

**ATTACHMENT B**

**RESOLUTION OF COUNCIL  
OF 14 MAY 2012 –  
DEVELOPMENT APPLICATION:  
1 NEWCOMBE STREET PADDINGTON**

## Resolution of Council

**14 MAY 2012**

### **ITEM 9.11**

#### **DEVELOPMENT APPLICATION: 1 NEWCOMBE STREET PADDINGTON**

**(D/2010/1932)**

The Development Assessment Sub-Committee decided that consideration of this matter be deferred to the meeting of Council on 14 May 2012.

At the meeting of Council, it was moved by Councillor Mallard, seconded by the Chair (the Lord Mayor) –

It is resolved that:

- (A) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted subject to the following:
- (1) That if 79 car parking spaces cannot be provided, free of charge, on market days for stall holders with market stalls located in the school and church premises at 395 Oxford Street, Paddington NSW, during any period of time (including the construction phase), then the equivalent number of car spaces shall be provided, in the same terms, at an alternative site approved by the relevant consent authority and the consent dated 18 December 1987 shall be modified accordingly; or
  - (2) That the development consent dated 18 December 1987 is surrendered and the retail markets located in the school and church premises at 395 Oxford Street, Paddington NSW shall cease forthwith;
  - (3) The development shall be redesigned such that vehicular access to the basement level car parks shall be relocated from Gordon Street to the proposed private lane at the rear of the site. Such amendments are to provide appropriate facilities for servicing the site to Council's satisfaction. The area vacated by the vehicular access on Gordon Street may be amended to accommodate residential; and
  - (4) The applicant obtain approval of the Roads and Maritime Services to agree for vehicular access to the site to be provided from Oxford Street via Newcombe Street;

- (B) evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to the Director City Planning, Development and Transport by 14 May 2015;
- (C) the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied; and
- (D) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions:

### SCHEDULE 1A

#### Approved Development/Design Modifications/Covenants and Contributions/Use and Operation

**Note:** Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

#### (1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2010/1932 dated 18 November 2010 (and amended on 4 July and 8 November 2011) the Statement of Environmental Effects prepared by Ryan Planning dated June 2011 and the following drawings:

Drawing Number	Architect	Date
10023-DA-05 H	Morris Bray Architects	28 June 2011
10023-DA-07 H	Morris Bray Architects	28 June 2011
10023-DA-09 H	Morris Bray Architects	24 February 2012
10023-DA-10 G	Morris Bray Architects	28 June 2011
10023-DA-11 G	Morris Bray Architects	28 June 2011
10023-DA-12 G	Morris Bray Architects	28 June 2011
10023-DA-13 G	Morris Bray Architects	28 June 2011
10023-DA-14 H	Morris Bray Architects	24 February 2012
10023-DA-15 H	Morris Bray Architects	24 February 2012

and as amended by the conditions of this consent:

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

**(2) DESIGN DETAILS**

A materials sample board detailing all proposed finishes must be submitted to and approved by Council prior to a Construction Certificate being issued.

**(3) USE - SEPARATE DA REQUIRED**

A separate development application for the fitout and use of the retail unit and for any associated outdoor seating must be submitted to and approved by Council prior to that fitout or use commencing.

**(4) RETAIL FLOORSPACE**

The usable retail floorspace (excluding back of house and loading areas) shall be limited to 504sqm in area.

**(5) SIGNAGE STRATEGY**

**(6) SECTION 94 EASTERN PRECINCT CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2006**

As a consequence of this development, Council has identified an additional demand for public amenities and facilities. Pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 (as amended), and City of Sydney Section 94 Contributions Development Contributions Plan 2006 the following monetary contributions towards the cost of providing facilities and amenities are required.

<u>Contribution Category</u>	<u>Amount</u>
Community Facilities	\$12,400.25
Public Domain	\$23,908.92
New Open Space	\$194,531.29
Accessibility	\$1,962.36
Management	\$2,121.76
<b>Total</b>	<b>\$234,924.57</b>

The above payments will be adjusted according to the relative change in the Consumer Price Index using the following formula.

$$\text{Contributions at Time of Payment} = C \times \text{CPI}_2 / \text{CPI}_1$$

where:

- C is the original contribution amount as shown above;
- CPI<sub>2</sub> is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of statistics at the time of payment; and
- CPI<sub>1</sub> is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the date of calculation being – December 2011.

The contribution must be paid prior to issue of a Construction Certificate. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the City of Sydney. Personal or company cheques will not be accepted.

**Please contact Council's Planning Administration staff at [planningsystemsadmin@cityofsydney.nsw.gov.au](mailto:planningsystemsadmin@cityofsydney.nsw.gov.au) to confirm the amount payable, prior to payment.**

Copies of the City of Sydney Section 94 Development Contributions Plan 2006 may be inspected at Council's offices.

#### **(7) ALLOCATION OF PARKING**

Notwithstanding the annotations on drawing number 10023-DA-05, the approved parking spaces must be allocated as follows:

- (a) On Saturdays when the Paddington Markets are in operation:
- (i) 14 residential parking spaces in the upper basement level.
  - (ii) 4 residential visitor parking spaces in the upper basement level.
  - (iii) 16 retail parking spaces in the upper basement level.
  - (iv) 6 stallholder parking spaces in the upper basement level. These spaces shall be made available free of charge to market stallholders consistent with the Department of Environment and Planning consent 86/0459.
  - (v) 73 stallholder parking spaces in the lower basement level.
- (b) At all other times:
- (i) 14 residential parking spaces.
  - (ii) 4 residential visitor parking spaces.
  - (iii) 16 retail parking spaces.
  - (iv) 46 general paid public spaces.

Details of how all spaces will be line-marked and labelled or secured to prevent unauthorised use of individual spaces shall be submitted to and approved by the Director City Planning, Development and Transport prior to the issue of a Construction Certificate and thereafter shall be maintained in place throughout the use and occupation of the development.

**(8) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL**

The following conditions apply to car parking:

- (a) The 14 on-site car parking spaces designated as residential parking spaces are not to be used other than by an occupant or tenant or resident of the subject building.
- (b) The strata subdivision of the site is to include a restriction on user pursuant to section 39 of the *Strata Schemes (Freehold Development) Act, 1973* as amended, so burdening all utility car parking allotments in the strata plan and/or an appropriate documentary restriction pursuant to section 88B of the *Conveyancing Act 1919*, burdening all car parking part lots in the strata plan.

**(9) PUBLIC CAR PARKING**

**(a) Pricing Structure**

The following is the pricing structure for the 46 general public spaces on days other than Saturdays when the Paddington Markets are in operation and shall apply between 9.30am and 6.00pm Mondays to Fridays, except on public holidays. Where N = the hourly rate determined by the car park operator:

Duration	Charge per hour (\$)
1st hour	N
2nd hour	N
3rd hour	N
4th hour	N
5th hour	> =1.5N
6th hour	> =1.5N
7th hour	> =1.5N
each hour thereafter	> =1.5N

**(b) Eligibility for Use**

Only those parking in the building on a short term casual basis paying the permitted short stay tariff are permitted to park in the building.

(c) **Areas of Use**

General public parking in areas other than the dedicated 46 car spaces is prohibited.

**(10) STALLHOLDER PARKING SPACES**

The allocated stallholder parking spaces referred to above shall not be accessed prior to 7.30am on Saturdays when the Paddington Markets are in operation. These spaces shall be made available free of charge to market stallholders consistent with the Department of Environment and Planning consent 86/0459.

**(11) CAR PARK MANAGEMENT PLAN**

Notwithstanding the submission of the Car Park Management Plan from Parking and Traffic Consultants, a comprehensive and single management plan for the use and operation of the car park shall be submitted for the approval of the Director City Planning, Development and Transport prior to the issue of a Construction Certificate. The plan shall incorporate all aspects of the day to day management and operation of the car park including the stacked parking arrangement proposed for the lower basement level on Saturdays when the Paddington Markets are in operation. Thereafter, the car park shall be operated and managed in accordance with the Car Park Management Plan throughout the use and occupation of the development.

**(12) CAR PARKING SPACES AND DIMENSIONS**

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan. The details must be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued.

**(13) ACCESSIBLE PARKING SPACES**

The design, layout, signage, line marking, lighting and physical controls of all off-street accessible parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.6 - 2009 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued.

**(14) LOCATION OF ACCESSIBLE CAR PARKING SPACES**

**(15) LOCATION OF VISITOR PARKING**

**(16) ALLOCATION FOR VISITOR PARKING**

**(17) INTERCOM FOR VISITORS**

**(18) BICYCLE PARKING****(19) PROHIBITION ON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME APPLICATION OF CITY OF SYDNEY PERMIT PARKING POLICY – INELIGIBILITY FOR RESIDENT PARKING PERMITS****(20) SIGNAGE TO INDICATE NON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME****(21) SECURITY GATES****(22) SIGNS AT EGRESS****(23) LOADING MANAGEMENT PLAN**

A loading management plan must be prepared for the loading dock. The management plan must be adopted prior to the occupation of the retail component of the development site, and must be reviewed on a regular basis and updated if required. The loading management plan must include, but not be limited to the following:

- (a) Measures to ensure two vehicles are not trying to service the site at any one time;
- (b) Instructions that vehicles arriving at the site must not wait on the street if the loading dock is occupied;
- (c) Any stop go controllers that are to be used to ensure two vehicles do not meet travelling opposite directions along the lane;
- (d) Details of who is responsible for the retractable bollards;
- (e) Details of how a loading driver will make their arrival at the site known.

The loading dock management plan shall be submitted for the approval of the Director City Planning, Development and Transport prior to the issue of a Construction Certificate. Thereafter, the loading dock shall be operated and managed in accordance with the Car Park Management Plan throughout the use and occupation of the development.

**(24) RETRACTABLE BOLLARDS**

The retractable bollards for the service lane must be located a minimum of 6.4m within the site. This will prevent service vehicles blocking either the road or the footpath while the bollards are being opened.

**(25) SERVICE VEHICLE SIZE LIMIT**

The size of vehicles servicing the retail component must be a maximum length of 6.4m.



**(26) SERVICE VEHICLES**

Adequate space must be provided to allow manoeuvring and turning of the different sized vehicles. The design, layout, signage, line marking, lighting and physical controls for all service vehicles must comply with the minimum requirements of Australian Standard AS 2890.2 – 2002 Off-Street Parking Part 2: Commercial vehicle facilities. Details must be submitted to and approved by the Certifying Authority prior to a Construction Certificate being issued.

**(27) SIGHT LINES MAINTAINED**

Notwithstanding the outdoor seating shown on drawing number 10023-DA-09, a triangle 2.5m from the property boundary along the lane, and 2m from the lane along Newcombe Street must be kept clear for sight lines, as required by AS2890.1.

**(28) LOADING WITHIN SITE****(29) LOADING/PARKING KEPT CLEAR****(30) ASSOCIATED ROADWAY COSTS**

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway, including the possible relocation of a light pole and public telephone on Newcombe Street shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Development Specification for Civil Works Design and Construction".

**(31) COST OF SIGNPOSTING****(32) TRAFFIC WORKS****(33) VEHICLE FOOTWAY CROSSING****(34) VEHICLES ACCESS****(35) AIR CONDITIONERS IN RESIDENTIAL BUILDINGS****(36) NOISE - GENERAL****(37) NOISE FROM CAR PARK ROLLER DOOR**

The roller door to the proposed car park shall be fitted with a soft closing mechanism to minimise noise during opening and closing.

**(38) RESTRICTION ON RESIDENTIAL DEVELOPMENT**

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the building (levels 1 and 2) must be used as permanent residential accommodation only and not for the purpose of a hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with the South Sydney Local Environmental Plan 1998.

- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from residential purposes. The covenant is to be registered on title prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.
- (c) No more than two adult people shall occupy any bedroom and no bedroom shall contain more than two beds. This excludes children and children's beds, cots or bassinets.
- (d) The total number of adults residing in one unit shall not exceed twice the number of approved bedrooms.
- (e) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (f) An owner, tenant or Owners Corporation shall not permit a Building Manager or agent to advertise or organise for short term accommodation or share accommodation in the building.
- (g) Car parking spaces may only be used for storage related to residence in the unit with which the space is associated. No storage should take place for commercial businesses in car parking spaces.

**(39) DEDICATION OF SPLAY**

- (a) The owner must dedicate for road purposes, free of cost to Council, a 1.5m by 1.5m splay at the intersection of Gordon Street and Newcombe Street, to be detailed in a plan of subdivision/consolidation of the land. This plan must be registered at the Land and Property Information Office prior to an Occupation Certificate being issued.
- (b) The ground floor courtyard area of Proposed Unit 20 is to be modified to incorporate the splayed corner as public footpath.

**(40) LAND SUBDIVISION**

Any proposal to subdivide the site, exclusive of a subdivision to effect road dedication, will require separate applications to be made to Council to obtain development consent and the subsequent approval from the Council of the plan of subdivision and issue of a Subdivision Certificate under Part 4A of the *Environmental Planning and Assessment Act 1979*.

**(41) STRATA SUBDIVISION**

Any proposal to strata subdivide the proposed development or part of the proposed development will require a separate application to be made to Council or an accredited certifier to obtain approval of the strata plan and issue of a Strata Certificate under the *Strata Schemes (Freehold Development) Act 1973*.

**(42) GARBAGE HOLDING AREA AND COLLECTION**

- (a) A ground floor garbage receptacle holding area, capable of storing a minimum of 7 X 240 litre mobile garbage bins, is to be incorporated in the development in proximity to the Newcombe Street frontage to facilitate Council's on-street domestic waste collection service.
- (b) Garbage bins are not to be stored on the kerbside and must be removed after collection.
- (c) Garbage shall be collected twice weekly.

**SCHEDULE 1B****Prior to Construction Certification/Commencement of Work/Health and Building**

**Note:** Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia (and a copy forwarded to Council where Council is not the certifying authority). If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

- (43) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES**
- (44) ADAPTABLE HOUSING**
- (45) ANNUAL FIRE SAFETY STATEMENT FORM**
- (46) BASIX CERTIFICATE**
- (47) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA**
- (48) FIRE SAFETY CERTIFICATE TO BE SUBMITTED**
- (49) GEOTECHNICAL REPORT AND CERTIFICATION**
- (50) STRUCTURAL CERTIFICATION FOR DESIGN – ALL BCA CLASSES)**
- (51) CERTIFICATION OF GEOTECHNICAL INSPECTION**
- (52) DEWATERING**
- (53) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

A Construction Traffic Management Plan must be submitted to and approved by Council prior to a Construction Certificate being issued.

**(54) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION**

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 361-379 Oxford Street is to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Certifying Authority and the Council prior to the issue of a Construction Certificate.

**UPON COMPLETION OF EXCAVATION/DEMOLITION**

- (b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifying Authority and the Council prior to the issue of an Occupation Certificate.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.

**(55) EROSION AND SEDIMENT CONTROL - BETWEEN 250 AND 2,500SQM**

Prior to the commencement of demolition/excavation/construction work, an Erosion and Sediment Control Plan (ESCP) must be submitted to and be approved by the Principal Certifying Authority. The ESCP must:

- (a) Conform to the specifications and standards contained in Managing Urban Stormwater: Soils and Construction (Landcom, 2004); the Guidelines for Erosion and Sediment Control on Building Sites (City of Sydney, 2004); and the NSW Protection of the Environment Operations Act 1997.
- (b) Include a drawing(s) that clearly shows:
- (i) location of site boundaries and adjoining roads;
  - (ii) approximate grades and indications of direction(s) of fall;
  - (iii) approximate location of trees and other vegetation, showing items for removal or retention;

- (iv) location of site access, proposed roads and other impervious areas;
  - (v) existing and proposed drainage patterns with stormwater discharge points;
  - (vi) north point and scale.
- (c) Specify how soil conservation measures will be conducted on site including:
- (i) timing of works;
  - (ii) locations of lands where a protective ground cover will, as far as is practicable, be maintained;
  - (iii) access protection measures;
  - (iv) nature and extent of earthworks, including the amount of any cut and fill;
  - (v) where applicable, the diversion of runoff from upslope lands around the disturbed areas;
  - (vi) location of all soil and other material stockpiles including topsoil storage, protection and reuse methodology;
  - (vii) procedures by which stormwater is to be collected and treated prior to discharge including details of any proposed pollution control device(s);
  - (viii) frequency and nature of any maintenance program;
  - (ix) other site-specific soil or water conservation structures.

**(56) ROAD OPENING PERMIT**

**(57) TEMPORARY GROUND ANCHORS, TEMPORARY SHORING AND PERMANENT BASEMENT/RETAINING WALLS AFFECTING THE ROAD RESERVE**

**(58) ARCHAEOLOGICAL ASSESSMENT**

- (a) As the site is likely to have archaeological potential, an Archaeological Assessment, is to be prepared by a suitably experienced and qualified archaeologist in accordance with the NSW Heritage Office Guidelines, and submitted to Council's satisfaction, prior to the issue of a construction certificate or commencement of works on site, whichever is the earliest.
- (b) Depending on the findings of the assessment the applicant may need to apply to the NSW Heritage Office for an excavation permit under Section 140 of the Heritage Act 1977.

- (c) Should any potential archaeological deposit likely to contain Aboriginal artefacts be identified during the planning or historical assessment stage, an application will need to be made by a suitably qualified archaeologist to the National Parks and Wildlife Division of the Department of Environment and Conservation for an excavation permit for Aboriginal relics.
- (d) The applicant shall comply with the conditions and requirements of any excavation permit required, and are to ensure that allowance for compliance with these conditions and requirements into the development programme.
- (e) General bulk excavation of the site is not to commence prior to compliance with the conditions and requirements of any excavation permit required.
- (f) Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.
- (g) Should any Aboriginal relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance of the area is to stop immediately and the National Parks and Wildlife Division of the Department of Environment and Conservation is to be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.

**Note:** In some circumstances, conditions imposed by the NSW Heritage Office or Department of Environment and Conservation could delay and/or affect how the DA is to proceed.

#### **(59) HERITAGE INTERPRETATION PLAN**

- (a) An interpretation plan for the site must be submitted to and approved by Council, prior to a Construction Certificate being issued.
- (b) The interpretation plan must detail how information on the history and significance of the site will be provided for the public and make recommendations regarding public accessibility, signage and lighting. It is to specifically address the previous use of the site as a Picture Theatre. Public art, details of the heritage design, the display of selected artefacts are some of the means that can be used.
- (c) The interpretation plan is to be prepared by suitably qualified and experienced heritage practitioner.
- (d) Prior to an Occupation Certificate being issued the approved interpretation plan must be implemented to the satisfaction of Council.

#### **(60) LANDSCAPING OF THE SITE**

**(61) LETTERBOXES****(62) CAR PARK VENTILATION****(63) MECHANICAL VENTILATION****(64) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION**

The approved mechanical exhaust systems are to be designed to be capable of accommodating exhaust requirements for any future retail tenancies in accordance with relevant Australia Standards, in order to allow for the event that any of the tenancies are approved for future use by food premises or other uses which require mechanical exhaust. Any exhaust system servicing an area where food is being cooked must discharge exhaust air at roof level.

**(65) WATER POLLUTION**

No waste water, chemicals or other substances harmful to the environment such as from washing garbage bins or communal garbage areas shall be permitted to discharge to Council's stormwater system. Only clean, unpolluted water is permitted to discharge into the stormwater system.

**(66) LAND CONTAMINATION**

A Detailed Environmental Site Assessment must be required to be carried out in accordance with the NSW EPA Contaminated Sites guidelines, certifying that the site is suitable (or will be suitable, after remediation) for the proposed use. Note: Where the Detailed Environmental Site Assessment states the site is suitable for the proposed use it is to be peer reviewed by a NSW EPA accredited site auditor and a Site Audit Statement submitted to Council prior to the built form of the development taking place, certifying that the site is suitable for the proposed use.

OR

Where the Detailed Site Assessment states that a Remediation Action Plan (RAP) is to be undertaken, the prepared RAP is to be submitted to Council and must be peer reviewed by a NSW EPA accredited Site Auditor and a statement obtained certifying that the RAP is practical and the site will be suitable after remediation for the proposed use.

Prior to the built form of the development taking place the site must be remediated in accordance with the Remediation Action Plan approved by the NSW EPA Accredited Site Auditor and an unconditional Site Audit Statement submitted to the Council from that Auditor confirming that the site is suitable for the proposed use.

Conditions on the Site Audit Statement shall form part of the consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a s96 application pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to Council for approval to ensure that they form part of the consent conditions.

**(67) PUBLIC DOMAIN PLAN**

Three copies of a detailed Public Domain Plan must be prepared by an architect, urban designer or landscape architect and must be lodged with Council's Public Domain Section and approved by Council prior to a Construction Certificate being issued for any new building work (including internal refurbishments) excluding approved preparatory, demolition or shoring work.

The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual. The works to the public domain are to be completed in accordance with the approved plan and the Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

Note: A Public Domain Works Guarantee deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual. The Public Domain Works Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.

Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Road Opening Permit for works on the public way being issued.

**(68) ALIGNMENT LEVELS****(69) PRESERVATION OF SURVEY MARKS****(70) PUBLIC DOMAIN WORKS – HOLD POINTS AND HANDOVER**

- (a) Prior to a Construction Certificate being issued for a new building work, excluding approved preparatory, demolition and shoring work, a set of hold points for approved public domain and civil construction work is to be determined with and approved by the City's Public Domain section in accordance with the City's Public Domain Manual.
- (b) Completion and handover of the constructed public domain works is to be undertaken in accordance with the City's Public Domain Manual, including requirements for as-built (Works-as-Executed) documentation, certification and defects liability period.

**(71) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN**

Prior to a Construction Certificate being issued, a photographic recording of the public domain site frontages is to be prepared and submitted to Council's satisfaction.

The recording must include clear images of the footpath, nature strip, kerb and gutter, driveway crossovers and laybacks, kerb ramps, road



carriageway, street trees and plantings, parking restriction and traffic signs, and all other existing infrastructure along the street.

The form of the recording is to be as follows:-

- (a) A PDF format report containing all images at a scale that clearly demonstrates the existing site conditions;
- (b) Each image is to be labelled to identify the elements depicted, the direction that the image is viewed towards, and include the name of the relevant street frontage;
- (c) Each image is to be numbered and cross referenced to a site location plan;
- (d) A summary report, prepared by a suitable qualified professional, must be submitted in conjunction with the images detailing the project description, identifying any apparent existing defects, detailing the date and authorship of the photographic record, the method of documentation and limitations of the photographic record;
- (e) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

**(72) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT**

**(73) ACOUSTIC PRIVACY BETWEEN UNITS**

**(74) ACOUSTIC PRIVACY BETWEEN UNITS**

**(75) APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE**

**(76) BARRICADE PERMIT**

**(77) FOOTPATH DAMAGE BANK GUARANTEE**

A Footpath Damage Bank Guarantee calculated on the basis of an area of 126sqm of concrete site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Footpath Damage Bank Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site. The guarantee must be lodged with Council prior to issue of a Construction Certificate.

**(78) DEMOLITION/SITE RECTIFICATION**

The following conditions apply to the development:

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued for construction of the substantive building.
- (b) Prior to the Construction Certificate being issued, documentary evidence must be provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.
- (c) Without limiting the generality of paragraph (b), the Deed must provide for:
  - (i) a bank guarantee to be provided in the sum of \$430,000 as security for the costs of such works provided that:
    - a. the maximum liability under the Deed must not exceed \$430,000; and
    - b. the Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.
  - (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
    - a. demolition of the existing building has commenced but not been completed;
    - b. the existing building has been demolished; or
    - c. the site has been excavated; or
    - d. the erection of the structure has commenced;that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the consent authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:
    - e. make the building safe and of an appearance acceptable to Council at ground level;
    - f. allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
    - g. for the hole to be covered to allow it to be landscaped and made attractive from any public vantage-point; or

- h. in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenable stage;

AND to call on such bank guarantee to cover the cost thereof.

- (d) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:
- (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (i) – h to take place on the site; and
  - (ii) in the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.
- (e) The Deed may provide for the release of the Bank Guarantee at such time that the Final Occupation Certificate for the approved development is issued. If the approved development also relates to works to existing buildings, the relevant Final Occupation Certificate is the one that relates to that part of the approved development which involves the demolition and new construction.

#### (79) RETENTION OF TREES

Approval is not granted for the removal of the following trees (numbered on the 'Tree Location Plan' in the Tree Report prepared by Treescan and dated May 2011) which Council has determined to be prominent landscape elements. All trees must be retained and protected throughout the proposed development.

Tree No:	Botanical Name	Dimension (metres)	Setback Required
1	<i>Tree has been removed</i>	-	-
2	<i>Ficus microcarpa var. Hillii</i>	15 x 15	6 metres
3	<i>Platanus orientalis var. digitata</i>	8 x 5	2 metres
4	<i>Tristaniopsis laurina</i>	8 x 8	2 metres
5	<i>Platanus orientalis var. digitata</i>	6 x 3	2 metres
6	<i>Tristaniopsis laurina</i>	6 x 4	2 metres
7	<i>Platanus orientalis var. digitata</i>	8 x 8	2 metres
8	<i>Platanus orientalis var. digitata</i>	8 x 8	2 metres

#### (80) TREE PROTECTION ZONE

- (a) Before the commencement of works, a Tree Protection Zone/s (TPZ) must be established around all tree/s to be retained not less than the distance indicated in the TPZ schedule below. Tree protection must be installed and maintained in accordance with the Australian Standard 4970 Protection of Trees on Development Sites. TPZ Schedule

Tree No	Species Name	Location	Radius (m) from Trunk
1	<i>Ficus microcarpa var. Hillii</i>	Street Tree – Gordon St	6 metres

- (b) The following works shall be excluded from within any TPZ:
- (i) Soil cut or fill including excavation and trenching
  - (ii) Soil cultivation, disturbance or compaction
  - (iii) Stockpiling storage or mixing of materials
  - (iv) The parking, storing, washing and repairing of tools, equipment and machinery
  - (v) The disposal of liquids and refuelling
  - (vi) The disposal of building materials
  - (vii) The siting of offices or sheds
  - (viii) Any action leading to the impact on tree health or structure
- (c) All work undertaken within or above the TPZ must be:
- (i) Supervised by a qualified Consultant Arborist, who holds the Diploma in Horticulture (Arboriculture), Level 5 under the Australian Qualification Framework;
  - (ii) Undertaken in accordance with all directions given by the Site Arborist and/or Council.

### **(81) STREET TREE PROTECTION**

Street trees must be protected in accordance with the Australian Standard 4970 Protection of Trees on Development Sites. All street trees must be protected during the construction works as follows:

- (a) Tree trunk protection shall be undertaken prior to the issuing of the Construction Certificate. The protection shall be installed by a qualified Arborist (AQF 2 or 3) and must include;
- (i) An adequate clearance, minimum 500mm, must be provided between the structure and tree branches, limbs and trunk at all times,
  - (ii) Tree trunk/s must be protected by wrapped hessian or similar material to limit damage, and
  - (iii) Timber planks (50mm x 100mm or similar) shall be placed around tree trunk/s. The timber planks shall be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion.

- (iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and shall be removed at the completion of the project.
- (b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.
- (c) Materials or goods, including site sheds, must not be stored or placed:
  - (i) Around or under the tree canopy; or
  - (ii) Within two (2) metres of the trunks or branches of any street trees.
- (d) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9333, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

## **(82) SERVICES**

- (a) Any trenching works for services / hydraulics / drainage etc must not be undertaken within a Tree Protection Zone (TPZ), and be referred to the Site Arborist with regard to tree protection, prior to commencement of any works.
- (b) Alternative installation methods for services, such as directional boring/drilling, or redirection of services shall be employed where large woody roots greater than 40mm diameter are encountered during the installation of any services adjacent to the specified TPZ.

## **(83) SITE SUPERVISION AND REPORTING**

- (a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone in accordance with Australian Standard 4970 Protection of Trees on Development Sites. The Arborist must certify compliance with each key milestone detailed below:
  - (i) The Arborist must certify the installation of the tree protection measures to Council and the Principal Certifying Authority prior to the issuing of a construction certificate;
  - (ii) During demolition of any surface materials located within the Tree Protection Zone;
  - (iii) During any excavation, trenching and/or construction within the Tree Protection Zone.

- (iv) During any Landscape works within 4 metres of the trees trunk.
- (b) A three monthly report shall be submitted to Council which provides details on the health and structure of tree to be retained and protected and must include:
  - (i) Certification of compliance with each key milestone
  - (ii) Details of any other works undertaken on any tree to be retained or within TPZ/s
  - (iii) Documentary evidence of compliance with tree protection and measures (including photographs and site notes).

#### (84) TREE PRUNING SPECIFICATIONS

- (a) All pruning works must be carried out by a qualified Arborist, with a minimum Level 2 Australian Qualification Framework (AQF) in arboriculture;
- (b) All pruning work must be undertaken in accordance with Australian Standard 4373–2007 '*Pruning of Amenity Trees*' and with WorkCover's Code of Practice – Amenity Tree Industry;
- (c) Pruning of the one (1) *Ficus microcarpa* var. *Hillii* (Hills Fig) is limited to pruning / removal of only the branches specified in Table 1 below;

Table 1: Pruning Specification

Tree Number	Botanic Name	Common Name
1	<i>Ficus microcarpa</i> var. <i>hillii</i>	Hills Weeping Fig
Pruning Specification to AS 4373-2007		
Selective pruning (S) (7.2.4)	Selectively prune 2 x 2 <sup>nd</sup> order (200mm diameter) branch and 2 x 3 <sup>rd</sup> order branches (80mm diameter) at the branch collar (attachment point with another branch).	

- (d) All pruning works shall ONLY occur under the direct supervision of the City's Tree Management Officer. Sufficient notice (a minimum of at least 48 hours) must be given (during normal business hours) to the City's Tree Management Officer when attendance is required;
- (e) All construction methods including machinery, hoarding, scaffolding and any other structures must be built around all remaining tree branches not approved for removal;
- (f) An adequate clearance, minimum one metre, must be provided between any construction machinery, hoarding or scaffolding structure and tree branches, limbs and trunks (not approved for removal) at all times during demolition, construction and development;

- (g) The consent from Council must be obtained prior to the undertaking of any additional pruning works. Only minor pruning works will be approved by Council.

**(85) ELECTRICITY SUBSTATION**

**(86) TELECOMMUNICATIONS PROVISIONS**

**(87) UTILITY SERVICES**

**(88) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL**

- (a) A Waste Management Plan is to be submitted to and approved by Council prior to a Construction Certificate being issued. The plan must comply with the Council's Policy for Waste Minimisation in New Developments 2005. All requirements of the approved Waste Management Plan must be implemented during construction of the development.
- (b) The building must incorporate designated areas or separate garbage rooms constructed in accordance with Council's Policy for Waste Minimisation in New Developments 2005, to facilitate the separation of commercial waste and recycling from residential waste and recycling.

**UPON COMPLETION OF THE DEVELOPMENT**

- (c) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

**SCHEDULE 1C**

**During Construction/Prior to Occupation/Completion**

**(89) BASIX**

**(90) HOURS OF WORK AND NOISE – OUTSIDE CBD**

**(91) COMPLIANCE WITH DEMOLITION, EXCAVATION & CONSTRUCTION NOISE MANAGEMENT PLAN**

All works conducted on site which form part of this development must be carried out in accordance with the submitted Demolition, Excavation and Construction Management Plan prepared by West and Associates Pty Ltd, reference 111999 dated 12 October 2011.

**(92) USE OF INTRUSIVE APPLIANCES - TIME RESTRICTION**

- (a) The operation of high noise intrusive plant and machinery such as pile – drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the

City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436-2010 "Guide to Noise Control on Construction, Maintenance and Demolition Sites is restricted to the hours of:

8.30am to 9.30am

10.00am to 12.00noon

12.30pm to 3.00pm

3.30pm to 5.00pm

Monday to Friday and 9.00am to 2.00pm on Saturdays (or any other such time as agreed in writing by the Council).

- (b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies with the noise criteria contained within the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436 - 2010 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'.

**(93) OCCUPATION CERTIFICATE TO BE SUBMITTED**

**(94) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS**

**(95) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

**(96) ENCROACHMENTS – PUBLIC WAY**

**(97) SURVEY**

**(98) SURVEY CERTIFICATE AT COMPLETION**

**(99) COVERING OF LOADS**

**(100) EROSION AND SEDIMENT CONTROL**

**(101) VEHICLE CLEANSING**

**(102) RAINWATER TANKS**

**(103) STREET NUMBERING – MAJOR DEVELOPMENT**

**(104) SYDNEY WATER CERTIFICATE**

**(105) ACCESS DRIVEWAYS TO BE CONSTRUCTED**

**(106) LOADING AND UNLOADING DURING CONSTRUCTION**

**(107) NO OBSTRUCTION OF PUBLIC WAY**

**(108) USE OF MOBILE CRANES**

Carried unanimously.