

Item 6.**Development Application: 155 Mitchell Road, Erskineville - D/2025/405****File Number: D/2025/405****Summary**

Date of Submission:	22 May 2025
Applicant:	Coronation Property Co Pty Ltd
Architect/Designer:	Bates Smart and BVN
Developer:	Coronation Property Co Pty Ltd
Owner:	Erskineville Developments Pty Ltd
Planning Consultant:	Urbis
Heritage Consultant:	GBA Heritage
DAP:	Pre-lodgement Advice - 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 for the detailed design of buildings F&I and G&H of the Ashmore Estate as defined by the accompanying concept development application (D/2025/448). The proposed development is a mixed-use development comprises 1075 apartments and includes:</p> <ul style="list-style-type: none">• construction of a 7-13 storey mixed-use building comprising ground floor level commercial premise including a supermarket and retail premise, and shop top housing (build-to-rent) (known as building F),

- construction of an 11-storey residential flat building (build-to-rent) with rooftop communal open spaces (known as building I),
- fit out of two levels of basement parking (buildings F&I) containing 345 car parking spaces, bicycle parking, storage and end-of-trip facilities,
- construction of a 6-11 storey residential flat building (build-to-rent) with rooftop communal open spaces (known as building G),
- construction of a 7-9 storey residential flat building (affordable housing in perpetuity) with rooftop communal open spaces (known as building H),
- fit out of two levels of basement parking (buildings G&H) containing 144 car parking spaces, bicycle parking, storage and end-of-trip facilities; and
- site landscaping and public art.
- The construction of Kooka Walk south and Alpha Street, which are located within the site, are the subject of a separate development application.

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.

The proposed development requires amendment to the approved concept consent (D/2015/966/I), which is sought under the accompanying amending concept application (D/2025/448) and is reported concurrently to the CSPC for determination.

The proposed development seeks to apply the In-fill affordable housing bonuses under Chapter 2 of SEPP (Housing) 2021 which permits an additional 30% gross floor area and height.

The accompanying amending concept application (D/2025/448) includes a public benefit offer (PBO) for the construction and ongoing operation of the on-site affordable housing in perpetuity, to be managed by a Tier-1 community housing provider - Evolve Housing.

The approved concept consent (D/2015/966/I), sought to be amended by D/2025/448, is subject to a voluntary planning agreement (VPA/2015/39) for infrastructure including, relevant to these Phases, construction and dedication of Kooka Walk south including extension of the Ashmore Precinct trunk drain, Alpha Street, and footpath widening on Hadfield Street. There is no change to these deliverables.

The application is integrated development, requiring an approval from Water NSW under sections 89 and 90(2) of the Water Management Act 2000. Water NSW provided general terms of approval on 10 September 2025.

As an Integrated Development Application, the application was notified and advertised for a period of 28 days between 5 June 2025 and 4 July 2025. 116 submissions were received.

The proposed development is the subject of two 'competitive design alternative processes' albeit undertaken prior to the amendment to apply the in-fill affordable housing provisions. Notwithstanding, the proposed development retains the winning architects and their schemes and has satisfactorily addressed the recommendations of the design juries and therefore should be eligible for the design excellence bonus afforded under Clause 6.21D(3) of the SLEP 2012.

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

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) Water Management Act 2000
- (iv) Sydney Water Act 1994 and Sydney Water Regulation 2017
- (v) Sydney Airport Referrals Act 1996
- (vi) Airports Act 1996 (Cth) and Civil Aviation (Building Control) 1988
- (vii) Draft Sydney Local Environmental Plan 2012 (Planning Proposal - Policy and Housing Keeping Amendments 2023)

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

Attachments:

- (A) Recommended Conditions of Consent
- (B) Selected Architectural Plans
- (C) Clause 4.6 Variation Request - Height of Buildings
- (D) Clause 4.6 Variation Request - Floor to Ceiling
Heights
- (E) Submissions

Recommendation

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer (CEO) to determine the application following:
 - (i) 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
 - (ii) 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; and
- (B) the Chief Executive Officer 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. In doing so:
 - (i) the consent only be granted following the granting of development consent to D/2025/448 to amend the approved concept plan (D/2015/966);
 - (ii) 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;
 - (iii) the variation requested to ADG Objective 4C-3 'Ceiling heights' development standard be upheld in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
 - (iv) the design excellence bonus permitted under Clause 6.21D of the Sydney Local Environmental Plan 2012 be awarded.

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 at the time of determining this application, the Committee is satisfied that:
 - (i) the applicant's written requests relating to the maximum height of buildings and ceiling heights development standards 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 by the recommended conditions of consent.
- (D) The proposed development will provide 169 stand-alone on-site affordable housing dwellings in perpetuity.
- (E) The proposed development demonstrates design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21C of the Sydney Local Environmental Plan 2012.
- (F) The proposed development is consistent with the design outcomes of the winning schemes of the competitive design alternatives processes for the site, held in accordance with the City of Sydney Competitive Design Policy.
- (G) The proposed development has a form, bulk and massing that is suitable for the site and its context, and is appropriate in the setting of the 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 an approved concept plan (D/2015/966), sought to be amended concurrently. 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 Hadfields 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, 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 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/2025/448** – A development application was lodged on 3 June 2025 to amend the approved concept plan (D/2015/966) relating to buildings F&I and G&H only, to convert the residential component to build-to-rent and to provide affordable housing, and modify building envelopes. 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 or determined by the CSPC.
9. The applicant's lodgement of this development application with the City has enable a favourable voluntary planning agreement to be negotiated that secures the affordable housing component **in perpetuity** 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 plans and supporting documentation to resolves issues regarding architectural expression, residential amenity, dwelling mix, landscaping, waste management, car parking and vehicle access, and stormwater management.
 - (d) Resolve the design of Alpha Street and vehicle access arrangement
 - (e) Respond to submissions
 - (f) Revised digital models
14. The applicant responded to the request on 15 September 2025 submitted amended plans and revised supporting documentation. Additional supporting documentation was received between 16 September 2025 and 3 October 2025

Proposed Development

15. The application seeks consent for the following:

Building F&I

- Construction of a mixed-use development comprising:
 - Building F - a mixed-use building
 - 5,195sqm ground floor retail (use and fitout subject to separate applications) including:
 - a full-line supermarket
 - four retail premises
 - 411 shop-top housing build-to-rent apartments
 - Building I - a residential flat building
 - 161 shop-top housing built-to-rent apartments
 - Shared internal common spaces and facilities and above podium and rooftop communal open spaces for use of all residents.
 - Gym and swimming pool
 - Outdoor dining areas and passive recreation areas
 - Lounge areas and indoor dining areas/rooms
 - Co-working spaces
 - Music rooms
- Shared basement providing 249 residential car parking spaces, 96 retail car parking spaces, residential bicycle parking, end-of-trip facilities, waste management, storage and plant.

Buildings G&H

- Construction of residential flat buildings
 - Building G - a residential flat building
 - 334 built-to-rent apartments
 - Internal common spaces and facilities and rooftop communal open spaces for use of all residents, including:
 - Gym and swimming pool
 - Outdoor dining areas and passive recreation areas

- Lounge areas and indoor dining areas/rooms
- Co-working spaces
- Music practice rooms
- Building H - a residential flat building
 - 169 affordable housing apartments (Chapter 2 of Housing SEPP)
 - 30 x studios
 - 46 x one-bedroom apartments
 - 90 x two-bedroom apartments
 - 3 x three-bedroom apartment (or 11 including dual key apartments)
 - Rooftop communal open spaces
- A shared basement providing 144 car parking spaces, bicycle parking, waste management, storage and plant.
- Construction of a publicly accessible through site link extending the Nassau Lane alignments through the site connecting to Kooka Walk to the east at the intersection with Alpha Street (future road).

16. Photo montages of the proposed development are provided below.



Figure 12: Proposed photomontages - buildings F&I

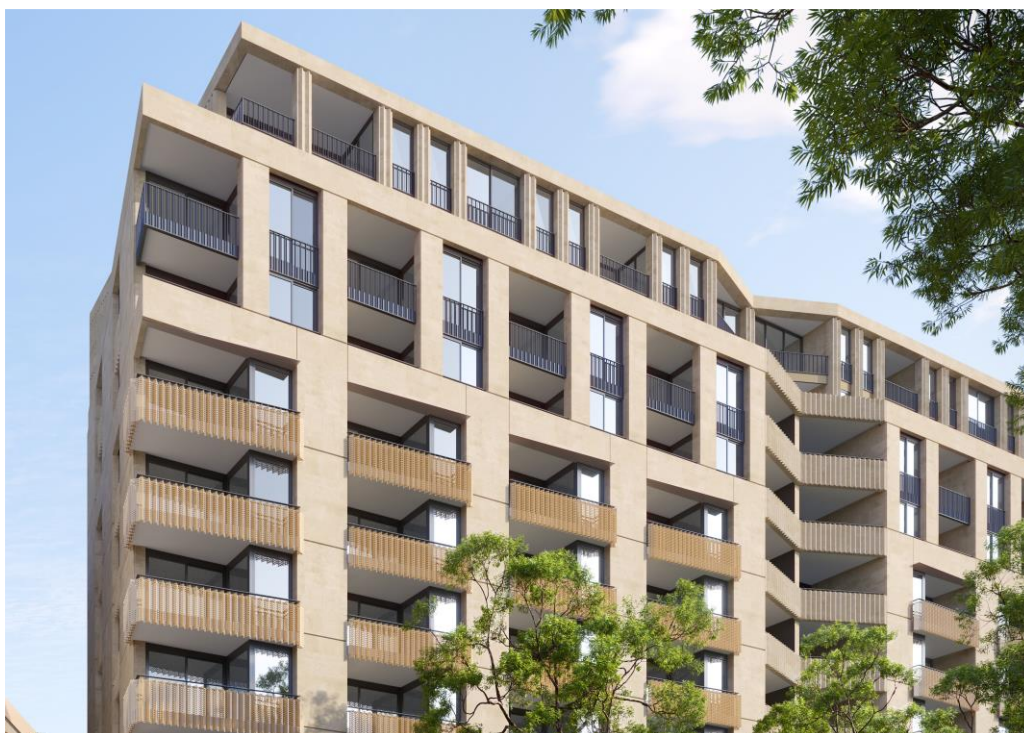


Figure 13: Proposed photomontages - buildings F&I



Figure 14: Proposed photomontages - buildings F&I



Figure 15: Proposed photomontages - buildings G&H



Figure 16: Proposed photomontages - building H (affordable)



Figure 17: Proposed photomontages - buildings G&H

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 to be provided in perpetuity, secured on title.
18. The offer was accepted, and the VPA is being negotiated and drafted in association with the subject development application and accompanying amended concept application (D/2025/448).
19. The affordable housing is proposed to be managed by a Tier-1 registered community housing provider - Evolve Housing.

Assessment

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

State Environmental Planning Policies

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

Remediation of Land

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
33. Site investigations identified contaminants present on the site:
34. Remediation Works Plans (RWPs) relating to the site, accompanied by letters of interim advice, were submitted with the early works applications (D/2025/301 and D/2025/335) and the subject development application.
35. The RWPs propose to excavate and dispose of contaminated natural soils and fill that is not suitable for retention on site. A borrow pit with a maximum capacity of 28,750 cubic meters was approved as part of the early works consent for buildings F&I and stores the contaminated material to be retained on site.
36. Any retained impacted soils, not within the borrow pit, are contained a minimum of 1.5m below the finished surface level and identified with a marker layer in accordance with the requirements of the VPA.
37. The remediation works will largely be completed under the early works consents, however, works proposed under the subject application are required to complete the remediation. Accordingly, a letter of interim advice is required to be prepared by a NSW EPA Accredited Site Auditor and submitted to the City prior to the issue of the relevant construction certificates for buildings F&I and G&H.
38. A final Site Audit Statement (Section A) will be required to be submitted prior to the issue of the relevant first occupation certificate for buildings F&I and G&H.

39. An environmental management plan (EMP) will be required to manage and maintain the contained or retained impacted soils on site and will be required to be registered on the Title of the affected lots.
40. The Council's Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
41. The consent authority may be satisfied that, subject to conditions, that the site can be made suitable for the proposed uses.

State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3

Advertising and Signage

42. The proposed development does not include details of any future signage or signage zones and therefore an assessment against the SEPP is not required at this stage.
43. Conditions of consent are recommended requiring any future signage to be the subject of a separate development application, including the preparation and approval of a signage strategy for building F (which contains the proposed supermarket and retail premises).

State Environmental Planning Policy (Housing) 2021

44. Section 7.32 of the EP&A Act and states that where the consent authority is satisfied that the development meets certain criteria, and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
45. Clause 7.13 (Contribution for purpose of affordable housing) of the Sydney Local Environmental Plan 2012 allows for circumstances where an affordable housing contribution may be levied for development of land on residual land.
46. This matter is discussed in further detail under the heading Financial Contributions below.

Chapter 2 Affordable Housing

Part 2 Development for affordable housing

Division 1 In-fill affordable housing

47. 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.
48. The proposed development seeks 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

49. 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.

50. For the purpose of calculating the maximum floor space ratio for the site, consideration must be taken to the maximum permitted gross floor area permitted by the approved concept plan, subject to the approval of the amending concept application, which is 91,126.04sqm sqm. The floor space ratio was apportioned to each development block within the broader site under the concept plan.
51. In calculating the maximum permitted floor space ratio, the potential design excellence bonus of up to 10% achieved under Clause 6.21D(3) of SLEP 2012 was also taken into account as the maximum permitted floor space ratio defined under the SEPP is inclusive of any site specific or project specific bonuses available under another EPI. The In-fill affordable housing practice note dated December 2023 confirms that bonuses to development standards may be considered cumulatively.
52. In this instance, as the full 30% floor space ratio bonus is sought, the minimum affordable housing component must equal 15% of gross floor area of the development.
53. The proposed development allocates the entirety of building H (above ground) to satisfy the affordable housing component. Building H has a gross floor area of 13,668.68sqm which equates to 15% of the development. This represents the delivery of 169 new affordable dwellings for the community (separate to other affordable housing contributions).
54. Accordingly, as per subsection 16(3) additional building height that is the same percentage as the additional floor space ratio is permitted, as outline above, in this instance an additional 30%.
55. The additional height has been applied under the amending concept application, compliance to which is assessed under the SLEP 2012 table below.
56. It should be noted that the In-fill affordable housing practice states that local development standards should be applied flexibly and need to be balanced against the need to realise more affordable housing.
57. The proposed affordable housing is proposed to be operated by a Tier 1 Community Housing Provider. Details have been provided confirming early and ongoing engagement with a CHP – Evolve Housing. The CHP has also endorsed the proposed plans, confirming that building H meets their demand and operational requirements.

Section 19 Non-discretionary Development Standard

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

Provision	Compliance	Comment
(a) minimum lot size - 450sqm	Yes	The site has an area of 22,653sqm (excluding land to be dedicated).
(b) minimum landscaped area - lessor of: (i) 35sqm per dwelling, or (ii) 30% of the site area	Yes	The proposed development provides 10,597sqm of landscaping (including on structure), representing 46% of the site area (excluding land to be dedicated).
(c) deep soil - 15%	N/A	Not applicable as per subsection 19(3).
(d) direct solar access (3hrs) in mid-winter to living rooms and private open space - 70%	N/A	Not applicable as per subsection 19(3).
(e) parking spaces for dwellings used for affordable housing - at least: (i) 0.4 spaces per 1-bed (ii) 0.5 spaces per 2-bed (iii) 1 space per 3-bed	No	As outlined in the In-fill affordable housing practice note dated December 2023, as another EPI (SLEP 2012) contains a more permissive development standard (Clause 7.5 - category B) and the provision of parking less than these non-discretionary standards has merit, it is not intended that a written request pursuant to Clause 4.6 of the standard instrument should be required for the non-discretionary parking standard. Clause 7.5 of SLEP specifies a maximum parking rate only, being in part less than these non-discretionary development standards, and therefore no parking is required. The proposed parking is considered acceptable as outlined under the relevant heading below. A more onerous standard should not be applied consistent with the objective for car parking in SLEP 2012, being to minimise the amount of vehicular traffic generated because of the proposed development.
(f) parking spaces for dwellings not used for affordable housing - at least: (i) 0.5 spaces per 1-bed (ii) 1 space per 2-bed (iii) 1.5 space per 3-bed	No	
(g) the minimum internal area in the ADG	Yes	The proposed development complies as per the ADG summary below.

Section 21 Period must be used for affordable housing

59. Unlike the provisions of the SEPP, which specify that the affordable housing is to be provided for a minimum period of 15 years, the proposed affordable housing component is to be provided in perpetuity. This is captured by the Public Benefit Offer, and is reinforced through the recommended conditions of consent which require a restriction, under s88 E of the Conveyancing Act, to be registered on the Title of the building H land (likely in Stratum) restricting the use of the building consistent with the affordable housing terms under the SEPP in perpetuity.
60. Section 22 of the SEPP confirms that land on which affordable housing under this division is carried out may be subdivided with development consent. The future subdivision of the land (likely stratum) would be subject to a separate development application.
61. It should be noted that the delivery of the affordable housing component to satisfy the requirements of the SEPP is separate to the contribution (or dedication) required to satisfy other affordable housing contributions Clause 7.13 of the SLEP 2012 which is addressed under the relevant heading later in this report.

Chapter 3 Diverse Housing**Part 4 Build-to-rent housing**

62. The proposed development comprises residential accommodation, including build-to-rent housing under Chapter 3, Part 4 and affordable housing under Chapter 2 Part 1.
63. 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 purposed of residential buildings is permissible and zone 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.
64. Development consent may be granted if the development will result in at least 50 dwellings occupied, or intended to be occupied, by individuals under residential tenancy agreements, and all buildings containing the dwellings are located on the same lot of land.
65. The proposed development contains 906 build-to-rent dwellings (excluding those proposed to be utilised for affordable housing) across buildings F&I and G. The buildings are located on the same lot of land. Whilst subdivision into the eventual development blocks (F, I and G&H) is not sought under this application, subdivision of the land will be required to dedicate or transfer the future public domain land (Kooka Walk and Alpha Street) to the City. Notwithstanding, each set of buildings for each development block will be located on the same lot of land and will contain at least 50 dwellings respectively, maintaining compliance with this provision.

Conditions of build-to-rent housing to apply for at least 15 years

66. The consent authority can be satisfied that the build-to-rent tenanted component of the development -
 - (a) will not be subdivided into separate strata lots, and
 - (b) will be owned and operated by 1 person, and

- (c) will be operated by 1 managing agent, who provided on-site management.
67. In the case of this development, the developer, Coronation, has provided details of the proposed ownership and management, including on-site management, arrangements to ensure that the conditions required to be imposed can be complied with.
68. Coronation proposes to operate the build-to-rent housing under their property management entity Nation.
69. Additionally, the proposed development includes on site facilities, such as concierge and office spaces to facilitate the ongoing on-site management requirements.

Section 74 Non-discretionary development standards

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

Provision	Compliance	Comment
(2)(a) building height of all proposed buildings is not more than the maximum building height permitted under chapter 5, Chapter 6 or another EPI for a building on the land	No, but Clause 4.6 request supported	The proposed building height complies with the amending concept plan, to be considered concurrently and determined prior to this application. The proposed development varies the height of buildings development standard. A written request made pursuant to Clause 4.6 is addressed in the discussion below.
(2)(c) floor space ratio that is not more than the maximum permissible floor space ratio for residential accommodation under Chapter 5, Chapter 6 or another EPI for a building	Yes, subject to approval of D/2025/448	The proposed floor space ratio complies with the amending concept plan, to be considered concurrently and determined prior to this application.
(2)(d) for development carried out on land in the Eastern Harbour City – (i) 0.2 spaces per dwelling (iii) if lesser under another EPI, the lesser rate	Yes	The proposed development provides 393 parking space for the build-to-rent component and complies with this non-discretionary development standard.

Section 75 Design requirements

71. This section applies to development to which this Part applies only if Chapter 4 *Development of residential apartment development* applies to the building resulting from the development. Chapter 4 applies to the proposed development and therefore the design requirements apply.

72. The consent authority must be flexible in applying the design criteria set out in the NSW Apartment Design Guide, including, in particular the design criteria set out in Part 4 *Designing the building*, items 4E *Private open space and balconies*, 4G *Storage* and 4K *Apartment Mix*.
73. The consent authority, in its consideration of the objectives set out in Part 4 of the ADG, must consider the following –
- (i) the amenities proposed to be provided to tenants residing in the building through common spaces and shared facilities and services.
 - (ii) whether the configuration and variety of dwellings in the building will provide adequate options to prospective tenants in relation to the size and layout of the dwellings,
 - (iii) whether tenants residing in the building will be able to relocate to other dwellings in the building that will better accommodate their housing requirements if their requirements change.
74. The proposed development seeks flexibility in the application of some design criteria set out in Part 4 of the ADG. This is addressed under the relevant heading and compliance table later in this report.
75. In respect to the matters for consideration outlined above, the consent authority can be satisfied that these criteria are met through the provision of highly amenitised common spaces, both internal and external, and shared facilities, the dwelling mix and diversity provided, including housing designed for families, and the on-site management arrangements for rental tenancies. Significant weight should be given to the above when considering the objectives set out in Part 4 of the ADG.

Chapter 4 Design of Residential Apartment Development

76. 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 to take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 9.
77. The applicant has submitted a design verification statement and design report prepared by Bates Smart NSW (Matthew Allen) registration number 8498 and BVN (Peter Titmuss) NSW registration number 10447 with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statements are deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.
78. 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. In considering the context and neighbourhood character 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. Visually, the architectural expression has also been varied at the upper levels to soften the perceived scale of the buildings.

(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 and provides outlook and views to the sky for all apartments.

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 buildings 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 proposed development provides additional diverse and affordable housing options within the locality and is consistent with density permitted by the relevant development controls and concept plans for the site. The dwelling mix provides housing options, including some ground floor three-bedroom apartments designed for families.

Notwithstanding the increased density, the proposed development achieves reasonable amenity and is further maximised through the provision of shared communal facilities and open spaces.

(d) **Principle 4: Sustainability**

The proposed development maximises internal amenity. Natural cross ventilation has been maximised where possible whilst natural ventilation has been achieved to all apartments, notwithstanding the eastern frontage being impacted by road noise. Ceiling fans have been provided to provide a low energy and cost for option for ventilation and cooling.

Built forms have been orientated and designed to maximise solar access, with sun shading devices having been well-integrated, particularly on the northern and western elevations, to balance thermal comfort.

Consolidated deep soil landscaping is provided which supports water infiltration and urban canopy.

The buildings front and embrace Kooka Walk which provides an active transport green spine through the neighbourhood, with extensive urban canopy and rain gardens, to support the environmental functions of the area.

Electric car and bike sharing is offered to residents promoting modal shift away from private car ownership.

(e) **Principle 5: Landscape**

The proposed development is consistent with the approved landscape concept plans for buildings F&I and buildings G&H. The development is characterised by deep soil landscape setbacks and green and social roofscapes.

The proposed landscaping includes a mixture of endemic and exotic planting and includes tree planting to promote urban canopy and reduce urban heat island effects.

(f) **Principle 6: Amenity**

The proposed development provides diverse apartments typologies. The internal layouts have been designed to provide flexibility and maximise amenity.

The proposed development achieves reasonable levels of residential amenity, having regard to the design guidance in the ADG and considerations for Affordable Housing and Built-to-Rent Housing in the SEPP, and is further maximised through the provision of shared communal facilities and open spaces.

(g) **Principle 7: Safety**

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

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

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

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

Build-to-rent housing contributes to housing diversity within the area (being subject to Chapter 3 *Diverse housing* of the Housing SEPP). The provision of internal common areas and facilities and roof-top common open spaces and facilities, which provide a desirable environment for social interaction and would foster community.

Similarly, the affordable housing component contributes to housing diversity within the LGA providing much needed affordable housing opportunities. The design of the building includes roof-top common open spaces which provide a desirable environment for social interaction and would foster community.

(i) **Principle 9: Aesthetics**

The schemes were the subject of competitive design processes. The winning schemes have been adapted but retain and develop the architectural expression of the designs.

The external appearance of the buildings is defined by the internal layout and structure and are well proportioned and balanced in composition.

The designs utilise a variety of materials, colours and texture to break down the scale of the buildings, particularly where street wall heights are replicated, and provide interest and diversity within streetscapes

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

2E Building Depth	Consistency	Comment
12-18m (glass to glass)	Partial inconsistency	See discussion below.

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 	Partial inconsistency	See discussion below.

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

3D Communal and Public Open Space	Consistency	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	<p>A total of 4,604sqm (40%) of communal open space is provided for buildings F&I</p> <p>A total of 3,236sqm (31%) of communal open space is provided for buildings G&H. Equitable communal open space (29%) is provided separately for the affordable housing building (Building H).</p> <p>Communal open spaces are dispersed throughout the site to provide convenient access for all residents.</p>
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	<p>A minimum of 50% of the communal open spaces received direct solar access in mid-winter.</p> <p>Rooftop areas provide the majority spaces with direct solar access and have been designed accordingly.</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	Yes	Generally consistent with the approved landscape concept plans, noting precinct wide approach to deep soil.

3F Visual Privacy	Consistency	Comment
Up to 4 storeys (12 metres): <ul style="list-style-type: none"> • 6m between habitable rooms / balconies • 3m between non-habitable rooms 	Partial inconsistency	See discussion below
5 to 8 storeys (25 metres): <ul style="list-style-type: none"> • 9m between habitable rooms / balconies • 4.5m between non-habitable rooms 	Partial inconsistency	See discussion below
9 storeys and above (over 25m): <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 6m between non-habitable rooms 	Partial inconsistency	See discussion below
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	Adequate separation is provided between habitable rooms and circulation spaces. Gallery style access and open circulation is used for building G5 and adjoins kitchens.

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	660 of 1075 (62%) apartments achieve the specified solar access requirements The consent authority must be flexible in their considered as required by Section 75 of the SEPP where is relates to build-to-rent housing. See discussion below.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	152 of 1075 (14.2%) receive no direct sunlight.

4B Natural Ventilation	Consistency	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms have a window to an external space.
Minimum 60% of apartments in the first 9 storeys of the building are naturally cross ventilated.	No	447 of 953 (47%) apartments located on the lowest 9 storeys are naturally cross ventilated. The consent authority must be flexible in their considered as required by Section 75 of the SEPP where is relates to build-to-rent housing. See discussion below
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The proposed development generally complies.

4C Ceiling Heights	Consistency	Comment
Habitable rooms: 2.7m	Yes	A floor-to-floor height of 3.15m is proposed which can accommodate the required internal floor to ceiling heights
Non-habitable rooms: 2.4m	Yes	

4C Ceiling Heights	Consistency	Comment
2-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.	No, but Clause 4.6 request supported	Part of the site is zoned MU1 Mixed-Use. Whilst the proposed retail largely occupies the MU1 zoned land, there are a number of apartments within buildings F and G that are subject to this provision. See discussion below.

4D Apartment Size and Layout	Consistency	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35sqm • 1 bed: 50sqm • 2 bed: 70sqm • 3 bed: 90sqm <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.</p>	Yes	All apartments achieve the minimum unit size requirements.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	The proposed development is consistent with the design criteria.

4D Apartment Size and Layout	Consistency	Comment
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	The proposed development is consistent with the design criteria.
8m maximum depth for open plan layouts.	Yes	The proposed development is consistent with the design criteria.
Minimum area for bedrooms (excluding wardrobes): <ul style="list-style-type: none"> main bedroom: 10sqm all other bedrooms: 9sqm Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	The proposed development is consistent with the design criteria.
Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> Studio and one-bedroom: 3.6m 2-bedroom or more: 4m 	Yes	The proposed development is consistent with the design criteria.
4m minimum width for cross over and cross through apartments.	Yes	The proposed development is consistent with the design criteria.

4E Private Open Space and Balconies	Consistency	Comment
Studio apartments are to have a minimum balcony area of 4sqm with a minimum depth of 1m. One bed apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2m. 2 bed apartments are to have a minimum balcony area of	Yes	The proposed apartments achieve the minimum balcony area and depth requirements. Some studio apartments (configured as dual key three-bedroom apartments) do not have balconies. See discussion below.

4E Private Open Space and Balconies	Consistency	Comment
10sqm with a minimum depth of 2m. 3 bed apartments are to have a minimum balcony area of 12sqm with a minimum depth of 2.4m.		
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15sqm and a minimum depth of 3m.	Yes	The proposed apartments achieve the minimum terrace area and depth requirements.

4F Common Circulation and Spaces	Consistency	Comment
The maximum number of apartments off a circulation core on a single level is 8.	Partial compliance	Several circulation cores have greater than 8 apartments located off each core. See discussion below.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	A maximum of 30 apartments share a single lift in each building exceeding 10 storeys in height.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	The proposed development is consistent with the design criteria.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	The proposed development is generally consistent with the design criteria.

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>	Yes	<p>Storage schedules have been provided for buildings F&I and G&H which demonstrates that the proposed development is capable of achieving the design criteria.</p> <p>A condition of consent is recommended requiring a storage schedule and plans to be submitted prior to the issue of a construction certificate to ensure storage areas remain compliant through construction level design documentation</p>

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

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 2 Standards for residential development - BASIX

80. BASIX Certificates have been submitted with the development application (Certificate nos. 1793562M_03 and 1779049M_05).
81. The BASIX certificates lists measures to satisfy BASIX requirements which have been incorporated in to the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

Chapter 3 Standards for non-residential development

82. Chapter 3 of the SEPP applies to development, other than development for the purposes of residential accommodation, that involves:-
 - (a) the erection of a new building, if the development has an estimated development cost of \$5 million or more, or

Section 3.2 Development Consent for non-residential development

83. The applicant has submitted a City of Sydney Design for Environmental Performance report template to address the above. The template identifies design and technology responses for environmental performance that the applicant proposes to be incorporated in the development.
84. The applicant has adequately quantified the embodied emissions attributable to the development. Section 35B of the Environmental Planning and Assessment Regulation determines the form in which embodied emissions are to be quantified. The embodied emissions attributable to the development have been appropriately quantified using the NABERS embodied energy form published on the NSW Planning Portal and certified by an appropriately qualified person as required by the regulations.

State Environmental Planning Policy (Transport and Infrastructure) 2021

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

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network**Clause 2.47 Excavation – corridors and transmission circuits**

86. The application is subject to Clause 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.
87. 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.

Clause 2.48 Determination of development applications – other development

88. The application is subject to Clause 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.
89. 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**Clause 2.120 Impact of road noise or vibration on non-road development**

90. The application is subject to Clause 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.
91. 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.

92. The consent authority must not grant development consent to development for the purpose of residential accommodation unless it is satisfied that appropriate measures will be taken to ensure the following LA₉₀ internal noise levels are not exceeded with windows open.
- (a) bedrooms - 35dB(A) at any time between 10pm and 7am; and
 - (b) other habitable rooms (excluding a kitchen, hallway or bathroom - 40dB(A) at any time.
93. The following mitigation measures have been incorporated into the design of the road facing apartments of buildings F&I.
- (a) Noise affected habitable spaces adjacent to balconies
 - (i) continuous solid fencing to a height of 1.76 at ground level (largely concealed by landscaping);
 - (ii) continuous solid balustrading to a height of 1.1m for levels 1 and above;
 - (iii) low height top hung windows located behind solid balustrading; and
 - (iv) acoustically treated balcony ceiling soffit.
 - (b) Noise affected habitable spaces not adjacent to balconies
 - (i) acoustically attenuated plenums with an internal cross section of 250mm in width and 2400mm in height, and external insect and weather proof louvered cover and internal user controllable louvers.
94. The intent of the above mitigation measures is to also ensure that natural ventilation requirements are also achieved.
95. It is not anticipated that the development would be impacted by road borne vibration impacts.
96. The application satisfies Clause 2.120 subject to the details shown on the architectural plans and the recommendations of the Environmental Noise and Natural Ventilation Assessment report.

Clause 2.122 Traffic generating development

97. 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.
98. 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

99. Planning Proposal PP-2024-709 is a relevant consideration under section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

100. 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.

101. The planning proposal was subject of public exhibition between 17 December 2024 and 14 March 2025.

102. The planning proposal was returned to the Department of Planning, Housing and Industry for assessment and drafting on 1 July 2025.

103. The relevant draft amendments are considered to be well advanced and should be afforded significant weight in the assessment of this application as address 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

104. 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	No, but Clause 4.6 supported	<p>The amending concept application establishes the maximum permitted building envelopes.</p> <p>The amending concept application considered the height of buildings map, the In-fill affordable housing bonus (up to 30%) and a bonus (up to 10%) for a building demonstrating design excellence when considering a development application resulting from a competitive process</p> <p>The proposed development complies with the proposed building envelopes of the amending concept application, to be considered concurrently and determined prior to this application.</p> <p>Notwithstanding, this involves variations to the development standard and therefore a written request made pursuant to Clause 4.6 has been considered accordingly. See Discussion Below.</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) Allocation of Floor Space.</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) permits an additional 10% floor space for buildings demonstrating design excellence resulting from a competitive process.</p> <p>The amending concept application (D/2025/448) applies the In-fill affordable housing bonus, permitting up to 30% additional floor space.</p>

Provision	Compliance	Comment
		<p>The total maximum permitted floor space for buildings F&I and G&H is there for 91,126.04sqm.</p> <p>The proposed development complies with maximum GFA permitted by the amending concept application, to be considered concurrently and determined prior to this application.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.1 and 5.1A Development on land intended to be acquired for public purposes	Not applicable	Whilst not identified for acquisition, the proposed development includes footpath widening along part of Hadfield Street, located largely adjacent building H, in accordance with the requirements of the VPA (VPA/2015/39).
5.10 Heritage conservation	Yes	The site is located within the vicinity of the Cooper Estate heritage conservation area CA2.
5.21 Flood planning	Yes	<p>The site is identified as being subject to flooding.</p> <p>The application proposes development at or below the relevant flood planning levels. A flood report accompanies the application demonstrating that the development is able to comply with the City's Interim Floodplain Management Policy and satisfies the provisions of the standard.</p>

Part 6 Local provisions – height and floor space


Provision	Compliance	Comment
6.21C Design excellence	Yes	<p>The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development in the vicinity and will contribute positively to the character of the area.</p> <p>The development achieves the principle of ecologically sustainable development</p>

Provision	Compliance	Comment
		and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing	Yes	<p>A maximum of 645 car parking spaces is permitted.</p> <p>Buildings F&I includes 572 apartments. A maximum of 332 car parking spaces is permitted.</p> <p>249 car parking spaces are proposed.</p> <p>Buildings G&H includes 503 apartments. A maximum of 313 car parking spaces is permitted.</p> <p>144 car parking spaces are proposed.</p> <p>The proposed development includes 393 residential car parking spaces and complies with the relevant development standards.</p> <p>Visitor car parking spaces are provided within the maximum rates.</p>
7.7 Retail premises	Yes	<p>A maximum of 102 car parking spaces is permitted.</p> <p>The proposed development includes 96 retail car parking spaces and complies with the relevant development standards.</p> <p>Click and collect parking is provided within retail parking allocation.</p>
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	In addition to the in-fill affordable housing provided on-site, the application

Provision	Compliance	Comment
		<p>is subject to an affordable housing contribution under this clause.</p> <p>The contribution is calculated at:</p> <ul style="list-style-type: none"> • 3% of the total floor area used for residential purposes; and • 1% of the total floor area not used for residential purposes. <p>The floor area intended to be utilised for in-fill affordable housing (Building H) is exempt from calculation of the contribution in accordance with the City's Affordable Housing Program.</p> <p>Due to the scale of the development and complexity in delivering the onsite in-fill affordable housing, the City's Affordable Housing Program was varied, by Council resolution on 23 June 2025, to permit the payment of the contributions in stages, as follows:</p> <ul style="list-style-type: none"> • Building F – prior to first OC • Building I – prior to first OC • Building G – prior to first CC (via bank guarantee)
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	<p>The site is located on land with class 3 Acid Sulfate Soils. The approved early works required implementation of Acid Sulfate Soils Management Plans. Implementation of the management plans will be required to continue under this application until site remediation works are finalised.</p>
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</p>

Provision	Compliance	Comment
		report, it is recommended that the application be delegated to the CEO for approval following receipt of the appropriate approval.
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 the amending concept application) satisfies the obligation to prepare a development control plan.
7.23 Large retail development outside of Green Square Town Centre and other planned centres	Yes	<p>The portion of the site zoned MU1 Mixed-use is identified as Restricted Retail Development under this clause. The proposed retail premises, including the supermarket, is located on the portion of the site zoned E1 and is not affected by this clause.</p>  <p>Figure 18: excerpt from LEP Retail Premises Map with site outlined red</p>
7.33 Sustainability requirements for certain large commercial development	Not applicable	<p>The proposal does not comprise a <i>large commercial premise</i>.</p> <p>The proposed gross lettable area is 4852sqm and therefore the proposed</p>

Provision	Compliance	Comment
		development does not comprise a <i>prescribed shopping centre</i> as the total gross lettable area of the shops (including any food and drink premises) is less than 5,000sqm.

Development Control Plans

Sydney Development Control Plan 2012

105. 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

106. 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.
107. 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: 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.	The proposed materials and finishes are of a high quality and take inspiration from the former industrial and manufacturing uses that were carried out on the site. The choice of colours and finishes are sympathetic to the character of the adjoining conservation area.
(c) Mix of dwellings to provided flexibility and choice	The proposed development will provide additional diverse and affordable housing options. The dwelling mix provides housing options, including some ground floor three-bedroom apartments designed for families.
(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 a change in materiality and

Objective	Comment
	finishes to assist in maintaining a visual transition in height 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.	Consolidated deep soil setbacks are provided surrounding the buildings, except where active frontages are provided. The landscaped setbacks define the landscape character of the Neighbourhood and are planted out appropriately.
(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.	Retail premises are provided on the ground level of Building F, fronting McPherson Park, with a full-line supermarket behind, and additional ground level retail is provided at the corner of MacDonald Street and Mitchell Road and extends along the street to the south.
(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.	<p>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.</p> <p>Alpha Street and Nassau Lane provide an east-west break in the built form to enhance visual permeability into and through the Ashmore Neighbourhood.</p>

108. 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. Notwithstanding, the design and materiality retains the expression of the characteristic street wall heights and seeks to soften the building form in transition to the adjoining lower scale heritage conservation area.</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 	<p>The proposed development is predominantly residential providing diverse and affordable housing and includes well located retail premises and a full-line supermarket.</p>
3 Public Domain <ul style="list-style-type: none"> McPherson Park and Kooka Walk Water sensitive urban design Landscaped setbacks 	<p>McPherson Park and Kooka Walk will be delivered as part of previous and the current phase of the development and include stormwater detention and rainwater swales for stormwater infiltration.</p> <p>Consolidated deep soil setbacks are provided to define the public domain and soften the built form.</p>

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>Public domain works including the delivery of a new park, new streets, and green cycleways and pedestrian links are to be delivered under separate applications.</p> <p>Footpath widening along Hadfields Street is included under this application.</p>
3.2. Defining the Public Domain	Yes	The submitted Preliminary Public Art Strategies are consistent with the Public Art Master Plan for the site and comply with the City's Public Art Policy and Guidelines for Public Art in New Development.
3.2.1 Improving the public domain	Acceptable	Refer to discussion below.
3.2.4 Footpath awnings	Yes	Street awnings are provided along all active frontages.
3.2.6 Wind effects	Yes	<p>The wind environment generally meets the safety and comfort criteria. Limited wind mitigation devices are relied upon.</p> <p>Some corner apartments require additional screening to mitigate wind</p>

Provision	Compliance	Comment
		<p>impacts to balconies at the corner of the buildings.</p> <p>Some screening and dense landscaping are relied upon to meet the comfort requirements for some communal open space areas.</p> <p>Street awnings are provided along all active frontages, otherwise a three-metre landscaped setback is provided which assists in minimising any downdraft directly to the footpath.</p>
3.2.7 Reflectivity	Yes	Light reflectivity from building materials on facades must not exceed 20%. A condition of consent is recommended to ensure this is complied with.
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The proposed development was subject to competitive design processes and is eligible for up to 10% additional floor space pursuant to clause 6.21D(3)(d) of the SLEP 2012</p> <p>The additional floor space has been accommodated within the amended concept plan envelopes.</p>
3.4 Hierarchy of Centres, City South	Yes	The proposed development provides retail including a full-line supermarket consistent with its role as a Local Village
3.5 Urban Ecology	Yes	Trees were removed as part of the early works on site. The proposed development includes planting of landscaping, including deep soil planting, replacing the trees lost and to improving the urban canopy and urban ecology of the area.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements. Refer to SEPP (Sustainable Buildings) and discussion section.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under Clause 7.15 of SLEP 2012 above.

Provision	Compliance	Comment
		<p>On-site detention tanks are provided for Building F&I and Buildings G&H.</p> <p>Dual reticulation water reuse infrastructure is to be provided in accordance with the terms of the VPA to future proof the development to reuse recycled/harvested water.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	N/A	A separate application will be required to subdivide the site into the applicable development blocks and future public domain (Alpha Street and Kooka Walk south).
3.9 Heritage	Yes	The site is adjacent to the Cooper Estate Heritage Conservation Area. The building separation provided across the street (Mitchell Road) ensures that there is no impact to the heritage significance of the conservation area.
3.11 Transport and Parking	Yes, subject to condition	<p>The proposed development includes a total of 487 car parking spaces. This includes 343 residential spaces, 43 residential visitor spaces, 88 retail spaces and 13 car share spaces</p> <p>The parking spaces comply with the maximum permitted in the SLEP 2012.</p> <p>A car wash bay is provided within each basement.</p> <p>32 motorcycle spaces and 11 service vehicle spaces are also provided, which complies subject to conditions.</p> <p>1,255 bicycle parking spaces are provided, which complies with the minimum requirements.</p>
3.12 Accessible Design	Yes	162 adaptable apartments have been provided, which equates to 15%.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.

Provision	Compliance	Comment
3.14 Waste	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.16 Signage and Advertising	Yes, subject to condition	A condition is recommended requiring a separate application for signage, including preparation of a signage strategy for building F.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed-Use Developments

109. It is noted that the amenity provisions in Section 4.2 of the DCP for residential flat buildings and mixed-use redevelopment largely align with the Apartment Design Guide design objectives.

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys		<p>The amending concept application establishes the maximum permitted building envelopes including heights in storeys and street frontage height in storeys. The potential impact of the additional height is considered under the accompanying amending concept application.</p> <p>The proposed development complies with the proposed building envelopes of the amended concept application, to be considered concurrently and determined prior to this application.</p>
4.2.2 Building setbacks	Yes	The proposed development complies with the ground level setbacks established in the approved concept plan and complies with the upper-level setbacks proposed in the amending concept application, as above.
4.2.3 Amenity		
4.2.3.1 Solar access	Acceptable	<i>Solar access to proposed apartments</i>

Provision	Compliance	Comment
		Refer to ADG assessment above <i>Overshadowing to neighbouring dwellings</i> Refer to discussion below.
4.2.3.4 Design features to manage solar access	Yes	Following advice from the DAP sub-committee, additional solar shading devices were incorporated as required to manage solar heat gain.
4.2.3.5 Landscaping 4.2.3.6 Deep Soil	Yes	Refer to discussion below.
4.2.3.7 Private open space and balconies	Yes	Refer to ADG assessment.
4.2.3.8 Common open space	Yes	Refer to ADG assessment.
4.2.3.9 Ventilation	Yes	Refer to ADG assessment.
4.2.3.10 Outlook	Yes	All apartments are provided with a reasonable outlook to the street or to internal courtyards.
4.2.3.11 Acoustic privacy	Yes	Refer to ADG assessment.
4.2.3.12 Flexible housing and dwelling mix	Acceptable	Refer to discussion below.
4.2.4 Fine grain, architectural diversity and articulation	Yes	The development provides an appropriate scale, modulation and facade articulation to ensure the buildings respond to their context.
4.2.7 Heating and cooling infrastructure	Yes	Heating and cooling infrastructure is located at suitable centralised locations in the basement and roof levels of the building.
4.2.8 Letterboxes	Yes	Letterboxes are provided within the building lobbies, and a condition has been recommended to ensure that they are installed with non-master key locks for security.

Provision	Compliance	Comment
4.2.9 Non-residential development in the MU1 Mixed-Uses zone	Yes	<p>Subject to conditions, the retail portion of the proposed development will not adversely impact the amenity of neighbouring residential properties.</p> <p>Separate consent is to be obtained for the fitout of the supermarket and retail premises which will allow for detailed assessment of the proposed uses.</p>

Section 5 – Specific Areas: Ashmore Neighbourhood

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 proposed development will overshadow the public space located directly to the south of Building I. See discussion below.</p> <p>The proposed development will not have any impact on solar access to McPherson Park.</p>
5.5.4.2 Quality of landscaping and landscaped setbacks	Yes	Landscaped setbacks are provided in accordance with Figure 5.134. The design provides consolidated deep soil planting to support urban canopy.
5.5.4.3 Stormwater	Yes	Stormwater management works are being delivered under separate development consents.
5.5.7 Land use mix	Yes	The proposed development is predominantly residential and includes well located retail premises and a full-line supermarket.

Provision	Compliance	Comment
5.5.8 Building Layout, form and design	Acceptable	The proposed development provides a range of building heights, types and architectural scale.
5.5.8.1 Height of buildings	Acceptable	The provisions of SEPP Housing prevail.
5.5.8.2 Views	Acceptable	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.
5.5.8.3 Dwelling type and location	Yes	The proposed development provides an acceptable dwelling mix.
5.5.8.4 Building form and design	Yes	Architectural diversity and interest are achieved across the Ashmore Neighbourhood.
5.5.8.5 Typical ground floor condition for residential flat buildings	Yes	The ground floor condition is generally achieved, with some ground level apartments being two storey, and all apartments being elevated above street level with a landscaped setback to address flood levels and promote privacy.
5.5.8.6 Fences	Yes	Front fences are generally low in height and provide a clear delineation between the public and private domain whilst promoting passive surveillance.
5.5.8.7 Building Materials	Yes	<p>The proposed materials and finishes are compatible with the desired future character of the Ashmore Neighbourhood and consider the former industrial and natural history of the area.</p> <p>The proposed development does not use materials that are not permitted within the locality.</p>
5.5.9.1 Other development	Yes	<p>The full-line supermarket is sited by residential and smaller scale retail premises to minimise long blank facades.</p> <p>Retail frontages are provided along MacDonald Street and Mitchell Road, mirroring the development to the north, and activating the public domain whilst minimise conflict with other land uses.</p>

Provision	Compliance	Comment
5.5.10 Biodiversity	Yes	The proposed landscaping supports urban canopy and provides a mix of vegetation and landscaped features to promote urban ecology.

Discussion

Status of concept development applications and consent (D/2015/966 and D/2025/448)

110. Pursuant to section 4.24(2) of the EP&A Act, where a concept development application for a site remains in force the determination of any future development application in respect to that site cannot be inconsistent with the concept consent.
111. The proposed development is a detailed development application relating to buildings F&I and G&H of the concept consent D/2015/966 in force for the site.
112. The approved concept consent D/2015/966 is proposed to be amended (D/2025/448) to accommodate the in-fill affordable housing provisions introduced under Chapter 2 of the Housing SEPP after approval of the original concept consent. The proposed amending concept application is recommended for approval and is to be determined by CSPC prior to the determination of this application to ensure the proposed development is consistent with the concept plan.
113. As outlined below, the proposed development is consent with key conditions of the approved concept consent D/2015/966, except those proposed to be amended by the amending concept consent D/2025/448 (comments provided where applicable):

D/2015/966/I - approved concept plan, as modified

Table 3: Compliance with conditions of the approved concept DA, except where proposed to be amended (see Table 4).

D/2015/966/I - approved concept plan, as modified	Comment
Condition (10) Design Excellence and Competitive Design Process	A competitive design process has been. See further discussion below.
Condition (11)(c) Detailed design of buildings	Retail has been specified at the corner of Building F, activating the frontage to Mitchell Road.
Condition (11)(d) Detailed design of buildings	<p>The basement driveway for Buildings F&I is located opposite the substation and building entry for Building I, minimising any impact from car headlights exiting the basement.</p> <p>The basement driveway for Buildings G&H is located opposite an external blank wall of</p>

D/2015/966/I - approved concept plan, as modified	Comment
	the adjoining development, minimising any impact from car headlights exiting the basement.
Condition (13) Waste collection areas	Capable of complying subject to recommended conditions of consent.
Condition (15) Green Travel Plans	The Draft Green Travel Plans provided were generally acceptable. Final GTPs are to be provided prior to OC.
Condition (16) Undergrounding electrical wires underground	A condition has been recommended requiring the existing overhead electrical powerlines to be relocated underground, subject to Ausgrid approval.
Condition (25) Communal open space	The proposed development complies.
Condition (25A) Communal open space on rooftops	The proposed development complies. Preference has been given to providing communal open spaces on rooftops to maximise amenity.
Condition (28) Vehicle access points	Vehicle access points are located off Alpha Street and Hadfield Street. No vehicle access is proposed from the streets prohibited by this condition.
Condition (29) Bicycle parking	Capable of complying subject to recommended conditions of consent.
Condition (30) Parking design	Capable of complying subject to recommended conditions of consent.
Condition (32) Car share	Capable of complying subject to recommended conditions of consent.
Condition (37) Loading management plan	Draft Loading and Servicing Plans have been submitted to demonstrate that the proposed loading areas are designed to accommodate all deliveries and waste collection on site.

D/2015/966/I - approved concept plan, as modified	Comment
Condition (39) Waste facilities	Capable of complying subject to recommended conditions of consent.
Condition (41) Reflectivity	A condition is recommended specifying glazing requirements and requiring samples to be provided for approval.
Condition (42) Public Art	The submitted preliminary public art plans are acceptable.
Condition (43) Heritage Interpretation Plan	A heritage interpretation plan was approved prior to the construction of the first development within the Ashmore Estate.
Condition (45) Signage Strategy	A condition is recommended requiring a separate development application to be submitted for the signage strategy for Building F.

Table 4: Compliance with recommended conditions of the amending concept application

D/2025/448 - amending concept plan	Comment
Recommended amendment to Condition (1)	The proposed development complies with the building envelopes as referenced in the 'approved plans' table.
Recommended amendment to Condition (7) <i>Floor Space Ratio</i>	The proposed development complies with the maximum floor space ratio permitted under the relevant development controls.
Recommended amendment to Condition (8) <i>Gross Floor Area</i>	The proposed development complies with the maximum gross floor area.
Recommended amendment to Condition (9) <i>Building Height</i>	The proposed development complies with the maximum building heights.
New condition - <i>Voluntary Planning Agreement</i>	A new condition is recommended requiring compliance with VPA/2025/7 for the provision of affordable housing in perpetuity.
Amendments to Condition (11) <i>Detailed Design of Buildings</i>	The proposed development complies with the additional detailed design requirements.

D/2025/448 - amending concept plan	Comment
Amendments to Condition (15) <i>Green Travel Plan</i> and (45) <i>Signage Strategy</i> to permit conditions to be resolved by conditions.	Conditions of consent are recommended requiring compliance.

Competitive design process - Jury recommendation

114. Separate design competitions were held for buildings F&I and buildings G&H, respectively in December 2023 and February 2024.
115. The two 'competitive design alternative processes' were undertaken prior to the introduction of the in-fill affordable housing provisions under Chapter 2 of the Housing SEPP and therefore reflected a scheme consistent with the approved concept consent (D/2015/966) and not the amended concept application (D/2025/448).
116. Notwithstanding, the proposed development retains the winning architects and their schemes, which have been adapted to accommodate the additional floorspace and height afforded under the SEPP.
117. The City's amended Design Excellence Policy addresses applications where substantive modifications have been made prior to lodgement. The City may, at its sole discretion, require a Design Integrity Assessment. However, in this instance, consideration by the City's Design Advisory Panel (DAP), which included a member of the competition juries, is considered sufficient to maintain continuity with the winning schemes and recommendations noting the generally positive response. The DAP advice is outlined below and has been satisfactorily addressed.
118. On this basis the application has satisfactorily addressed the recommendations of the design juries as outlined below, therefore it should be eligible for the design excellence bonus afforded under Clause 6.21D(3) of the SLEP 2012.
119. An expectation to convene a new design competition would be unwarranted in this instance and would delay the delivery of more housing, in particularly affordable housing.

Buildings F&I

120. The design competition jury selected the Bates Smart scheme as the winning scheme for Building F&I. In the opinion of the jury, the Bates Smart scheme was most capable of achieving design excellence, subject to a number of recommendations.
121. As detailed in the Tables 5 & 6 below, the development application retains the design integrity and key aspects of the winning scheme and responds to the key recommendations made by the Jury. The proposal satisfies the provision of clause 6.21D of Sydney LEP 2012 and accordingly is eligible for 10% additional floor space.

Table 5: Consideration of the design competition jury recommendations for buildings F&I

Key principles of the design to be maintained and developed	
The multistorey communal facility hub between Block F and I at Alpha Street.	The communal facilities have been significantly expanded in size and versatility and have been relocated along the rooftop to provide improved amenity.
The Kooka Walk parklet within Block I at the western end of Alpha Street.	The landscaped parklet area has been retained and developed.
The residential lobbies and relationship to the footpath – particularly the main lobby at the southern end of Block F.	The location and general design intent of the lobbies has been retained. The main residential lobby at the southern end of Block F provides the onsite management functions required for build-to-rent housing.
The lift redundancy strategy with upper floor connections between cores.	Additional lifts have been incorporated as a consequence of the additional building height and dwelling numbers. A redundancy strategy is no longer required.
The breaks between buildings to articulate and create fine urban grain and design diversity, which reduces the bulk and mass of the building envelopes.	These breaks have been retained or are externally expressed as breezeways to maintain building articulation, particularly along longer frontages.
The general block layouts with multiple cores, block depths and apartment planning.	The general block layout with multiple cores has been retained. There have been some changes to apartment layouts to accommodate the addition floor space, but the predominate planning remains unchanged. Apartment and block depth remains compliant with the ADG.
The open staircases to the Block F courtyard.	The open staircase design has been retained, within their central courtyard location, and are incorporated into the open breezeway vertical circulation. The main external staircase at the southern end of the courtyard has been lost as a consequence of refinements to the block planning to improve solar access, however, the design intent is otherwise retained for size other stair cores.

Key principles of the design to be maintained and developed	
The 'sleeving' of the supermarket with townhouses along Mitchell Road.	Two storey terrace style apartments line the eastern frontage of Block F to Mitchell Road at ground level concealing the supermarket behind internally. The extent of the frontage providing non-active or residential uses has been minimised to only the extent required for building access and services. Corbeling or hit and miss brickwork have been incorporated to provided visual interest to the streetscape and to minimise the impact of extent of otherwise blank walls.

Table 6: Consideration of the design competition jury recommendations for buildings F&I

Areas for further resolution and refinement through design development	
Further consideration should be given to the scale and architectural expression of the upper levels at the corner of MacDonald Street and Mitchell Road.	Notwithstanding the additional building height to accommodate the additional floor space required to deliver the on-site affordable housing component, the articulation and expression of the building at the corner of MacDonald Street and Mitchell Road is considered to be well resolved.
The vehicle access design will require further assessment and refinement. Access driveways, loading dock space (including location), turning circles and swept paths need to be considered in terms of functionality to develop an appropriate design solution.	Alpha Street is subject to a separate development application, however, the submitted plans and analysis demonstrate that the proposed vehicles access arrangements provide functional and safe ingress and egress to and from the site.
Further consideration should be given to the pedestrian connection between the basement car park and the supermarket.	The ease of the pedestrian connection is governed by flood planning requirements which require a bundled solution to all basement entries. The proposed escalator arrangement balances engineering requirements with the accessibility and usability of the entry.
While the materiality of the scheme was supported, the Selection Panel encourages Bates Smart to explore opportunities for more diversity of material in individual building elements across the two sites.	The introduction of a change in colour and materiality at the upper levels to reflect the street wall heights provides additional diversity of material in individual building elements and varies more so across the two buildings in comparison to the design competition scheme.

Areas for further resolution and refinement through design development	
Further develop the scale and articulation of the Mitchell Road townhouses in relation to the existing streetscape.	The two storey terraces have been further developed. The rhythm reflects the street with a clearly defined entry door and vestibule and small front garden terrace.
Ensure no habitable rooms are internalised within any unit types	The internalised studies have been deleted.
Design diversity should be further developed across the various built forms, with particular regard to the adjacent Heritage Conservation Area and human scale to Cooper Estate.	<p>Greater design diversity has been achieved through the refinement of the building massing, articulation, and finishes and materials. The change in colour and materiality above the street wall height provided a further opportunity to vary the design expression.</p> <p>The design of the ground level apartments including two-storey terraces maintains a human scale and connection at ground level.</p> <p>The retention of an above street wall set back and change in colour and materiality assists in breaking down the increased building heights.</p>

Buildings G&H

122. The design competition jury selected the BVN scheme as the winning scheme for Building G&H. In the opinion of the jury, the BVN scheme was most capable of achieving design excellence, subject to a number of recommendations.
123. As detailed in the Tables 7 & 8 below, the development application retains the design integrity and key aspects of the winning scheme and responds to the key recommendations made by the Jury. The proposal satisfies the provision of clause 6.21D of Sydney LEP 2012 and accordingly is eligible for 10% additional floor space.

Table 7: Consideration of the design competition jury recommendations for buildings G&H

Key principles of the design to be maintained and developed	
The articulation of the concept envelope into eight discreet built forms.	The proposed development generally maintains the eight discrete built forms. Gaps between the buildings have reduced proportionally to accommodate the additional floor space required to deliver the on-site affordable housing component.

Key principles of the design to be maintained and developed	
The fundamental architectural expression (including details of the façade) to provide a fine grain, architectural design diversity, and contextual appropriateness.	<p>The masonry base has become a more significant element having been adopted to express the street wall height datums.</p> <p>Diversity is provided through the built forms through the varying complementary colour palette.</p>
The palette of materials.	The palette of materials has been retained and developed upon.
The single loaded corridor of the Block G building facing Hadfields Street and two-storey expression of the facades.	Building G5 maintains the galleria style breezeway corridor. Apartments are design in a two-storey configuration to provide natural cross ventilation and are expressed accordingly to the street.
The rooftop communal areas.	Rooftop communal areas are accessible from each building and provide a range of amenities for the residents.
Retention and enhancement of the site wayfinding strategy including the connection to Kooka Walk buildings via the lobbies along Hadfield Street.	<p>The building lobbies are well connected off internal pathways through the internal courtyard and off the Nassau Lane through-site-link.</p> <p>Condition of consent are recommend requiring wayfinding signage plans to be submitted.</p>
Expression of the 'frames' of each building as a facade ordering device	The external frame element has been retained and provides an external expression of the internal layout of the building. The framed profile is utilised for both the masonry base and metal facade above.

Table 8: Consideration of the design competition jury recommendations for buildings G&H

Areas for further resolution and refinement through design development	
The alternative floor plate scheme should be adopted, whilst ensuring ADG compliance in areas such as cross ventilation and solar access.	The internal layouts have been resigned following the reconsideration of the scheme to accommodate the additional floor space to deliver the on-site affordable housing.

Areas for further resolution and refinement through design development	
	Solar access and natural cross ventilation have been maximised noting the difficulty in achieving strict compliance on this site whilst also delivering the on-site affordable housing.
Further consideration is to be given to effective external sun shading and how facades will be calibrated to respond to the solar context of each elevation	Window hood shading devices have been incorporated into the framed glazing design on the northern and western elevations of the buildings. Additional shading is not warranted on the eastern elevation as the building aspect is slightly southeast and is therefore not subject to extensive heat loading.
Reconfigure the double-loaded common corridors to reduce their length, introduce slots or open up the corridor at the ends to allow for more natural light and ventilation	Where possible, corridors have windows at the end to, noting the increased density accommodated to accommodate the affordable housing uplift.
The number of lifts should be reduced through design refinement whilst maintaining an acceptable lift redundancy strategy.	The number of lifts meets the relevant NCC and ADG requirements. Lift redundancy is maintained as each core has more than one lift.
More detail should be provided to show how the mesh detail over full-height windows will function	This element has been deleted.
Block H needs a better relationship with Nassau Lane. The design should provide for increased active uses of Nassau Lane, to enable social connection with private and public domain.	A communal open space area is provided within the central courtyard and overlooks Nassau Lane. There is a level difference due to the flooding. A 3m landscaped setback is provided between the apartments fronting Nassau Lane and the through-site-link walkway itself.
Building separation and privacy need to be improved for re-entrant corner apartments that only have 4m separation, particularly where adjacent to building entries. Privacy objectives of the ADG should be achieved.	Internal layouts have been refined to minimise the potential amenity implications for re-entrant corner apartments. Additionally, design elements have been incorporated to maintain reasonable levels of privacy.
Internalised studies need to be reconfigured to provide windows.	Internal layouts have been refined to delete any internalised studies.

Areas for further resolution and refinement through design development	
Balconies are to be re-configured so their width is not exceeded by their depth.	Internal layouts have been refined to reconfigure balconies to generally meet this requirement.

Design Advisory Panel Advice

124. 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.
125. 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 area.
126. The development was referred to the City's Design Advisory Panel in December 2024 to assess design development of the competition winning schemes which involved amendments to the competitive design process winning 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
127. The Panel also recommended that a sub-committee be formed to review the amended schemes in response to the above advice.
128. The development was referred to the City's Design Advisory Panel sub-committee in February 2025 to assess the amendments made in response to the December Panel meeting advice. The Panel sub-committee also heard from the architects (Bates Smart and BVN). The Panel generally supported the proposed development, subject to the resolution of the matters outlined in Tables 9 & 10 below.

Table 9: Satisfaction of DAP sub-committee advice for Building F&I

DAP sub-committee advice	Outcome
Provide an indent or splay at the southern end of the Building F courtyard to improve building separation.	A small indent was provided. Additional layout planning and privacy measures have been designed and detailed
Further articulate the expression of the street wall heights	The concept plan street wall heights have been adapted and expressed through the change in materiality at the upper levels of the building.
Provide sun shading to upper levels	An awning has been specified to shade exposed windows.. A design modification condition has been recommended to require further details to be submitted prior to construction.
Maximise natural ventilation for apartments	Natural cross ventilation has been maximised as far as practical. A condition of consent is recommended requiring ceiling fans to be installed in all living rooms and bedrooms to reduce the reliance on central air conditioning.
Improve the architectural expression of the southern elevation of Building I to breakdown the expanse of blank wall.	An additional window has been included in the southern elevation of the living areas, breaking down the expanse of blank wall.

Table 10: Satisfaction of DAP sub-committee advice for Building G&H

DAP sub-committee advice	Outcome
Consolidate and expand the gaps between buildings to improve natural cross ventilation for corner apartments.	The three narrow gaps between the buildings of block G fronting Kooka Walk have been consolidated into one single larger gap which breaks down the length of the building and improves natural cross ventilation.
Minimise the number of bridges between buildings by providing separate lift cores.	As above, the gaps between buildings have been consolidated to remove the need for bridges and a separate vertical core is provided for building G4.
Maximise natural ventilation for apartments	Natural cross ventilation has been maximised as far as practical.

DAP sub-committee advice	Outcome
	A condition of consent is recommended requiring ceiling fans to be installed in all living rooms and bedrooms to reduce the reliance on central air conditioning.
Provide effective sun shading	<p>Firstly, the extent of glazing has been reduced to minimise the extent of unprotected glazing.</p> <p>Secondary, external window hoods have been incorporated into the metal expressed framed facade. The window hoods are shaped based on the elevation aspect to protect from the more intense sun angles. Reverse L-shaped hoods are proposed on the western elevation, whereas U-shaped hoods are proposed on the northern elevation.</p> <p>Supporting documentation was provided from the environmental consultant to demonstrate the effectiveness of the sun shading.</p> <p>A design modification condition has been recommended to require further details to be submitted prior to construction.</p>
Further articulate the expression of the street wall heights	The approved street wall heights have been expressed through the extension of the masonry base to the height of the approved street walls. The lightweight metal framed facade, indicative of the design competition winning scheme, is utilised above.
Minimise the impact of the external lift and stair cores within the internal courtyard of block G.	The stairwells at each end of building G5 have been rotated and inset to minimise the encroachment into the courtyard area.

Building Height

Clause 4.6 Request to Vary a Development Standard

129. 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

130. 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).
131. As the calculations for the affordable housing bonus above assumes a 30% bonus, accordingly the height bonus is also 30%.
132. An assessment of the proposed development against the above development standard, including the 30% bonus is calculated in Table 11 below. The extent of the proposed height variations is included in the right most column.
133. 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 11: 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	43.5	8.4	23.93%
F01	25	32.5	43.5	11	33.85%
F02	27	35.1	43.7	8.6	24.50%
F02	25	32.5	43.7	11.2	34.46%
F03	25	32.5	32	complies	
F03	18	23.4	32	8.6	36.75%
F04	18	23.4	32	8.6	36.75%
G01	27	35.1	26.93	complies	
G02	25	32.5	41.98	9.48	29.17%
G03	25	32.5	39.3	6.8	20.92%
G04	25	32.5	38.38	5.88	18.09%
G05	25	32.5	28.16	complies	
H01	25	32.5	39.97	7.47	22.98%
H02	25	32.5	36.97	4.47	13.75%
H03	25	32.5	25.12	complies	
I01	25	32.5	38	5.5	16.92%

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



Figure 20: Proposed variations to the 130% height plane

135. 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.

136. Whilst these amendments are not in force and therefore cannot be applied in the calculation of the proposed variations (Table 11 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.

137. 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.
138. 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 12 below:

Table 12: 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	43.5	4.89	12.67%
F01	25	35.75	43.5	7.75	21.68%
F02	27	38.61	43.7	5.09	13.18%
F02	25	35.75	43.7	7.95	22.24%
F03	25	35.75	32	complies	
F03	18	25.74	32	6.26	24.32%
F04	18	25.74	32	6.26	24.32%
G01	27	38.61	26.93	complies	
G02	25	35.75	41.98	6.23	17.43%
G03	25	35.75	39.3	3.55	9.93%
G04	25	35.75	38.38	2.63	7.36%
G05	25	35.75	28.16	complies	
H01	25	35.75	39.97	4.22	11.80%

Building	LEP Height	Plus, 30% affordable housing bonus & 10% design	Proposed	Variation (m)	Variation (%)
H02	25	35.75	36.97	1.22	3.41%
H03	25	35.75	25.12	complies	
I01	25	35.75	38	2.25	6.29%



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

139. 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

140. 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 11 above.

141. As outlined in more detailed in Attachment C, the extent of the variations for each building are measured to the highest part of the building. In most instances this is the lift overrun, or in some cases plant enclosures. For the majority of the buildings the actual rooftop level may be a storey below the maximum building height, thereby meaning that the extent of the variation is significantly less for the majority of the built form. Notwithstanding, the Clause 4.6 written request deals with the absolute maximum building heights as required to.
142. 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.
143. 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)

144. 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 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,*

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 designed 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 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 design of the roof top structures include low or semi-permeable structures such as landscaped planters, balustrading, shade structure or pergolas. The rooftop areas are generally 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 upper levels also include a change in finishes and materiality to further assist in providing a visual transition.

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.

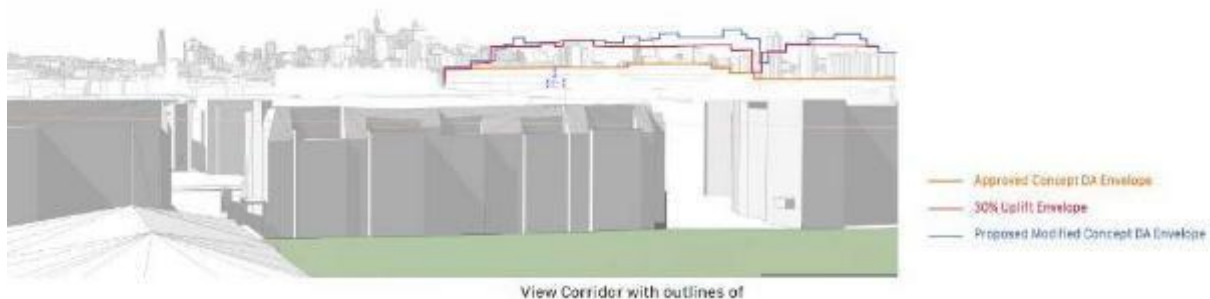


Figure 22: wireframe representation of the proposed building envelope indicating the potential view impact

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
 - the area of impact is caused largely by compliant elements. The additional impact caused by the non-compliant elements has little material impact.
- (e) 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 accommodating 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 #* 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)

145. 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)?

146. 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)?

147. 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.
148. 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.

149. 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.
150. The written request has therefore demonstrated that there are sufficient environmental planning grounds to support the extent of the variation proposed.

Conclusion

151. 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.

Apartment Design Guide

Building Separation

Buildings F&I

152. The internal separation between buildings F02 and F04 converges towards the southern end of the internal courtyard and does not meet the building separation design criteria in Objective of 2F and 3F-1 the ADG, to varying degrees.
153. Apartment layouts have been designed to minimise the number of habitable rooms and balconies facing one another within this area, particularly where the separation is least. Where habitable rooms and balconies face one another, privacy has been maximised by installing external privacy screening.
154. The internal separation within breezeways or between building F01 and F02 (northwestern corner) and F02 and F03/04 (northeastern corner) does not meet the design criteria. Similarly, apartment layouts within these areas have been designed to minimise habitable rooms, offset habitable rooms facing one another, and in certain instances provide privacy measures such as obscure glazing or external angled window hoods to prevent direct overlooking.

Buildings G&H

155. Breezeway links between buildings do not meet the building separation design criteria in Objective of 2F and 3F-1 the ADG. Apartments with an elevation to the breezeway links are orientated towards the street or internal courtyards and have only secondary rooms such as bedrooms and bathrooms with a window to the breezeway link. Windows are generally offset and have privacy measures such as obscure glazing or external angled window hoods to prevent direct overlooking.

Common circulation and spaces

156. Design criteria 1 in Objective 4F of the ADG recommends that a maximum of 8 apartments are located off a single circulation core. Buildings F&I include several circulation cores where up to 12 apartments are located off a single core. Buildings G&H include several circulation cores where up to 17 apartments are located off a single core.

157. Notwithstanding, reasonable amenity is provided. Opportunities to provide natural light to these corridors and lobbies has been maximised for the layouts.
158. Design criteria 2 in Objective 4F-1 of the ADG recommends that for a building 10 storeys or more in height that no more than 40 apartments are accessed from a single lift. Buildings F01 and F02 are more than 10-storeys in height. A minimum of two lifts is provided to all lift cores to achieve the design criteria.

Private open space - Balconies

159. Eleven studio apartments within building H do not have balconies. These studios are configured as part of three-bedroom dual key apartments and would have access to a compliant sized and dimensioned balcony when used in the dual key arrangement.
160. Notwithstanding, if configured as single apartments, the studios still benefit from the ground level and roof top communal open spaces which provides an alternate amenity for the residents.

Solar access

Solar access to new development

161. 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.
162. Solar analysis for the whole development demonstrates that 660 out of 1075 (63%) apartments and 152 out of 1075 (14.5%) apartments receive no sun.

Table 11: Solar access assessment

Building	Apartments	2hrs Solar	No Sun
Building F	411	251 (61.1%)	66 (16%)
Building I	161	100 (62.1%)	0 (0%)
Building G	334	223 (69.8%)	43 (12.9%)
Building H	169	86 (50.9%)	43 (25.4%)
Overall	1075	660 (61.4%)	152 (14.1%)

163. Section 75 of the Housing SEPP specifies that the design criteria in Part 4 of the ADG are to be applied flexibly, having consideration to the on-site amenities and flexibility provided to tenants. As outlined above under the Housing SEPP heading, significant flexibility should be given for this proposal.

164. The proposed development has maximised the solar access achieved to apartments within the development having regard to the existing constraints and the application of the in-fill affordable housing bonuses. Whilst the design criteria is not strictly met, the variation is relatively minor, being around 10% and is considered acceptable as the proposed development has been designed to maximise the potential to achieve solar access. The delivery of additional housing, in particular the affordable housing component, at this time prevails.

Solar access for affordable housing (Building H)

165. The In-fill affordable housing practice note dated December 2023 states that the affordable housing dwellings should receive similar solar access.
166. Building H, containing the affordable housing component, achieves 50.9% solar access. Whilst this is slightly below the solar access achieved for the rest of the development it is indicative of the building's location and constraints.

Solar access to surrounding development (ADG and DCP assessment)

167. The potential overshadowing impacts to surrounding dwellings is considered below having regard to the ADG objectives or DCP objectives as relevant to the building typology of the dwellings potentially being impacted.

Coopers Estate conservation area (Mitchell Road and Belmont Street)

168. The proposed development would overshadow the dwelling houses and terraces located along the eastern side of Mitchell Road from midday onwards, to varying degrees, increasing throughout the afternoon. Given the subdivision pattern and lot orientation, these terraces generally maintain a minimum of two hours solar access to their living rooms and private open space during the morning hours, given these are predominantly located to the rear (facing more so east). Section 4.1.3.1 *Solar access* of the DCP permits overshadowing to side windows by new developments.
169. The proposed development would overshadow the rear of the dwelling located along Belmont Street (the next street to the east) from 2:15pm onwards. Given the subdivision pattern and lot orientation, these terraces generally maintain a minimum of two hours solar access to their living rooms and private open space during the middle of the day and afternoon hours. The proposed development would have marginal, if not negligible impact to these properties.
170. The proposed development would overshadow the three-four storey residential flat building at 300-322 Mitchell Road. Apartments within this RFB are orientated with living areas and private open space either to the front (Mitchell Road) or the rear. Only the apartments within living areas and private open spaces facing the front are potentially impacted, of which there are 20 apartments. Of these, only five apartments would receive less than 2-hours solar access in mid-winter due to the proposed development. These apartments are located on the ground or first floor level and in part are either self-shaded or would have anticipated to have been impacted by the original concept plan. Of the five apartments, three would still receive solar access between 1- and 2-hours solar access. On balance, the proposed development reasonably maintains solar access in accordance with the ADG objective.

171. The proposed development would overshadow the solar panels on the north facing roof plane of 338-366 Mitchell Road from 1:15pm onwards in mid-winter, with the portion of the roof plane impacted increasing throughout the following hours. The extent of the impact is considered minimal over the course of the year and would not compromise the function of the solar panels.

Coulson Street apartments (Sydney Park Village)

172. The proposed development would partly overshadow the six-eight storey residential flat building on the southern side of Coulson Street (Building 9 of Sydney Park Village). Building H of the proposed development has been stepped down towards the south to minimise overshadowing. Consequently, the proposed development does not overshadow any living areas or private open spaces from 1pm onwards, ensuring a minimum of 2-hours solar access is maintained for these apartments in mid-winter. Therefore, the proposed development reasonably maintains solar access in accordance with the ADG objective.

Hadfields Street apartments (Onea)

173. The proposed development would partly overshadow the eight-storey residential flat building on the western side of Hadfields Street (5 Hadfields Street). Buildings G1 and G5 of the proposed development stepdown towards the west to minimise overshadowing.
174. The eastern elevation of 5 Hadfields Street is orientated partly south east due to the orientation of Hadfields Street meaning that solar access to this elevation can only be achieved between 9am and 10:45 am (i.e., for 1hr 45mins). Consequently, in accordance with Objective 3F-2 *Overshadowing of neighbouring properties is minimised during mid-winter* of the ADG, where a neighbouring property does not receive the required hours of solar access, the design of the proposed development ensures solar access to neighbouring apartments is not reduced by more than 20%. In this instance a 20% reduction would equate to 21mins.
175. The proposed development would overshadow apartments on the lower levels of the eastern elevation of 5 Hadfields Street between 9am and 9:20am only, being a maximum of 20% reduction thereby achieving the ADG objective.
176. Additionally, there is no impact to the north or west facing apartments, or apartments on the upper levels of east facing apartments, within the neighbouring development.

Natural cross ventilation

177. 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.
178. An analysis of the whole development demonstrates that 423 of 929 (45.5%) apartments are naturally cross ventilated. As the proposed development is affected by road noise, certain apartments located along the Mitchell Road frontage have plenums. Should these apartments also be considered in the calculation, then 447 of 953 (47%) apartments would be considered to be naturally cross ventilated.

179. Apartments plenums would still allow for typical natural cross ventilation with doors and/or windows open but would be affected by some road noise. The proposed plenums are designed to maintain natural ventilation whilst reducing the impact of the external noise source. Whilst natural ventilation is still achieved, the amount of airflow is reduced in comparison to a typical opening arrangement. Notwithstanding, a degree of cross ventilation is still likely to occur, and therefore some weight should be given to these apartments in the overall consideration, having regard to the constraint imposed by the proximity to the road.
180. Section 75 of the Housing SEPP specifies that the design criteria in Part 4 of the ADG are to be applied flexibly, having consideration to the on-site amenities and flexibility provided to tenants. As outlined above under the Housing SEPP heading, significant flexibility should be given for this proposal.
181. Additionally, ceiling fans are proposed to be installed in all apartments that are not naturally cross ventilated to further improve the amenity of the apartments.
182. A condition of consent is recommended requiring a ceiling fan to be installed within the living room and each bedroom of all apartments, regardless of whether these apartments are naturally cross ventilated, to maximise natural ventilation and reduce reliance on air conditioning systems to minimise operational costs and emissions.

Ceiling Heights - Clause 4.6 written request

183. Section 148 of the Housing SEPP contains development standards for particular matters relating to residential development that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. This includes the recommended ceiling heights specified in Part 4C of the Apartment Design Guide (ADG), which is described as a 'non-discretionary development standard'.
184. If non-discretionary development standards are not complied with, Section 4.15(3) of the EP&A Act 1979 allows the consent authority to apply Clause 4.6 when determining the development.
185. Objective 4C of the ADG requires development in mixed-use areas to provide floor to ceiling heights of 3.3m for ground and first floor to promote future flexibility of use.
186. The ground floor level apartments within Building F, which are designed as two-storey apartments with an upper-level mezzanine, have an internal ceiling height of 2.4m-2.7m and do not comply with the non-discretionary development standards, representing a maximum variation of 0.9m or 27.3%.
187. The ground floor level and first floor level apartments within buildings G, H and I have an internal ceiling height of 2.7m - 2.9m and do not comply with the non-discretionary development standards, representing a maximum variation of 0.6m or 18.2%.
188. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the floor to ceiling height development standard by demonstrating:
 - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard.

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

189. The applicant seeks to justify the contravention of the ceiling heights development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The applicant refers to the first method of the five-part test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the standard is unreasonable or unnecessary. This method seeks to demonstrate that the objectives of the development standard are achieved notwithstanding the non-compliance with the standard.

A summary of the applicant's assessment against the objectives of the ceiling heights development standard is provided below:

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

- All apartments achieve the minimum required floor-to-ceiling heights for habitable and non-habitable rooms.

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

- All apartments achieve the required apartment sizes and are provided with well proportioned rooms.

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

- The proposed ceiling heights are appropriate for the proposed residential uses of the ground and first floor levels, noting that residential uses are permitted in the relevant zones.
- The approved concept plan and relevant section of the DCP identify the desired location of non-residential uses, being within building F where a supermarket and retail premises are proposed, and did not identify Buildings G, H or I as desired locations for non-residential uses.
- Retail uses are provided where active frontage is desirable along Mitchell Road and Macdonald Street, whereas the proposed residential uses are largely located off quieter streets, or parts of street, or Kooka walk where additional retail would be less favourable.
- Given the extent of proposed and already constructed non-residential uses across the Ashmore Estate is consistent with the concept plan and DCP, allowing for further flexibility to accommodate additional non-residential uses is unwarranted.

- (iii) In summary, the applicant submits that the development is consistent with the ADG objective. Therefore, compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- Whilst ground floor and first floor apartments within mixed-use areas do not provide additional floor-to-ceiling height to accommodate future flexibility, the prevailing floor-to-ceiling heights for habitable and non-habitable rooms are otherwise achieved to ensure reasonable amenity is provided.

The proposed development provides ample non-residential uses within the desired locations as identified in the approved concept plan and area specific DCP. The provision of greater floor-to-ceiling heights for ground and first floor apartments elsewhere on the site is unwarranted as it is unlikely that these apartments would be converted to non-residential uses in the future.

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

190. 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)?

191. The applicant has relied upon the first test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case.
192. The applicant has satisfactorily demonstrated that the proposal meets the objectives of the ceiling heights development standard, notwithstanding the non-compliance.

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

193. The applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the standard. The proposed floor-to-ceiling heights will provide acceptable amenity for future occupants and preferable retail is provided elsewhere on the site, consistent with the sites status within the retail hierarchy for Green Square and Erskineville.

Conclusion

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

Dwelling Mix

195. The proposed dwelling mix is assessed in Table 12 below:

Table 12: Dwelling mix

Apartment size	DCP	F&I	G&H	Total
Studio	5% - 10%	63 (11%)	98 (19.5%)	161 (15.4%)
One-bedroom	10% - 30%	333 (58.2%)	156 (31%)	489 (46.7%)
Two-bedroom	40% - 75%	141 (24.7%)	244 (48.5%)	385 (36.7%)
Three-bedroom	10% - 100%	35 (6.1%)	5 (1%) 11 - Dual Key (3.3%)	40 (3.8%)

196. The proposed development is generally consistent with the desired dwelling mix in the DCP noting that Section 75 of the Housing SEPP requires dwelling mix (ADG) to be considered flexibly for build-to-rent housing. On this basis the proposed dwelling mix is considered acceptable.

197. The proposed dwelling mix for the affordable housing component is:

- (a) Studios = 30 (17.8%) affordable apartments
- (b) One-bedroom apartments = 46 (27.2%) affordable apartments
- (c) Two-bedroom apartments = 90 (53.25%) affordable apartments
- (d) Three-bedroom apartments = 3 (1.8%) affordable apartments
- (e) Dual Key three-bedroom apartments (including within above) = 11

198. The proposed dwelling mix for the affordable housing component was developed in consultation with the Community Housing Provider (Evolve Housing) and meets the demands for affordable housing as identified by the provider.

Sydney Development Control Plan 2012

Solar access to public spaces

199. 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 Mitchel Road and Coulson Street intersection.

200. The proposed development would overshadow the public space, in part, during this period, with the majority of the impact being between 11am and 12pm to only a portion of the square as shown in Figure 23 below. Notwithstanding, the intent of the provision is met as the public space will retain good sunlight through the relevant period, providing reasonable amenity in comparable to the nature of the space. The design of the public space is largely transient and does not include areas for siting or recreation. Additionally, other public spaces (parks) are located nearby being Sydney Park and McPherson Park within the Ashmore precinct.



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

Sydney Park view corridor

201. 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.
202. The proposed development 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.

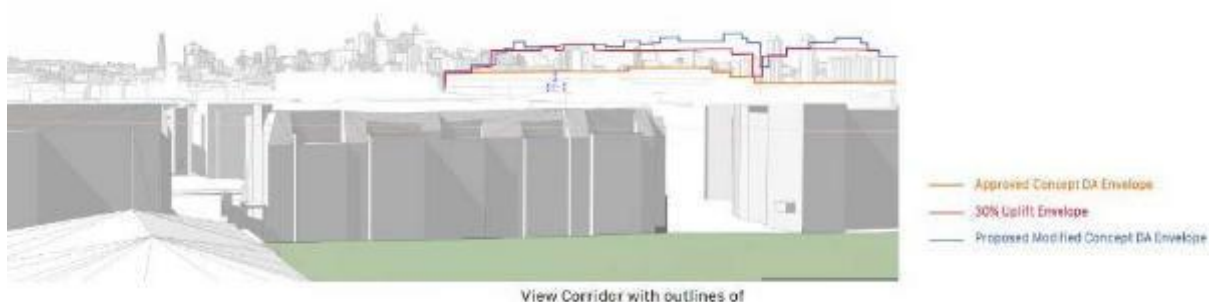


Figure 24: wireframe representation of the proposed building envelope indicating the potential view impact

Alpha Street

203. Alpha Street (future road) is located between buildings F&I and is required to be constructed and dedicated to the City as an obligation of the VPA.
204. Approval of the road will be subject to a separate development application, however, sufficient information has been submitted to demonstrate that the building designs, including building entries and vehicle access, can be accommodated. In particular, the location of the vehicle access near Mitchell Road, required swept path analysis to demonstrate that vehicles including the City's waste service and supermarket delivery vehicles can safely navigate this intersection.
205. A condition of consent is recommended requiring the plans to be amended to integrate the Alpha Street design, including landscaping and civil design coordination, once approved as this may have a minor impact on the development site within the 3m setbacks to Alpha Street due to the interfacing. Additionally, there may be minor changes to the alignment of Alpha Street and therefore if required a deed of variation to the VPA (VPA/2015/39) is to be negotiated.
206. The location and design of residential building entries is consistent with the design jury advice.

Loading and servicing - supermarket and retail**Supermarket and retail premises - Building F**

207. Separate development consent is to be sought for the operation and fitout of the supermarket and retail premises. A condition is included in the recommended conditions of consent at Attachment A.
208. In addition to the supermarket, four separate retail premises (cold shell) areas, totalling 1,750sqm, are proposed along the MacDonald Street and Mitchell Road frontages. These areas have the potential to be configured into smaller retail premises as desired by the future operators.
209. Amenities (WCs) and multiple waste holding areas are provided at ground level for the shared use by each retail premises and their customers.
210. End-of-trip facilities including bicycle parking, showers and lockers are provided within the basement for the shared use of all building management (including buildings G&H), supermarket and retail staff.

Loading Docks

211. The supermarket and retail premises are serviced by a loading dock at the southern end of building F. The loading dock accommodates a 12.5m HRV, allowing forward in and forward out servicing via a turntable. The supermarket and retail premises would be serviced approximately five trips a day. A draft loading and servicing plan has been submitted that addresses the management of the loading dock, noting the loading dock is shared between the supermarket and retail, waste servicing, and residential removals.

212. A loading dock is provided at the western side of building G. The loading docks accommodate a 10.6m waste vehicle, in accordance with the City's waste management guidelines, allowing forward in and forward out servicing via a turntable. A draft loading and servicing plan has been submitted that addresses the management of the loading dock, noting the loading dock accommodates waste servicing and residential removals.

Waste management

213. The proposed waste management arrangements are generally acceptable and will allow for the efficient management of waste and recycling, assisting in reducing waste and diverting recyclables from landfill. The building designs include waste chutes and recycling cupboards at each lift core. Waste is generally managed within the basement areas before being brought to the ground level loading docks for collection via a hoisting system.
214. Conditions of consent are recommended to require construction level design detail drawings to be submitted for approval once design coordination has occurred.
215. The ground level loading dock for buildings G&H provides sufficient capacity to store all waste and recycling bins for collection.
216. The ground level loading dock waste collection rooms for buildings F&I require further reconfiguration to accommodate additional capacity for residential waste collection and provide separate waste storage for retail waste collection. There is sufficient space within the adjoining areas to accommodate this. The proposed residential waste collection room has a grade change to the adjoining loading dock area which presents a potential collection issue for building management and waste collection contractors. The above recommended conditions of consent address these issues. This would require minor changes within the building entry lobby above to accommodate the additional head height.

Landscaping

217. The proposed landscape design is generally acceptable. Conditions of consent are recommended requiring the approval of additional landscape plans.
218. The conditions also suggest the substitution of certain tree species, such as Wattle trees and Palms, to align with the City's preferred Tree Species List ensuring species are appropriately selected for the likely growing conditions.

Landscape Setback

219. The urban design principles for the Ashmore Neighbourhood are defined by a strong landscaped character achieved by setting back development from the public domain. This landscaped setback is also critical in achieving the deep soil requirements (10%) of the approved landscape concept plans. The landscaped setback is reinforced by Section 5.5.4.2 of the DCP and the approved concept plan which specifies a 3m setback, except where active frontages are provided.
220. The proposed design minimises the extent of structures and paving within the landscaped setback to maximise consolidated deep soil planting to contribute to the landscaped character of the neighbourhood and urban canopy coverage.

221. This setback is marginally reduced in some instances along Kooka Walk to accommodate the required private open space without impacting on apartment depths. This is considered acceptable where the extent of the non-compliance is minor and is located adjacent to further consolidated landscaping within Kooka Walk itself.

Public Art

222. The City approved a Public Art Masterplan for the Ashmore Precinct in 2018. A Preliminary Public Art Plan has been submitted for buildings F&I and buildings G&H, respectively.
223. Consistent with the approved Public Art Masterplan, the preliminary plans acknowledge the masterplan and develop concepts by First Nations artist Lucy Simpson who has overseen the public art across the precinct thus far. The proposed public art locations provide opportunities to realise the artist's overarching 'Firestory' concept for the precinct.
224. Opportunities identified for public art include:
- sculptural wall attachments within Nassau Lane
 - soffit treatments to building entries echoing the former turpentine forests of the area
 - integrated sculptural attachments and surface treatments on the building facade interacting with the flow of water
 - facade treatments include engraving and pattern
 - functional elements integrated with feature seating and furniture
225. The proposed public art budget is \$600,000 (exc. GST) and is consistent with the terms of the VPA. A condition of consent is recommended to adjust the budget to account for CPI increases. The VPA required a greater proportion of the public art budget to be utilised to provide public art within McPherson Park.
226. The City's Public Art Advisory Panel recommended taking this precinct wide approach and have remained informed on the development of the public art for each application. The two plans will complete the public art vision of the Ashmore Estate Precinct.

Consultation

Internal Referrals

227. The application was discussed with:
- (a) Environmental Projects
 - (b) Environmental Health
 - (c) Heritage and Urban Design
 - (d) Public Domain
 - (e) Surveyors

- (f) Transport and Access
- (g) Tree Management
- (h) Waste Management.

228. 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

229. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
230. A response was received raising no objections to the proposed development. Conditions recommended by Ausgrid have been included in the recommended conditions of consent at Attachment A.

Sydney Airport & Flysafe

231. 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

232. 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.
233. The Airfield Spatial & Technical Planning Manager at Sydney Airports as an authorised person of the CASA confirmed that no objection was raised.
234. Separate approval will be required to operate construction cranes above this RL (controlled activity).

Building F

235. 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.
236. 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.
237. 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.

238. 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

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

Transport for NSW

241. 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.
242. Comments were received on 1 July 2025 confirming no objection to the proposed development. Two conditions, requiring a Construction Traffic and Pedestrian Management Plan and a Road Occupancy Licence to be approved / obtained, were recommended and have been included in the recommended conditions of consent at Attachment A.

Water NSW

243. Pursuant to Section 89 and 90(2) of the Water Management Act 2000, the application was referred to Water NSW for concurrence.
244. Copies of public submissions made to the City of Sydney during the notification period were forwarded to Water NSW on 14 July 2025.
245. General Terms of Approval were issued by Water NSW on 10 October 2025 and have been included in the schedules within the recommended conditions of consent at Attachment A.

Advertising and Notification

246. In accordance with the City of Sydney Community Participation Plan 2022, the proposed development was notified and advertised for a period of 28 days between 5 June 2025 and 4 July 2025. A total of 2259 properties were notified, and 116 submissions were received, including:
- (a) 109 submissions in objection
 - (b) 7 submissions in support
247. The amended plans were not re-notified as the amendments to the design mainly involved internal reconfigurations and are not considered to intensify or create additional amenity impacts to neighbouring properties

248. The submissions raised the following issues:

Planning policy and assessment 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 bonuses is addressed through the assessment of the accompanying amending concept application (D/2025/448). Notwithstanding, the planning policy amendments remain a matter for consideration.

- (b) **Issue:** Concerns regarding procedural fairness, public trust, and lack of community consultation in the planning process, noting the significant changes to the originally approved concept plan.

Response: As above, addressed through the amending concept application.

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

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

- (d) **Issue:** Calls for new design competitions to be run which reflect the now proposed scale of the development, noting the design competitions were run prior to the application of the Housing SEPP bonus.

Response: The City's Competitive Design Policy allows discretion to be used to consider material changes to a competitive design process scheme. In this instance, and relying on the DAP advice, it is considered that a new competition is not warranted as the proposed development satisfactorily retains the design qualities of the endorsed outcome.

- (e) **Issue:** View that bonuses should not be applied in conjunction with one another.

Response: The Infill affordable housing practice note dated December 2023 confirms that bonuses may be applied accumulatively.

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

Response: The required affordable housing component is 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.

- (g) **Issue:** Criticism that the affordable housing provisions are being used to justify excessive building heights.

Response: The provision of the affordable housing component in turn permits additional building height in accordance with the Housing SEPP.

- (h) **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 impacts and the significant public benefit that is otherwise provided.

Built form, massing and scale

- (i) **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.

- (j) **Issue:** The proposal does not comply with established height controls.

Response: The proposed development takes into account provisions relating to additional height afforded by changes to the Housing SEPP and the LEP. An amending concept application has been lodged to assess those changes.

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

Response: Upper-level setbacks have been retained towards the edges of the site to assist in the visual transition to the surrounding area.

A change in materiality and finishes has been incorporated at the upper levels to further break down the visual scale of the buildings.

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

Response: Buildings heights along Mitchell Road have increased. An upper-level setback has been retained.

- (m) **Issue:** Lack of street wall modulation, screening and landscaping, which undermines the human scale of Mitchell Road.

Response: Breaks in the built form are incorporated along Mitchell Road through the open stairwells in Building F and recessed break in at the centre of the Building I facade.

An upper-level setback has been retained, notwithstanding the increased street wall and building height.

The approved deep soil landscaped setbacks to Mitchell Road have been retained and include significant landscaping to soften the built form.

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

Response: The proposed development takes into account changes to the Housing SEPP and the LEP. An amending concept application has been lodged to assess those changes.

- (o) **Issue:** Buildings are monolithic in size and would appear visually oppressive on surrounding dwellings and streets.

Response: Taller buildings are located towards the northern and central areas of the site, further away from the lower scale surrounding development. As above, upper-level setbacks and changes in materiality assist in breaking down the visual scale of the buildings.

- (p) **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

- (q) **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 ground plane, in particular, seeks to maintain the human scale of the streetscape. The built-form has been broken down into smaller elements above the street wall height to minimise the perceived scale of the development.

- (r) **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.

- (s) **Issue:** Suggestions for amendments to better integrate the development within existing streetscapes.

Response: The proposed development would have an acceptable presentation to the Mitchell Road streetscape noting the desired future character of the Ashmore Estate. The relevant objectives and principles for the Ashmore Neighbourhood have been met.

Build-to-rent model and affordable housing

- (t) **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.

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

Response: Amended plans includes additional family-sized three-bedroom apartments, primarily located at ground level. The proposed dwelling mix is otherwise considered acceptable - see discussion above.

- (v) **Issue:** Suggestion that the affordable housing should be distributed throughout the development to foster community cohesion.

Response: Whilst the benefits of this suggestion are generally agreed. The management and services arrangements of the Community Housing Provider need to be considered to ensure that the ongoing operation and management of the affordable housing building itself is sustainable and economically viable. The CHP expressed their preference to manage the housing within a dedicated building (Building H).

- (w) **Issue:** Build-to-rent model seen as prioritising developer profit over community housing needs.

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.

- (x) **Issue:** Concerns regarding the increased concentration of social housing, noting neighbouring social housing areas, citing antisocial behaviour and lack of community services and law enforcement to manage potential issues.

Response: The proposed development does not include social housing, however, this is not to say that the development of additional social housing would not be supported.

- (y) **Issue:** Build-to-rent properties have higher rental rates on average, not supporting affordability.

Response: The proposed build-to-rent housing will provide additional diverse housing options. This is in addition to the affordable housing provided on-site in perpetuity (building H).

- (z) **Issue:** Build-to-rent development reduces potential for owner occupiers to purchase affordable homes.

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.

- (aa) **Issue:** Build-to-rent model will create a social enclave, having on site amenities, not promoting integration with the surrounding community.

Response: Like other residential developments, the proposed development includes communal facilities and open spaces which support and promote social interaction and community amongst the residents, however, the development does not provide all of the services and amenities generally enjoyed and therefore is anticipated that future residents would also

Potential amenity impacts

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

Response: Acceptable - see discussion above.

- (cc) **Issue:** The development does not meet minimum solar access standards.

Response: Acceptable - see discussion above.

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

Response: Adequate building separation is achieved to prevent the direct overlooking of surrounding dwellings.

- (ee) **Issue:** Requests for increased setbacks, particularly at the upper levels, to reduce the impact on neighbouring amenity.

Response: The proposed development provides a reasonable transition in scale to the adjoining area to reasonably mitigate potential amenity impacts.

- (ff) **Issue:** The tall buildings and narrow streets would cause increased wind tunnelling effects through the precinct, impacting pedestrian safety and comfort.

Response: Acceptable - see discussion above.

- (gg) **Issue:** Loss of City skyline views, particularly from Sydney Park.

Response: Acceptable - see discussion above.

- (hh) **Issue:** Impact to outlooks and views to the sky.

Response: The proposed development would not directly block outlooks and views to the sky as adequate building separation is provided to surrounding development.

- (ii) **Issue:** Requests for a comprehensive acoustic assessment to be provided.

Response: An acoustic report was submitted to demonstrate that use of the proposed development, including loading and servicing requirements, would not have an adverse impact on surrounding residents.

- (jj) **Issue:** Concerns the rooftop communal areas would cause late-night noise impacts to surrounding residents. Suggestions this is removed or redesigned to minimise potential noise impacts.

Response: The use of rooftop communal areas is unlikely to cause undue noise impacts. Conditions have been recommended regarding the use of these spaces. The use of these areas is also to be managed by onsite building management as required for build-to-rent housing.

- (kk) **Issue:** The scale of the development would cause increase traffic and servicing and servicing noise impacts.

Response: All servicing is to be undertaken onsite within the enclosed loading docks. An acoustic report was submitted to demonstrate that this would not have an adverse impact on surrounding residents. Conditions of consent are recommended restricting the loading and services hours noting the site is within a residential area.

Transport, traffic and parking

- (ll) **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.

- (mm) **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.

- (nn) **Issue:** Inadequate on-site parking provision leading to spillover parking into surrounding residential streets. Requests for no on-street parking permits if on-site parking is insufficient.

Response: Future residents of the proposed development will not be eligible for on-street parking permits. The surrounding street network comprises restricted parking and therefore it is unlikely that future residents would seek to rely on on-street parking for private vehicles.

- (oo) **Issue:** Existing public transport services, particularly buses are at capacity during peak hours. Train services altered by southwestern line conversion.

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.

- (pp) **Issue:** Traffic assessments outdated (e.g. conducted during COVID lockdowns).

Response: The City's Access and Transport Unit were satisfied the submitted Traffic Impact Assessments adequately addressed traffic volumes.

It is noted that the number of on-site parking spaces is significantly less than the maximum permitted number of parking spaces and was reduced further during the course of the assessment.

- (qq) **Issue:** Concerns supermarket traffic and delivery trucks would impact pedestrian safety.

Response: The design of Alpha Street is subject of a separate application, however, the design is to ensure that vehicle access including truck movements will not adversely impact pedestrian safety on Alpha Street or Mitchell Road.

- (rr) **Issue:** Need for more pedestrian crossings to improve pedestrian safety. Signals required at Mitchell Road and Maddox Street.

Response: Traffic lights are being delivery at this intersection under an approved preceding stage of the development. The proposed development also includes a north-south pedestrian green spine (Kooka Walk) and additional east-west links (Nassau Lane and Alpha Street) through the Ashmore Neighbourhood.

Infrastructure, services and amenities

- (ss) **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.

- (tt) **Issue:** Increased strain on utilities and waste collection services.

Response: AUSGRID and Sydney Water have confirmed that sufficient capacity is available to service the development. The City's waste collection services will collect residential waste and recycling.

- (uu) **Issue:** Emergency services, GP clinics and health services are overstretched, with long wait times.

Response: 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.

- (vv) **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.

Environmental and sustainability impacts

- (ww) **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.

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

Response: The proposed development complies with the approved landscaped concept plans. A strong landscaped setback is provided at ground level and green and social rooftops provide additional landscaped amenity. The development of the broader site also includes McPherson Park and Kooka Walk where additional significant urban canopy is provided.

- (yy) **Issue:** The proposed development lacks landscape open spaces, the proposed rooftop gardens were described as “tokenistic”.

Response: The proposed green and social roofs are consistent with the approved concept plan and the recent planning amendments which supports the use of rooftops to provide communal open spaces with high levels of amenity, including landscaping.

- (zz) **Issue:** The development may cause increased flood risks and should be independently reviewed.

Response: The City's Public Domain unit have reviewed the submitted flood planning information. The development includes significant flood planning infrastructure to improve flood levels in the locality.

- (aaa) **Issue:** Potential impacts to groundwater table caused by deep excavation for the basements.

Response: Remediation Action Plans were submitted and approved under the early works consents which address land contamination, including impacts to groundwater.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

249. The City of Sydney Development Contributions Plan 2015 applies to the site. The development is subject to a Section 7.11 local infrastructure contribution under this Plan.
250. The total contribution payable is \$20,073,810,06. A credit is provided for the existing buildings, now demolished under preceding consents.
251. A condition relating to this local infrastructure contribution has been included in the recommended conditions of consent at Attachment A.
252. The Voluntary Planning Agreement (VPA/2015/39) involves land dedication and public domain works which may be offset against the contributions. The increase in dwellings associated with the affordable housing uplift will generate additional contributions that may not be offset by the required VPA works. Condition (X) requires payment of the full contribution, less any contributions offset by the VPA works, calculated in accordance with the VPA. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

253. The site is located within the 'residual lands' affordable housing contribution area. As the proposed development includes additional floor space the development is subject to the requirements of Section 7.13 relating to a contribution for the purpose of affordable housing.

254. The contribution amount payable is calculated based on the total floor area (TFA) of the proposed development. TFA calculation plans have been submitted, which identify 5,250sqm of non-residential TFA and 102,626sqm of residential TFA, noting a contribution is not required for the affordable housing component (Building H).
255. The contribution amount is calculated at a rate of \$11,646.80 per square metre (indexed on 1 March 2025), for 1% of the non-residential TFA and 3% of the residential TFA. This results in a contribution of \$36,469,391.90.
256. As outlined above, the City's Affordable Housing Program was varied by Council resolution on 23 June 2025 to permit the payment of the contributions in stages, as follows:
- (a) Building F – prior to first OC
 - (b) Building I – prior to first OC
 - (c) Building G – prior to first CC (via bank guarantee)
257. Section 7.32 of the Act applies to a development application for consent to carry out development within an area if a State environmental planning policy identifies that there is a need for affordable housing in the area.
258. Section 14 of SEPP Housing 2021 identifies that there is a need for affordable housing within each area of the state and therefore Section 7.32 of the Act applies to the development application.
259. Subject to subsection 7.32(3) of the Act, the consent authority may grant consent to a development application subject to a condition requiring dedication of part of the land for the purpose of providing affordable housing, or payment of a monetary contribution to be used for the purpose of providing affordable housing.
260. An affordable housing condition may be reasonably imposed under Section 7.32(3) of the Act subject to consideration of the following:
- (a) the condition complies with all relevant requirements made by a State environmental planning policy with respect to the imposition of conditions under this section, and
 - (b) the condition is authorised to be imposed by an environmental planning instrument, and is in accordance with a scheme for dedications or contributions set out in or adopted by such an instrument, and
 - (c) the condition requires a reasonable dedication or contribution, having regard to the following:
 - (i) any other dedication or contribution required to be made by the applicant under this section or section 7.11.
261. Before imposing a condition under Section 7.32 of the Act, the consent authority must take into consideration any land or sum of money that the applicant has previously dedicated free of cost, or previously paid, for the purpose of affordable housing within the area otherwise than as a condition of consent. The applicant has not identified any other contributions within the City.

262. Before imposing a condition under Section 7.32 of the Act, the consent authority must consider the matters in Section 15 of the Housing SEPP. The City's Affordable Housing Program is consistent with these matters and therefore a condition requiring a contribution may be imposed.
263. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable. A condition of consent is recommended requiring the payment of an affordable housing contribution prior to the issue of a construction certificate.

Housing and Productivity Contribution

264. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
265. The site is located within the Greater Sydney region. The development is a type of residential and commercial development to which the Housing and Productivity Contribution applies, in part. A contribution is not payable for the part of the development for the purpose of affordable housing (building H), required to be managed by a registered community housing provider in accordance with Schedule 2 of the Housing and Productivity Order 2024.
266. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent at Attachment A.

Relevant Legislation

267. Environmental Planning and Assessment Act 1979.

Conclusion

268. The development application seeks consent for a mixed-use development comprising retail, including a full-line supermarket, and shop top housing and residential flat buildings with the residential component being specified as either built-to-rent housing or affordable housing.
269. The matters for consideration as outlined in Section 4.15(1) of the Act have been satisfied. The proposed development is permitted within the MU1 Mixed-Use zone and the E1 Local Centre zone, respectively, and is consistent with the objectives of the zones.
270. 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.

271. 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.
272. 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.
273. 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

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