

ITEM 5. DEVELOPMENT APPLICATION: 38-42 PIRRAMA ROAD PYRMONT**FILE NO: D/2012/573****DEVELOPMENT APPLICATION NO: D/2012/573****SUMMARY****Date of Submission:** 20 April 2012**Applicant:** Citta Property Group**Architect:** Koichi Takada Architects & PTW Architects**Developer:** REVY Investments Pty Ltd

Summary: The site comprises the former Royal Edward Victualling Yards and is known as the REVY site. Buildings A, B and D are located in the southern portion of the site. The portion of the site being developed comprises an eight storey heritage listed building known as Building C and a single storey metal shed and car parking area adjacent.

The application seeks approval for the adaptive reuse of Building C as a residential flat building comprising 16 units. Demolition of the single storey services building and construction of new residential flat building (Building E) comprising 32 units are proposed. Associated basement car parking, landscaping and public access to the foreshore and dedication of a 3 metre strip immediately adjacent to the foreshore edge to the Sydney Harbour Foreshore Authority are also proposed.

The site is subject to the Darling Island Master Plan as amended in July 2012 in accordance with Clause 111 of the Sydney LEP 2005. A design competition was conducted in late 2011 and the winning entry, designed by Koichi Takada Architects, forms the design for the proposed Building E.

The new building is an appropriate contemporary infill development within the maritime heritage context of the REVY site and Darling Island. The proposal would result in an overall FSR of 1.94:1. The applicant has lodged a SEPP 1 objection for the height of Building E which exceeds the 21 metres maximum height shown on the Ultimo-Pyrmont Building Height Map by 4.18 metres or one storey, a total height of 25.18m.

**Summary:
(continued)**

This is in accordance with the amended Master Plan height of 25.5m and the SEPP 1 objection is hence supported.

The refurbishment of Building C maintains the built form and comprises a sensitive treatment to the built fabric. Both the Office of Environment & Heritage and Council's heritage and design staff have supported the proposal subject to conditions.

The proposal is integrated development and General Terms of Approval from the Office of Water and Heritage Council have been received.

Twenty-five submissions were received in regard to the proposal, primarily with regard to traffic, loss of views, design of the proposed building and impact upon open space. The issues raised in the submissions have been addressed in the report and are considered not to warrant refusal of the application.

Summary Recommendation:

That Council approves and supports the SEPP 1 objection varying the height control and that Development Application No. D/2012/573 is recommended for approval, subject to conditions.

Section 94 and Affordable Housing Contributions

Section 94: \$203,776.00
Affordable Housing: \$312,050.61

Development Controls:

- (i) Sydney Local Environmental Plan (LEP) 2005
- (ii) City of Sydney Notification of Planning and Development Applications DCP 2005
- (iii) City of Sydney Contaminated Land Development Control Plan 2004
- (iv) City of Sydney Access Development Control Plan 2004
- (v) Darling Island Masterplan (as amended July 2012)
- (vi) Ultimo-Pyrmont Urban Development Plan (1999 Update)
- (vii) Sydney Regional Environmental Plan No. 26 (SREP 26)- City West
- (viii) State Environmental Planning Policy No. 55 (SEPP 55)- Remediation of Land

Development Contributions:

- (ix) City of Sydney (Western Precinct) Development Contributions Plan 2006.

Attachments:

- A - Selected Drawings

RECOMMENDATION

It is resolved that:

- (A) the State Environmental Planning Policy No. 1 variation to clause 93(1) of Sydney Local Environmental Plan 2005 be supported; and
- (B) consent be granted to Development Application No. D/2012/573 subject to the following 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/2012/573 drawings prepared by Koichi Takada Architects and PTW Architects:

Drawing Number	Architect	Date
DA-C-110	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-111	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-112	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-113	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-114	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-115	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-116	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-117	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-118	PTW Architects & Koichi Tokada Architects	15/3/12

Drawing Number	Architect	Date
DA-C-200	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-201	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-202	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-210	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-211	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-212	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-300	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-301	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-400	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-401	PTW Architects & Koichi Tokada Architects	15/3/12
DA-C-402	PTW Architects & Koichi Tokada Architects	15/3/12
DA-E-110	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-111	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-112	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-112	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-113	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-114	PTW Architects & Koichi Tokada Architects	16/3/12

Drawing Number	Architect	Date
DA-E-115	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-116	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-117	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-118	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-119	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-200	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-201	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-202	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-203.1	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-203.2	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-300	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-302	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-350	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-351	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-300	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-302	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-350	PTW Architects & Koichi Tokada Architects	16/3/12

Drawing Number	Architect	Date
DA-E-351	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-400	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-401	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-402	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-600	PTW Architects & Koichi Tokada Architects	16/3/12
DA-E-700	PTW Architects & Koichi Tokada Architects	16/3/12

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) AFFORDABLE HOUSING CONTRIBUTION - ULTIMO PYRMONT - PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION

The Affordable Housing Contribution is as follows:

- (a) Prior to a Construction Certificate being issued and pursuant to Sydney LEP 2005 and the adopted City West Affordable Housing Program, the applicant must pay a monetary contribution towards the provision of affordable housing. The contribution is \$312,050.61. If the contribution is paid after 30 June of the year in which this consent is granted, the amount of the contribution must be indexed in accordance with the adopted City West Affordable Housing Program.
- (b) To make payment you must first contact Council's Planning Assessment Unit email: planningsystemsadmin@cityofsydney.nsw.gov.au who will index the amount, then provide you with written confirmation of the amount payable and details of how to make the payment at the Department of Planning & Infrastructure.
- (c) Payment can be made either by bank cheque to the value of the required contribution (made in favour of City West Housing Pty Ltd) or alternatively a satisfactory bank guarantee is to be provided to the value of the required contribution. Evidence of payment or lodgment of a bank guarantee must be provided to the certifying authority prior to issue of a construction certificate.

- (d) Prior to issue of an Occupation Certificate being issued or the use commencing, whichever is earlier, the applicant must provide evidence to the certifying authority that the bank guarantee referred to in (c) above has been redeemed as payment of the contribution.

Note: All affordable housing contribution payments (and lodgment of bank guarantees) for Ultimo-Pyrmont are paid at the Department of Planning & Infrastructure.

(3) SECTION 94 CONTRIBUTION - ULTIMO PYRMONT

A contribution under section 94 of the *Environmental Planning and Assessment Act 1979* must be paid in accordance with the following:

Cash Contribution Required

- (a) In accordance with the adopted "*Ultimo Pyrmont Contributions Plan 1994*" a cash contribution must be paid to Council for the amount specified below.

Amount of Contribution

- (b) The amount of the contribution is \$203,776.00

Note: The contribution will be indexed annually, see paragraph (f) below.

Purposes for which Contribution Required

- (c) The contribution is required, and must be held and applied in accordance with the Act and the *Ultimo Pyrmont Contributions Plan 1994*, for the purposes, and in the proportions, set out as follows:
- (i) Open Space - 64%
 - (ii) Community Facilities - 9.5%
 - (iii) Roads and Associated Infrastructure - 26.2%
 - (iv) Administration - 0.3%

Certification of Contribution

- (d) Certification of the Section 94 Contribution calculation, including verification of gross floor area and resident/worker population as applicable, and indexation of the contribution in accordance with the "*Ultimo Pyrmont Contributions Plan 1994*" (if applicable) must be submitted to and approved by Council, prior to a Construction Certificate being issued

If the Construction Certificate is to be issued by a private Certifying Authority, they must seek Council's endorsement of the calculation prior to its issue.

Timing of Payment

- (e) 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.

Indexing

- (f) The contribution rate in "*Ultimo Pyrmont Section 94 Contributions Plan 1994*" will be adjusted in accordance with clause 19 of the Plan being not less than annually.
- (g) If the contribution rate is adjusted between the date on which this consent is granted and payment of the contribution, then the figure in paragraph (b) to this condition will be indexed and calculated according to the then current contribution rate.
- (h) Please contact Council's Planning Administration staff to confirm the amount payable, prior to payment.

The Certifying Authority must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20% prior to issue of the Construction Certificate.

(4) DESIGN MODIFICATIONS

The design of the proposal must be modified as follows:

- (a) Details of the proposed gates to the through site link between Buildings C and E are to be submitted;
- (b) A standard blind system and details of the external operable louvres to the exterior façade of Building E are to be provided; and
- (c) A total of twenty-four bicycle storage spaces are to be provided.

The modifications are to be submitted to and approved by the Director City Planning, Development and Transport prior to a Construction Certificate being issued.

(5) DESIGN MODIFICATIONS - HERITAGE

The design of the two buildings and the site must be modified as follows:

- (a) REVY C building
 - (i) The proposed building over of the remaining Tank 2 in Apartment G.1 is to be deleted and the tank is to remain permanently visible.

- (ii) The mezzanine in Apartment G.1 should be reconfigured to avoid the removal of the 2 tonne gantry. This is possible in two ways – reverse the plan of the apartment so that the mezzanine is on the eastern side, or truncate the western mezzanine at the rail and connect the mezzanine via a bridge on the eastern side. Any interconnection required between major areas of the mezzanine should be clearly interpreted as bridges.
 - (iii) The proposed eastern balconies, Level 1 to Level 7, between grids A and C and between grids N and P are to be deleted and replaced by ‘Juliette’ style balconies confined to each opening, and of a maximum width of two metres and a maximum projection of 620mm.
- (b) REYV E building
- (i) The proposed terracotta cladding to the courtyard enclosures, carpark entrance walls and retaining walls is to be deleted and replaced by materials that interpret the historic maritime character of Darling Island. For instance, the courtyard enclosures could be recycled hardwood sections, concrete cast with interpretive sculptured relief, or ‘yellowblock’ sandstone.
 - (ii) To maintain visual connections for pedestrians, between Darling Island Road and Jones Bay and between the quay walk and REYV A, the courtyards in the northwest corner of the site are to be reduced in footprint to achieve a minimum clearance between the enclosure of the courtyards and the structural supports of the Water Taxi shelter of five metres. Additionally, the northwest corner of the courtyard of Apartment 001 that is currently proposed as being 90 degrees should be rounded to further retain views, echoing the forms of proposed deck to Apartment 001 and of the building above.

The modifications are to be submitted to and approved by the Director City Planning, Development and Transport prior to a Construction Certificate being issued.

(6) DESIGN DETAILS

The following design details of the proposed building must be submitted to and approved by the Director City Planning, Development and Transport prior to a Construction Certificate being issued.

- (a) REYV C BUILDING:
- (i) Details of required adjustments to the external fire stairs including to the balustrades, and for any required structural strengthening;
 - (ii) Details of required adjustments to the central internal stair including to the balustrades and to the edge of treads;
 - (iii) Proposed modifications to existing, new or modified openings at 1:5 scale;

- (iv) Proposed balconies at 1:10 scale including structural support and balustrade detailed;
- (v) Detailed resolution of adaptation of existing lift towers and other elements visible at parapet and roof levels;
- (vi) Ground and mezzanine levels: detailed resolution of removal or alterations of original fabric and industrial features; and
- (vii) Details of the security fence around the external crane.

(7) CONSERVATION WORKS

A Schedule of Conservation works is to be submitted to and approved by Council's Heritage Specialist prior to a Construction Certificate being issued. The Schedule should include works to the following:

- (a) Window joinery including general repairs and including the reconstruction of windows to match the original where the condition of the existing is such that replacement is necessary;
- (b) Roof joinery;
- (c) Roof plumbing;
- (d) Brickwork including removal of intrusive pointing and replacement in a mix to match the original, replacement of defective units, reinstatement of terracotta vents;
- (e) Bluestone walling;
- (f) Stone corbels;
- (g) Industrial components including but not limited to the following: the wall crane, the external fire escape stairs, the gantry rails, the water tanks, truck tracks;
- (h) Reconstruction of the bracketed eaves to the lift shafts;
- (i) The Conservation Works Schedule is to include detailed drawings and outline specifications of works and methodologies required to support any schedule of conservation works; and
- (j) The Conservation Works Schedule must be implemented to the satisfaction of the Director City Planning, Development and Transport prior to the issue of the Occupation Certificate.

(8) HERITAGE MAINTENANCE PLAN - REVY C

- (a) A Heritage Maintenance Plan must be prepared for the REVY C building, and submitted to Council for approval prior to the issue of an Occupation Certificate. The plan should follow NSW Heritage Office guidelines and must be a practical guide for future owners and tenants to ensure the long term conservation of significant fabric; and

- (b) The Plan must include the recommendations and policies for conservation management of the REVY C building, outline Specification notes, references to NSW Heritage Office publications on maintenance, conservation and repairs to heritage fabric, and the Cyclic Maintenance Schedule.

(9) HOURS OF OPENING – THROUGH SITE LINK

The proposed through site link between Buildings A and E must be open during daylight hours at all times of the year. The link must be closed between sunset and sunrise at all times of the year.

(10) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION

(11) COMMEMORATIVE PLAQUE

A commemorative plaque, recording the names of the developer, architect, consent authority and year of completion of construction must be installed on the building **REVY E** prior to occupation. The design, location and wording must be submitted to and approved by Council prior to an Occupation Certificate being issued.

(12) DISPOSAL OF SURPLUS SALVAGED MATERIALS

Salvaged traditional building materials surplus to the requirements of this project including stone, bricks, structural steel, and joinery are to be sold to an established dealer in second hand heritage building materials. Documentation of the salvage methodology must be submitted for the approval of Council prior to the commencement of demolition.

(13) EXTERNAL COLOUR SCHEME (OTHER BUILDINGS)

The external colour scheme of **REVY C** is to be sympathetic to the architectural style and period of the building. A schedule of colours is to be submitted to and approved by the Director City Planning, Development and prior to the issue of the Construction Certificate.

(14) DESIGN DETAILS (MAJOR DEVELOPMENT)

The design details of the proposed Building E facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board, and specifications prepared by Koichi Takada Architects submitted 20 April 2012. Final details of all external materials and finishes of the building are to be submitted to and approved by the Director-City Planning, Development and Transport prior to issues of an Occupation Certificate.

(15) GENERAL HERITAGE

- (a) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item;
- (b) New services are to be surface mounted rather than chased-in to existing walls to minimise impact on heritage fabric;

- (c) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works;
- (d) The new windows and doors must use timber joinery;
- (e) The face brickwork/sandstone must not be rendered, painted or coated; and
- (f) Where internal partitions meet external walls they must abut window mullions, columns or other such building elements and not glazing.

(16) HERITAGE MAINTENANCE PLAN - REVY C

- (a) A Heritage Maintenance Plan must be prepared for the REVY C building, and submitted to Council for approval prior to the issue of an Occupation Certificate. The plan should follow NSW Heritage Office guidelines and must be a practical guide for future owners and tenants to ensure the long term conservation of significant fabric; and
- (b) The Plan must include the recommendations and policies for conservation management of the REVY C building, outline Specification notes, references to NSW Heritage Office publications on maintenance, conservation and repairs to heritage fabric, and the Cyclic Maintenance Schedule.

(17) HERITAGE INTERPRETATION STRATEGY

- (a) An interpretation strategy for the site must be submitted to and approved by Council's Heritage Specialist prior to a Construction Certificate being issued;
- (b) The interpretation strategy 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. Public art, details of the heritage design, the display of selected artefacts are some of the means that can be used; and
- (c) Prior to occupation certificate being issued the approved interpretation strategy must be implemented to the satisfaction of Council's Heritage Specialist.

(18) HISTORIC MARKER

A brass plaque relating to the history of the site must be permanently affixed to the façade and must be installed on the facade of the building **REVY C** prior to occupation. The design, location and wording must be submitted for the approval of Council prior to an Occupation Certificate being issued.

(19) MATERIALS FOR MAKING GOOD

New materials for making good, are to match the original materials in terms of colours, finishes, sizes, profile and materials.

(20) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION (MINOR WORKS)

Prior to a Construction Certificate being issued, an archival photographic recording of the entire REVY site and the interiors of REVY C building is to be prepared to Council's satisfaction. The recording may be in either digital or film-based form, or a combination of both, prepared in accordance with the NSW Heritage Office guidelines titled "Photographic Recording of Heritage Items using Film or Digital Capture". One copy of the record is to be submitted to Council to be lodged with Council's Archives. This copy to be lodged with Council is in addition to that required by the Heritage Office of NSW under the terms of the Conditions of Consent in Schedule 3.

The form of the recording is to be as follows:

- (a) In A4 format, placed in archival plastic sleeves in an appropriate archival folder.
- (b) The Development Application number must be noted on the front of the folder and in the report.
- (c) Include a summary report detailing the project description, date and authorship of the photographic record, method of documentation and limitations of the photographic record.
- (d) Each negative, slide or digital image is to be cross referenced to a photographic catalogue and photographic base plans.
- (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 licence 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.

A digital based recording is to include:

- (f) CD or DVD containing the report in PDF format and the electronic images saved as JPEG, TIFF or PDF files and cross referenced to the digital catalogue sheets and base plans.

A film based recording is to include:

- (g) 35mm film images submitted as contact sheets with equivalent negatives, a selection of black and white prints 200 x 250mm, and 35mm colour transparencies, all labelled and cross-referenced to the catalogue sheets and base plans.

(21) USE OF CONSERVATION ARCHITECT

An experienced conservation architect is to be commissioned to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The conservation architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The conservation architect is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project. Evidence and details of the above commission on the above terms are to be provided to Council prior to commencement of work on site. The conservation architect must sign off the completed project prior to the issue of an Occupation Certificate or the commencement of the use, whichever is earlier.

(22) DESIGN QUALITY EXCELLENCE**(23) SIGNS - SEPARATE DA REQUIRED****(24) ASSOCIATED ROADWAY COSTS**

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway 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".

(25) FOOTPATH DAMAGE BANK GUARANTEE**(26) PUBLIC DOMAIN PLAN**

The Public Domain Plan and Foreshore Promenade Plan accompanying this Development Application has not been approved by this consent.

The vehicle drop off area in front of Building C is not approved by this consent.

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

The plans must be prepared in accordance with the City of Sydney's Public Domain Manual, the Urban Development Plan for Ultimo Pyrmont (UDP 1999 Update), the Ultimo Pyrmont Public Domain Strategy, and the Ultimo Pyrmont Public Domain Technical Manual.

If an Alignment Levels condition applies to the development, the Public Domain Plan submission must be made concurrently with the Alignment Levels application. 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.

The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as-executed documentation are submitted and approved by Council in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

(27) 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 documentation, certification and defects liability period.

(28) STORMWATER AND DRAINAGE - MINOR DEVELOPMENT

The drainage system is to be constructed in accordance with Council's standard requirements as detailed in Council's 'Stormwater Drainage Connection Information' document dated July 2006. This information is available on Council's website - www.cityofsydney.nsw.gov.au.

A Positive Covenant must be registered on the title for all drainage systems involving On-site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection.

(29) PAVING MATERIALS

The surface of any material used or proposed to be used for the paving of colonnades, thoroughfares, plazas, arcades and the like which are used by the public must comply with AS/NZS 4586:2004 (including amendments) "Slip resistance classification of new pedestrian surface materials".

(30) PROTECTION OF STONE KERBS

- (a) The existing stone kerbs on the Darling Island Road frontage of the site are to be retained and properly protected during excavation and construction works.
- (b) To avoid damage to stone kerbs during construction and / or excavation works for the development, temporary removal and storage of the stone kerbs may be approved by Council. Removed, serviceable stone kerbs (ie. those that are in good condition as agreed by City officers) must be re-installed in accordance with the City's standard details and specifications after the construction and / or excavation works have been completed. Note: A temporary concrete kerb will need to be constructed to retain the footpath and road access until the stone kerbs can be reinstalled. The removed stone kerbs are to be reinstalled prior to the issue of an Occupation Certificate. Note: all costs associated with the works are to be at no cost to the Council.
- (c) Damaged kerbs are to be replaced to match existing to the City's satisfaction or as otherwise advised by City officers.
- (d) Where new crossings or temporary crossings are to be constructed to access the property, the affected kerb stones should be salvaged and reused wherever possible.
- (e) All new driveway laybacks and kerbs are to be constructed with stone kerbs to match existing stones or as specified by City officers. All unused stone kerbs are to be salvaged and returned to the City's store.
- (f) Council approval is required before kerbs are removed.

(31) FLOOD COMPATIBLE MATERIALS

The entry level and floor level of Building C are below the Flood Planning Level (FPL) of 2.9 m AHD. Flood compatible materials shall be used for any structures, fittings and floor coverings below the FPL and all electrical fittings shall be set above the FPL.

(32) REFLECTIVITY**(33) ALLOCATION FOR VISITOR PARKING****(34) ALLOCATION OF ACCESSIBLE CAR PARKING SPACES****(35) ASSOCIATED ROADWAY COSTS****(36) BICYCLE PARKING****(37) CAR PARKING SPACES AND DIMENSIONS****(38) COST OF SIGNPOSTING****(39) INTERCOM FOR VISITORS****(40) LOCATION OF ACCESSIBLE CAR PARKING SPACES**

- (41) LOCATION OF VISITOR PARKING**
- (42) PROHIBITION ON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME APPLICATION OF CITY OF SYDNEY PERMIT PARKING POLICY – INELIGIBILITY FOR RESIDENT PARKING PERMITS**
- (43) SECURITY GATES**
- (44) SIGNAGE TO INDICATE NON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME**
- (45) SIGNS AT EGRESS**
- (46) STACKED PARKING EMPLOYEES OR TENANTS ONLY**
- (47) TRAFFIC WORKS**
- (48) VEHICLE FOOTWAY CROSSING**
- (49) VEHICLE ACCESS**

The site must be configured to allow all vehicles to be driven onto and off the site in a forward direction.

(50) ACCESSIBLE PARKING SPACE

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.

Note: The spaces currently shown on basement level 1 do not comply with this standard and must be amended to do so.

(51) DROP OFF BAY

The proposed drop off bay located on Darling Island Road outside Building C is not approved as part of this consent.

The proposal requires a separate application to be made to the City Infrastructure and Traffic Operations Unit for approval. The changes to the kerb alignment and parking restrictions require a referral to the Local Pedestrian, Cycling and Traffic Calming Committee (LPCTCC) for their endorsement.

The application must be made prior to the Public Domain Plans being submitted and must be fully installed prior to the Occupation Certificate being granted.

(52) AIR CONDITIONERS IN RESIDENTIAL BUILDINGS

(53) NOISE - USE

(54) GARBAGE ROOMS**(55) VEHICLE FOOTWAY CROSSING****(56) RESTRICTION ON RESIDENTIAL DEVELOPMENT**

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the building 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 Sydney Local Environmental Plan 2005.
- (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 accommodation" as defined in Sydney Local Environmental Plan 2005. 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 parking of vehicles related to residence in the unit with which the space is associated. No storage should take place for commercial businesses in car parking spaces.

(57) RESTRICTION ON USE OF CAR SPACES

The 55 commercial car spaces relocated from the at-grade parking area to the basement are to be retained as such and shall not be used as residential parking spaces.

The remaining 104 parking spaces, comprising 86 residential parking spaces for the residential flats, 8 accessible spaces and 10 visitor parking spaces are to be proportionately allocated between Buildings C and E.

The following conditions apply to car parking:

- (a) The on-site car parking spaces, exclusive of service and visitor car spaces, are not to be used other than by an occupant, tenant or resident of the subject building;

- (b) Prior to an Occupation Certificate being issued, a documentary restrictive covenant, is to be registered on the Title of the development site pursuant to section 88E of the *Conveyancing Act 1919*, to the effect of (a) above. The covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council;
- (c) Any future strata subdivision of the site is to include a restriction on User pursuant to section 39 of the *Strata Titles (Freehold Development) Act, 1973*, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate restrictive covenant pursuant to section 88B of the *Conveyancing Act 1919* burdening all car parking part - lots in the strata scheme; and
- (d) No part of any common areas, apart from the visitor vehicle spaces which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles or boats. Any strata subdivision of the building is to include an appropriate documentary restriction pursuant to Section 88B of the *Conveyancing Act 1919*, so burdening common property, with the Council being the authority to release, vary or modify the restriction.

(58) PUBLIC ART

Details of the proposed art sculpture within the through site link must be submitted to and approved by the Director of City Planning, Development and Transport prior to a Construction Certificate being issued. Installation of the art work must be completed to Council's satisfaction prior to the issue of an Occupation Certificate.

(59) SURRENDER OF EXISTING CONSENT

The existing development consent D/2008/597 shall be surrendered in writing and approved by the Director of City Planning, Development and Transport prior to the issue of a Construction Certificate.

SCHEDULE 1B

Prior to Construction Certificate/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.

(60) LANDSCAPING OF THE SITE

- (a) A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by the Principal Certifying Authority. The plan must include:
 - (i) Location of existing and proposed structures on the site including existing trees (if applicable);

- (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);

The minimum soil depth for planting on slab shall be 1000mm for trees, 600mm for shrubs and 300mm for turf and grasses, over and above all drainage materials. Reduced planter depth may be acceptable pending approval by Council;

- (iii) Location, numbers and type of plant species;
 - (iv) Details of planting procedure and maintenance;
 - (v) Details of drainage and watering systems. All planting on slab shall be connected to the site storm water system.
- (b) Prior to the issue of a Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property.
 - (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

(61) FLOOD PLANNING LEVEL

The Flood Planning Level (FPL) for the site including NSW Sea Level Rise requirements is 2.9m AHD. All entries into Building E shall comply with the Flood Planning Level of 2.9m AHD. Amended plans complying with this requirement are to be submitted to Council prior to the issue of the Construction Certificate.

(62) BOUNDARY WALL

The applicant shall demonstrate that the proposed boundary wall around Building E is suitable to withstand the force of floodwaters, including debris and buoyancy forces as appropriate. A detailed report and certification from an appropriate consulting structural engineer is required to be submitted to Council prior to issue of the Construction Certificate.

(63) PUBLICLY ACCESSIBLE AREAS – LIGHTING

The lighting of all areas which are publicly accessible must comply with AS/NZS1158 and shall include but not be limited to:

- (a) Lighting of the through site link to comply with AS1158.3.1 Category P2;
- (b) Lighting of the foreshore promenade including areas with public access easements over to comply with AS1158.3.1 Category P2;
- (c) Lighting of footpaths along roads, adjacent car parks to comply with AS1158.3.1 Category P2; and
- (d) Lighting of traffic roads and car parks to comply with AS1158.1.1 Category V3.

The Lighting is to be designed in accordance with the City of Sydney's policies including the 'Public Domain Manual' 'Park Technical Manual' and the 'Sydney Lights Design Code' and updates. Details are to be submitted to and approved by Council prior to construction certificate.

(64) LANDSCAPING WORKS – THROUGH SITE LINK

The Landscape Plans of the Through Site Link accompanying this Development Application have not been approved by this consent.

Views between Darling Island Road and the Foreshore are to be maintained. Location of artwork, trees, planter boxes and heights of the landscape elements within the through site link are not to obstruct this view corridor.

The through site link shall be designed and constructed as high quality aesthetic environments and as functional and usable space which provides access for pedestrians and cyclists.

No obstructions relating to the below ground car park or adjacent buildings such as access ways or service vents are permitted in the through site link. The through site link shall not vary in grade along its length to accommodate the car park basement below. The through site link paths shall be free from narrow sections of path which may restrict pedestrian and cyclists movements through the spaces.

The through site link shall provide continuous accessible paths of travel in accordance with the City of Sydney Access Development Control Plan 2004 and AS 1428-2009: Design for Access and Mobility. All continuous paths of travel shall be clearly indicated.

The minimum soil depth for planting on slab shall be 1000mm for trees, 600mm for shrubs and 300mm for turf and grasses, over and above all drainage materials. Reduced planter depth may be acceptable pending approval of the planter bed width, depth, irrigation and species selection by Council.

A detailed Landscape Plan demonstrating compliance with the above, drawn to scale, by a landscape architect or approved landscape consultant, must be submitted to and approved by Council prior to a Construction Certificate being issued.

All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued or the use commencing, whichever is earlier.

(65) ADVANCED TREE PLANTING

Tree planting within the property must be undertaken in accordance with the following conditions, and to Council's satisfaction, prior to the issuing of the occupancy certificate;

- (a) The trees must be grown to NATSPEC Guidelines for Specifying Trees to ensure quality trees and more successful establishment
- (b) At the time of planting, the container size is to be a minimum of 75 litres and a minimum height of one (1) metres.

- (c) The tree must be planted by a qualified Horticulturalist or Arborist of Level 2 under the Australian Qualifications Framework (AQF).
- (d) The replacement planting/s must be planted in such a manner as to promote good health during the establishment period, and must be maintained, as far as practicable to ensure tree growth into maturity.
- (e) Any newly planted tree that fails to establish within 2 years of the initial planting date must be replaced with a tree of comparable qualities.
- (f) Upon receipt and acceptance that all replacement tree planting/s have been completed to Council's satisfaction, an occupancy certificate will be issued.

(66) 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 and major limb protection shall be undertaken prior to or during the installation of any approved hoardings or scaffoldings. The protection shall be installed by a qualified Arborist (AQF 2 or 3) and must include;
 - (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunk at all times;
 - (ii) Tree trunk/s and/or major branches, located within 500mm of any hoarding or scaffolding structure, must be protected by wrapped hessian or similar material to limit damage;
 - (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; and
 - (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) Protective fencing (1.8 metre chain wire mesh fencing) must be erected on top of the hoarding to protect branches during the construction works.

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 9673, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

(67) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT

(68) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of the adjacent buildings are 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.

(69) DEMOLITION/SITE RECTIFICATION (if cost is over \$50m)

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 \$2,364,675 dollars as security for the costs of such works provided that:
 - a. the maximum liability under the Deed must not exceed \$2,364,675; 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;
 - (iii) 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:
 - a. make the building safe and of an appearance acceptable to Council at ground level;
 - b. allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - c. for the hole to be covered to allow it to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - d. 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) (iii) 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, if the Director of City Planning, Development and Transport is satisfied, provide for an adjustment of the guarantee amount during the course of construction to reflect that, as the development progresses, the likelihood and nature of the appropriate site rectification works may change. The stages of reduction will be:
- (i) Stage 1 – Completion of the site excavation and all construction works necessary to complete all parts of the Development to street level, including sealing of the slab at that level.
 - (ii) Stage 2 – Completion of all construction works necessary to complete the structure of the Development to the roof level.
 - (iii) Stage 3 – Issue of the Final Occupation Certificate.
- (f) If a claim for an adjustment is made, the Deed must also provide that any such claim is to be supported by the following:
- (i) Certification (from an accredited certifier) that the relevant stage is complete;
 - (ii) Detailed schedule of completed works carried out in the relevant stage;
- (g) Quantity Surveyors costing of the likely site rectification works required at each remaining stage.

(70) EROSION AND SEDIMENT CONTROL - MORE THAN 2,500SQM

(71) ROAD OPENING PERMIT

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

(73) ALIGNMENT LEVELS

(74) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT

(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 total lineal metres of the public 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.

The Bank Guarantee will be retained in full until the final Occupation Certificate has been issued and any rectification works to the footway and Public Domain are completed to Council's satisfaction. On satisfying the above requirements 90% of the total securities will be released, with the remaining 10% to be retained for the duration of the 12 months Defect Liability Period.

(78) LOT CONSOLIDATION**(79) ELECTRICITY SUBSTATION****(80) TELECOMMUNICATIONS PROVISIONS****(81) UTILITY SERVICES****(82) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL**

- (a) The Waste Management Plan accompanying this Development Application has not been approved by this consent.
- (b) 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.
- (c) 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

- (d) 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.

As a consequence of Council providing an on-street waste collection service:

- (a) the two residential garbage rooms in Building E are to include garbage compaction systems, and

- (b) a receptacle holding area is to be provided at street level, near the alignment of Darling Street, for waste collection purposes.

(83) LANDSCAPED (GREEN) ROOFS

- (a) A detailed plan of the green roof, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council prior to the issue of a Construction Certificate. The plan must include:
 - (i) A Design Statement that includes details of proposed use of the green roof, general accessibility, a description of the environmental parameters it sets out to address, including noise and privacy treatment and performance specification;
 - (ii) Survey Plans showing existing and proposed services and engineering details of existing roofs proposed to be retrofitted;
 - (iii) Location of existing and proposed structures and hard landscaping on the rooftop, retaining walls, and roof fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components;
 - (iv) Details of the location, sizes and numbers of plants used with reference to NATSPEC (if applicable), with preference for drought resistant species and those specified for use by the City of Sydney;
 - (v) Details of installation methodology including structural reinforcement or retention structures for sloping roofs, including details of prevention of slippage.
 - (vi) Details of accessible and inaccessible areas on the Green Roof. Where proposed to be inaccessible, Green Roofs are required to remain such during occupation of the property;
 - (vii) Details of drainage and irrigation systems, including overflow provisions.
- (b) Prior to the issue of a Construction Certificate, a Maintenance Manual is to be submitted and approved by the Principal Certifying Authority. A copy of the Maintenance Manual is to be kept on site at all times during construction and shall be produced to Council on request. The Maintenance Manual shall include as a minimum:
 - (i) Frequency and methodology of different maintenance requirements;
 - (ii) Details of safety procedures;
 - (iii) Laminated copies of 'As Built' drawings;
 - (iv) Manufacturer's contact details and copies of manufacturers' typical details and specification; and

- (v) Copies of warranties and guarantees relating to all materials and plant used in construction.

The owner of the premises shall at all times comply with the on going maintenance requirements of the Maintenance Manual and shall promptly upon request produce a copy of the Manual to Council.

- (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.
- (d) Prior to the issue of a Construction Certificate, the certifying authority must assess and approve the proposed design of the waterproofing system against the relevant performance provisions of the Building Code of Australia as required by Clause A0.5 of the Code and ensure the following is satisfied:
 - (i) A report from a structural engineer confirming the adequacy of the structure to support the saturated weight-bearing capacity of the green roof; and
 - (ii) A report from a hydraulic engineer certifying the drainage overflow provisions and water retention cells in the drainage layer used to facilitate self-watering for the plants.

(84) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

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

(85) STRUCTURAL CERTIFICATION FOR DESIGN – BCA (ALL BUILDING CLASSES)

Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to class 2-9 building) and Cause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of the Certifying Authority (Council or a private accredited certifier). A copy of the certificate must be submitted to Council if Council is not the CA.

(86) STRUCTURAL CERTIFICATION FOR EXISTING HERITAGE FACADE

A qualified practising certified structural engineer must provide structural certification to Council (where Council is the Certifying Authority) verifying that the existing heritage façade can integrate and adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the Building Code of Australia prior to a Construction Certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

Note: Where a condition of consent has been imposed under the provisions of Clause 94 of the Environmental Planning and Assessment Regulation 2000, the building (part or whole) may be required to comply fully with Part B1 of the of the Building Code of Australia including compliance with the earthquake loads standard, AS1170.4.

(87) CERTIFICATION OF GEOTECHNICAL INSPECTION

Prior to the issue of a Construction Certificate, a **Geotechnical Inspection Certificate** in accordance with Clause A2.2(a)(iii) of the Building Code of Australia prepared by an appropriately qualified person must be submitted to the satisfaction of the Certifying Authority and a copy submitted to Council.

(88) BCA - NEW BUILDINGS WORKS - CLASS 2-9 BUILDINGS

(a) Pursuant to Clause 98 of the Environmental Planning and Assessment Regulation 2000, the proposed building work must comply with the Building Code of Australia (BCA) including:

- (i) Structural provisions - Part B1;
- (ii) Fire resistance and stability - Part C1;
- (iii) Compartmentation and separation - Part C2;
- (iv) Protection of openings - Part C3;
- (v) Provision for escape (access and egress) - Part D1;
- (vi) Construction of exits - Part D2;
- (vii) Access for people with disabilities - Part D3;
- (viii) Fire fighting equipment - Part E1;

A fire control centre facility must be provided in accordance with Specification E1.8 for a building with an effective height of more than 25m

- (ix) Smoke hazard management - Part E2;
- (ix) Lift installation - Part E3;

At least one emergency lift is to be provide in the building which has an effective height of more than 25m.

- (x) Emergency lighting, exit signs and warning systems - Part E4;
- (xi) Damp and weatherproofing - Part F1;
- (xii) Sanitary and other facilities - Part F2;

A closet pan and washbasin in a compartment or room at or near ground level and accessible to employees without entering a sole occupancy unit must be provided in accordance with Table F2.1 of the BCA

- (xiii) Room sizes - Part F3;
 - (xiv) Light and ventilation - Part F4;
 - (xvi) Sound transmission and insulation - Part F5;
 - (xvii) Energy Efficiency - Building fabric - Part J1;
 - (xvii) Energy Efficiency - External glazing - Part J2;
 - (xviii) Energy Efficiency - Building sealing - Part J3;
 - (xix) Energy Efficiency - Air-conditioning and ventilation systems - Part J5;
 - (xx) Energy Efficiency - Artificial lighting and power - Part J6;
 - (xxi) Energy Efficiency - Access for maintenance - Part J8;
- (b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, an alternative building solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.
- (c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 96 of the Act to be lodged with Council to amend this consent.

Note: The provisions of Clause 94 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of the proposed development.

(89) BASIX CERTIFICATE - DETAILS TO BE LODGED WITH A CC

A copy of the required completed BASIX certificate accepted as part of this Development Consent with respect to the proposed residential building works, must be lodged with an application for a construction certificate and the items nominated as part of the subject BASIX certificate must be specified on the plans submitted with the construction certificate application.

(90) LAND CONTAMINATION

- (a) Any intrusive earthworks must be carried out in accordance with Remedial Action Plan and Acid Sulfate Soil Management Plan, prepared by Environmental Investigation Services (Ref: E25561KPrpt), August 2012.

- (b) All hazardous materials must be removed must be removed from the site by a qualified person and the removal of these materials must be documented in a report from a qualified environmental professional that confirms that no contamination of the site occurred during their removal and the fate of those materials.
- (c) The exportation of waste (including fill or soil) from the site must be in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the Department of Environment and Conservation's (DEC) *Environmental Guidelines Assessment, Classification and Management of Non-Liquid Wastes*.
- (d) Any new information which comes to light during demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Principal Certifying Authority
- (e) Any variations to the proposed remediation Action Plan shall be approved in writing by the NSW EPA Accredited Site Auditor and Council prior to the commencement of such work.

(91) SITE AUDIT STATEMENT

Prior to the commencement of works associated with the built form of the development (excluding building work directly related to remediation) a Site Audit Statement is to be submitted to Council clearly indicating that the site is suitable for the proposed use. Conditions on the Site Audit Statement shall form part of the consent.

Note: Where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council these should be discussed with Council before the Site Audit Statement is issued.

(92) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE MANAGEMENT PLAN.

A site specific noise management plan shall be submitted to the Council for comment and approval prior to CC. The Plan must be prepared by a suitably qualified person who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants.

The plan must include but not be limited to the following:-

- (a) identification of noise sensitive receivers near to the site.

- (b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the City of Sydney Construction Hours /Noise Code of Practice 1992 for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
- (c) A representative background noise measurement (LA90, 15min) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (d) Confirmation of the level of community consultation that has is and will be undertaken with Building Managers/occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (e) Confirmation of noise and dust monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.
- (f) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- (h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

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

(94) DEWATERING

As dewatering of the site is required, approval will be required from the Department of Planning under the provisions of Part V of the Water Act, 1912 for a bore licence which may be subject to conditions.

Note: The Department's instructions to Council are that they will not endorse the extraction of groundwater in perpetuity i.e. Permanent dewatering around a development site, because it considers such development to be unsustainable. For this reason any proposed basement or other area that requires dewatering on an on-going basis will be fully tanked.

(95) ASBESTOS REMOVAL

(96) CLASSIFICATION OF WASTE

(97) DISPOSAL OF ASBESTOS

(98) ASBESTOS REMOVAL SIGNAGE

(99) SIGNAGE LOCATION AND DETAILS

(100) SKIPS AND BINS

(101) MECHANICAL VENTILATION

- (a) The premises and each occupancy must be ventilated in accordance with the Building Code of Australia and AS1668.1-1998 & AS1668.2-1991.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1-1998 & AS1668.2-2002, the Building Code of Australia and relevant Australian Standards must be prepared by a suitably qualified person certified and certified in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.
- (c) Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, must be submitted to the Principal Certifying Authority.

(102) COMPLIANCE WITH ACOUSTIC REPORT

- (a) All recommendations contained in Section 6 of the acoustic report prepared by Wilkinson Murray (Ref: 11138), dated February 2011, must be implemented during construction of the premises. This includes the minimum sound insulation ratings of walls and floors.
- (b) The Principal Certifying Authority (PCA) shall obtain a statement from appropriately qualified acoustic consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined in the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied prior to the issue of an Occupation Certificate.

(103) MICROBIAL CONTROL

- (a) The Public Health Act 2010, Public Health Regulation 2012, and NSW Health Code of Practice for the Control of Legionnaires Disease include microbial control requirements for the installation, operation and maintenance of air handling, heated water systems and water cooling systems and must be complied with.
- (b) All cooling towers and cooling and warm water systems must be operated and maintained in accordance with AS 3666.2:2011, (or AS 3666.3:2011 subject to prior notification to Council), The Public Health Act 2010 and the Public Health Regulation 2012
- (c) Prior to commencement of the use the owner or occupier of the premises must apply to Council for the registration of water cooling systems and warm water systems installed on the premises in accordance with Clause 31 to the Public Health Regulation 2012.

SCHEDULE 1C**During Construction/Prior to Occupation/Completion**

- (104) ENCROACHMENTS – NEIGHBOURING PROPERTIES**
- (105) ENCROACHMENTS – PUBLIC WAY**
- (106) SURVEY**
- (107) SURVEY CERTIFICATE AT COMPLETION**
- (108) COVERING OF LOADS**
- (109) EROSION AND SEDIMENT CONTROL**
- (110) HAZARDOUS AND INDUSTRIAL WASTE**
- (111) PROTECTION OF STREET TREES DURING CONSTRUCTION**
- (112) VEHICLE CLEANSING**
- (113) STREET NUMBERING – MAJOR DEVELOPMENT**
- (114) SYDNEY WATER CERTIFICATE**
- (115) ACCESS DRIVEWAYS TO BE CONSTRUCTED**
- (116) LOADING AND UNLOADING DURING CONSTRUCTION**
- (117) NO OBSTRUCTION OF PUBLIC WAY**
- (118) USE OF MOBILE CRANES**

(119) RIGHT OF PUBLIC ACCESS

- (a) Prior to the issue of an Occupation Certificate for the development, a documentary Right of Public Access is to be created and registered on the Title of the site. The Easement is to be defined over strips of land, a minimum of 3 metres wide and shown on the plans accompanying the application as "Public Walkway" and located between Buildings C and E and Jones Bay, and is to be created appurtenant to Council in terms granting unrestricted rights for public pedestrian access, without vehicles, exclusive of wheelchairs for the disabled, to Council's satisfaction,
- (b) Prior to the issue of an Occupation Certificate for the development, a documentary Positive Covenant is to be created and registered on the Title of the site, appurtenant to Council. The Positive Covenant is to be created in terms indemnifying Council against any claims and damages arising from the use of the Right of Public Access, and is to require the maintenance of a \$20,000,000 public indemnity insurance policy and is to require the maintenance, upkeep, repair and lighting of the Right of Public Access in accordance with Council's requirements and to the satisfaction of Council.

(120) LAND SUBDIVISION

Any proposal to subdivide the site will require a separate application to Council to obtain development consent for the proposal and subsequent issue of the Subdivision Certificate under Section 109J of the *Environmental Planning and Assessment Act 1979*.

(121) STRATA SUBDIVISION

Strata subdivision requires development consent and therefore the lodgment of a separate development application or complying development application, and subsequent approval from Council, or an accredited certifier, of the strata plan and issue of the Strata Certificate under the *Strata Schemes (Freehold Development) Act 1973*.

(122) ANNUAL FIRE SAFETY STATEMENT FORM

An **annual Fire Safety Statement** must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued.

(123) FIRE SAFETY CERTIFICATE TO BE SUBMITTED

A Fire Safety Certificate must be submitted to the Principal Certifying Authority for all of the items listed in the Fire Safety Schedule prior to an Occupation Certificate being issued.

(124) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifying Authority and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

(125) ACCESS DRIVEWAYS TO BE CONSTRUCTED**(126) LOADING AND UNLOADING DURING CONSTRUCTION**

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site.
- (b) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) In addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (e) The structural design of the building must allow the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.

(127) NO OBSTRUCTION OF PUBLIC WAY**(128) USE OF MOBILE CRANES****(129) USE OF INTRUSIVE APPLIANCES - TIME RESTRICTION**

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 8am to 12pm and 1pm to 5pm

(130) NOISE CONTROL VERIFICATION

An acoustic verification report must be submitted to the Principal Certifying Authority (PCA) prior to Occupation Certificate from an accredited acoustic consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants outlining all central services mechanical plant and equipment installed within the development.

The report must also confirm that resultant operational noise levels from the mechanical plant and equipment is in compliance with the noise criteria stated within the *Noise - General* condition which forms part of the consent, and Section 5 of the acoustic report prepared by Wilkinson Murray (Ref: 11138), dated February 2011, when operating to maximum capacity at the most noise sensitive time of the day.

The report is also to include a Compliance Certificate from a qualified, practicing acoustic engineer which must be submitted to the satisfaction of the Principal Certifying Authority, certifying compliance with the acoustic amenity requirements of Part 6.1 of the City of Sydney Central Sydney DCP 1996.

(131) ENVIRONMENTAL MANAGEMENT PLAN

SCHEDULE 2

The prescribed conditions in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000 apply to the development.

Clause 98	Compliance with <i>Building Code of Australia</i> and insurance requirements under the <i>Home Building Act 1989</i>
Clause 98A	Erection of signs
Clause 98B	Notification of <i>Home Building Act 1989</i> requirements
Clause 98C	Conditions relating to entertainment venues
Clause 98D	Conditions relating to maximum capacity signage
Clause 98E	Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: <http://www.legislation.nsw.gov.au>

SCHEDULE 3

Terms of Approval- Heritage Council

The Terms of Approval for Integrated Development as advised by NSW Heritage Council are as follows:

1. All work shall be carried out in accordance with the following documentation:
 - (a) DA-002; DA-C-100-118; DA-C-200-202; DA-C-210-212; DA-C-300-301; DA-C-400-402; DA-E-110-113 Revision 1; DA-E-114-119 Revision 5; DA-E-200-203, 203.1, 203.2 Revision 5; DAE-300-302 Revision 3; DA-E-350-351 Revision 4 dated February 2012, prepared by PTW Architects;

- (b) LP-DA-01-07 dated March 2012, prepared by 360°;
- (c) Heritage Impact Statement dated 15 March 2012, prepared by Design 5.

EXCEPT AS AMENDED by the conditions of this consent.

- 2. The eastern section of the east-west running gantry in proposed Apartment G1 is to be retained in-situ.
- 3. The water tank cover located in Bay B-C is to be adequately protected and incorporated into any floor treatment.
- 4. The proposed new balconies in Bays A-C and N-P of the eastern elevation are to be made smaller with each new opening having its own Juliette balcony.
- 5. Juliette balconies in the former goods bays are to be 2000mm wide.

Further Information to be submitted with the S60 application:

- 6. Details of bollards to west of REVY C.
- 7. Details of the proposed jib crane collar including location of fixing.
- 8. Details of proposed window upgrades.
- 9. Details of the proposed roller doors and fencing on ground floor.
- 10. Details of all balcony balustrade/railings designs.
- 11. Amended plans reflecting compliance with Conditions 2-5.
- 12. Archaeological management plan that identifies procedures to be followed if any relics are located and how its contents will be made available to workers on the site.

Nominated Heritage Consultant:

- 13. All heritage work shall be supervised by a qualified heritage consultant to ensure that the impact of the works on the heritage significance of the building is minimised and all work has been carried out in accordance with the approved documentation and the conditions of this consent.
- 14. All work shall be carried out by suitably qualified tradesmen with practical experience in conservation and restoration of similar heritage items. The nominated heritage consultant in Condition 13 shall be consulted prior to the selection of appropriate tradesmen.

Site Protection & Works:

- 15. Significant built elements are to be adequately protected during the works from potential damage. Protection systems must ensure historic fabric is not damaged or removed.

16. The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
17. Should any Aboriginal 'objects' be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment and Heritage is to be informed in accordance with the National Parks and Wildlife Act, 1974 (as amended). Aboriginal 'objects' must be managed in accordance with the National Parks and Wildlife Act, 1974.

Archival Recording:

18. An archival photographic recording of the interior of the building and affected external aspects is undertaken prior to the commencement of works, in accordance with the Heritage Council document, *Photographic Recording of Heritage Items using Film or Digital Capture*. The original copy of the archival record shall be deposited with the Heritage Branch, an additional copy shall be provided to the City of Sydney.

Compliance:

19. Following the determination of the development application by the City of Sydney, an application under Section 60 of the NSW Heritage Act 1977 must be submitted to and approved by the NSW Heritage Council prior to works commencing.

Terms of Approval- Office of Water

The Terms of Approval for Integrated Development as advised by NSW Office of Water are as follows:

Plans, standards and guidelines

- 1 These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to *DN20121573/D* and provided by Council:

(I) Site plan, map and/or surveys

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GIA will be required.

- 2 Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CM) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.

- 3 The consent holder must prepare or commission the preparation of:
- (i) Soil and Water Management Plan
- 4 N/A
- 5 The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.
- 6 N/A
- 7 The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.

Reporting requirements

- 8 The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
- 9-13 N/A
- 14 The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

Drainage and Stormwater

- 15-16 N/A
- 17 The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
- 18 The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
- 19-27 N/A

BACKGROUND

The Site and Surrounding Development

1. The site comprises the former Royal Edward Victualling Yards and is commonly known as the REVY site. It is irregular in shape with an area of approximately 9458.7m², with a primary street frontage onto Pirrama Road and a rear frontage facing onto the Jones Bay foreshore.
2. The site is occupied by a number of buildings. Buildings A and B are located in the southern section of the site and are both 5-6 storey brick buildings currently occupied for use by Channel Seven. Building D is a smaller two storey building in the south western corner of the site.
3. The portion of the site to be developed is occupied by an eight storey building (Building C), also known as the DSTP building, formerly used for victualling purposes and a single storey metal services building (Building E) surrounded by a paved car parking area.
4. There are 131 parking spaces on the site in total, in addition to a single storey shed adjacent to the foreshore that is currently used as a water taxi terminal.
5. A site locality plan is provided below:



Figure 1: Site locality plan

6. A site plan identifying the existing and proposed buildings is provided below:

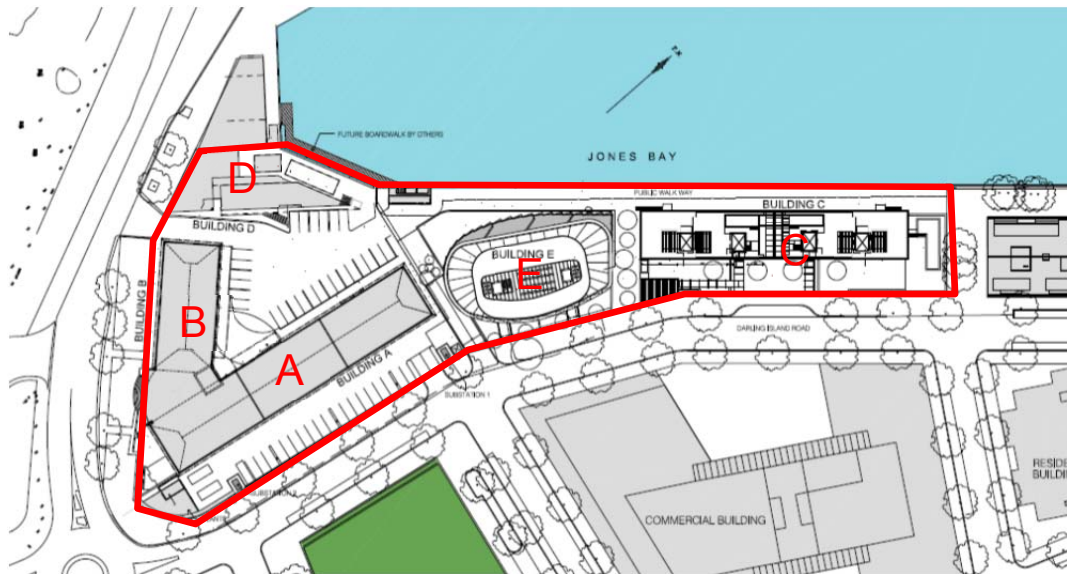


Figure 2: REVY site plan identifying existing Buildings A-D and proposed Building E

7. The site is bounded by Jones Bay to the west, Buildings A, B and D and Pirrama Road to the south, Darling Island Road, Fairfax offices and Metcalfe Park to the east and a multi-storey residential flat building to the north.
8. The Darling Island precinct has been redeveloped for residential and commercial purposes from its historic ship building and victualling uses over the last fifteen years. Prominent land uses within the broader surrounds include The Star casino and to the south, Daltone House function centre and Jones Bay Wharf to the east and Sydney Wharf to the west.
9. The site is located approximately 50 metres to the north of the intersection between Darling Island Road and Pirrama Road. The Pymont Casino ferry wharf and Casino light rail station are located approximately 100 metres to the south and south west of the site respectively.
10. Photographs of the site are provided below:



Figure 3: View of existing Building C, Building E and Building A (L to R)

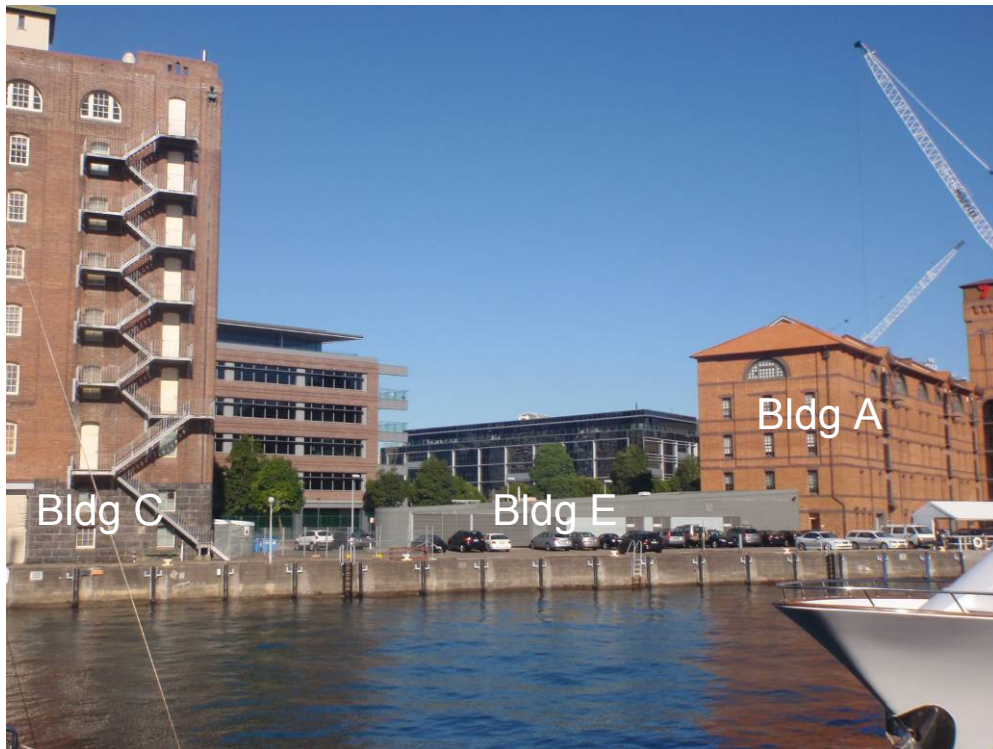


Figure 4: View of existing single storey Building E to be demolished



Figure 5: View of existing Building E and car parking area proposed for demolition



Figure 6: View of northern side elevation of Building C

History of Development Applications Relevant to this Site

11. The following development applications are relevant to the subject site:

- D/2008/597 (approved 15/12/08)- Detailed proposal for the refurbishment of existing Building C (commercial use), including additional mezzanine and roof levels, new services and new additional balcony areas, demolition of Building D and envelope and concept proposal for a five storey replacement building with basement car parking for commercial use, demolition of Building E and envelope and concept proposal for a five storey replacement building with basement car parking for commercial use and extension of the public access along the waterfront.
 - D/2008/597/A (approved 10/3/10)- Section 96(1) modification of the approved staged development to amend the lapse date to be after 5 years from the date of development consent.
12. The application for commercial development D/2008/597 has been approved but never commenced.

Competitive Design Process

13. The applicant conducted a competitive design process for the proposed new Building E prior to lodging the DA, in accordance with Council's requirements under Clause 26 of the Sydney LEP 2005. Council's officers oversaw the Competitive Design Brief and a presentation of the three shortlisted entrants was undertaken on 15 November 2011.
14. The entry prepared by Koichi Takada Architects (KTA), deriving visual inspiration from the characteristics of yachts, was deemed to provide the most appropriate response to the design brief. The applicant subsequently engaged KTA to prepare the building design for DA submission to Council.
15. Photomontage views of the proposed development is presented below:



Figure 7: Photomontage view of proposed development looking south along harbour foreshore



Figure 8: Photomontage view of proposed development

PROPOSAL

16. The proposed development comprises the following:
 - (a) Demolition of the existing single storey metal services building and car parking area and erection of an eight storey residential flat building (Building E) comprising 32 comprising 5 x 2-bedroom apartments and 7 x 3-bedroom apartments;
 - (b) Refurbishment of existing eight storey Building C and conversion to residential use comprising 16 split level three bedroom apartments,
 - (c) Four level basement parking comprising 159 spaces in total, including spaces relocated from existing at-grade parking area for Building A;
 - (d) Single storey services building to support the proposed development at the corner of Pirrama Road and Darling Island Road, relocation of substation and associated access works along Darling Island Road; and
 - (e) Public access to foreshore, a new lockable through-site link between Buildings C and E and associated landscaping works.
17. Elevation views are presented at Attachment A. Additional photomontages and a model view are presented below:



Figure 9: Photomontage view of proposed development as viewed looking north along Darling Island Road



Figure 10: Model of proposed development

IMPLICATIONS OF THE PROPOSAL

Section 79C Evaluation

18. An assessment of the proposal under Section 79C of the Environmental Planning and Assessment Act 1979 has been made, including the following:

Section 79C(1)(a) Environmental Planning Instruments, DCPs and Draft Instruments

STATE ENVIRONMENT PLANNING POLICIES (SEPPs)

19. The following State Environmental Planning Policy/Policies are relevant to the proposed development:

SEPP 1 – Development Standards

20. The applicant has submitted a SEPP No. 1 objection and is seeking variation to controls related to building height. The objection is assessed below:

Building Height

What is the development standard and is it a development standard?

21. Clause 95 provides that the maximum height for buildings in master planned areas identified as landmark locations must not exceed a maximum height limit of 36 metres in the case of Building C. This existing building to be refurbished and converted for residential use would remain at a height of 34.9 metres, which is within the height limit.
22. Clause 93(1) of the Sydney Local Environmental Plan (LEP) 2005 provides that building heights are not to exceed the maximum shown on the Ultimo-Pyrmont Height Map. The proposed Building E has a maximum overall height of 25.18 metres, exceeding the height limit of 21 metres by 4.18 metres due to the penthouse level and green roof.

What is the underlying object or purpose of the standard?

23. The objectives are contained at Clause 84(4) of the LEP, which states the following objectives of particular relevance:
- (a) *Building heights are to reflect and emphasise the topography of Ultimo-Pyrmont by increasing in height as distance increases from the nearest waterfront. Building heights should allow a reasonable sharing of distant views from buildings by their occupants.*
 - (b) *The heights and scale of buildings are to form a transition between the high-rise buildings in the City and low-rise buildings in the suburbs adjoining Ultimo-Pyrmont.*
 - (c) *The heights and scale of new buildings are to respect existing buildings in the locality, particularly heritage items and buildings in conservation areas.*

- (d) *The heights and forms of buildings are to take account of visual impact, solar access, wind impact and, where appropriate, the privacy of residences in order to contribute a high quality of environmental amenity in intensively used parts of the public domain and in residential areas.*

24. Of particular importance, Part (f) states as follows:

- (f) *Higher buildings may be accommodated:*

(i) *if they will emphasise existing or former high points in the natural ground level on Distillery Hill, Pymont Point, Darling Island and adjoining the CSR Stables, they will reflect the former smoke-stack elements of the Pymont Point Power Station; or*

(ii) *if they will provide a suitable axial focus in the vista down to Liverpool Street,*

and they will not compromise the environmental amenity and general scale of buildings in their locality.

25. The proposed penthouse level, roof terrace and roof garden form the section of the building which exceeds the 21 metre height limit. The proposed development is considered to satisfy these objectives as discussed below.

Is compliance with the standard consistent with the aims of SEPP No. 1?

26. The aim of SEPP 1 is to provide flexibility in the assessment of development standards in certain circumstances where strict compliance is considered to be unreasonable or unnecessary. The proposal results in a development that is visually subservient to the adjacent heritage listed building, and provides a stepped transition between the dominant height of Building C and the lower scale of Building A.

27. The visual dominance of Building C within the precinct would be maintained and the proposal would not overwhelm the adjacent Building A to the south. The proposal would result in a total FSR of 1.94:1 across the site. The visual bulk resulting from the additional height would not be excessive and adds an inconsequential proportion of FSR.

Does it hinder the object of the Environmental Planning & Assessment Act 1979 under Section 5(a) (i) and (ii)?

28. Strict compliance would hinder attainment of the objects of the EP & A Act, including fostering the orderly and economic use of land. The immediate locality is characterised by the adjacent Building C which has an overall height of 34.9 metres. The adjacent building to the south, Building A, has a maximum height of 23 metres.

29. The height of the proposed Building E would be 25.18 metres, which is an increase of 20% above the maximum building height of 21 metres. This would not detract from the appearance of either adjacent building and within this context a stepped approach is satisfactory.

30. Strict compliance would hinder attainment of the Act's objects by resulting in a development that provides a less appropriate transition between the height, scale and character of the adjacent heritage listed buildings.

Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?

31. Strict compliance is considered to be unreasonable and unnecessary given that the increased height would not challenge the scale of the dominant Building C. Council's Heritage Officer has supported the overall building height on this basis.
32. It is also noted that the Draft LEP proposes to increase the maximum permissible height to 24 metres, significantly reducing the extent of the non-compliance from 20% to 5%. The proposal also comprises with the height limit of 25.5 metres imposed under the Darling Island Master Plan.

Whether a development which complies with the standard is unreasonable or unnecessary?

33. A compliant scheme would meet the objectives for building height under Clause 84(4) of the LEP and on this basis it is considered that compliance with the standard would be unreasonable and unnecessary. The additional bulk created by the FSR does not impact on the amenity of the surrounding area. There would be no additional impact with regard to solar access, views or overshadowing resulting from the additional building bulk.

Is the objection well founded?

34. The SEPP No. 1 Objection is considered to be well founded as strict compliance would not allow for a development that is consistent with the pattern of surrounding development and provides an acceptable transition between the height of the heritage listed Buildings A and E.

SEPP 55- Remediation of Land

35. Clause 7(1) of the SEPP requires the consent authority to consider whether the land is contaminated and, if it is contaminated, that site is suitable or will be suitable after remediation for the development proposed. The City of Sydney Contaminated Land DCP 1997 effectively replicates these provisions.
36. There is site history indicating a likelihood of contamination at the subject site. The applicant has submitted a Remediation Action Plan (RAP) and Acid Sulfate Soils Management Plan (ASSMP) indicating that the site would be suitable for the levels of excavation and development proposed following remediation.
37. An accredited NSW site auditor has reviewed this information and prepared Interim Audit Advice dated 23 August 2012 indicating that the RAP and ASSMP is able to be implemented. Council's Environmental Health Officer has reviewed these documents and raised no objections to the proposal, subject to appropriate conditions being imposed. On this basis the proposal is considered to be acceptable with regard to SEPP 55.

SEPP 65 – Design Quality of Residential Flat Development

38. SEPP 65 provides that, in determining an application for a residential flat development of three or more floors and containing four or more apartments, the consent authority take into consideration a number of matters relating to design quality including 10 design quality principles as discussed below:

(a) **Principle 1: Context**

The site is located within close proximity to the light railway, bus routes and a ferry wharf. The Sydney CBD is also within 15 minutes walking distance of the site. The proposal contributes towards the vitality of the Darling Island mixed use precinct. The proposal is located within the Residential-Business zone and is in accordance with the objectives of the zone and Darling Island Master Plan.

(b) **Principle 2: Scale**

The surrounding buildings vary in height and form, with the dominant feature being Building C. The scale of this building will remain as per the existing, with minimal changes to its external form and appearance. The proposed Building E incorporates a blue stone podium level to provide legibility and enable this to align with the raised ground floor level of Building C.

(c) **Principle 3: Built Form**

The alterations to convert Building E for residential purposes are minimal in nature. The proposed Building E has been the subject of a design competition and achieves a high quality contemporary design. The design features extensive use of glazing and a curved built form facing onto the harbour foreshore.

(d) **Principle 4: Density**

There are no applicable residential FSR controls for the site under Council's planning controls. However the proposed density is generally in accordance with the pattern of surrounding development and provides an acceptable density within this location. The proposed development features comfortably sized apartments as discussed in further detail below.

(e) **Principle 5: Resource, energy and water efficiency**

The proposal achieves the BASIX requirements and provides the following key sustainability features:

- Proposed green roof to Building E which features primarily sedum cover, which would primarily assist with rainwater detention, provide insulation and bird habitat
- Fully cross ventilated apartments in both Buildings C and E
- Rainwater harvesting incorporated into the building design
- Energy efficient fittings for the apartments in both Buildings C and E

(f) **Principle 6: Landscape**

The proposal incorporates both common and private elements of landscaping. The foreshore link comprise a line of Cabbage Tree palms along the through site link between buildings. Public seating and a group of cabbage tree palms is also provided for shade at the southern end of the site.

The landscape approach along the foreshore and for Building C is constrained by the heritage and maritime context. Private courtyards and a deciduous tree for each of the ground floor apartments at Building E have been provided. It is proposed to replace street trees where affected by the proposed new driveway entries to the development.

(g) **Principle 7: Amenity**

The proposal meets each the rules of thumb in the Residential Flat Design Code as follows:

- Unit Size

The proposed unit sizes in both buildings exceed the minimum of 80-89m² for two bedroom units and 125m² for three bedroom units.

- Cross Ventilation

Each of the units is cross-ventilated, including corner units and cross-over units, exceeding the requirement for 70% of units to be cross-ventilated.

- Apartment Depth and Width

The proposed single aspect apartments on Building E exceed the required 8 metres depth from a window. Apartments, 2, 3, 6 and 7 at the ground floor of Building E feature kitchen walls 9 metres from a window, more than the 8 metres required under the Rules of Thumb. Given the minor nature of this discrepancy and as each of these kitchens are largely within 8 metres with no obstructions to the windows, this is considered acceptable. Each of the cross-over units with a depth of greater than 15 metres exceeds the minimum 4 metre width required.

- Private Open Space

The Rules of Thumb suggest a minimum private open space area of 11m² for two bedroom apartments and 24m² for three bedroom apartments, with a minimum balcony depth of 2 metres. The balconies to Building C do not meet this requirement, however this is due to preserving the heritage character of the external elevations.

A number of three bedroom apartments in Building E, namely Units 201, 204, 301, 304, 401, 404, 501 and 504, do not meet the 24m² balcony size requirement having a minimum area of 18.4m². This is considered to be acceptable as the proposed apartments comfortably exceed the minimum internal sizes and provide a useable depth with direct access from main living areas.

- Storage

Each unit in both Buildings C and E is provided with lockable storage in accordance with the minimum 8m³ for two bedroom apartments and 10m³ for three bedroom apartments.

- Solar Access

The rules of thumb call for living rooms and private open space to receive sunlight for three hours between 9am and 3pm in midwinter for at least 70% of units. The solar study diagram prepared by the applicant indicates that more than 70% of the units (42 out of 48) achieve this requirement. Less than 10% of the apartments (three in total) in Building E have a south west or south east orientation in accordance with this rule of thumb. Building C features no apartments with a south-east or south-west orientation.

- Floor-to-Ceiling Heights

The proposed floor-to-ceiling heights exceed the minimum height of 2.7 metres for habitable rooms as state under the rules of thumb.

- Visual and Acoustic Privacy

Each of the units achieve adequate levels of visual and acoustic privacy in and the balconies are adequately screened or separated by a sufficient distance. There is 6 metres between Building C and E at their closest point, however given that the apartments are generally oriented towards the harbour this would be acceptable.

(h) **Principle 8: Safety and Security**

The proposed units facing onto Darling Island Road and public foreshore walk would provide passive surveillance for these areas. The proposed foreshore access and through-site link has been reviewed by NSW Police and Council's Safe City team and considered acceptable subject to its closure at night time.

(i) **Principle 9: Social Dimensions**

The proposed dwelling mix is considered to be acceptable as discussed under the Issues section.

(j) **Principle 10: Aesthetics**

The refurbishment to Building C is highly sensitive to the internal and external heritage fabric of the building. The design elements of Building E are intended to reflect the waterside location and evoke the characteristics of a sail or yachting vessel. The overall scale has been designed as a transition between the two heritage listed Buildings A and C.

39. The development is considered generally acceptable when assessed against the above stated principles and the SEPP generally, which are replicated in large part within Council's planning controls.

SREP Sydney Harbour Catchment 2005

40. The site is located within the Foreshores & Waterways Area as identified by the SREP and consideration of its impact upon the visual quality of the Sydney Harbour catchment is required.

41. Consultation with the Foreshores and Waterways Advisory Committee was undertaken in accordance with the SREP. The Committee recommended that *'the consent authority satisfies itself the proposal provides an appropriate design response to the character of the area in particular the previous maritime industrial character and the adjacent State Heritage buildings'*.
42. The proposal is considered to meet the design considerations of the SREP.

SEPP (BASIX) 2005

43. The application satisfies the SEPP requirements by way of a BASIX Certificate.

SREP 26- City West

44. SREP 26 has been superseded by Sydney LEP 2005 in relation to master planned developments within the Ultimo-Pyrmont locality.

Sydney LEP 2005

45. Compliance of the proposal with the LEP controls is summarised below:

COMPLIANCE WITH SYDNEY LEP 2005

Development Controls	Permissible under Sydney LEP 2005	Proposal as assessed under Sydney LEP 2005
Masterplan Site	Darling Island Masterplan	Proposal is consistent with Darling Island Master Plan as amended July 2012
Zoning	Residential-Business (Non Residential Development)	Does not comply with zoning – consistent with CI 114 flexible zoning provisions. See Issues section
Floor Space Area	N/A - Masterplan Site	18,303 sqm
Floor Space Ratio (Site area = 9460m²)	N/A – Masterplan Site	1.94 : 1
Height	21m above street level (Bldg E) Ultimo-Pyrmont Height Map indicates that landmark building at the site 36m above street level is permissible (Bldg C)	25.19m above street level (RL 27.57)(Bldg E) Does not comply – See Issues section 34.9m above street level (RL 38.05)(Bldg C) Complies

Development Controls	Permissible under Sydney LEP 2005	Proposal as assessed under Sydney LEP 2005
Planning principles for Ultimo-Pyrmont	Consent authority must have regard to the relevant Ultimo-Pyrmont planning principles	Complies - The application proposes an appropriate bulk and scale within its context, is well situated with regard to surrounding transport networks, contributes to the mixed use character and preserves the heritage significance of Building C and the REVY site as whole.
Heritage Conservation	Consent authority must consider the impact of the proposed development upon the heritage character and significance of the surrounds, including any heritage items.	Complies - The proposal refurbishment of Building C and new Building E responds appropriately to the heritage context. See Issues Section.
Affordable Housing Contribution	Contribution towards affordable housing within the Ultimo-Pyrmont locality is required	Complies

COMPLIANCE WITH LEP Chapter 1 PART 5 Division 2 – DESIGN EXCELLENCE

Matter to be Considered (clause 26)	Complies	Comment
High standard of architectural design, materials and detailing	✓	Complies – The proposed alterations to Building C retain the heritage character of the building and have been supported by Council's heritage staff and the Office of Environment & Heritage, subject to conditions. The proposed Building E is a high quality contemporary design which is considered an appropriate infill for this location. Refer to Issues section.

Matter to be Considered (clause 26)	Complies	Comment
Form and external appearance of the building improves quality and amenity of the public domain	✓	Complies – The proposed alterations to Building C maintain the existing heritage form of the building. The proposal improves the public domain through providing public access and a through link to the foreshore in front of Buildings C and E. Refer to Issues section.
Impacts on view corridors	✓	Complies – The proposal will not compromise significant views and vistas within the locality. The proposed building envelope of Building E has been amended to allow better views between the existing heritage listed Buildings A and E. Refer to Issues section.
Design results from a competitive process	✓	Complies – The applicant has followed a competitive design process in order to achieve a high quality design outcome on the site, as outlined previously.
Design consistent with any relevant provisions of CSDCP 1996, including Part 12 design competition requirements	✓	Complies – Consistency with the Central Sydney DCP is outlined in the following sections.
Process established to ensure continuity and to ensure excellence is realised in completed building.	✓	Complies – Appropriate conditions are recommended to ensure there is continuity in the proposed new Building E and refurbishment of Building C.

COMPLIANCE WITH LEP Chapter 1 PART 5 Division 3 – ENVIRONMENTAL DESIGN

Matter to be Considered (clause 26)	Complies	Comment
Principles of ecologically sustainable development	✓	Complies – The proposal comprises ESD principles including ensuring that all apartments are cross-ventilated, a green roof to Building E, energy efficient fixtures/fittings and rainwater harvesting incorporated into the building design.
Potential for adaptive re-use	✓	Complies – The proposal comprises adaptive reuse of the heritage listed Building E.

LEP PART 6 – HERITAGE PROVISIONS

46. Building C is a designated heritage item (No 98) known as the Naval Warehouse, Darling Island pursuant to Schedule 8 of the LEP. It is listed on the State Heritage Register and integrated development approval of the NSW Heritage Council has been provided.
47. The building is a Federation era warehouse constructed of steel framed face brick of nine storeys on a single storey base of sandstone. The mass, rectangularity and arched upper windows hint at Federation warehouse styling, while the rounded gables suggest an Anglo-Dutch influence. Hoists, timber loading doors and timber structure are all intact.
48. The building is of architectural, aesthetic and historical significance as an excellent example of its style and its association with the early growth of the Royal Australian Navy.
49. The site is the vicinity of the following heritage items:
 - Item 130 - Arrow Marine Building 34A Pirrama Road;
 - Item 97 - former Royal Edward Victualling Yard (Building A); and
 - Item 99 – Jones Bay Wharf.
50. The proposal is considered not to have a significant adverse impact on the surrounding heritage items. See Issues section for further discussion in relation to heritage.

Draft Sydney LEP 2011

51. The exhibition of the Draft Sydney LEP 2011 has now been completed. Council have adopted the Draft LEP and have referred the document to the Department of Planning for gazettal. The provisions of the Draft LEP have been taken into consideration in the assessment of the proposal.

52. The site is located within the B3 Commercial Core zone under the exhibited Draft LEP. The proposal is prohibited under the proposed zoning as exhibited, however Council's City Plan Co-ordinator has indicated that the site's zoning will be updated in the final Draft LEP to a B4 Mixed Use zoning, which reflects amendments to the Darling Island Master Plan gazetted by the Department of Planning. The proposed development is permissible within the B4 zone.
53. The proposal does not comply with the draft floor space ratio of 1.75:1, the draft height control of 35 metres for Building C and the draft parking (maximum) rate of 56.1 residential parking spaces.
54. The previous approved commercial development D/2008/597 had an approved FSR of 1.96:1. This consent is currently valid and the proposal comprises a slightly lower FSR of 1.94:1 across the entire site. The proposed FSR is considered to be acceptable.
55. The proposed height non-compliance for Building C is marginal, as the existing height of 35.67 metres will not be exceeded, and relates to the lift overruns and decorative gables on the roof only. The draft height control is 24 metres for Building E, however Clause 6.21(7) provides that an additional 10% may be granted if the proposal has been through a competitive design process. The proposed Building E has a maximum height of 25.19 metres which meets this requirement.
56. The proposal provides a total of 159 parking spaces, including 55 commercial spaces relocated from the existing car park. This exceeds the maximum number of 57 parking spaces. However, this is in accordance with current DCP parking requirements and will not generate unreasonable traffic impacts within the locality as discussed under Issues. A condition has been recommended to apportion the parking spaces between the existing commercial parking provision and the two residential buildings.
57. The site is a draft heritage item and located in a draft heritage conservation area. The proposal will not adversely impact on the significance of the draft heritage item and conservation area. See Issues section for further heritage discussion.
58. Clause 7.12 requires Council to be satisfied that development adjacent to the Harbour foreshore provides access to the foreshore. The proposal dedicates 3 metres adjacent to the frontage to the Sydney Harbour Foreshore Authority and provides a through site link for use during daylight hours. This ensures some connectivity with Metcalfe Park on the eastern side of Darling Island Road.

Darling Island Master Plan

59. Compliance with the relevant provisions of the Darling Island Master Plan is summarised below:

COMPLIANCE WITH THE DARLING ISLAND MASTERPLAN

Matter to be Considered	Complies	Comment
Site Vision Part 2.1	✓	Complies – The proposed Building E features a strong linear form and lightweight construction. The proposed building complements the existing REVY heritage listed buildings.
Land Use Part 2.2	✓	Complies – The proposed residential development contributes positively to the mixed use precinct. Ground floor commercial uses are not considered necessary in this location. Either residential or business uses are expressly contemplated under Figure 7- Preferred Land Uses. See Issues section.
Built Form and Urban Design Part 2.3	✓	Complies – The proposed building utilises lightweight materials and is an appropriate design within the heritage and foreshore context. The western side of Building E has been tapered to allow greater visual connection between the heritage listed Buildings A and E. The proposed heights are in accordance with the maximums of 25.5m and 36m identified at Figure 12. See Issues section.
Access and Circulation Part 2.4	✓	Complies – The proposal has been designed to incorporate accessibility requirements. The proposed basement car parking and driveways do not detract from the streetscape nor unduly disrupt pedestrian movements within the surrounds.

Matter to be Considered	Complies	Comment
Public domain Part 2.5	✓	<p>Complies – The proposal provides for a foreshore promenade to connect to the existing walk as well as access via a through site link during daylight hours. The proposed landscaping is considered to be acceptable in principle.</p> <p>See Issues section.</p>
Housing Development Part 2.6	✓	<p>Complies – The proposal achieves the desired objective of providing residential uses around the edge of Darling Island. The proposal significantly exceeds the minimum 15% requirement for three bedroom units. The lobby entrances at the ground floor are legible and accessible, and ground floor units satisfactorily address the street.</p> <p>See Issues section and SEPP 65.</p>
Provision of Public Amenities and Affordable Housing Part 2.8	✓	<p>Complies – Affordable housing and Section 94 contributions will be secured by way of condition.</p>
Environment Part 2.9	✓	<p>Complies – The application has been accompanied by a noise report indicating that no special glazing or acoustic treatment is required for the proposed units. The proposal is considered satisfactory with regard to solar access to each of the units.</p> <p>See Issues section and SEPP 65.</p>
Infrastructure Part 2.10	✓	<p>Complies – The proposal comprises an acceptable stormwater plan and is capable of achieving the relevant servicing requirements, subject to conditions. The proposal includes a number of ecological sustainable development initiatives.</p>

Compliance with Urban Development Plan for Ultimo Pyrmont Update 1999

60. Compliance with the Ultimo Pyrmont UDP 1999 Update is summarised below:

COMPLIANCE WITH UDP 1999 UPDATE

Matter to be Considered	Complies	Comment
3.1 Building Envelopes 3.1.1 Street frontages	*	<p>Does not comply – The UDP restricts wall height to maximum of the street width plus an additional 1.6 metres. As the width of Darling Island Road is 16 metres, this would limit Building E to a maximum height of 17.6 metres.</p> <p>The proposed building height are considered to be acceptable given the existing context. Although it is over the SLEP height limit, the proposed built form is consistent with the Master Plan height limit of 25.5 metres. The proposal has been designed with respect to the heritage context.</p> <p>See Issues section and SEPP 1.</p>
3.1.2 Internal Courtyards and Rear Boundaries	*	<p>Does not comply – The UDP requires a minimum separation distance of 12 metres between the elevations of buildings containing habitable rooms.</p> <p>The proposed northern side elevation of Building E is within 6.5 metres of the adjacent Building C. Given that the apartments are oriented towards the Harbour, this is considered acceptable.</p> <p>See Issues section.</p>
3.2 Privacy	*	<p>Does not comply – The proposal does not meet the required 12 metres separation distance between buildings. This is considered to be acceptable as described above.</p> <p>See Issues section.</p>

Matter to be Considered	Complies	Comment
3.3 Heritage items and conservation areas	✓	<p>Complies – The proposal has been designed with regard to the heritage context of the adjacent buildings, in particular the relationship between the two heritage listed Buildings A and C and the visual transition provided by the new Building E.</p> <p>The proposal will not compromise local views of the heritage items. Adequate heritage impact documentation has been provided with the DA.</p> <p>See Issues section.</p>
3.4.1 Views and vistas from the public domain	✓	<p>Complies – Views across Jones Bay from Pyrmont Street to the subject site have been identified as important views under the UDP.</p> <p>The view impact of the proposed infill building has been provided by way of the photomontage drawings. These indicate views of Buildings A and C will not be compromised by the proposed building.</p> <p>See Issues section.</p>
3.4.2 View sharing from within buildings	✓	<p>Complies – The proposal would not compromise view sharing surrounding development, which is predominantly commercial in nature.</p> <p>See Issues section.</p>

Matter to be Considered	Complies	Comment
4.1 Ground Level Activities	✓	<p>Complies – The site is not within a designated Activity Strip and ground floor commercial uses are not required. The proposed car park is located below ground level and would not impact adversely upon ground level activities.</p> <p>The proposal comprises public domain works including activation of the foreshore for public use.</p> <p>Refer to Issues section.</p>
4.2 Facade Treatment	✓	<p>Complies – The proposed Building E facade is modulated and treated to achieve a lightweight appearance and texture. The proposed Building C design retains the heritage character of the building.</p> <p>Refer to Issues section.</p>
4.3 Awnings	✓	<p>Complies – Weather protective awning are not required outside of the Activity Strips.</p>
4.4 Roof Design	✓	<p>Complies – Lift overruns and plant equipment at Building E are concealed within the roof level surrounded by a green roof. The existing situation for Building C will remain as regards the prominent appearance of lift overruns as an architectural feature.</p>
4.5 Signage	✓	<p>Complies – No signage is proposed.</p>
4.6 Public Art	✓	<p>Complies – The proposal incorporates a sculpture to the end of the through site link between buildings. A condition of consent has been imposed requiring submission of a public art strategy to Council prior to issues of an Occupation Certificate.</p>

Matter to be Considered	Complies	Comment
5.1 Building Entries & Active Street Frontage	✘	<p>Does not comply – The proposal does not provide active non-residential uses at the ground floor. Direct street access to ground floor units is not considered practicable given the context requiring a raised podium level to match the heritage context.</p> <p>Notwithstanding, the proposal delivers significant public benefit by way of public foreshore access.</p> <p>See Issues section.</p>
5.2 Floor to ceiling heights, cross ventilation and storage facilities	✔	<p>Complies – The proposal exceeds the 2.7m minimum floor-to-ceiling height and all units are cross ventilated. Storage is provided in accordance with the RFDC rules of thumb.</p> <p>See Issues section & SEPP 65.</p>
5.3 Dwelling mix, diversity and sustainable development	✘	<p>Does not comply – The proposal provides significantly more than the 15% three bedroom units required.</p> <p>However, less than 15% of the units are two bedroom and no one bedroom units are provided. This is considered acceptable as the proposal meets the dwelling mix requirements under the Master Plan.</p> <p>See Issues section.</p>
5.4 Private Open Space for Residential Development	✘	<p>Does not comply – A total of eight apartments are provided with less than the 20m² of private open space required. This is considered to be acceptable given the generous size of each apartment, the heritage constraints of Building C and access to nearby open space.</p> <p>See Issues section.</p>

Matter to be Considered	Complies	Comment
5.5 Communal Open Space for Residential Development	✓	Complies – THE UDP requires that 25% of communal open space is provided with a minimum of 1500mm soil depth for deep soil planting. The proposed communal open space achieves this requirement. The landscaping scheme is considered to be acceptable for the proposed development.
6.1 Retail and Neighbourhood Services	✓	Complies – The site is not within an Activity Strip and local services are not required.
7. Environmental Issues 7.1 Wind Impact	✓	Complies – A wind impact study is not considered necessary given the site's location.
7.2 Reflectivity	✓	Complies – A condition of consent is recommended ensuring that the proposal does not use reflective materials.
7.3 Solar Access to Public Open Space and Private Communal Open Space	✓	Complies – The UDP states that no more than 50% of major areas of public open space shall be overshadowed from 10am-2pm between 21 April and 21 August. The proposal would result in additional overshadowing to Metcalfe Park, however this would not occur until 1pm.
7.4 Development near Major Noise Sources	✓	Complies – The noise report submitted in supported of the proposal indicated that there are no specific acoustic attenuation measures required.
8.1 Energy Conservation	✓	Complies – The applicant has submitted a BASIX Certificate with the application and ESD measures have been incorporated into the proposal.

Matter to be Considered	Complies	Comment
8.2 Water	✓	Complies – Rainwater harvesting and a green roof are proposed in order to assist with on-site water detention. Stormwater details have been submitted in support of the proposal.
8.3 Earth	✓	Complies – Appropriate areas for general waste and recycling storage have been incorporated into the proposal. A waste management plan has been required by way of condition of consent.
8.4 Biodiversity	✓	Complies – The proposed Building E incorporates a green roof encouraging biodiversity within the locality.
8.5 Human health	✓	Complies – Appropriate conditions have been imposed to minimise the impact of construction and remediation upon the locality.
8.6 Air	✓	Complies – The site is well located with regard to transport accessibility, reducing the requirement for private trips
9.1 Access and Facilities for Cyclists	✘	Does not comply – The UDP requires a total 24 bicycle parking spaces plus an additional four visitor parking spaces. A total of 18 bicycle spaces are provided within the basement parking area. A condition is recommended to ensure compliance. See Issues section.
9.2 Parking and Servicing	✓	Complies – The UDP requires a minimum of 24 car parking spaces plus an additional five visitor spaces and a maximum of two spaces per dwelling. The proposal meets this requirement. See Issues section.

Matter to be Considered	Complies	Comment
9.3 Parking for people with physical disabilities	✓	Complies – Accessible parking spaces have been provided. See Issues section.
9.4 Design of parking and servicing facilities	✓	Complies – Compliance has been secured by condition. See Issues section.
9.5 Access and facilities for people with disabilities or mobility impaired.	✓	Complies – Accessibility has been provided within the proposed development by way of a lift with level access at ground level.
10 Public Domain Principles and Strategy 10.2.2 Pedestrian Circulation	✓	Complies – The proposal extends the foreshore promenade, providing public access as required by the UDP. See Issues section.
10.2.6 Street Trees and Planting	✓	Complies – The proposed street trees to be removed accommodating the driveways will be replaced.

Compliance with Central Sydney DCP 1996

61. Compliance with the Central Sydney DCP 1996 is summarised below:

COMPLIANCE WITH CENTRAL SYDNEY DCP 1996

Amenity for residential buildings and serviced apartments (Amendment No. 5) (DCP Clause 6)		
Daylight Cl 6.1.1	✓	Complies – Each of the proposed units achieves adequate solar access given their generous size and orientation.

Amenity for residential buildings and serviced apartments (Amendment No. 5) (DCP Clause 6)		
Sun access CI 6.1.4/5/6	✓	Complies – The solar study diagram prepared by the applicant indicates that 42 out of 48 proposed units receive sunlight for three hours between 9am and 3pm in midwinter into living rooms and private open space. More units will receive this amount during the equinox.
Ventilation CI 6.1.7/8/9	✓	Complies – Cross ventilation is achieved for all units in the proposed development.
Visual privacy CI 6.1.10	✓	Complies – Notwithstanding a minimum separation distance of 6 metres between Buildings C and E at the closest point, an acceptable level of visual privacy is achieved given the orientation of the units. See Issues section.
Outlook CI 6.1.11/6.1.12	✓	Complies – Each of the proposed units achieves an acceptable outlook.
Acoustic privacy CI 6.1.13/14/15/16	✓	Complies – The noise report submitted in support of the proposal indicates that no specific acoustic attenuation measures are required.
Design of roof top areas CI 6.1.17/18	✓	Complies – The rooftop of Building E is proposed as a green roof and the rooftop of Building C is to be used as private open space for the upper level units.
Use of building setback areas CI 6.1.19	✓	Complies – The proposed unit setback areas are to be used as courtyard for the proposed ground level units.
Floor to ceiling heights CI 6.1.20/21	✓	Complies – The proposal exceeds the 2.7m minimum floor-to-ceiling height.

Amenity for residential buildings and serviced apartments (Amendment No. 5) (DCP Clause 6)		
Storage CI 6.1.22/23	✓	Complies – Each unit is provided with private storage.
Safety & design CI 6.1.24/25/26	✓	Complies – The development would not create security concerns. The proposed through site link would only be accessible during daylight hours. See Issues section.
Mix of units within a residential development CI 6.1.27/28/29	✓	Complies – The proposal exceeds the 40% minimum requirement for two and three bedroom units and no one bedroom units are proposed. See Issues section.
Size of units CI 6.1.34/35	✓	Complies – The proposal exceeds the minimum requirements for unit size. See Issues section.
Maximum no. of units accessible from a common lobby CI 6.1.36/37	✓	Complies – The maximum number of units accessible from a single lobby is four, below the maximum of ten permitted.
Internal unit design CI 6.1.38/39	✓	Complies – All units have an acceptable degree of internal amenity. See Issues section.

City of Sydney Access DCP 2004

62. The proposed development includes nine accessible units and eight accessible parking spaces. This is consistent with the 15% required in the DCP. A condition of consent has been imposed requiring compliance with the relevant accessibility measures.

Issues

63. The issues identified in the above instruments/policies as non-complying or requiring further discussion in the abovementioned tables are discussed in detail below:

Land Use Permissibility

64. The site is zoned Residential-Business (Non-Residential Development) under the SLEP 2005. Clause 114 of the SLEP 2005 allows for flexible use of land where a Master Plan applies. Specifically, Clause 114(1) provides that *'consent may be granted to use of part of the land that is subject to master plan that is not allowed by the zoning of that part but is allowed on another part of the land that is subject to the master plan within a different zone'*. A number of sites elsewhere within the Master Plan area are zoned Residential-Business, within which residential development is permitted.
65. Clause 114(2) of the SLEP 2005 requires that prior to granting consent to any such use, the consent authority must be satisfied that the Master Plan demonstrates that:
- (a) *a better distribution of land uses will result, and*
 - (b) *the total of the business floor space of all buildings within the master plan area will not be increased as a result of granting the consent, and*
 - (c) *the total of the land available for public recreation areas within the master plan area will not be reduced as a result of granting the consent, and*
 - (d) *public access to the entire foreshore will not be reduced as result of granting the consent.*
66. The proposal will not result in an increase in business floor space, maintain public access to the foreshore, not impact on designated areas of open space and achieve a better distribution of land uses.
67. The Darling Island Master Plan was amended on July 2012, identifying the site of proposed Building E as "Residential or Business or Both" and Building C as "Residential" in the Preferred Lane Uses for the precinct. The proposed residential use is consistent with the revised Master Plan.
68. The site's proposed zoning is shown on the exhibited version of the Draft LEP 2011 as B3 - Commercial Core, which would prohibit residential development. Council's City Plan Manager has advised that the gazetted version of the Draft LEP will amend the site's zoning to B4- Mixed Use. It is noted that in any instance, the savings and transitional provisions of the Draft LEP allow the proposed residential development to be determined as if the Draft LEP had been exhibited only and not yet commenced.
69. The proposed residential development is hence permissible with development consent.

Heritage and Urban Design

Building C

70. The proposed Building C is a listed heritage item under the Sydney LEP 2005 and the State Heritage Register. The existing building remains largely intact from its original construction, including features such as the Flemish styled gabled parapets, bluestone building wrap at ground floor, arched pattern of openings and an original jib crane, as illustrated below:



Figure 18: Existing view of Building C

71. The proposed external works include the addition of balconies to the facades, addition of new bifold doors openings, restoration of parapets and addition of a rooftop garden. Colorbond cladding to the existing lift overruns at roof level are also proposed. The existing floor layout is to be retained with fitout works proposed to accommodate two apartments at each level. The external staircases and jib crane at the western elevation are to be retained.
72. The applicant has submitted a Conservation Management Plan and Conservation Management Plan in support of the proposed alterations to this building. The Heritage Council has issued their General Terms of Approval for the proposed works, and Council's Heritage Specialist has also supported the proposal in principle.
73. Notwithstanding, this includes modifications to the architectural treatment and conservation of the building. These are summarised as follows:
 - The two tonne gantry to be retained by way of a re-design of Apartment 2, rather than resulting in its removal
 - Amendment to the proposed east facing balconies to provide smaller Juliet balconies
 - The existing water tank in Apartment G1 to be retained and made visible
74. Additional details have also been requested by the Heritage Council and conditioned accordingly. These include details of the bollards along the foreshore, treatment and fixing of the jib crane, fencing, and balcony and balustrade designs.

Building E

75. The existing Building E is a single storey ancillary shed which is to be demolished. The proposed Building E has been the subject of a competitive design process and was selected as the entry which best met the objectives of the brief.
76. The proposed building demonstrated the highest degree of design excellence on the basis of its form and lightweight appearance, which reflects the harbour side character and the maritime context. This is depicted below:



Figure 19: View of Building E western elevation

77. The design of the proposed units achieves a high standard of internal amenity and has been assessed against the relevant provisions of SEPP 65 as discussed previously. The generous size, layouts and internal heights are considered to be acceptable with regard to the proposed units. The proposal meets the relevant design criteria under the SEPP.
78. The previous Stage 1 approval D/2008/597 comprised a five storey building on the site of Building E with a maximum height of 22 metres and constructed on a larger floor plate. The proposed building has been designed as an infill development on a slightly reduced floor plate that provides a visual transition between the two heritage listed Buildings A and C. This is depicted below:



Figure 20: Elevation view of proposed Building E between existing Buildings A and C

79. The building footprint approved under the Darling Island Master Plan has been amended from the previous approval, splaying the corners of the building footprint and improving legibility between the two heritage listed buildings. This is depicted below:



Figure 21: Comparison of approved DA building envelope and amended Master Plan building envelope plan

80. The Master Plan states that the extent of the building's western edge shall be subject to further design development during the DA process. Additional conditions have been imposed by Council's Heritage Specialist to amend the western edge through a reduction in the depth of the courtyards of Apartment 1 (Building E) closest to the water taxi terminal. This would further splay the south western edge and increase the minimum clearance width from 3 metres to 5 metres.
81. The proposed single storey ancillary services shed to be constructed adjacent to Pirrama and Darling Island Roads is considered to be acceptable with regard to its low scale massing, design and materials.

Height

82. The proposed Building E has a maximum overall height of 25.18 metres, exceeding the height limit of 21 metres under the SLEP 2005. The adjacent heritage listed Building C has an overall height of 34.9 metres, which complies with the landmark height limit of 36 metres under the SLEP 2005 but significantly exceeds the height of the proposed Building E.
83. The applicant has submitted a SEPP 1 objection providing justification for the proposed height non-compliance relating to the penthouse level and green roof, as previously discussed. The proposed building has been designed to step down between these two buildings and the height non-compliance is justified in light of this context. No additional amenity impacts are anticipated as a result of the non-complying height of Building E and the increase in FSR across the site would be nominal.
84. The amended Darling Island Master Plan also reflects the height of the proposed new building, prescribing a maximum height of 25.5 metres. The proposed Building E complies with this figure, notwithstanding that it exceeds the maximum height of 21 metres under the LEP.

Floor Space Ratio

85. There is no applicable FSR under the SLEP 2005 as the site is within a Master Plan area. Under the Draft LEP, the proposed FSR of 1.94:1 across the site would exceed the prescribed FSR of 1.5:1. This is considered to be acceptable on the basis that the proposal is acceptable under the current planning controls and proposes a slightly lower FSR than the 1.96:1 of the approved commercial scheme.

Private Open Space

86. The proposed two bedroom units in Building E provides a minimum of 11m² for as suggested in the Rules of Thumb for two bedroom units. A 24m² balcony size is suggested for three bedrooms units and the balconies to Building C do not meet this requirement. This is due to preserving the heritage character of the external elevations and, given the large unit sizes and communal open space available to occupants, would be acceptable.
87. Eight units within Building E do not meet the requirement having a minimum area of 18.4m². The apartments are all of a generous size and achieve an appropriate level of internal amenity. Although this does not meet the required Central Sydney DCP requirement of 20m² for two bedroom units and 30m² for three bedroom units, the proposal is considered acceptable with regard to private open space for the reasons described above.

Visual and Acoustic Privacy

88. The proposed northern elevation of Building E is within a distance of 6 metres from the southern elevation of Building C at the closest point. Both of these elevations feature habitable room windows and balconies.

89. The proposed south facing openings to Building C which feature balconies are secondary openings to dining and living rooms. These rooms are oriented on a north-south axis, with the primary openings facing west towards the Harbour and to a lesser extent east. These openings feature a southerly aspect and the general orientation of the units is towards the Harbour.
90. Similarly, the proposed north facing openings to Building E are secondary openings to living rooms, dining rooms and bedrooms, each with at least one other primary aspect. The potential impact for overlooking from these openings is significantly less than it would be from a primary window source.
91. All other windows and openings achieve more than 12 metres separation to any residential source. The reduced separation distance of 6 metres at this location would be acceptable in this instance.

Views

92. Concern has been raised on the basis of view loss to and from Metcalfe Park, on the eastern side of Darling Island Road opposite the subject site, and to and from the lower levels of commercial and residential buildings to the west of the site. The proposal is consistent with the future development character of the precinct and these views from CBD and Harbour will be maintained from these locations.
93. The proposal has attracted objections on the basis of view loss from occupants in the building 25 Pirrama Road and 8 Point Street, to the west of the subject site on the opposite side of Jones Bay. The objections have stated only that *'the bulk and scale of the proposal has a negative impact on the views from our apartment(s)'*.
94. The view loss has been assessed against the relevant planning principle established by the LEC case Tenacity Consulting v Warringah Council (NSWLEC04/140). This principle requires an assessment against the following criteria:
 - *Assessment of the views to be affected ie. water views, land views iconic views?*
95. The proposal would affect views of the Sydney CBD and towards buildings on the eastern side of Darling Island Road. Views of icons such as the Harbour Bridge and Centrepoint tower are obtained from a number of the apartments. Outlook to the existing buildings on Darling Island to the east of the subject site would be affected, notwithstanding this is considered not to consist of iconic views.
 - *From what part of the properties are views obtained?*
96. It is considered that water or iconic views will not be affected. The outlook that would be obtained from the north facing principal living areas, bedrooms and balconies of the apartments at 8 Point Street and 25 Pirrama Road look towards buildings on Darling island. Views of the city can still be obtained over the proposed development. All affected views from 25 Pirrama Road would be across the front boundary of the property and the affected views from 8 Point Street would be across the rear boundary.
 - *What is the quantitative and qualitative extent of the impact eg. negligible, minor, moderate, severe or devastating*

97. The pictures below illustrate views and outlook from the residential buildings at 25 Pirrama Road and 8 Point Street:

25 Pirrama Road



Figure 22: Outlook from ground level balconies of 25 Pirrama Road towards subject site

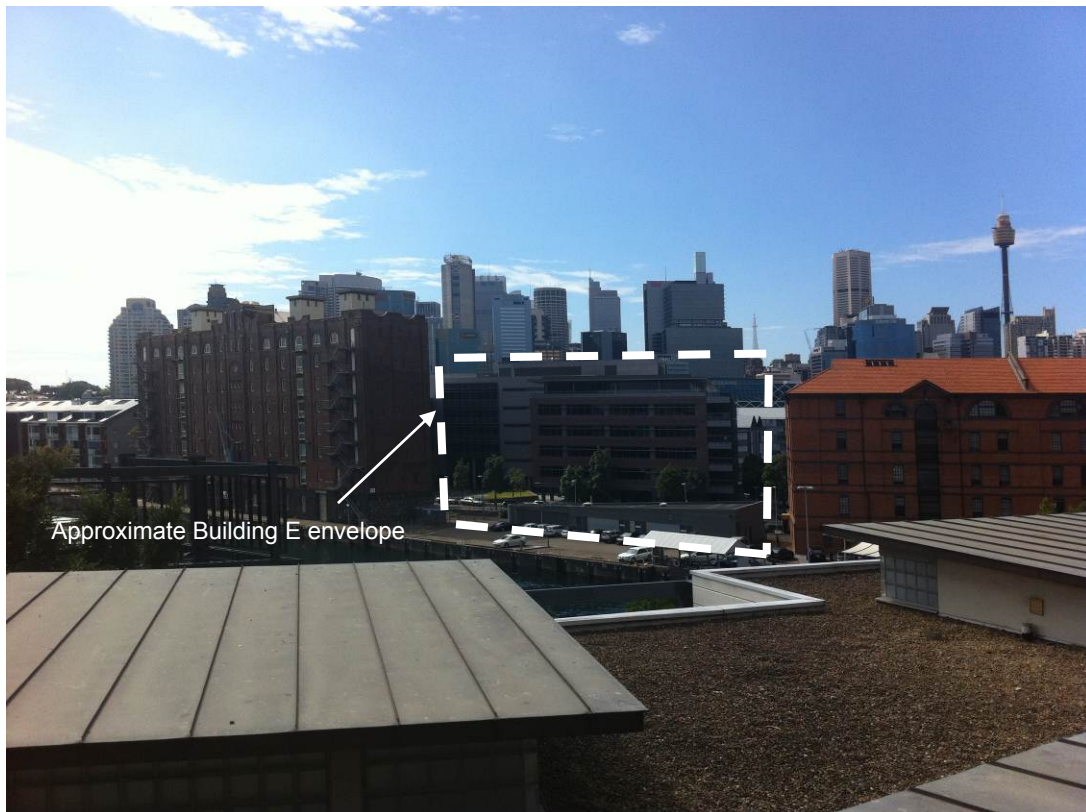


Figure 23: View from roof level of 25 Pirrama Road towards subject site



Figure 24: View north from roof level of 25 Pirrama Road towards Harbour Bridge and subject site

98. The units at 25 Pirrama Road would experience some impact upon the outlook of CBD buildings. However those buildings to the immediate west of MLC Centre are considered not iconic. At the lower levels, the existing glimpses of the skyline between Buildings A and C would be obstructed as a result of the proposal. Notwithstanding that the outlook of this view from lower levels will be affected, the impact is considered negligible. At the upper levels, the impact would be lessened as the lower portions of the building would be impacted with over-arching skyline remaining visible.
99. The quantitative impact upon views from this building would be the region of 25% for the lower levels to 10% for the upper levels. In qualitative terms, views of the commercial buildings behind the REVY site on Darling Island, most notably the Fairfax building, would be obstructed. However these buildings are not of particular significance in comparison to CBD skyline, water and Harbour Bridge views.
100. The skyline to the west of the subject site is already obstructed by Building E and existing views of the Harbour Bridge and Centrepont tower would not be affected above and beyond the existing situation. Sliver views of the CBD between Buildings A and C at the lower levels are obstructed by the Fairfax building, with glimpses of the skyline above possible. These views would be impacted and are considered to be the most notable views affected by the proposal.
101. Notwithstanding, iconic views of the water, Harbour Bridge and Centrepont from both properties would remain unaffected by the proposal. Overall the proposal is considered to result in minor impacts on views and outlook from the upper levels and moderate impacts on the outlook from the lower levels of 25 Pirrama Road.

8 Point Street



Figure 25: View from ground level in front of 8 Point Road towards subject site

102. Given the elevated position of 8 Point Street, the view impact of the proposal upon these units is considered to be negligible as it would obstruct lower portions of the CBD buildings at the lower levels of this building only. CBD skyline, broader city and harbour views would remain wholly unobstructed. The quantitative impact upon existing views would be in the region of 5% or less.
- *What is the reasonableness of the proposal causing the impact?*
103. The proposed development is considered to be reasonable given its scale does not affect the over-arching skyline and retains all water, Harbour Bridge and Centrepont views. Notwithstanding the sliver skyline views from 25 Pirrama Road, these would be lost as a result of the approved commercial Building E having a maximum height of 21 metres.
104. Historically the site has been occupied by some form of building and the proposed building height is in line with the Darling Island Master Plan height limit of 25.5 metres for this location. The additional height over the 21 metres permitted by the SLEP and 24 metres permitted under the Draft LEP would result in a minimal impact on residential views given the height of existing buildings on Darling Island.
105. On this basis the proposal resulting in an impact upon views and outlook is considered to be negligible to minor and would hence be reasonable.

Solar Access

106. The solar study diagram prepared by the applicant indicates that 42 out of 48 proposed units would receive sunlight to living rooms and private open space for at least three hours between 9am and 3pm in midwinter. Adequate solar access to the adjacent Metcalfe Park would also be maintained. On this basis the proposal achieves adequate solar access to the proposed units.

Public Domain and Safety

107. The proposal comprises the extension of the public foreshore promenade, with a 3 metre strip immediately adjacent to the foreshore to be dedicated as public land to SHFA. The remainder of the promenade will be accessible to the public via a right-of-way and directly connect with the existing section of promenade to the north. This arrangement allows the overhanging sections of the heritage listed Building C including as the jib crane to be maintained by the building owners.
108. SHFA have indicated their willingness to receive this strip of land under such an arrangement. This is consistent with similar sites in the Pyrmont locality and other harbour front locations. Notwithstanding Council's Specialist Surveyor has recommended a condition which requires the promenade to be dedicated as public right-of-way should the dedication to SHFA not eventuate.
109. The proposal also comprises a through-site link between Buildings C and E. NSW Police have recommended that the link be accessible only during daylight hours in order to minimise crime risk, also allowing for maintenance of the building. This approach has been endorsed by Council's Safe City Co-ordinator and an appropriate condition of consent has been recommended. Details of the proposed access gates have also been requested by condition.
110. The proposal results in the creation of a foreshore access immediately in front of the building, without ensuring access across the southern end of the site occupied by Building A. Council's Crime Prevention officer has not raised concern with this arrangement. The proposed public domain improvements relate to the foreshore frontage of the site affected by the proposed development and is identical to the access arrangement of the approved commercial proposal D/2008/597. On this basis the proposed foreshore access is considered acceptable.

Parking and Servicing

111. The application comprises a basement parking area in addition to a drop-off bay immediately adjacent to the front of Building C. The proposal is considered not to impact adversely on local traffic conditions.
112. The proposed basement parking area comprises a total of 159 parking spaces. 55 spaces are relocated from the existing at-grade parking area and these spaces are to be retained in perpetuity as commercial parking. An appropriate condition has been recommended in this regard. The remainder comprises 86 residential spaces at a rate of nearly two spaces per apartment, plus eight additional accessible spaces and ten visitor parking spaces.
113. The proposed cycling provision of 18 spaces is below the 24 spaces required under the UDP. A standard condition has been imposed requiring compliance with this requirement.

Dwelling Mix

114. The proposal comprises a total of 5 x 2-bedroom units and 43 x 3-bedroom units. This meets the minimum requirement under the Central Sydney DCP and SEPP 65, however as less than 15% of units are two bedroom and no one bedroom units are provided the dwelling mix requirements under the UDP have not been met. Notwithstanding the unit mix is considered to be appropriate within the locality and no objection is raised on this basis.

Section 79C(1)(b) Other Impacts of the Development

115. The relevant matters are discussed elsewhere in this report.

BCA Matters

116. The development is capable of complying with the BCA.

Section 79C(1)(c) Suitability of the site for the development

117. The proposed development will not result in unacceptable impacts within the locality and the site is considered suitable on this basis.

Section 79C(1)(e) Public Interest

118. The proposal is generally compliant with the relevant planning controls and is within the public interest as it is in accordance with the designed master planned outcome for the site and locality.

POLICY IMPLICATIONS

119. Not applicable to this report.

FINANCIAL IMPLICATIONS/SECTION 61 CONTRIBUTIONS**Section 94 Contributions**

120. The proposed development would require a total contribution of \$404,315.30 to be paid in accordance with the Ultimo Pyrmont Section 94 Contribution Plan.
121. However contributions totalling \$200,539.30 were paid on 19 December 2008 to the City of Sydney to satisfy Condition 10 of D/2008/597 for the refurbishment of Building C and concept approvals for two future Buildings D and E.
122. The surrender of this consent has been recommended by condition and on this basis, transfer of the previous Section 94 Contributions is considered acceptable.
123. The contribution has been based upon the following rates verified by the Sydney Harbour Foreshore Authority:

5 x 2b/r units @ 6,364.39/unit	=	\$31,821.93
43 x 3b/r units @ \$8,662.64/unit	=	\$372,493.37
NET		\$404,315.30
Less Credit		\$200,539.30
TOTAL		\$203,776.00

Affordable Housing Contributions

124. A total contribution of \$312,050.61 is required in accordance with Clause 121 of Sydney LEP 2005.

125. City West Housing Ltd have confirmed that no previous contributions for the site have been paid.

126. The amount has been verified by City West Housing Pty Ltd at the following rate:

5,695m ² of residential GFA (Bldg E) @ \$27.27/m ²	=	\$155,302.65
5,748m ² of residential GFA (Bldg C) @ \$27.27/m ²	=	\$156,747.96
NET		\$312,050.61
Less Credit		\$0
TOTAL		\$312,050.61

PUBLIC CONSULTATION

Section 79C(1)(d)

EXTERNAL REFERRALS

127. The application constitutes integrated development; as such the application was advertised and notified for 30 days in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000. Notices were placed on the site of the proposal, advertised in the local press and adjoining and nearby owners and occupiers of surrounding buildings were notified of the proposal and invited to comment.

128. Twenty-five (25) submissions were received, inclusive of one submission of support. The grounds for objection are summarised as follows:-

- (a) Inappropriate height, scale and bulk of Building E

Comment: The proposed height, bulk and scale of the building are considered to be contextually appropriate to the site as discussed throughout this report. See Issues section.

- (b) Adverse impact upon heritage precinct and heritage listed buildings within the site and surrounds

Comment: The impacts of the proposed development have been considered as acceptable by the Office of Environment & Heritage and Council's Heritage Specialist subject to conditions. The design of Building E and refurbishment of Building C are considered to be appropriate as discussed within this report. See Issues section.

- (c) Loss of keyhole/pocket views from surrounding buildings and open space, notably Metcalfe Park

Comment: The Darling Island Masterplan as amended identifies the site of the proposed Building E as comprising an infill building of up to 25.5 metres in height. Views to the harbour from Metcalfe Park looking east would remain unimpeded. The outlook from surrounding commercial buildings towards the Harbour would be preserved to the east.

Although outlook to the west would be impacted, this is not considered substantive to justify refusal or amendment as the proposed B . The potential impact upon views from residential properties has been addressed within the report. See Issues section.

- (d) Impact on views of Harbour from Metcalfe Park and Fairfax building

Comment: See previous comment under (c) above.

- (e) Impact upon views from nearby residential properties

Comment: See previous comment under (c) above.

- (f) Inadequate setbacks for Building E

Comment: The proposed setbacks for the building are considered acceptable and in accordance with the identified building footprint under the Masterplan. See Issues section.

- (g) Missed opportunity to provide missing link on foreshore walkway

Comment: The proposal opens up the foreshore access in front of the proposed buildings and is considered acceptable as discussed within the report. See Issues section.

- (h) Single residential use undermines vitality of precinct

Comment: The precinct accommodates a mix of uses and the Master Plan expressly contemplates residential, business or both at the site of Building E. Building C is identified as residential only and the proposal conforms to this preferred use. See Issues section.

- (i) Consideration for retail at ground floor

Comment: The proposed zoning and Masterplan contemplates a single residential use for the site. The site is not located within a designated Activity Strip under the UDP. Notwithstanding the proposed residential use, the foreshore is to be opened up for pedestrian access delivering some activation of the space around the site at ground floor. See also previous comment under (h) above.

- (j) Non-compliances with existing zoning and planning controls

Comment: The proposal is compliant with the amended Masterplan and the current SLEP zoning also permits residential use in this location as previously discussed at the Issues section. Non-compliances with the existing planning controls have been otherwise addressed throughout this report.

- (k) Proposal is reliant on as yet un-adopted Master Plan

Comment: The Master Plan was amended in July and the proposal confirms with the relevant provisions. See Issues section.

- (l) Building E exceeds height of 24 metres by 1.18 metres without adequate justification

Comment: The proposed building is in accordance with the height profile of 25.5 metres under the Master Plan and non-compliance with the SLEP 2005 height limit of 21 metres has been addressed by way of a SEPP 1 objection as discussed throughout the report. See Issues section.

- (m) Height of Building E would be a better contextual fit at four storeys

Comment: See comment above at (l).

- (n) Overshadowing onto Metcalfe Park, One Darling Island and Darling Island Road not addressed

Comment: Overshadowing onto the surrounding and commercial buildings is minimal and considered to be acceptable as discussed through this report. Metcalfe Park would be overshadowed from 1pm on 21 June, however until this time more than 50% of the park would receive solar access. This is considered to be acceptable.

- (o) After hour closure of through link unsatisfactory

Comment: This has been recommended by condition in response to safety concerns from NSW Police and this approach is supported by Council's Safe City Co-ordinator.

- (p) Removal of fence and opening up site in front of Building A

Comment: The applicant has recommended opening up the foreshore link immediately on front of the site, connecting with the pedestrian promenade to the north. This is considered to be acceptable as it relates to the portion of the site being developed. See Issues section.

- (q) Increased traffic on Darling Island Road

Comment: This matter has been addressed by way of a traffic report demonstrating that the increase in traffic can be accommodated within the local road network. The Masterplan reflects the proposed future traffic implications of development within Darling Island.

- (r) Increased construction within precinct and impact upon surrounding residences

Comment: Appropriate conditions of development consent have been imposed to reduce construction impacts including hours of work, limitations on the use of intrusive equipment and requirement for a Construction Management Plan.

Heritage Council

129. The application has been referred to the Heritage Council as integrated development, as the proposal relates to Building C which is on the State Heritage Register. The Heritage Council have provided their General Terms of Approval, which require some minor amendments to the refurbishment of Building C as discussed at the Issues section.

130. Conditions have been included in the Recommendation section.

Office of Water

131. The application has been referred to the Office of Water as integrated development, as the proposal comprises works within 40 metres of Jones Bay. NSW Office of Water has provided their General Terms of Approval.

132. Conditions have been included in the Recommendation section.

Roads and Maritime Services

133. The application was referred to the Roads & Maritime Service as an adjoining land owner, as the site is within close proximity to foreshore land within its ownership. The RMS raise concern that the public access link is not connected all the way through to Jones Bay Wharf across the front of Building A. This is considered to be acceptable as discussed at the Issues section.

Sydney Harbour Foreshore Authority

134. The application was referred to SHFA as an adjoining land owner. SHFA indicated that they have previously entered into a Deed of Undertaking with the applicant indicating that they would accept dedication of a 3 metre strip of the foreshore promenade adjacent to the foreshore.

Foreshores & Waterways Planning & Development Advisory Committee

135. The application was referred to the Committee in accordance with the requirements of SREP (Sydney Harbour Catchment) 2005. The Committee raised no objection subject to the consent authority considering the visual impact of the proposed development upon the maritime heritage context.

Sydney Traffic Committee

136. The proposed alterations to traffic signage and operations along Darling Island Road will require consideration by the Sydney Traffic Committee, which can occur following the granting of development consent.

Integrated Development

137. The proposal is Integrated Development.

138. The Terms of Approval of the Heritage Council and Office of Water have been received within the statutory time. The conditions from the Authority have been included in the Recommendation.

INTERNAL REFERRALS

139. The application was referred to Council's Specialist Surveyor, Senior Heritage Specialist, Urban Designer, Building Services Unit, Health Unit, Public Domain Unit, Transport and Access Unit, Green Roofs Officer, Safe City Co-ordinator and Trees Officer. No objection to the proposed development was raised, subject to the imposition of appropriate conditions.
140. Appropriate conditions have been included in the recommendation of this report to reflect these requirements.

RELEVANT LEGISLATION

141. The Environmental Planning and Assessment Act 1979, Heritage Act 1977.

CONCLUSION

142. The proposal is considered to be acceptable as it would result in a visually appropriate development within its setting. It is generally consistent with the relevant planning controls including the Sydney LEP 2005, Darling Island Masterplan, Ultimo-Pyrmont Urban Development Plan and City of Sydney Draft LEP 2011.
143. The SEPP 1 objection submitted to the SLEP height limit in relation to Building E is considered to be well founded as the proposal meets the maximum height control under the Darling Island Master Plan and is appropriate within its setting. The application is recommended for conditional approval.

GRAHAM JAHN

Director City Planning, Development and Transport

(Calvin Houlison, Specialist Planner)