Advisory Panel advice

64. The development was referred to the City's Design Advisory Panel in August 2024 to explore the potential for the site to accommodate the proposed in-fill affordable housing bonus under Chapter 2 of SEPP (Housing) 2021.

65. This involved high level massing studies undertaken by the City and FJC (on behalf of the applicant) to assess the potential for the site to accommodate the proposed uplift, including an assessment of the likely amenity that could be achieved and the potential impacts to the surrounding areas. The Panel provided the following advice:
- The FJC scheme achieves a higher GFA because building separations are reduced, and ground floors have been lowered below PMF levels. The FJC scheme conceals lift overruns with two-storey maisonettes and includes communal open spaces on lower roof levels. Deep soil provisions remain unchanged. All modelling increases street wall height.
 - Coronation Property Co has committed to work with the City to progress the uplift scheme and will work with a community housing provider to develop a build-to-rent affordable housing product that will remain affordable in perpetuity. It is proposed that affordable housing provision will be concentrated into Block H for CHP management.
 - The Panel commended both the City and FJC on their explorations and fully supports the provision of affordable housing in perpetuity. However, it noted that street wall and building height increases were an unfortunate consequence of delivering more affordable housing. Increased building heights will impact city views from Sydney Park.
 - The Panel recommended mandating architectural treatments that align with the current street wall heights, as they better relate to neighbouring buildings.
 - The Panel also suggested that street section assessments be undertaken to inform good urban design outcomes in the uplift scheme. It also suggested mandating the planting of large street trees with dense canopies to counter street wall heights.
 - The Panel recommended that the City investigate ways to ensure the affordable housing component is prioritised, not staged last and put at risk of not being delivered.
66. The development was referred to the City's Design Advisory Panel in December 2024 to assess design development of the competitive design process winning schemes which involved amendments to the schemes to accommodate the proposed In-fill affordable housing bonus. In general, advice was provided regarding:
- improved solar access, including potential modifications to the built form
 - improved natural cross ventilation, including:
 - clarifications regarding road noise impacts
 - concerns regarding cross ventilation through narrower building gaps
 - street wall height expression to retain approved street wall height datums
 - building separation and apartment amenity
 - building scale and massing, including concerns regarding long sheer facades along Kooka Walk

- internal planning to reduce dog-leg corridors (Building H)
 - reliance on elevated bridges linking building forms
 - formation of a DAP sub-committee to inform the changes.
67. The development was referred to the City's Design Advisory Panel sub-committee in February 2025. The sub-committee generally provided advice on the detailed design of the building. Whilst this is less so relevant to the amending concept plan, relevant comments included:
- requirement for further articulation to the expression of the street wall heights for buildings F&I and G&H
 - provide an indent or splay at the southern end of the Building F courtyard to improve building separation
 - consolidate and expand the gaps between the buildings of building G to improve natural cross ventilation for corner apartments.

Floor space

68. Condition (8) *Gross Floor Area* of the approved concept plan apportioned the approved gross floor area across the 9 development blocks of the broader site.
69. As an approved concept plan, remaining in force for a site, the approved floor space as outlined in this condition is the base floor space for the consideration of the below bonuses. The amending concept application and detailed development application seek to apply the following provisions which would permit additional floor space.

Design excellence bonus

70. Clause 6.21D(3) of the LEP permits an additional floor space of up to 10%, at the discretion of the consent authority, for a development demonstrating design excellence. The approved concept plan requires a competitive design process to be undertaken for building F&I and buildings G&H, respectively. In this instance, the competitive design processes have already been undertaken.
71. The detailed development is therefore eligible for a potential design excellence bonus of up to 10% of the maximum permitted floor space. The potential additional floor space has been accommodated within the amended concept plan envelopes.

Affordable housing bonus

72. Section 16 of the Housing SEPP permits an additional floor space ratio of up to 30%, greater than the maximum permitted floor space ratio applying to the site, based on the minimum affordable housing component as calculated in accordance with the below equation

affordable housing component = additional floor space ratio (as a percentage) ÷ 2

for example, where a 15% affordable housing component is provided, an additional floor space ratio of 30% would be available.

73. The in-fill affordable housing practice note dated December 2023 confirms that bonuses, including site-specific or project specific bonuses, to development standards may be considered cumulatively. The affordable housing bonus is proposed to be applied in addition to any design excellence bonus.
74. The permitted gross floor areas, subject to the above bonuses, is calculated in Table 3 below:

Table 3: Calculation of total permitted gross floor area

| Development Block | Condition (8) GFA | Plus, up to 10% design excellence bonus | Plus, 30% Affordable Housing bonus | Total Permitted GFA |
|-------------------|-------------------|---|------------------------------------|---------------------|
| F | 24,962.50sqm | 27,458.75sqm | 35,696.34sqm | 91,126sqm |
| G | 18,941.00sqm | 20,835.10sqm | 27,085.63sqm | |
| H | 11,887.50sqm | 13,076.25sqm | 16,999.13sqm | |
| I | 7,933.50sqm | 8,726.85sqm | 11,344.90sqm | |

75. A maximum gross floor area of 91,126sqm is permitted for buildings F&I and G&H.
76. In order to address the site context, it is recommended that the total gross floor area be permitted across the four remaining development blocks (F, G, H, and I) rather than remaining apportioned. The application has demonstrated that the 30% bonus should not be accommodated proportionately across each block as site constraints dictate that some development blocks are not able to accommodate the quantum of additional floor spaces otherwise permitted, although can be redistributed appropriately to other development blocks where its potential impact would be less significant.
77. The development of the four remaining development blocks is to be considered under a single detailed development application to allow the consolidation of the affordable housing component within a single development block.
78. Condition (8) *Allocation of floor space* is recommended to be amended to reflect the above, subject to any subsequent detailed development application (for Buildings F&I and G&H) providing the corresponding provision of affordable housing (15%) in accordance with Chapter 2 of the Housing SEPP, in perpetuity in accordance with the PBO/VPA. The remaining residential GFA will also need to be utilised for Build-to-Rent housing as discussed elsewhere in this report.

Building height

79. Clause 4.3 of Sydney LEP 2012 specifies the height of buildings development standards applying to the land. The maximum height of buildings under this clause is 18m, 25m and 27m, as shown in Figure 19 below.



Figure 19: Extract from SLEP Height of buildings map

80. Section 16(3) of SEPP Housing 2021 permits additional height, equal to the amount of additional floor space achieved under Section 16(1) (expressed as a percentage).
81. As the calculations for the affordable housing bonus above assumes a 30% bonus, accordingly the height bonus is also 30%.
82. An assessment of the proposed development against the above development standard, including the 30% bonus is calculated in Table #6 below. The extent of the proposed height variations is included in the right most column.
83. Heights are generally measured to structures such as lift overruns or plant enclosures that typically are higher than the surrounding roof forms but are more discrete in scale.

Table 4: Assessment of the proposed height variation

| Building | LEP Height (m) | Plus, 30% affordable housing bonus (m) | Proposed (m) | Variation (m) | Variation (%) |
|----------|----------------|--|--------------|---------------|---------------|
| F01 | 27 | 35.1 | 43.8 | 8.7 | 24.79% |
| F01 | 25 | 32.5 | 43.8 | 11.3 | 34.77% |
| F02 | 27 | 35.1 | 44 | 8.9 | 25.36% |

| Building | LEP Height (m) | Plus, 30% affordable housing bonus (m) | Proposed (m) | Variation (m) | Variation (%) |
|----------|----------------|--|--------------|---------------|---------------|
| F02 | 25 | 32.5 | 44 | 11.5 | 35.38% |
| F03 | 25 | 32.5 | 32.3 | complies | |
| F03 | 18 | 23.4 | 32.3 | 8.9 | 38.03% |
| F04 | 18 | 23.4 | 32.3 | 8.9 | 38.03% |
| G01 | 27 | 35.1 | 30 | complies | |
| G02 | 25 | 32.5 | 42.28 | 9.78 | 30.09% |
| G03 | 25 | 32.5 | 39.6 | 7.1 | 21.85% |
| G03 | 27 | 35.1 | 39.6 | 4.5 | 12.82% |
| G04 | 25 | 32.5 | 38.68 | 6.18 | 19.02% |
| G05 | 25 | 32.5 | 27.08 | complies | |
| H01 | 25 | 32.5 | 37.27 | 4.77 | 14.68% |
| H02 | 25 | 32.5 | 37.27 | 4.77 | 14.68% |
| H03 | 25 | 32.5 | 25.42 | complies | |
| I01 | 25 | 32.5 | 38.3 | 5.5 | 16.92% |

84. The above variations are seen in the height plane diagram below.

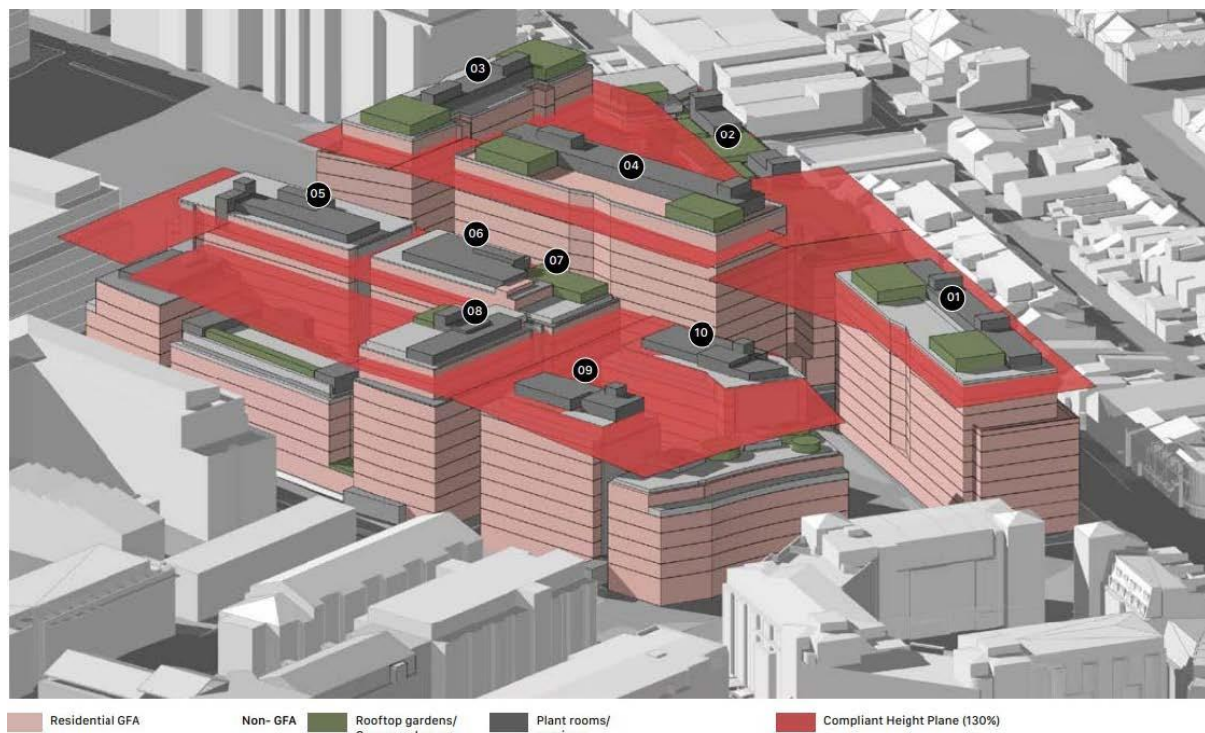


Figure 20: Proposed variations to the 130% height plane

85. In addition, Draft Sydney Local Environmental Plan 2012 (Policy and Housekeeping Amendments 2023) includes two proposed amendments relevant to the calculation of building height.

(a) LEP amendment 2 - Structures associated with green roofs

Additional miscellaneous provision allowing rooftop structures providing access to rooftop gardens or communal open spaces that, support social use of roof areas, to exceed the height of building shown for the land on the Height of Buildings Map.

(b) LEP amendment 8 - Design excellence processes

Amendment to Clause 6.21D(3) to permit the consent authority to award a bonus of up to 10 per cent additional building height **and** up to 10 per cent additional floor space to a building demonstrating design excellence when considering a development application resulting from a competitive process.

86. Whilst these amendments are not in force and therefore cannot be applied in the calculation of the proposed variations (Table 4 above), significant weight should be given to the improved numerical compliance should these provisions have been applied, as they are intended in the near future, when considering the Clause 4.6 written request to vary the height of building development standard below.
87. Application of LEP amendment 2, to exempt green and social roofs from the calculation, significantly reduces the extent of any variation. The exclusions would apply where the structures provide access to green roofs and rooftop communal open space to support social use of the roof space. Certain requirements would need to be met including the provision of landscaping and shade, reduction in urban heat island effect and limitation on any additional overshadowing that is more than minimal.

88. Application of LEP amendment 8, to apply the design excellence bonus to height, in addition to floor space, would reduce the extent of the variations as outlined in Table 5 below:

Table 5: Assessment of the proposed height variation with consideration to draft LEP amendment to apply the design excellence bonus

| Building | LEP Height | Plus, 30% affordable housing bonus & 10% design | Proposed | Variation (m) | Variation (%) |
|----------|------------|---|----------|---------------|---------------|
| F01 | 27 | 38.61 | 43.8 | 5.19 | 13.44% |
| F01 | 25 | 35.75 | 43.8 | 8.05 | 22.52% |
| F02 | 27 | 38.61 | 44 | 5.39 | 13.96% |
| F02 | 25 | 35.75 | 44 | 8.25 | 23.08% |
| F03 | 25 | 35.75 | 32.3 | complies | |
| F03 | 18 | 25.74 | 32.3 | 6.56 | 25.49% |
| F04 | 18 | 25.74 | 32.3 | 6.56 | 25.49% |
| G01 | 27 | 38.61 | 30 | complies | |
| G02 | 25 | 35.75 | 42.28 | 6.53 | 18.27% |
| G03 | 25 | 35.75 | 39.6 | 3.85 | 10.77% |
| G03 | 27 | 38.61 | 39.6 | 0.99 | 2.56% |
| G04 | 25 | 35.75 | 38.68 | 2.93 | 8.20% |
| G05 | 25 | 35.75 | 27.08 | complies | |
| H01 | 25 | 35.75 | 37.27 | 1.52 | 4.25% |
| H02 | 25 | 35.75 | 37.27 | 1.52 | 4.25% |
| H03 | 25 | 35.75 | 25.42 | complies | |

| Building | LEP Height | Plus, 30% affordable housing bonus & 10% design | Proposed | Variation (m) | Variation (%) |
|----------|------------|---|----------|---------------|---------------|
| I01 | 25 | 35.75 | 38.3 | 2.55 | 7.13% |

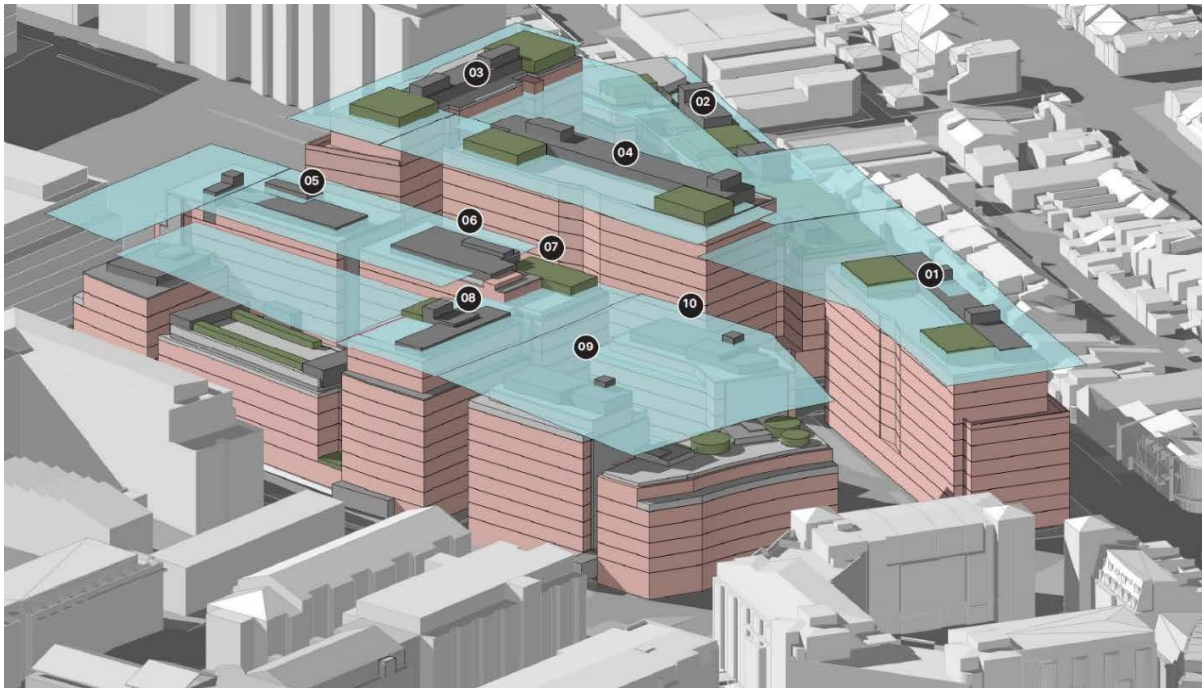


Figure 21: Proposed variations to the 130 + 10% height plane

89. Also of note, the In-fill Affordable Housing practice note dated December 2023 confirms Clause 4.6 remains applicable.

Clause 4.6 Request to Vary a Development Standard

90. As outlined above, the site is subject to a maximum height of buildings control of 25.74m, 35.75m and 38.61m being the height of buildings permitted under Clause 4.3 of the LEP, and the bonus height permitted under Section 16(3) of the Housing SEPP. The proposed development exceeds the maximum height controls as outlined in Table 4 above.
91. The request also addresses the non-discretionary development standard in Section 75(2)(a) of the Housing SEPP which requires build-to-rent housing to comply with the height of buildings development standard under another EPI. In this instance, this is the same standard as outlined in the paragraph above.

92. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (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)

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

compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

The written request demonstrates that compliance with the development standard is unreasonable or unnecessary because the proposed development is consistent with the objectives of the height of buildings development standard, notwithstanding the proposed variations. The applicant has demonstrated this with respect to the relevant objectives as outlined below. In addition, for completeness, the written request also addresses the relevant objectives of Chapter 2 of the Housing SEPP, being relevant to the 30% height bonus which is included within the calculation of the development standard, proposed to be varied.

Chapter 2 Affordable Housing of SEPP Housing 2021

15A The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

- (a) The written request addresses the objective of the affordable housing bonus under the Housing SEPP, demonstrating that the proposed development provides long-term affordable housing and is able to do so with high level of amenity. The proposed development exceeds the requirements of the SEPP offering the affordable housing in perpetuity as opposed to the SEPP's minimum 15-year requirement. The proposed height variation does not seek to exceed the density of development permitted in accordance with the site controls.

Achieving strict compliance with the height control would compromise or reduce the delivery of affordable housing which would be inconsistent with the objective of the part of the Policy which affords the bonus height.

Clause 4.3 Height of buildings of SLEP 2012

(1) The objectives of this clause are as follows—

- (a) *to ensure the height of development is appropriate to the condition of the site and its context,*
- (b) The written request identifies that the Ashmore Neighbourhood is undergoing significant change. The proposed development is compatible with the desired future character of the area and has been design in a way to maintain a transition in scale to the surrounding developments.

The majority of the variations are the result of structures such as lift overruns, rooftop plant areas, landscape planters and balustrading, and rooftop amenity structures, the majority of this would be exempt once the LEP amendment is in force.

There are discrete areas where floor space is located above the nominated height development standard. These are as a result of:

- *Flood planning level requirements* - further flood studies and flood planning undertaken since the drafting of the LEP height controls and approval of the concept plan have increased the flood planning levels for the site. Consequently, the ground levels of the buildings are required to be raised to comply with the City's Interim Flood Planning Requirements. Flood planning levels are approximately 1.5 to 2m above existing ground level throughout the site.
- *Floor-to-floor height requirements* - changes to the National Construction Code and introduction of the Building Practitioners Act 2020 since the drafting of the LEP height controls and approval of the concept plan have increased the floor-to-floor heights required to achieve compliant floor-to-ceiling heights.
- *Redistribution of massing* - the permitted floor space has been redistributed throughout the site to maximise the potential residential amenity that can be achieved, whilst lowering buildings in other areas to minimise any potential impacts. The redistribution also facilitates the delivery of the proposed affordable housing component within a single building (Building H) better meeting the operational requirements of the CHP.

The redistribution of the massing for blocks F01, F02 and F03 have shifted the envelope further inwards, resulting in an overlap to the step in the height control. Consequently, numerically, the larger extent of the variations occur at these steps, but the majority of the envelope remain compliant within the higher height control. The portion where the larger extent of the variation occurs are located inward of the site. These have minimal impact on the surrounding area and would be less so perceivable, ensuring a transition in scale to the surrounding area is achieved.

- *Provision of on-site affordable housing* - the redistribution of the permitted floor space as described above results in discrete areas where there is floor area within non-compliant areas of the development. This resulted from the careful consideration of the built form and the surrounding development so that there would be no substantive impacts. Should it be required to reduce the gross floor area to remove these non-compliances there would be a comparable reduction in the affordable housing delivered which is inconsistent with the intent of the Housing SEPP objectives and the intended outcome of the Public Benefit Offer.

- *Access to rooftop amenities* - each building is provided with rooftop communal open spaces in accordance with condition 21A of the approved concept plan. These rooftop areas consequently require equitable access and various structures to provide amenity. The detailed development application will address the design of roof top structures, however, generally these include low or semi-permeable structures such as landscaped planters, balustrading, shade structure or pergolas. The intent is that rooftop areas are set back from the edge of the roof and would appear recessive.
- *Allowance for plant and lift overruns* - the areas of greatest non-compliance are attributed to plant and lift overruns zones to accommodate the required building services. These areas do not include floor area and are discrete in location and scale.

The proposed massing is generally consistent with the objectives and principles of the Ashmore Neighbourhood DCP ensuring that a transition in scale to the surrounding areas is maintained. Taller buildings are sited internally on the site fronting Kooka Walk and McPherson Park, whilst building generally step down from north to south (for buildings G&H) and towards the eastern and western sides of the site.

The proposed massing is a consequence of the careful distribution of the applicable affordable housing and design excellence bonuses across the group of buildings.

The proposed development is therefore consistent with the objective, having regard also to the objective of Chapter 2 of the Housing SEPP.

- (b) *to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,*
- (c) The Coopers Estate Heritage Conservation Area is located adjacent to buildings F&I on the opposite side of Mitchell Road. The application is supported by a Heritage Impact Assessment. The proposed building envelopes are separated from the conservation area by the distance afforded by Mitchell Road itself, which includes mature street trees.

The proposed building envelopes, whilst higher, maintain adequate setbacks, including upper-level street wall setbacks to maintain separation to the conservation area. The future development would not diminish the existing contribution of the buildings within the conservation area to the streetscape.

The proposed development is therefore consistent with the objective.

- (c) *to promote the sharing of views outside Central Sydney,*
- (d) There are no view corridors within the Ashmore Neighbourhood identified in the LEP. Section 5.5.8.2 of the DCP identifies a view corridor from the eastern knoll of Sydney Park of the Sydney CBD skyline.

The site is visible within this view corridor. The potential extent of the impact is demonstrated in Figure 22 below.

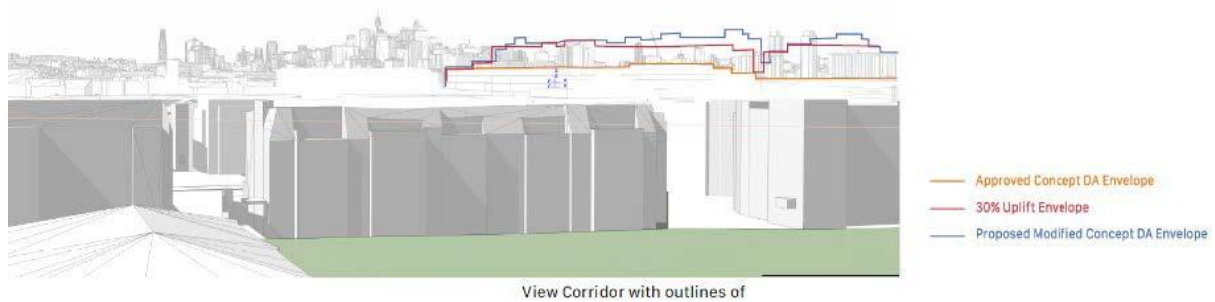


Figure 22: wireframe representation of the proposed building envelope indicating the potential view impact

The proposed variations would impact distant CBD skyline views towards the eastern edge of the skyline. The extent of impact is considered acceptable given;

- the primary view of the skyline is unimpeded
- the area of impact would obstruct only a portion of the view, being generally the eastern edge where less significant or iconic buildings are visible
- the part of the building causing the variation would be absorbed in the broader urban context
- the area of impact does not affect views to the sky and
- the area of impact is caused largely by compliant elements. The additional impact caused by the non-compliant elements has little material impact.

The sharing of views remains promoted through the retention of building separation achieved between buildings.

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

Not applicable

(e) *in respect of Green Square—...*

Not applicable

there are sufficient environmental planning grounds to justify contravention of the standard.

(i) *Delivery of onsite affordable housing*

The proposed variations enable the development to achieve the full extent of the design excellence and affordable housing floor space incentives. These provisions are intended to support the delivery of high-quality built form outcomes and increase the supply of housing, including affordable housing. Strict compliance with the height of buildings standards would constrain the development from accommodate the additional floor space required to achieve the on-site affordable housing component. The proposed variations enable the development to realise the maximum number of affordable housing dwellings within the planning framework.

(ii) *Draft LEP Amendments*

The proposed draft LEP amendments include two relevant amendments, relating to:

- application of the design excellence bonus to height (in addition to floor space in this instance); and
- encouragement of green and social roofs,

These amendments once in force would significantly reduce or eliminate the numerical non-compliance as outlined in Table 5 above.

The application of the design excellence bonus to height in addition to the originally selected floor space would better enable the additional floor space to be accommodated by proportionally allowing additional height. This minimises the impact to built forms where additional floor space is otherwise attempted to be accommodated within orderly constrained envelope, having a negative impact on the design intent and residential amenity.

The exemption of certain rooftop gardens, communal open space areas and ancillary access and structures, provided certain design and amenity criteria are satisfied, would encourage the provision of high-quality rooftop spaces that support social interaction and residential amenity. Notwithstanding, the potential impact on surrounding properties remains a relevant consideration.

The proposed development has been designed having regard to these proposed amendments and their intent.

(iii) *Redistribution of Massing and Built Form*

The proposed additional floor space has been redistributed across the site having regard to the site context. Areas where a larger variation occur are the result of massing being relocated so that other buildings remain lower, such as building G5 fronting Hadfields Street for example which remains well below the height control. Similarly, block H remains low to establish a better street interface to Coulson Street and prevent direct overshadowing directly to the south. The variations for block H comprise lift overruns and rooftop plant areas and are set back from the edges of the buildings.

Taller buildings are generally located towards the northern end of the site or centrally along Kooka Walk to minimise impact to the surrounding area. Areas of non-compliance are generally set back from the edge of the building, such as for buildings G2 and G3. The building separation achieved across Kooka Walk is some 26m and is better able to accommodate the increased building heights adjoining Kooka Walk.

There are some buildings within block F where habitable floor space is located within the non-compliant portion of the building. This is a result of the floor space redistribution and has been appropriately located to ensure that the additional massing does not have any adverse impacts on the surrounding area. Building F4 located on the western side of the block has also been set back further from Kooka Walk but consequently straddles a step in the height control. As a result, the extent of the more significant variation appears numerically more significant however only relates to the edge of the building past this step and not the whole of the building.

Similar to block G, taller buildings of block F are sited towards the north of the site or along Kooka Walk. The buildings towards the eastern side of block F to maintain a transition of scale to the lower height building on the opposite side of Mitchell Road.

Building I includes a very small area of habitable floor space located within the non-compliant portion of the building. The area of non-compliance is set back from the street wall with the plant and lift overrun set back further.

As described in the response to objective (a) above, structural elements of the building design have also contributed to height increases to respond to changes since the drafting of the LEP height controls and approval of the concept plan for the site. This relates to:

- Flood planning levels
- NCC floor-to-floor heights required to achieve floor-to-ceiling heights

(iv) *Residential Amenity*

The written request demonstrates that the proposed redistribution of floor space, and consequently height variations improve the potential amenity of the development and minimise amenity impact to the surrounding area. As described above, lower buildings within block G and H reduce overshadowing to surrounding apartments. Whilst the redistribution within block F improves internal solar access to the west facing apartments fronting Kooka Walk.

(v) *Overshadowing and privacy*

The written request demonstrates that there would be an absence of material impact on the amenity of the surrounding properties and public domain as a consequence of the proposed variations. The written request is accompanied by a detailed solar access assessment demonstrating the potential impact of the amended building envelopes. The assessment demonstrates that levels of solar access consistent with the relevant ADG objectives and DCP provisions would be maintained for the surrounding dwellings, located within:

- Coopers Estate conservation area (Mitchell Road and Belmont Street)

- Coulson Street (Sydney Park Village)
- Hadfields Street (Onea)

This is assessed in detail in the accompanying detailed development application demonstrating that the proposed amended envelopes are capable of building developed.

(vi) *Views*

The written request demonstrates that there would be an absence of material impact on the amenity of the surrounding properties and public domain as a consequence of the proposed variations.

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

94. 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)?

95. The written request has demonstrated that the proposed development is consistent with the objectives of the height of buildings development standard notwithstanding the non-compliance with the numerical standard. As such, to the extent of the variation proposed, compliance with the development standard is unreasonable and unnecessary.

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

96. The written request has demonstrated that there are sufficient environmental planning grounds that are specific to the circumstances of the variations to justify the non-compliance with the height of buildings development standard.
97. In this instance, the elements of non-compliance are appropriate within the context of the new planning controls, which have been applied having regard to the suitability of the site and the surrounds to accommodate this additional uplift. The variations to the development standard allow the maximum permitted floor space to be distributed throughout the site in a more contextually appropriate way, minimising the impacts on surrounding properties.
98. The variations support the ability for the future development to achieve reasonable levels of residential amenity whilst retaining the residential amenity of the surrounding dwellings. Achieving the maximum permitted floor space secures the provision of additional diverse and affordable housing options, meeting the housing needs of the community.
99. The written request has therefore demonstrated that there are sufficient environmental planning grounds to support the extent of the variation proposed.

Conclusion

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

101. The recommended approved height is captured in amended building envelopes plans to be included in Condition (1) *Approved Plans* of the recommended conditions of consent at Attachment A.
102. As with the approach taken for floor space, reliance on the building envelopes captured by Condition (1)(b) is subject to any subsequent detailed development application (for buildings F&I and G&H) providing the corresponding provision of affordable housing (15%) in accordance with Chapter 2 of the Housing SEPP, in perpetuity in accordance with the PBO/VPA. The remaining residential floor area will also need to be utilised for build-to-rent housing as discussed elsewhere in this report.

Apartment Design Guide

Building Separation and Visual Privacy

103. Objective 2F and 3F of the Apartment Design Guide provide design guidance specifying the building separation distance required to be achieved to ensure sufficient privacy measures. The proposed building envelopes may give rise to non-compliances subject to the internal layout of the proposed detailed design. This may occur towards the southern ends of the courtyard of building F and between building forms within buildings G and H.
104. An amendment to Condition (11) *Detailed Design of Buildings* is recommended requiring the internal layout of the buildings to locate habitable rooms, non-habitable rooms, and blank walls to minimise non-compliances with the building separation and visual privacy design criteria, and where non-compliances occur, provided adequate privacy measures to achieve the ADG Objectives.

Solar Access

105. The design criteria in Objective 4A-1 of the ADG recommends that the living areas and private open spaces of at least 70% of apartments receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in midwinter. A maximum of 15% of apartments in a building should receive no direct sunlight during the same period.
106. The proposed concept building envelopes have been developed to maximise the potential solar access that can be achieved for the future apartments. The additional floor space has been distributed having consideration to internal overshadowing, and setbacks have been increased to maximise solar access.
107. The detailed development demonstrates that the proposed building envelopes can achieve a reasonable level of amenity, albeit would result in a variation to the design criteria of around 10%. This is considered in detail in the accompanying assessment report, however, in summary the variation is considered acceptable having regard to Section 75 of the Housing SEPP, which requires flexibility to be considered, and the provision of the on-site affordable housing component.

Solar access to surrounding development (ADG and DCP assessment)

108. The potential overshadowing impacts to surrounding dwellings is considered below having regard to the ADG objectives or DCP provisions as relevant to the building typology of the dwellings potentially being impacted.
109. The proposed amended building envelopes have the potential to overshadow surrounding properties within:
 - Coopers Estate conservation area (Mitchell Road and Belmont Street)

- Coulson Street (Sydney Park Village)
 - Hadfields Street (Onea)
110. The accompanying detailed development application demonstrates that the proposed amended building envelopes can be developed whilst ensuring that any additional overshadowing to surrounding properties remains compliant with the relevant ADG objective and DCP provisions.
111. The additional massing has been redistributed to minimise impacts on properties that would otherwise be unduly overshadowed.

Natural cross ventilation

112. The design criteria in Objective 4B-3 of the ADG recommends that at least 60% of apartments are naturally cross ventilated in the first nine storeys of a building.
113. The detailed development demonstrates that the proposed building envelopes can achieve a reasonable level of amenity, albeit would result in a variation to the design criteria of around 10%. This is considered in detail in the accompanying assessment report, however, in summary the variation is considered acceptable having regard to Section 75 of the Housing SEPP, which requires flexibility to be considered, and the provision of the on-site affordable housing component.

Sydney Development Control Plan 2012

Distribution of massing

114. The proposed additional floor space afforded by the design excellence bonus and affordable housing bonus has not been distributed evenly across the site as this would result in poorer internal amenity and additional amenity impacts to surrounding properties. The additional floor space has been redistributed, primarily siting taller building towards the northern end of the site fronting McPherson Park or centrally along Kooka Walk. Subsequently, building heights were able to be reduced towards the edges of the site to assist in providing a transition in scale to the surrounding areas.

Height in storeys

115. It would not be possible to accommodate the additional floor space whilst maintaining compliance with the DCP height in storeys controls as originally drafted for the Ashmore Neighbourhood or the approved concept plan itself.
116. To the extent of any inconsistency, the provisions of a State environmental planning policy, which provided the affordable housing bonus, prevail over those of a local environmental planning policy, and consequently a DCP.
117. As described above, the amended concept plan distributes the additional massing (additional storeys) throughout the site to respond to the context of the site and would have an acceptable impact on the character of the area and the amenity of the streets and surrounding residential areas.
118. In addition, the potential impact of the increased building heights has been assessed in detail in response to the submitted Clause 4.6 written request above.

Street frontage height in storeys

119. Deferred commencement condition (2) *Design Modifications* of the approved concept plan required amendments to introduce or reinforce street wall heights. These amendments are now reflected in the approved concept plan drawings.
120. The proposed amendments to the approved concept plans increase the street wall heights as outlined in Table 6 below.

Table 6: Street wall heights

| Location | Approved Height | Proposed Height |
|-------------------------------|-----------------|-----------------|
| Building F - Macdonald Street | 7-storey | 7- 9-storey |
| Building F - Mitchell Road | 4- 3-Storey | 4- 7-storey |
| Building F - Kooka Walk | 7- 5-storey | 11-storey |
| Building I - Mitchell Road | 4-storey | 6-storey |
| Building I - Kooka Walk | 5-storey | 10-storey |
| Building G - Macdonald Street | 6-storey | 6- 9-storey |
| Building G - Kooka Walk | 7- 5-storey | 11-storey |
| Building G&H - Nausea Ln | 4-storey | 9- 10-storey |
| Building H - Kooka Walk | 5-storey | 6-storey |
| Building G - Hadfields Street | 4-storey | 6- 8-storey |

121. Condition (11) *Detailed Design of Buildings* is recommended to be amended to incorporate additional particulars to require the detailed design of buildings F&I and G&H to ensure that the approved street wall heights are reflected in the architecture of the buildings through a change in materiality and finishes.

Above street wall setbacks

122. Deferred commencement condition (2) *Design Modifications* of the approved concept plan required amendments to introduce or reinforce street wall heights. These amendments are now reflected in the approved concept plan drawings.
123. The proposed amendments to the approved concept plan in part delete above street wall setbacks in the following locations
- (a) Building F&I - along the western edge to Kooka Walk.

- (b) Building G&H - along the eastern edge to Kooka Walk
 - (c) Building H2 - along the western edge to Hadfields Street
124. As above, where above street wall setbacks are proposed to be deleted or modified, it is recommended that a change in materiality and finishes be applied to break down the perceived height.
125. The City's Design Advisory Panel and sub-committee provided advice on the street wall setback and materiality treatments at each meeting.
126. As above, Condition (11) *Detailed Design of Buildings* is recommended to be amended to address this design solution.

Ground level street setbacks

127. The approved ground level street setback of 3m is proposed to be deleted along Mitchell Road for the portion of the building proposed to be utilised for an active frontage (retail premises) as indicated in the detailed development application.
128. This is acceptable as it reduces the extent of residential uses at ground level, noting the dwellings in this location are subject to road noise, and provides an active frontage, in part mirroring the retail uses on the opposite side of the Mitchell Road.
129. The minor reduction in landscaping is considered negligible in the context of the broader site as the relevant deep soil and landscaping controls can be met as demonstrated by the detailed development application.

Public Domain

Solar access

130. Section 5.5.4.1 of the DCP states that new development must ensure that it provides a minimum of 3 hours of direct sunlight between 11 am and 2 pm in midwinter to the public space (within the Sydney Park Village development) at the southwestern corner of the Mitchell Road and Coulson Street intersection.
131. The amended building envelopes have the potential to overshadow the public open. The reference scheme (detailed DA) demonstrates that the potential overshadowing is limited and is acceptable.

Sydney Park view corridor

132. Section 5.5.8.2 of the DCP establishes a protected view corridor from Sydney Park. The view, enjoyed from the eastern knoll in Sydney Park, known as view corridor A as described in the DCP, covers the extent of the CBD high rise towers from Darlinghurst in the east to Barangaroo in the west.



Figure 23: existing view from the eastern knoll within Sydney Park

133. The proposed amended buildings envelopes would partly impact distant CBD skyline views toward the eastern edge of the skyline. As outlined above with respect to the Clause 4.6 written request, the impact is considered acceptable. The extent of impact is limited in the context of the overall view and is largely caused by compliant elements arising from the bonus height allowed under the Housing SEPP.

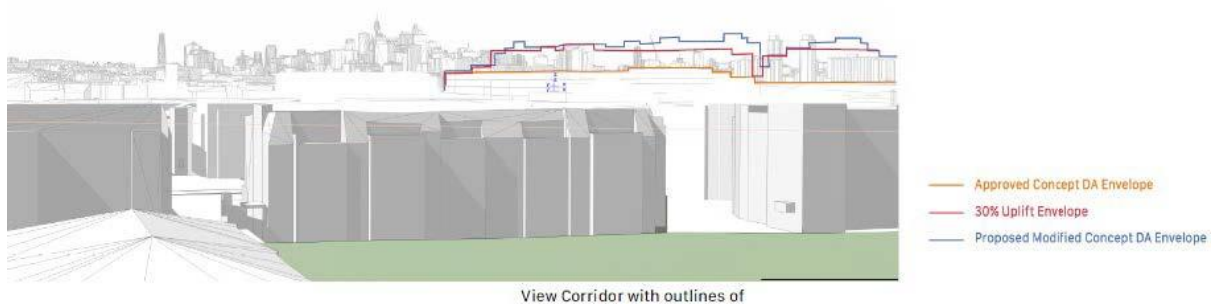


Figure 24: wireframe representation of the proposed building envelope indicating the potential view impact

Vehicle Access Locations

134. There are no changes proposed to the approved vehicle access locations which remain generally in accordance with Figure 5.1.1 *Ashmore Circulation and Access* of the DCP. Vehicle access remains prohibited from MacDonald Street and Kooka Walk.

Consultation

Internal Referrals

135. The application was discussed with:

- (a) Environmental Health
- (b) Heritage and Urban Design
- (c) Public Domain
- (d) Transport and Access
- (e) Tree Management
- (f) Waste Management

136. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Recommended Conditions of Consent.

External Referrals

Ausgrid

137. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
138. Comments were received on 26 June 2025 confirming no objection to the proposed development.

Sydney Airport & Flysafe

139. The site is located within an area defined in the Schedules of the Civil Aviation (Building Control) Regulations 1988 which limits the height of structures to 15.24m above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority (CASA).

Buildings G, H and I

140. The proposed development seeks a maximum height of RL 50 (AHD) for buildings G, H and I, being above 15.24m AEGH and therefore approval is required.
141. The Airfield Spatial & Technical Planning Manager at Sydney Airports as an authorised person of the CASA confirmed that no objection was raised.

Building F

142. In addition to the above, 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.
143. A prescribed airspace includes the airspace above any part of an Obstacle Limitation Surface (OLS). The OLS relevant to the site is RL 51 (AHD). Building F is a maximum height of RL 51.35 and exceeds RL 51 by 350mm.

144. Sydney Airports referred the application to the Secretary of the Department of Infrastructure Transport, Cities and Regional Development (Cth) under Regulation 11(2) of the Airports (Protection of Airspace) Regulations 1996.
145. Flysafe are yet to provide approval. As outlined in the recommendations of this report, it is recommended that the application be delegated to the CEO for approval following receipt of the appropriate approval.

Sydney Water

146. Pursuant to Section 78 of the Sydney Water Act 1994, the application was referred to Sydney Water for comment.
147. Comments were received on 3 July 2025 confirming no objection to the proposed development.

Transport for NSW

148. Pursuant to Section 2.122 *Traffic Generating Development* of the SEPP (Transport and infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for comment.
149. Comments were received on 1 July 2025 confirming no objection to the proposed development.

Advertising and Notification

150. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 5 June 2025 and 4 July 2025. A total of 2259 properties were notified and 75 submissions were received, including:
 - (a) 74 submissions in objection
 - (b) 1 submission in support
151. The submissions raised the following issues:

Planning Policy / Process

- (a) **Issue:** Objection to the retrospective application of Housing SEPP bonus and design excellence provisions to increase the scale of the development.

Response: The application of the Housing SEPP bonus has been addressed in this report. The introduction of new development controls to encourage the delivery of affordable housing means that new and existing developments are eligible for additional floor space and height provided this public benefit is provided.

The proposed changes to the LEP to permit the design excellence bonus to apply to floor space and height have been considered in the context of the draft amendments and the associated variations to the maximum permitted building height are addressed by a Clause 4.6 written request.

- (b) **Issue:** Request for more meaningful engagement and consultation with the community on these changes.

Response: The proposed development and accompanying detailed development application were notified in accordance with the City's Public Participation Plan 2022.

- (c) **Issue:** View that the affordable housing requirements are inadequate to justify the increased building height.

Response: The required affordable housing component is to be provided to obtain the applicable bonuses. In addition, the Public Benefit Offer offers the affordable housing component in perpetuity as opposed to the ordinary 15-year requirement under the Housing SEPP. This is considered to be a significant public benefit, notwithstanding the potential impact of the increased building heights has been carefully considered and is acceptable in the circumstances.

- (d) **Issue:** The potential public benefits do not outweigh the likely impact on the community.

Response: As above, the likely impact of the development has been considered acceptable having regard to the acceptability of those potential impacts and the significant public benefit that is otherwise provided.

Built form, massing and scale

- (e) **Issue:** Objection to proposed 11-storey height, which exceeds the maximum established 6-8 storey character of Erskineville.

Response: The increased building heights relate to the additional floor space permitted under the Housing SEPP. The distribution of the additional massing seeks to minimise the impact to the surrounding area and generally steps down towards the edges of the site.

- (f) **Issue:** View that the development should remain consistent with the previously approved concept plans for the Ashmore Estate.

Response: The approved concept plan is sought to be amended to reflect the changes to the planning controls which permits additional height and floor space for certain developments which were not available when the concept plan was originally approved.

- (g) **Issue:** Inadequate height transitions between the proposed development and surrounding mid- and lower-scale developments.

Response: Upper-level setbacks have been retained, albeit street wall heights have increased to accommodate the additional floor space. A condition is recommended to require the detailed design to address the expression of the approved street wall heights to assist in visually breaking down the perceived scale of the development.

- (h) **Issue:** The previously required step down to Mitchell Road has been lost and should be reinstated

Response: As above, upper-level setbacks have been retained, albeit street wall heights have increased. The proposed amended building envelopes maintain a reasonable transition in scale to the adjoining area.

- (i) **Issue:** Approval would set an undesirable precedent for further high-rise development within the Erskineville area.

Response: Each development is to be assessed on its merits.

Neighbourhood character and amenity

- (j) **Issue:** Incompatible with Erskineville's "village feel" and human-scale streetscapes.

Response: The proposed development is consistent with the desired future character of the Ashmore Neighbourhood. The retail offering meets the intended function of the site as local village.

The design of the detailed development is required to address the presentation to the streetscape and is to maintain a human-scale through articulation of the building massing and the design of the facades.

- (k) **Issue:** Incompatible with the neighbouring heritage conservation area and heritage buildings.

Response: The building separation afforded by Mitchell Road was considered sufficient to ensure that the proposed development would not adversely affect the heritage significance of the conservation area.

Build-to-rent model and affordable housing

- (l) **Issue:** Criticism of the build-to-rent model, suggesting it fosters transient populations and weakens community ties.

Response: The proposed build-to-rent housing will provide additional diverse housing options and is permitted under the provisions of the Housing SEPP, being a State planning policy.

- (m) **Issue:** The proposed dwelling mix lacks family-sized apartment (3+ bedrooms) and provides a high proportion of studio and 1-bedroom apartments.

Response: The proposed dwelling mix is a matter for the detailed development application.

- (n) **Issue:** Scepticism of the genuine affordability of the proposed housing.

Response: The proposed affordable housing is to be managed by a community housing provider and is to be offered at a discounted rental rate in accordance with the provisions of the Housing SEPP.

Potential amenity impacts

- (o) **Issue:** The development would cause overshadowing and loss of daylight to surrounding dwellings and their gardens, and streets.

Response: The proposed amended building envelopes would cause some additional overshadowing to surrounding properties and the public domain, however, is generally acceptable having regard to the objectives of the ADG and DCP as they relate to the varying building typologies or specific provision relating to public domain areas. The detailed development application demonstrates that the proposed amended building envelope can be developed whilst ensuring that any additional overshadowing would not have an unacceptable impact on the amenity of the surrounding area.

- (p) **Issue:** The privacy of surrounding dwellings would be impacted by overlooking from proposed balconies and windows, particularly from the upper levels.

Response: This is generally a matter for the detailed design, however, adequate building separation to surrounding development to ensure that a reasonable level of privacy is maintained.

- (q) **Issue:** Concern the proposed development would cause noise impacts, affecting the quiet enjoyment of the area.

Response: All servicing is to be undertaken onsite within the enclosed loading docks. The use of rooftop communal open spaces and private open spaces is unlikely to have an undue impact on the surrounding area. It is unlikely that there would be a discernible increase in traffic noise associated with the development noting Mitchell Road is classified as a busy road within the meaning of the Transport and Infrastructure SEPP.

Transport, traffic and parking

- (r) **Issue:** Increased vehicle movements from residential, retail, servicing vehicles.

Response: Transport for NSW and the City's Access and Transport Unit were satisfied the proposed development would have an acceptable impact on the surrounding road network.

- (s) **Issue:** Existing traffic congestion on Mitchell Road and surrounding street will be worsened.

Response: As above. The approved signalisation of the Mitchell Road, MacDonald Street and Maddox Street intersection will marginally improve traffic flow along Mitchell Road.

- (t) **Issue:** Inadequate on-site parking provision.

Response: This is a matter for the detailed development application. On-site parking is to be provided in accordance with the maximum permitted parking rates.

- (u) **Issue:** Existing public transport services, particularly buses are at capacity during peak hours.

Response: The City's Access and Transport Unit continuously engage with the State government to improve public transport services to meet the changing and growing transport demands at a regional and local level.

Infrastructure, services and amenities

- (v) **Issue:** No new infrastructure proposed to support increased population.

Response: The development of the broader site includes new public open spaces. The proposed development includes additional retail premises, which may be used for other services such as medical, and a full-line supermarket which will service the needs of the broader local community.

- (w) **Issue:** Lack of associated planning for additional education, childcare, healthcare, open spaces and community facilities to support the population growth.

Response: The proposed development includes the delivery of substantial new public open spaces. A previous stage of the development also delivered a child care centre. The provision of additional education facilities is a matter for the State government. The provision of additional health services is a matter for the State government. Additional GP and allied health services would also respond to market demand.

Environmental and sustainability impacts

- (x) **Issue:** The proposed development has minimal tree canopy and deep soil zones, contributing to urban heat island and microclimate effects.

Response: There is no change to the deep soil requirements under the approved landscape concept plans.

- (y) **Issue:** Existing solar panels would be overshadowed reducing efficiency, increasing reliance on fossil fuels, and impacting cost recovery of the infrastructure.

Response: Regrettably, there would be some overshadowing to existing solar panels, however, the potential impact is consistent with section 4.1.3.2 of the DCP which provides guidance on this situation.

Financial Contributions**Contribution under Section 7.11 of the EP&A Act 1979**

152. The City of Sydney Development Contributions Plan 2015 applies to the site. The detailed development application is subject to a Section 7.11 local infrastructure contribution under this Plan.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

153. The City's Affordable Housing Program 2023 applies to the site. The detailed development application is subject to a Section 7.13 contribution for the purpose of affordable housing.

Housing and Productivity Contribution

154. The Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024 applies to the site. The detailed development application is subject to a Housing and Productivity Contribution.

Relevant Legislation

155. Environmental Planning and Assessment Act 1979.

Conclusion

156. The development application seeks to amend the approved concept plan (D/2015/966) to accommodate the affordable housing bonus afforded under the Housing SEPP. The proposed amended concept plans facilitate the delivery of 13,668.68sqm floor space to be used for on-site affordable housing (approximately 169 dwellings) in perpetuity.
157. The matters for consideration as outlined in Section 4.15(1) of the Act have been satisfied. The proposed development is permitted with the MU1 Mixed-Use zone and the E1 Local Centre zone, respectively, and is consistent with the objectives of the zones.
158. The written request made pursuant to Clause 4.6 of the LEP to vary the height of buildings development standard is considered to be well founded. The written request demonstrates that strict compliance with the development standard is unreasonable or unnecessary because the proposed development would be consistent with the objectives of the height of buildings development standard, and there are sufficient environmental planning grounds to justify the variation in the specific circumstances.
159. The proposed amended buildings envelopes are capable of accommodating detailed building designs that will achieve a reasonable level of amenity, are of an appropriate form, massing and scale, having regard to the provisions of the Housing SEPP, and are capable of achieving design excellence subject to competitive design processes. This is demonstrated by the accompanying detailed development application (D/2025/405).
160. The Public Benefit Offer received and accepted by the City will inform a draft VPA associated with the application. The draft VPA will undergo a 28-day public exhibition period in accordance with the requirements of Section 7.5 of the Environmental Planning and Assessment Act 1979. A deferred commencement condition is recommended to enable the VPA to be drafted, executed and registered on title.

161. For these reasons it is recommended that authority be delegated to the Chief Executive Officer (CEO) to determine the application:
- following the conclusion of the public exhibition of the draft Voluntary Planning Agreement (VPA/2025/7), and consideration of any public submissions received in response; and
 - subject to receipt of an approval from Federal Department of Infrastructure and Regional Development, Airspace Protection, Aviation and Airports, pursuant to the Airports (Protection of Airspace) Regulations 1996 and clause 7.16 of the Sydney Local Environmental Plan 2012.
162. It is recommended that the CEO consider granting deferred commencement development consent subject to the recommended conditions requiring the VPA to be executed and registered on title prior to the consent becoming operative.

GRAHAM JAHN AM

Chief Planner / Executive Director City Planning, Development and Transport

Michael Stephens, Senior Planner