

ITEM 6. DEVELOPMENT APPLICATION: 13 JOYNTON AVENUE ZETLAND**FILE NO: D/2012/1061****DEVELOPMENT APPLICATION NO: D/2012/1061****SUMMARY**

Date of Submission: 16 July 2012
Amended plans – 28 November 2012

Applicant: Cronos Corporation Pty Ltd

Architect: Stanisic Associates Architects

Developer: Cronos Corporation Pty Ltd

Owner: Cronos Corporation Pty Ltd

Cost of Works: \$67,520,234.00

Proposal Summary: The subject application seeks consent for a Stage 2 development application for the detailed design of 4 residential apartment buildings ranging in height from 5 to 9 storeys, and encompasses the following:

- excavation for basement car parking level;
- 207 residential apartments;
- 205sqm of retail floor space;
- 159 car parking spaces;
- landscaping and public domain works; and
- staged construction.

The notification of the application resulted in five (5) submissions being received and objecting to the following matters:

- height of Buildings A1 and A2;
- overshadowing to public open space;
- insufficient publicly accessible spaces throughout the development;
- increased demand for on-street car parking; and
- cumulative traffic impacts.

Preliminary concerns identified with the proposal in the assessment related to consistency with the Stage 1 building envelopes, bulk and scale, residential amenity and the public domain/ground floor level interface. Amended plans and additional information have been submitted to address these issues.

**Proposed Summary
(continued):**

In its amended form, the proposal is considered to be consistent with the Masterplan, Stage 1 consent and relevant planning controls. The amended design provides an architectural form which responds appropriately to the constraints and opportunities of the site and achieves a satisfactory design outcome and streetscape presentation. The proposal is designed to be consistent with, and to deliver, the public domain works surrounding the site as required by the Voluntary Planning Agreement.

Subject to the imposition of the recommended conditions, and when considered in the context of the redevelopment site as a whole, the proposal

Summary Recommendation:

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

Development Controls:

- (i) South Sydney Local Environmental Plan 1998 (Gazetted 28 April 1998, as amended)
- (ii) Sydney Local Environmental Plan 2012 (as gazetted 14 December 2012)
- (iii) South Sydney Development Control Plan 1997 – Urban Design (in force on 2 July 1997, as amended)
- (iv) Sydney Development Control Plan 2012
- (v) Green Square Affordable Housing Development Control Plan
- (vi) City of Sydney Notification of Planning and Development Applications Development Control Plan 2005 (date of commencement – 18 May 2005)
- (vii) Development Control Plan No. 11 – Transport Guidelines for Development 1996 (Adopted 8 May 1996)
- (viii) City of Sydney Contaminated Land Development Control Plan 2004 (in force on 28 June 2004)
- (ix) City of Sydney Access Development Control Plan 2004 (in force on 28 June 2004)

Developer Contributions:

- (x) City of Sydney Development Contributions Plan 2006

Attachments:

- A - Architectural Plans
- B - Photomontages

RECOMMENDATION

It is resolved that consent be granted 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) STAGED CONSTRUCTION

The consent allows construction works to be broken into 5 stages, as follows:

(a) Stage 3A – Early Works Stage (for Buildings A1 and A2)

- (i) Excavation and shoring of the Stage 3 component of the integrated basement level beneath the footprint of Buildings A1 and A2; and
- (ii) Piling and piercing of in-ground substructures.

(b) Stage 3B (Buildings A1 and A2)

- (i) Construction and line-marking of Stage 3 component of integrated basement level beneath Buildings A1 and A2 (as detailed on Drawing numbered DA101-3 Revision A, prepared by Stanisic Associates Architects, dated 22 November 2012);
- (ii) Construction of vehicular access ramp to Lamond Lane;
- (iii) Construction of Buildings A1 and A2; and
- (iv) Construction and landscaping of the southern component of the central communal courtyard adjacent to Buildings A1 and A2.

(c) Stage 4A – Early Works Stage (for Buildings B and E)

- (i) Excavation and shoring of the Stages 4 and 5 component of the integrated basement level beneath the footprint of Buildings B and E; and
- (ii) Piling and piercing of in-ground substructures.

(d) Stage 4B (Building B)

- (i) Construction of Stages 4 and 5 component of integrated basement level beneath Building B (as detailed on Drawing numbered DA101-4 Revision A, prepared by Stanisic Associates Architects, dated 22 November 2012);
- (ii) Construction of vehicular access ramps to Joynton Avenue;

- (iii) Fit-out and line-marking of Stage 4 component of the integrated basement level;
 - (iv) Construction of Building B; and
 - (v) Construction and landscaping of the central component of the communal courtyard and paved entry forecourt in the southeastern corner of the site.
- (e) **Stage 5 (Building E)**
- (i) Site preparation works;
 - (ii) Fit-out and line-marking of the final (Stage 5) component of integrated basement level beneath Building E (as detailed on Drawing numbered DA101-5 Revision A, prepared by Stanisic Associates Architects, dated 22 November 2012);
 - (iii) Construction of Building E; and
 - (iv) Construction and landscaping of the northern component of the central communal courtyard.

Various conditions in this consent make reference to the requirements of conditions as they may refer to each stage.

(2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2012/1061, dated 16 July 2012, and the following drawings:

Drawing Number	Architect	Date
DA101-1 Revision A <i>Basement Plan</i>	Stanisic Associates	22 November 2012
DA101-2 Revision A <i>Basement Titling Staging Plan</i>	Stanisic Associates	22 November 2012
DA102 Revision A <i>Ground Level Plan</i>	Stanisic Associates	22 November 2012
DA103 Revision A Level 1 Plan	Stanisic Associates	22 November 2012
DA104 Revision A <i>Level 2 Plan</i>	Stanisic Associates	22 November 2012
DA105 Revision A <i>Level 3 Plan</i>	Stanisic Associates	22 November 2012
DA106 Revision A <i>Level 4 Plan</i>	Stanisic Associates	22 November 2012

Drawing Number	Architect	Date
DA107 Revision A <i>Level 5 Plan</i>	Stanisic Associates	22 November 2012
DA108 Revision A <i>Level 6 Plan</i>	Stanisic Associates	22 November 2012
DA109 Revision A <i>Level 7 Plan</i>	Stanisic Associates	22 November 2012
DA110 Revision A <i>Level 8 Plan</i>	Stanisic Associates	22 November 2012
DA111 Revision A <i>Level 9 Plan</i>	Stanisic Associates	22 November 2012
DA112 Revision A <i>Roof Plan</i>	Stanisic Associates	22 November 2012
DA201 Revision A <i>East Elevation (Joynton Ave)</i> <i>Section AA/West (Courtyard)</i>	Stanisic Associates	22 November 2012
DA202 Revision A <i>South Elevation (Lamond Lane)</i> <i>Section BB/North (Courtyard)</i>	Stanisic Associates	22 November 2012
DA203 Revision A <i>South East/South West (Lamond Lane)</i> <i>North West/East (Courtyard)</i>	Stanisic Associates	22 November 2012
DA204 Revision A <i>Section JJ, KK, LL, MM, NN Buildings A1 and A2</i>	Stanisic Associates	22 November 2012
DA205 Revision A <i>Section CC, DD, EE, FF, GG, HH Buildings B & E</i>	Stanisic Associates	22 November 2012

and as amended by the conditions of this consent:

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

(3) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT

The developer's works (public domain improvement works) for Stages 3 to 5 of the development as stipulated within the Voluntary Planning Agreement, as amended, shall be provided prior to the issue of any Occupation Certificate for construction **Stages 3B, 4B and 5**.

(4) ADAPTABLE APARTMENTS

Prior to the issue of a Stage 3B Construction Certificate, amended plans shall be submitted to and approved by Council's Director City Planning, Development and Transport to illustrate the provision of 31 adaptable units within the development (being Stages 3 to 5).

(5) DESIGN MODIFICATIONS

The design of the development must be modified as follows:

Retail Tenancy in Building A2:

- (a) Amended plans shall be submitted to modify the design and external appearance of the retail tenancy located on the ground and first floors of the southeastern corner of Building A2. The modified scheme must consider the following matters:
 - (i) A reduction in the height of the front fence of the tenancy and/or use of a more translucent material to improve visibility to the tenancy from Lamond Lane;
 - (ii) Deletion of the first floor level southern elevation balcony; and
 - (iii) Modified facade treatment of the southern elevation at both ground and first floor level to distinguish this tenancy as a retail/commercial unit.

Basement Car Park:

- (b) Amended plans shall be submitted of the basement car parking level to provide a total of 9 visitor car parking spaces for Stages 3 to 5. This shall be achieved by:
 - (i) Deletion of 1 adaptable parking space (as required by Condition 4) and conversion of this space to a standard residential parking space;
 - (ii) Conversion of 2 accessible visitor parking spaces to standard visitor parking spaces; and
 - (iii) Conversion of the 2 'shared zones' between the accessible visitor spaces (as detailed in (ii) above) to standard visitor parking spaces.

Roof Terraces in Building E:

- (c) Amended plans shall be submitted to modify the accessible area of the roof terrace shown on the Level 9 plan of Building E. The balustrade on each of the eight roof terraces is to be set back 1.5 metres from the western edge of the building facing Building D.

External Colour Scheme:

- (d) The final colours of all external elements of all buildings are not approved and are to be submitted to Council for approval following consultation with the Director of City Planning, Development and Transport.

The amended plans shall be submitted to and approved by Council's Director City Planning, Development and Transport prior to a Stage 3B Construction Certificate being issued.

(6) DESIGN DETAILS (MAJOR DEVELOPMENT)

The design details of the proposed building facade including all external finishes and glazing must be in accordance with the materials schedule and sample board, and specifications prepared by Stanisic Associates Architects, dated 29 May 2012.

(7) DESIGN QUALITY EXCELLENCE

- (a) In order to ensure the design quality excellence of the development is retained:
 - (i) The design architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - (ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - (iii) Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of the Council.

(8) BUILDING HEIGHT

- (a) The height of the buildings must not exceed the following RLs (AHD):

	RL to the top of the lift overrun or roof – top canopy	RL to the roof level of the building
Building A1	39.60	38.30
Building A2	45.90	44.65
Building B	46.30	42.75
Building E	52.90	49.30

- (b) Prior to a **final** Occupation Certificate being issued for each stage, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifying Authority.

(9) APPROVED DESIGN ROOF - TOP PLANT

All roof-top plant and associated equipment must be located within the approved building envelope. Should the plant exceed the approved building envelope, then further approval is required from Council.

(10) STREET TREES TO BE RETAINED

No approval is granted or implied for the removal of any of the trees listed in the following table:

Tree No:	Botanical Name	Location
2	<i>Ficus microcarpa</i> var. <i>Hillii</i>	Street tree (Joynton Ave)
3	<i>Ficus microcarpa</i> var. <i>Hillii</i>	Street tree (Joynton Ave)
3a	<i>Ficus rubiginosa</i>	Street tree (Joynton Ave)
4	<i>Ficus microcarpa</i> var. <i>Hillii</i>	Street tree (Joynton Ave)
5	<i>Ficus microcarpa</i> var. <i>Hillii</i>	Street tree (Joynton Ave)
6	<i>Ficus microcarpa</i> var. <i>Hillii</i>	Street tree (Joynton Ave)
7	<i>Ficus microcarpa</i> var. <i>Hillii</i>	Street tree (Joynton Ave)
8	<i>Ficus microcarpa</i> var. <i>Hillii</i>	Street tree (Joynton Ave)
9	<i>Ficus microcarpa</i> var. <i>Hillii</i>	Street tree (Joynton Ave)
10	<i>Ficus microcarpa</i> var. <i>Hillii</i>	Street tree (Joynton Ave)
11	<i>Ficus microcarpa</i> var. <i>Hillii</i>	Street tree (Joynton Ave)

(11) USE - SEPARATE DA REQUIRED

A separate development application for the fit-out and use of retail tenancies located in Buildings A2 and B must be submitted to and approved by Council prior to that fit-out or use commencing.

(12) USE OF COMMON AREAS AND FACILITIES

The central landscaped courtyard must be available for the use all residents of the building, and must be designated as common property on any strata subdivision of the site, with no exclusive use rights.

(13) AFFORDABLE HOUSING CONTRIBUTION - GREEN SQUARE - PAYMENT OF MONEY IN LIEU OF FLOOR SPACE

In accordance with Clause 27P of *South Sydney Local Environmental Plan 1998 (as amended)* and **prior to a Construction Certificate being issued for each stage**, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid at the office of the Department of Planning or a bank guarantee in favour of The Department of Planning to the value of the required contribution has been lodged.

The contribution for each stage is detailed as follows:

Stage 3A Contribution:

The contribution is **\$952,301.61** based on the in lieu monetary contribution rate for residential development at \$136.57 per square metre of total residential floor area of 6,948sqm and a contribution rate for non-residential development at \$45.51 per square metre of total non-residential floor space of 75sqm. Contributions will be indexed in accordance with the formula set out below.

Stage 4A Contribution:

The contribution is **\$937,869.98** based on the in lieu monetary contribution rate for residential development at \$136.57 per square metre of total residential floor area of 6,824sqm and a contribution rate for non-residential development at \$45.51 per square metre of total non-residential floor space of 130sqm. Contributions will be indexed in accordance with the formula set out below.

Stage 5 Contribution:

The contribution is **\$1,011,847.13** based on the in lieu monetary contribution rate for residential development at \$136.57 per square metre of total residential floor area of 7,409sqm. Contributions will be indexed in accordance with the formula set out below.

Prior to an Occupation Certificate being issued for that stage or the use commencing, whichever is earlier, the applicant must provide evidence that the bank guarantee referred to above has been redeemed as payment of this contribution. If the contribution is paid after the indexation period in which the consent is granted 1 March 2012 to 28 February 2013, the amount of the contribution will be indexed in accordance with the formula set out below.

Notes:

(a) Applicants have two payment options:

Option 1 is payment by bank cheque using 'Form B - Receipt to Release Certificate of Construction after payment by Bank Cheque'. Form B must be obtained from the *Green Square Project Team in the City Strategy and Design Unit at the City of Sydney*, and then must be lodged with a bank cheque with the NSW Department of Planning.

Option 2 is lodgement of a bank guarantee using 'Form A - Receipt to Release Certificate of Construction after lodgement of Bank Guarantee'. Form A must be obtained from the *Green Square Project Team in the City Strategy and Design Unit at the City of Sydney*, and then must be lodged with a Bank Guarantee with the NSW Department of Planning.

Where Form A has been used, an occupation certificate will not be released until payment by bank cheque using 'Form C - Receipt to Release Certificate of Occupancy after payment by Bank Cheque'. Form C must be obtained from the *Green Square Project Team in the City Strategy and Design Unit at the City of Sydney* and then must be lodged with a bank cheque with the NSW Department of Planning.

- (b) Applicants are made aware that the contribution amount quoted in this condition may not be final and that a correct indexed affordable housing contribution amount can be obtained from the relevant Form A, B or C at time of payment.
- (c) Forms A, B or C for payment of the affordable housing contribution can only be obtained from the City of Sydney, 456 Kent Street Sydney. Quote the development application number and the relevant Council officer will provide the applicant with an indexed contribution amount which must be paid at the Department of Planning. To arrange payment, contact the Housing Policy Team, NSW Department of Planning on Ph: 9228 6111 or Fax: 9228 6455 to arrange a time for payment.
- (d) The contribution will be indexed on the basis of the Established House Price Index for Sydney as published by the Australian Bureau of Statistics.
- (e) Contributions at Time of Payment = $C \times HPI_2 / HPI_1$, where:
 - (i) C is the original contribution amount as shown above;
 - (ii) HPI_2 is the Established House Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the time of the payment; and
 - (iii) HPI_1 is the Established House Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics that applied at the date of the consent (1 March 2012 to 28 February 2013).

The amount of the monetary contribution is calculated on the total floor area (not a percentage of it). Contribution = (total residential floor area sqm) x residential rate (\$) + (total non-residential floor area (sqm) x non-residential rate (\$) + (total non-residential floor area (sqm) x non-residential rate (\$)

(14) 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 South Sydney Local Environmental Plan 1998.
- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from residential as defined in South Sydney Local Environmental Plan 1998. 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.

(15) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL

The following conditions apply to car parking:

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

(16) PROHIBITION ON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME APPLICATION OF CITY OF SYDNEY PERMIT PARKING POLICY - INELIGIBILITY FOR RESIDENT PARKING PERMITS

All owners, tenants and occupiers of this building are not eligible to participate in any existing or proposed Council on-street resident parking schemes.

(17) SIGNAGE TO INDICATE NON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME

Signs reading 'all owners, tenants and occupiers of this building are advised that they are not eligible to obtain an on-street resident parking permit from Council' must be permanently displayed and located in prominent places such as at display apartments and on all directory boards or notice boards, where they can easily be observed and read by people entering the building. The signs must be erected prior to an Occupation Certificate being issued and must be maintained in good order at all times by the Owners Corporation.

(18) CAR PARKING SPACES AND DIMENSIONS

A maximum of 159 off-street car parking spaces must be provided for Stages 3 to 5, in the following configuration:

Stage	Number of parking spaces
Stage 3B	57
Stage 4B	52
Stage 5	50

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan. The details for that stage parking must be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued for **Stages 3B, 4B and 5**.

(19) BICYCLE PARKING

The layout, design and security of bicycle facilities either on-street or off-street must comply with the minimum requirements of Australian Standard AS 2890.3 – 1993 Parking Facilities Part 3: Bicycle Parking Facilities.

(20) ACCESSIBLE PARKING SPACES

The design, layout, signage, line marking, lighting and physical controls of all off-street accessible parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.6 - 2009 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Principal Certifying Authority prior to a **Construction Certificate being issued for Stages 3B, 4B and 5**.

(21) ALLOCATION FOR CAR WASH BAYS

If car wash bays are provided, spaces must not at any time be allocated, sold or leased to an individual owner/occupier and must be strictly retained as common property by the Owners Corporation for use by all tenants.

(22) ALLOCATION FOR VISITOR PARKING

Visitor parking spaces must not at any time be allocated, sold or leased to an individual owner/occupier and must be strictly retained as common property by the Owners Corporation for use by building visitors.

(23) LOCATION OF VISITOR PARKING

All visitor parking spaces must be grouped together, and located at the most convenient location to the car parking entrance. All spaces must be clearly marked 'visitor' prior to the issue of an occupation certificate or the use commencing, whichever is earlier. All signs must be maintained in good order at all times.

(24) ALLOCATION OF ACCESSIBLE CAR PARKING SPACES

For residential development, accessible car parking spaces for people with mobility impairment are only to be allocated as visitor parking or to adaptable units. Where allocated to adaptable units, the unit(s) and car spaces must be assigned to the unit in any future strata subdivision of the building.

(25) LOCATION OF ACCESSIBLE CAR PARKING SPACES

Where a car park is serviced by lifts, accessible spaces for people with mobility impairment are to be located close to lifts. Where a car park is not serviced by lifts, accessible spaces for people with mobility impairment are to be located at ground level, or accessible to ground level by a continually accessible path of travel, preferably under cover.

(26) INTERCOM FOR VISITORS

Where a boomgate or barrier control is in place, the visitor spaces must be accessible to visitors by the location of an intercom (or card controller system) at the car park entry and at least 6m clear of the property boundary, wired to all units. The intercom must comply with '*Australian Standard AS 1428.2-1992: Design for access and mobility - Enhance and additional requirements - Building and facilities Sections 22 and 23*'.

(27) VEHICLE ACCESS

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

(28) SIGNS AT EGRESS

The following signs must be provided and maintained within the site at the point(s) of vehicle egress:

- (a) Compelling drivers to stop before proceeding onto the public way.
- (b) Compelling drivers to "Give Way to Pedestrians" before crossing the footway; or compelling drivers to "Give Way to Pedestrians and Bicycles" before crossing a footway on an existing or identified shared path route.

(29) SECURITY GATES

Where a car park is accessed by a security gate, that gate must be located at least 6 metres within the site from the street front property boundary.

(30) LOADING WITHIN SITE

All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.

(31) TRAFFIC WORKS

Any proposals for alterations to the public road, involving traffic and parking arrangements, must be designed in accordance with RTA Technical Directives and must be referred to and agreed to by the Sydney Traffic Committee prior to any work commencing on site.

(32) 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".

(33) COST OF SIGNPOSTING

All costs associated with signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.

(34) LAND REMEDIATION

- (a) The site is to be remediated and validated in accordance with the Interim Remedial Action Plan, prepared by Cronos Corporation Pty Ltd, dated 3 February 2005 (report no. E350.1 AE) and the "Interim Advice" letter from NSW EPA Accredited Site Auditor, Mr J.M Nash (Referenced Audit No DP/064, project No 37670), dated 15 February 2005.
- (b) As detailed within the Interim Remedial Action Plan, prepared by Cronos Corporation Pty Ltd, dated 3 February 2005 (Report no. E350.1 AE, section 1.0, 4.3, 5.0 and 6.0), a Final Site Specific Remedial Action Plan is to be submitted to Council for review and approval when further testing of the site has been completed following demolition. The site is to be remediated and validated in accordance with the approved Final Site Specific Remedial Action Plan. Interim advice letter also required here.
- (c) A letter of Interim Advice from an accredited NSW EPA Site Auditor must be submitted with the Final Site Specific Remedial Action Plan advising the site is suitable for the proposed use or capable of being made suitable for the proposed use following remediation.

(35) SITE AUDIT STATEMENT

- (a) Prior to the execution of works associated with the built form of the development (excluding building work directly related to remediation), a Site Audit Statement (SAS) from a NSW EPA Accredited Site Auditor 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.
- (b) Where the SAS is subject to conditions that require ongoing review by the Auditor or Council these must be reviewed and approved by Council before the SAS is issued.
- (c) Any remediation work carried out shall be conducted in accordance with the criteria detailed in Appendix 3 of the City of Sydney Contaminated Land Development Control Plan 2004 and the guidelines in force under the Contaminated Land Management Act 1997.
- (d) Prior to the exportation of waste (including fill or soil) from the site the material should be classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW DECC Waste Classification Guidelines, Part 1 Classifying Waste (April 2008). The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporter if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of Industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

(36) COMPLIANCE WITH GEOTECHNICAL REPORT

The proposed development must comply with the Geotechnical Report, prepared by Douglas Partners, dated 13 November 2010, Project No. 72102.00.

(37) NOISE - MECHANICAL PLANT AND EQUIPMENT

Noise associated with the use of mechanical plant and equipment must not give rise to any one or more of the following:

- (a) Transmission of "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any affected receiver.
- (b) A sound pressure level at the boundary of any affected receiver that exceeds the background (LA90, 15minutes) noise level by more than 5dB. The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard AS1055.

Note: The method of measurement of vibration being carried out in accordance with "assessing Vibration; Technical Guidelines" - DEC (EPA) AS1055 for sound level measurements.

(38) AIR CONDITIONERS IN RESIDENTIAL BUILDINGS

The air conditioner/s must comply with the requirements of Protection of the Environment Operations (Noise Control) Regulation 2008 and shall not:

- (a) emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
 - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
 - (ii) before 7.00am and after 10.00pm on any other day; or
- (b) emit a sound pressure level when measured at the boundary of any other residential property, at a time other than those specified in (i) and (ii) above, which exceeds the background (LA90, 15minutes) by more than 5dB(A). The source noise level must be measured as a LAeq 15 minute.

(39) NOISE - USE**General criteria:**

- (a) The emission of noise associated with the use of the premises, including the operation of any mechanical plant and equipment shall comply with the following criteria:
 - (i) The LAeq, 15minute noise level emitted from the use must not exceed the background noise level LA90, 15minute by more than 5dB when assessed at the boundary of any affected residence.
 - (ii) The background noise level shall be measured in the absence of noise emitted from the use in accordance with *Australian Standard AS 1055.1-1997-Description and measurement of environmental noise*.
 - (iii) The LAeq,15minute noise level shall be adjusted to account for any applicable modifying factors in accordance with Part 4 of the EPA NSW Industrial Noise Policy.
 - (iv) In this clause, the term “noise level emitted from the use” means the contributing noise level from the use in isolation to any other ambient noise and account must therefore be taken of the LAeq, 15minute when the use is not in operation.
 - (v) In circumstances where this development application refers to a modification or addition to an existing use, the background noise level referred to in this clause pertains to the LA90, 15minute noise level measured in the absence of all noise from the site.

(b) **Internal to internal noise transmission – residential amenity**

An LAeq,15minute noise level emitted from the use must not exceed the LA90, 15minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence provided that;

- (i) Where the LA90, 15minute noise level is below the threshold of hearing Tf at any Octave Band Centre Frequency as defined in Table 1 of *International Standard ISO 226 - Normal Equal-Loudness-Level Contours* then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.
- (ii) The LAeq,15minute noise level and the LA90,15minute noise level shall both be measured with all external doors and windows of the affected residence closed;
- (iii) The LA90, 15 minute noise level shall be measured in the absence of noise emitted from the use but with the ventilation equipment (excluding air-conditioning equipment) normally servicing the affected residence operating.

(40) EXTERNAL LIGHTING

A separate development application is required to be lodged and approved prior to any external floodlighting or illumination of the building or site landscaping.

(41) REFLECTIVITY

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.

SCHEDULE 1B

Prior to Construction Certification/Commencement of Work/Health and Building

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

(42) NO DEMOLITION PRIOR TO A CONSTRUCTION CERTIFICATE

Demolition or excavation must not commence until a Construction Certificate has been issued.

(43) SYDNEY AIRPORT REFERRAL

Prior to the issue of a **Stage 3B Construction Certificate**, the applicant is to obtain approval from the Sydney Airports Corporation Limited and other relevant air safety authorities and submit the relevant documentation to Council.

(44) 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*.]

(45) SECTION 39 RESTRICTION

If the inclusion of utility lots within any future Strata subdivision of the buildings is to be accepted by Council, the provisions of Section 39 of the Strata Schemes (Freehold Development) Act 1973 are to be exercised over those lots in the Strata Plan to create the statutory Restriction on Use of the car parking and storage spaces.

(46) PARKING ON COMMON AREAS

No part of any common areas, apart from 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.

(47) TREE PROTECTION ZONE

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

Tree Protection Zone Schedule:

Tree No	Species Name	Location	Radius (m) from Trunk	Incursion Area
2	<i>Ficus microcarpa var. Hillii</i>	Street tree (Joynton Ave)	15.0	10m setback zone along eastern site boundary
3	<i>Ficus microcarpa var. Hillii</i>	Street tree (Joynton Ave)	10.8	10m setback zone along eastern site boundary
3a	<i>Ficus rubiginosa</i>	Street tree (Joynton Ave)	3.6	3.6 metres
4	<i>Ficus microcarpa var. Hillii</i>	Street tree (Joynton Ave)	11.3	10m setback zone along eastern site boundary

Tree No	Species Name	Location	Radius (m) from Trunk	Incursion Area
5	<i>Ficus microcarpa var. Hillii</i>	Street tree (Joynton Ave)	10.9	10m setback zone along eastern site boundary
6	<i>Ficus microcarpa var. Hillii</i>	Street tree (Joynton Ave)	12.1	10m setback zone along eastern site boundary
7	<i>Ficus microcarpa var. Hillii</i>	Street tree (Joynton Ave)	14.9	10m setback zone along eastern site boundary
8	<i>Ficus microcarpa var. Hillii</i>	Street tree (Joynton Ave)	10.8	10m setback zone along eastern site boundary
9	<i>Ficus microcarpa var. Hillii</i>	Street tree (Joynton Ave)	11.5	10m setback zone along eastern site boundary
10	<i>Ficus microcarpa var. Hillii</i>	Street tree (Joynton Ave)	14.8	10m setback zone along eastern site boundary
11	<i>Ficus microcarpa var. Hillii</i>	Street tree (Joynton Ave)	15.0	10m setback zone along eastern site boundary

- (b) Please refer to the Arboricultural Assessment Comprehensive Report, prepared by Urban Tree Management, dated 24 July 2002 for tree numbers and locations. (Please note Tree 3a is not included in this report, however this tree is located directly opposite Austin Grove).
- (c) The following works shall be excluded from within the 10m setback zone:
- (i) Soil cut or fill including excavation and trenching (except for the localised siting of piers);
 - (ii) Soil cultivation, disturbance or compaction;
 - (iii) Stockpiling storage or mixing of materials;
 - (iv) The parking, storing, washing and repairing of tools, equipment and machinery;
 - (v) The disposal of liquids and refuelling;
 - (vi) The disposal of building materials;
 - (vii) The siting of offices or sheds; and
 - (viii) Any action leading to the impact on tree health or structure.

- (d) All work undertaken within or above the TPZ must be:
 - (i) Supervised by a qualified Consultant Arborist, who holds the Diploma in Horticulture (Arboriculture), Level 5 under the Australian Qualification Framework; and
 - (ii) Undertaken in accordance with all directions given by the Site Arborist and/or Council.
- (e) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9333, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

(48) TREE PROTECTION FENCING

- (a) Tree Protection Fencing shall be erected within the site along the 10 metre setback zone following demolition of existing buildings.
- (b) The fencing shall be a 1.8 metres high fully supported chainmesh protective fencing. The fencing shall be secure and fastened to prevent movement. The fencing shall have a lockable opening for access. Woody roots shall not be damaged during the establishment or maintenance of the fencing.
- (c) Kept free of weed and grass for the duration of works.
- (d) Mulch installed / maintained to a depth of 75mm for the duration of works.
- (e) Have two signs identifying the name and contact details of the site Arborist attached facing outwards in a visible position. All signs must remain in place until works are completed on site.
- (f) The area within the TPZ under the canopies of trees numbered 7-10 may be used as a car park initially while the existing concrete is retained. Fencing must be erected as described above following the removal of the concrete and prior to any construction activities.

(49) SERVICES

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

(50) ARBORICULTURAL IMPACT ASSESSMENT

- (a) The Arboricultural Assessment Comprehensive Report, prepared by 'Urban Tree Management' dated 24 July 2002 is out-dated and must not be relied upon for any information other than tree numbers and locations.
- (b) An updated Arboricultural Impact Assessment (AIA) must be submitted to and approved by Council prior to the issuing of any Construction Certificate. The report must reflect current industry practices, with particular reference to the Australian Standard 'Protection of Trees on development site' (AS4970-2009) and must include;
 - (i) A detailed list of all trees listed for retention as detailed in Condition 10 above);
 - (ii) The AIA shall conform with the TPZ distances detailed in Condition 46 above);
 - (iii) The AIA report shall be updated to include Tree 3a;
 - (iv) An assessment and discussion of the likely impacts the proposed development will have on the trees. This should include above and below ground constraints on trees that should be retained;
 - (v) Recommendations of any design modifications, construction techniques and/or other protection methods required to minimise adverse impact on trees that should be retained during the demolition and construction works, and into the long term;
 - (vi) A 'Pruning Schedule' (size of branches, location, extent of pruning) of any trees if relevant or if required to accommodate any construction activities. Pruning of any trees must not exceed more than 5% of the total live canopy area;
 - (vii) 'Methodology Statement for demolition of existing buildings and construction of new buildings' (tree protection from cranes, piling, rigging, hoardings, scaffoldings, etc.) - that describes how the existing buildings will be demolished and any likely impacts on trees, construction method for new buildings and recommendations on how to minimise any impacts on trees listed for retention;
 - (viii) 'Methodology Statement for demolition of existing surface material' (concrete) - detailing sensitive removal of the existing concrete from underneath the canopy of trees 7-10, to ensure the protection of the root systems; and
 - (ix) 'Methodology Statement for installations of the boardwalk, driveway crossovers and any landscaping' located within the 10m setback zone.

(51) COMPLIANCE WITH ARBORIST'S REPORT

All recommendations contained Tree Protection, Pruning Specifications and Methodology Statements contained in the approved Arboricultural Impact Assessment & Methodology Statement as required by Condition 52 must be implemented during the demolition, construction and use of the development.

(52) SITE SUPERVISION AND REPORTING

- (a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone in accordance with Australian Standard 4970 Protection of Trees on Development Sites. The Arborist must certify compliance with each key milestone detailed below:
- (i) Inductions of construction staff into tree sensitive practices and prohibited practices within the Tree Protection Zone (TPZ);
 - (ii) The Arborist must certify the installation of the tree protection measures to Council and the Principal Certifying Authority prior to the issuing of any Construction Certificate;
 - (iii) During demolition of any existing buildings within the TPZ of any tree listed for retention;
 - (iv) Erection of protective fencing;
 - (v) Removal of concrete from TPZ of Trees 7-10, as per the approved method statement, to be submitted;
 - (vi) Pruning of the Fig Tree canopies, as per the approved pruning schedule, to be submitted;
 - (vii) During any excavation, trenching and construction activities within the Tree Protection Zone of any tree listed for retention;
 - (viii) During any Landscape works within 10 metres of the trunk of any tree listed for retention.
- (b) A monthly report must be submitted to Council which provides details on the health and structure of tree to be retained and protected and must include:
- (i) Certification of compliance with each key milestone, detailed above;
 - (ii) Details of any other work undertaken on any tree(s) to be retained or within TPZs;
 - (iii) Documentary evidence of compliance with tree protection and measures (including photographs and site notes).

(53) STREET TREE PRUNING AND REMOVAL

- (a) The consent from Council must be obtained prior to the undertaking of any street tree pruning works including tree roots greater than 40mm diameter. Only minor pruning works will be approved by Council.
- (b) Any pruning that is required to accommodate demolition of existing buildings, hoardings, scaffolding, the loading/unloading of vehicles, and/or driveway crossover and has been approved by Council, must be carried out by a qualified Arborist (AQF3), and must be in accordance with AS4373 Australian Standards 'Pruning of Amenity Trees'.

(54) STREET TREE BOND

- (a) A \$60,000 bond for each of the 7 mature Fig trees (*Ficus microcarpa* var. *Hillii*) numbered 4-10 and a \$5,000 bond for the Fig tree (*Ficus rubiginosa*) numbered 3a located on Joynton Avenue shall be lodged with Council to ensure the retention and protection during demolition/construction and adaptation to the altered environment of the tree(s) on the endorsed plans to be retained.
- (b) The applicant shall lodge the bond with Council prior to the issuing of individual Construction Certificate(s) related to those buildings deemed by Council to affect the Fig trees for each stage.
- (c) The applicant shall be responsible for the health and condition of the Fig trees ("*Ficus microcarpa* var. *Hillii*") the smaller Fig tree (*Ficus rubiginosa*) numbered 3a located on Joynton Avenue, Zetland during Stages 3, 4 and 5. In the event that at completion of Stages 3, 4 and/or 5, Council's Tree Management Officer determines that the existing trees have been damaged/destroyed (by activities associated with any Development Application related to the subject site) to a value in excess of the retained bond the applicant shall lodge the excess to Council and to an amount determined by Council's Tree Management Officer.
- (d) The bond amount for each stage will be retained for a minimum period of 12 months from the date of a Final Occupation Certificate. At this time, a further inspection will be undertaken by the Consulting Arborist engaged throughout the demolition/construction phases of the development. The Consulting Arborist is to submit an Arboricultural Report to Council at the expiry of each bond period and prior to the bond being refunded. If the report indicates that the tree/s require remedial works, the City's Tree Management Officer will assess the recommendations and determine any works prior to their execution by the Consulting Arborist.
- (e) The following formula will be used for the retention of all or part of the tree bond/s:-
 - (i) An initial breach of any tree protection condition – 20% of total bond for each tree;
 - (ii) A second of continuing breach of any tree protection condition – 40% of total bond for each tree;

- (iii) If after 40% of the bond is retained, further breaches of the tree protection conditions occur, Council may instigate legal proceedings for the cessation of all works on the site; and
- (iv) Death of any protected trees due to non-compliance with the tree protection conditions – Total 100% of total bond for particular tree/s and possible legal action by Council.

(55) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

The proposed work must comply with the Building Code of Australia (BCA).

(56) STRUCTURAL CERTIFICATION FOR DESIGN - BCA (ALL BUILDING CLASSES)

Prior to the issue of each Construction Certificate, structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to class 2-9 building) and Clause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of Council (where Council is the Certifying Authority).

(57) CERTIFICATION OF GEOTECHNICAL INSPECTION

Prior to the issuing of any Construction Certificate, a Geotechnical inspection report/certificate confirming that the development site is suitable for the proposed development must be provided to Council (if Council is the certifying authority). The certificate must be in accordance with Clause A2.2(a)(iii) of the Building Code of Australia and be prepared by an appropriately qualified person.

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

- (a) Pursuant to Clause 98 of the Environmental Planning and Assessment Regulation 2000, the proposed new building work must comply with the recommendations of the BCA Assessment Report (Project No. 120183) - Emerald Park (Stage 3, 4 +5) Building A1,A2, B & E, dated 26 June 2012, and prepared by Blackett Maguire + Goldsmith.
- (b) If compliance with the deemed-to-satisfy provisions of the BCA cannot be achieved, an alternate 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 this condition are not an exhaustive list of non-compliances 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 the development approved in this consent.

(59) 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.

(60) 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 or the use commencing, whichever is earlier.

(61) 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. A copy of the Fire Safety Certificate must be submitted to Council if it is not the Principal Certifying Authority.

(62) WASTE AND RECYCLING COLLECTION

- (a) The collection of waste and recycling must only occur between 7.00am and 8.00pm weekdays and 9.00am and 5.00pm weekends and public holidays, to avoid noise disruption to the surrounding area.
- (b) Garbage and recycling must not be placed on the street for collection more than half an hour before the scheduled collection time. Bins and containers are to be removed from the street within half an hour of collection.

(63) WASTE AND RECYCLING MANAGEMENT – RESIDENTIAL/COMMERCIAL

- (a) A Waste Management Plan is to be submitted to and approved by Council prior to a **Stage 3B** Construction Certificate being issued. The plan must comply with the Council's Policy for Waste Minimisation in New Developments 2005. All requirements of the approved Waste Management Plan must be implemented during construction of the development.
- (b) The building must incorporate designated areas or separate garbage rooms constructed in accordance with Council's Policy for Waste Minimisation in New Developments 2005, to facilitate the separation of commercial waste and recycling from residential waste and recycling.

UPON COMPLETION OF THE DEVELOPMENT

- (c) Prior to an Occupation Certificate being issued for **Stage 3B** 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.

(64) GARBAGE ROOM

The garbage room is to be constructed in accordance with City of Sydney's policy for *Waste Minimisation in New Developments* and the BCA. The floor of the garbage room is to be drained to a floor waste connected to the sewer. The floor waste is to consist of a removable basket within a fixed basket arrestor and is to comply with Sydney Water requirements. A constant supply of water is to be available within the vicinity.

(65) WASTE AND RECYCLING COLLECTION CONTRACT

Prior to an Occupation Certificate being issued for **Stages 3B and 4B** and/or commencement of the use, whichever is earlier, of the building the owner must ensure that there is a contract with a licensed contractor for the removal of **all trade waste**. No garbage is to be placed on the public way e.g. footpaths, roadways, plazas, and reserves at any time.

(66) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

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

(67) EXCAVATION AND CONSTRUCTION MANAGEMENT

- (a) Prior to the commencement of excavation work the following details must be submitted to and be approved by the Principal Certifying Authority:
- (i) Plans and elevations showing distances of the subject building from the location of adjoining and common/party walls, and (where applicable) the proposed method of facade retention.
 - (ii) An Excavation Work Method Statement prepared by an appropriately qualified person.
 - (iii) A Waste Management Plan for the excavation of the proposed development.
- (b) Such statements must, where applicable, be in compliance with AS2601-1991 Demolition of Structures, the Occupational Health and Safety Act 2000 and Regulation; Council's Policy for Waste Minimisation in New Developments 2005, the Waste Avoidance and Resource Recovery Act 2001, and all other relevant acts and regulations and must include provisions for:
- (i) A Materials Handling Statement for the removal of refuse from the site in accordance with the Waste Avoidance and Resource Recovery Act 2001.
 - (ii) The name and address of the company/contractor undertaking demolition/excavation works.
 - (iii) The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials.

- (iv) The name and address of the transport contractor.
- (v) The type and quantity of material to be removed from site.
- (vi) Location and method of waste disposal and recycling.
- (vii) Proposed truck routes, in accordance with this development consent.
- (viii) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site).
- (ix) Measures to control noise emissions from the site.
- (x) Measures to suppress odours.
- (xi) Enclosing and making the site safe.
- (xii) A certified copy of the Public Liability Insurance indemnifying Council for \$10,000,000 against public prosecution for the duration of the demolition works.
- (xiii) Induction training for on-site personnel.
- (xiv) Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to Work Cover Authority.
- (xv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the Work Cover Authority.
- (xvi) Disconnection of utilities.
- (xvii) Fire Fighting. (Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed).
- (xviii) Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings).
- (xix) Waterproofing of any exposed surfaces of adjoining buildings.
- (xx) Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the *Protection of the Environmental Operations Act 1997*).

- (xxi) Working hours, in accordance with this development consent.
- (xxii) Any Work Cover Authority requirements.
- (c) The approved work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.

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

Prior to the commencement of any works on site, including, but not limited to excavation or construction work, a Soil and Water Management Plan (SWMP) must be submitted to and be approved by the Principal Certifying Authority.

- (a) The SWMP must identify and respond to all items for Erosion and Sediment Control Plans listed in the condition above, as well as:
 - (i) existing site contours;
 - (ii) location and diagrammatic representation of all necessary erosion and sediment control systems or structures used to mitigate or prevent pollution to stormwater;
- (b) Location and engineering details with supporting design calculations for all necessary sediment basins, constructed wetlands, gross pollutant traps, trash racks or biofiltration swales (as relevant).

(69) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 904 Bourke Street, 15-17 Merton Street, 100 Joynton Avenue and 9 Grandstand Parade, Zetland 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.

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

For temporary shoring including ground anchors affecting the road reserve, a separate application under Section 138 of the Roads Act 1993 must be lodged with Council.

For new permanent basement wall/s or other ground retaining elements (not being anchors projecting under the road reserve):-

- (a) Prior to **any** Construction Certificate being issued, the following documents must be submitted to the Certifying Authority (CA) and a copy to Council (if Council is not the CA):
 - (i) Dilapidation Report of adjoining buildings/structures.
 - (ii) Evidence that public utility services have been investigated.
- (b) If adjoining a Public Way:
 - (i) Evidence of a \$10 million dollar public liability insurance policy specifically indemnifying the City of Sydney, valid for at least the duration of the project. The original document must be submitted to Council.
 - (ii) Bank guarantee in accordance with the Council's fees and charges. The original document must be submitted to Council.
- (c) Prior to commencement of work:
 - (i) The location of utility services must be fully surveyed and the requirements of the relevant public utility authority complied with; and
 - (ii) The following documents must be submitted to and approved by the Principal Certifying Authority (PCA) and a copy to Council (if Council is not the PCA):
 - a. Structural drawings and certification as prescribed elsewhere in this consent.
 - b. Geotechnical report and certification as prescribed elsewhere in this consent.
- (d) Prior to issue of a **final Occupation Certificate**, the Principal Certifying Authority must receive written and photographic confirmation that the restoration of the public way has been complete in accordance with the following:

- (i) All ground anchors must be de-stressed and isolated from the building prior to completion of the project.
 - (ii) The temporary structure, including foundation blocks, anchors and piers must be removed above and below the public way, prior to completion of project, down to a depth of 2m.
 - (iii) All timber must be removed.
 - (iv) All voids must be backfilled with stabilised sand (14 parts sand to 1 part cement).
 - (v) All costs for any reinstatement of the public way made necessary because of an unstable, damaged or uneven surface to the public way must be borne by the owner of the land approved for works under this consent.
- (e) The Bank Guarantee may be released after the Principal Certifying Authority submits certification to Council that all the works described in (d) above have been completed and that there is no remaining instability, damage or unevenness to the public domain as a result of the development. This certification is to include relevant photographs and must be to the satisfaction of the Council's Director City Planning, Development and Transport.

(71) 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 Australian Association of 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 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.

(72) COMPLIANCE WITH EXCAVATION AND CONSTRUCTION NOISE MANAGEMENT PLAN

The development must comply with the approved Demolition, Excavation and Construction Noise Management Plan.

(73) COMPLAINTS - NOISE

Should noise complaint be received by Council from a place of different occupancy (including commercial premises) and the complaint being substantiated by a Council Officer, the use of area concerned must cease operation until "attenuation works" are carried out so as that the premises complies with the relevant Noise conditions.

(74) FOOTPATH DAMAGE BANK GUARANTEE

A Footpath Damage Bank Guarantee calculated on the total lineal metres of the public frontage of asphalt/concrete site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Footpath Damage Bank Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

The guarantee must be lodged with Council prior to issue of a Construction Certificate.

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.

(75) PUBLIC DOMAIN PLAN

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

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

The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual. 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.

(76) 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.

(77) ALIGNMENT LEVELS

- (a) Prior to a Construction Certificate being issued, footpath alignment levels for the building must be submitted to Council for approval. The submission must be prepared by a Registered Surveyor and must be in accordance with the City of Sydney's Public Domain Manual.
- (b) These alignment levels, as approved by Council, are then to be incorporated into the plans submitted with the application for a Construction Certificate, excluding a Construction Certificate for approved preparatory, demolition or shoring work.
- (c) If a Public Domain Plan condition applies to the development the Alignment Levels application must be made concurrently with the submission of a Public Domain Plan.

(78) 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".

(79) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT

On-site detention, treatment and re-use is encouraged.

- (a) Prior to a Construction Certificate being issued, details of the proposed stormwater disposal and drainage from the development including a system of on-site stormwater detention in accordance with Council's standard requirements and details of the provision and maintenance of overland flow paths must be submitted to and approved by Council. All approved details for the disposal of stormwater and drainage are to be implemented in the development.
- (b) Any proposed connection to the Council's underground drainage system will require the owner to enter into a Deed of Agreement with the Council and obtain registration on Title of a Positive Covenant prior to Construction Certificate being issued and prior to the commencement of any work within the public way.
- (c) The requirements of Sydney Water with regard to the on site detention of stormwater must be ascertained and complied with. Evidence of the approval of Sydney Water to the on-site detention must be submitted prior to a Construction Certificate being issued.
- (d) An "Application for Approval of Stormwater Drainage Connections" must be submitted to the Council with the appropriate fee at the time of lodgement of the proposal for connection of stormwater to the Council's drainage system.
- (e) 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.

(80) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN

Prior to an approval for demolition being granted a Construction Certificate being issued, whichever is earlier, a photographic recording of the public domain site frontages is to be prepared and submitted to Council's satisfaction.

The recording must include clear images of the footpath, nature strip, kerb and gutter, driveway crossovers and laybacks, kerb ramps, road carriageway, street trees and plantings, parking restriction and traffic signs, and all other existing infrastructure along the street.

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

- (a) A PDF format report containing all images at a scale that clearly demonstrates the existing site conditions;

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

(81) PRESERVATION OF SURVEY MARKS

All works in City streets must ensure the preservation of existing permanent survey marks (a brass bolt, or a lead plug holding a brass tack, covered by a cast iron box). At least forty-eight hours prior to the commencement of any works in the public way within 1 metre of a permanent survey mark contact must be made with the City's Project Manager Survey / Design Services to arrange for the recovery of the mark.

Prior to the issue of a Construction Certificate, a survey plan, clearly showing the location of all permanent survey marks fronting the site and within 5 metres on each side of the frontages must be submitted to Council.

At least forty-eight hours prior to the commencement of any works in the public way within 1 metre of a permanent survey mark contact must be made with the City's Senior Surveyor to arrange for the recovery of the mark.

A fee must be paid to the Council for the replacement of any permanent survey mark removed or damaged in accordance with the City's Schedule of Fees and Charges (Reinstatement of Survey Box).

(82) LANDSCAPING OF THE SITE

- (a) The Landscape Plan accompanying this Development Application has not been approved by this consent.
- (b) 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 prior to the issue of a Stage 3B Construction Certificate. 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);

- (iii) Location, numbers and type of plant species;
 - (iv) Details of planting procedure and maintenance;
 - (v) Details of drainage and watering systems.
- (c) Prior to the issue of a Stage 3B 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.
- (d) All landscaping in the approved plan is to be completed prior to each Occupation Certificate being issued for Stages 3B, 4B and 5.

(83) NOMINATED ENGINEERING WORKS SUPERVISOR

- (a) Prior to issue of the a Construction Certificate for Stages 3A, 4A and 5, the developer shall give Council written notification of the appointment of either:
- (b) A Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil works, or
- (c) A survey company of Registered Surveyors with accreditation from the Institution of Surveyors NSW Inc., or
- (d) An accredited certifier in civil engineering, as its nominated engineering works supervisor, the responsibility of whom shall be to sufficiently supervise the works to ensure compliance with all relevant statutory requirements, all relevant conditions of development consent, construction requirements detailed in the above specification, and the requirements of all legislation relating to environmental protection and occupational health and safety.
- (e) On completion of the works the nominated engineering works supervisor shall certify that the works have been constructed in accordance with the approved plans, specifications and conditions of approval, and that the "Works as Executed" plans are a true and correct record of what has been built. The works supervisor shall be independent of the Principal Certifying Authority.

(84) BOARDWALK AND LANDSCAPED SETBACK ON JOYNTON AVENUE

The submitted boardwalk design and landscaped setback accompanying this Development Application has not been approved by this consent.

The submitted design shall be modified to consider the following:

- (a) Location of existing and proposed structures on the site including trees, lighting, storm water and other services (if applicable);
- (b) Details of proposed levels and site grading including temporary surface treatments (if applicable);
- (c) Galvanised steel support structure (including posts)

- (d) Footings that extend 150mm below the drainage layer
- (e) Load bearing capacity to a maximum of 6 tonnes to allow for service vehicles
- (f) A boardwalk surface material that is –
 - (i) durable and hard wearing;
 - (ii) compliant with AS 1428; and
 - (iii) heelguard and bicycle safe
 - (iv) slip resistant to AS/NZS 4586:2004 (and amendments)
- (g) Safety and access requirements to AS 1428 (including where required handrails, fencing, kerbs and tactile ground surface indicators)
- (h) Lockable hinged lids to the boardwalk surface at the locations of the drainage pits (pit covers to suit Korum type)
- (i) Finish flush with the adjacent pavement surfaces to avoid trip hazards at interface with:
 - (i) paved footways;
 - (ii) vehicular crossings;
 - (iii) building/courtyard entrances
- (j) Lighting
- (k) Locations of stormwater outlets from the property
- (l) 200mm of silt arrestor within the property boundary prior to discharge into swale
- (m) Rip rap treatment at discharge point
- (n) Subsoil drainage
- (o) Details of biofiltration and soil material with -
 - (i) an unlined swale with appropriate waterproofing treatment to the basement wall;
 - (ii) no planting beneath boardwalk;
 - (iii) inert filter medium beneath the boardwalk to suppress weed growth; and
 - (iv) widened base of swale to 1.5m on roadside of boardwalk and suitable rain garden planting within this zone
- (p) Location, numbers and type of plant species noting –

- (i) planting to rain gardens shall be minimum tubestock to an approximate mature height of 500-750mm;
 - (ii) planting density of 4-6 plants per square metre depending on pot size and species
 - (iii) preference for native grasses, sedges or rushes that can withstand periodic inundation
- (q) Details of planting procedure and maintenance;
- (r) Tree root protection zones for the existing fig trees

A statement of compliance with AS 1428 prepared by a qualified Access Consultant is to be submitted with the documentation. The Boardwalk design documentation is to be certified by a practicing Structural Engineer.

The applicant to provide written confirmation through a structural/geotechnical engineer that the water draining from the rain garden/swale will not affect the footings of the proposed buildings.

Detailed documentation of the boardwalk and associated landscaped setback must be submitted to and approved by the City as required by the Voluntary Planning Agreement (as amended) prior to the issue of the Construction Certificates for Stages 4B and 5.

(85) TEMPORARY FOOTWAY CONNECTIONS

Where the development is delivered in the stages, resulting in the partial delivery of the Joynton Avenue boardwalk, temporary footways connecting the boardwalk to the existing footway shall be provided to the approval of the City. The design of any temporary footway shall be in accordance with the City's Sydney Streets Design Code, or as otherwise directed by the City and maintain accessibility in accordance with AS1428. All costs associated with the construction and future removal of the temporary footway shall be borne by the Developer.

(86) TEMPORARY VEHICLE FOOTWAY CROSSING

No additional temporary driveways are approved with this consent, except those already approved under earlier stages of the development.

A separate application is to be made to, and approved by, Council for the construction of any proposed temporary vehicle footway crossing or for the removal of any existing crossing and replacement of the footpath formation where any such crossings are no longer required.

All disused or redundant vehicle crossings and laybacks must be removed and footway and kerb reinstated in accordance with Council's standards, to suit the adjacent finished footway and edge treatment materials, levels and details, or as otherwise directed by Council officers. All construction and replacement works are to be completed in accordance with the approved plans prior to the issue of an Occupation Certificate.

Note: Any such application is to be lodged in conjunction with the Public Domain requirements.

(87) SITE RECTIFICATION

The following conditions apply to the development:

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued for construction of the substantive building.
- (b) Prior to the Construction Certificate being issued, documentary evidence must be provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.
- (c) Without limiting the generality of paragraph (b), the Deed must provide for:
 - (i) A bank guarantee to be provided in the sum of \$2,525,000.00 dollars as security for the costs of such works provided that:
 - a. the maximum liability under the Deed must not exceed \$2,525,000.00 dollars; 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 tenatable 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 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.

(88) UTILITY SERVICES

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of a Construction Certificate a survey is to be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.
- (b) Prior to the commencement of work the applicant is to obtain written approval from the utility authorities (e.g. Energy Australia, Sydney Water, and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

(89) TELECOMMUNICATIONS PROVISIONS

- (a) Appropriate space and access for ducting and cabling is to be provided within the plant area and to each apartment within the building within for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery. The details must be submitted for the approval of the Certifying Authority prior to a Construction Certificate being issued.
- (b) A separate DA must be submitted prior to the installation of any external telecommunication apparatus, or the like.

(90) ACOUSTIC PRIVACY BETWEEN UNITS

The development must be designed and constructed to satisfy the requirements of the *Sydney DCP 2012* acoustic privacy requirements. A report prepared by a suitable qualified acoustic professional must be prepared and submitted to the certifying authority prior to the issue of a Construction Certificate, and must be suitable referenced in the Construction Certificate documentation.

The report must:-

- (a) quantify the level of impact (noise at the exposed facades) from the normal noise of the area on the development; and
- (b) identify acoustic mitigation measures to be incorporated into the building design to ensure compliance with the design goals contained within the Central Sydney DCP.
- (c) The Certifying Authority (PCA) must ensure that the acoustic mitigation measures identified in the subject report are suitable incorporated into the development as erected prior to the issue of an Occupation Certificate.

(91) AIRCRAFT NOISE

The building must meet the requirements of AS2021 in relation to interior noise levels.

(92) FLOOR TO CEILING HEIGHT

Prior to a Construction Certificate being issued, the Certifying Authority must ensure that all living rooms and bedrooms in sole occupancy units must have a minimum finished floor to ceiling height of not less than 2.7 metres.

(93) RESIDENTIAL INTERNAL NOISE DESIGN CRITERIA-GREEN SQUARE SPECIAL PRECINCT

- (a) A noise assessment shall be undertaken to determine recommendations for design and construction of the development ensuring acoustic amelioration against noise intrusion from road traffic, aircraft, industrial uses and vibration arising from the Airport Link Railway

The noise assessment shall include:

- (i) Undertaking a noise survey at two representative locations on the site to which the development relates, during a four week survey period to determine the mean logarithmic L_{Aeq} (1 hour).
 - (ii) Quantifying the Rating Background Level (RBL)
 - (iii) Recommendations for acoustic mitigation measures required to be incorporated into building design to ensure compliance with the daytime and night time indoor design goals contained within the South Sydney Development Control Plan 1997: Urban Design-Part G: Special Precinct No.9 Green Square.
- (b) A noise report containing details of the assessment and recommendations shall be submitted to the certifying authority prior to the issue of a Stage 3B, 4B and 5 Construction Certificate (CC) and shall be suitably referenced in the CC documentation. The measures shall be installed and maintained.

(94) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

The building must be designed and constructed to provide access and facilities for people with a disability in accordance with the *Building Code of Australia* and the City of Sydney Access DCP 2004.

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council prior to a Construction Certificate being issued.

(95) ADAPTABLE HOUSING

Prior to a Construction Certificate being issued, information from an appropriately qualified access consultant:

- (a) Confirming that the required number of residential units are able to be adapted for people with a disability in accordance with the Building Code of Australia and City of Sydney Access DCP 2004;
- (b) Demonstrating (in a checklist) compliance with Australian Standard AS4299, is to be submitted to the Certifying Authority.

Is to be submitted to the Certifying Authority.

(96) PHYSICAL MODELS

- (a) Prior to a **Stage 3B, 4B and 5** Construction Certificate being issued, an accurate 1:500 scale model of the approved development must be **submitted to Council** for the City Model in Town Hall House; and
- (b) Prior to a **final** Occupation Certificate being issued, an accurate 1:500 scale mode of the development as constructed must also be **submitted to Council** for placement in the City Model at the City Exhibition Space.

Note:

- (i) The models must be constructed in accordance with the Model Specifications available online at www.cityofsydney.nsw.gov.au/Development/DevelopmentApplicationGuide/PreparingandLodgingaDA.asp. Council's model maker must be consulted prior to construction of the model for Town Hall House. The Manager of Customs House must be consulted prior to the construction of the model for City Exhibition Space.
- (ii) The models are to comply with all of the conditions of the Development Consent.
- (iii) The models must be amended to reflect any further modifications to the approval (under section 96 of the Environmental Planning and Assessment Act) that affect the external appearance of the building.

(97) SUBMISSION OF ELECTRONIC MODELS PRIOR TO CONSTRUCTION CERTIFICATE AND PRIOR TO OCCUPATION CERTIFICATE

- (a) Prior to a Stage 3B, 4B and 5 Construction Certificate being issued, an accurate 1:1 electronic model of the detailed construction stage drawings for that stage must be submitted to Council for the electronic City Model.
- (b) The data required to be submitted within the surveyed location must include and identify:
 - (i) building design above and below ground in accordance with the development consent;
 - (ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;
 - (iii) property boundaries and the kerb lines adjacent to the site.

The data is to be submitted as a DGN or DWG file on physical media (floppy disc or CD). All plans are to be referenced to the submitted Integrated Survey Grid of NSW (ISG), Australian Map Grid (AMG) or Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

- (c) Within the DGN *or* DWG file each identified structure, feature, utility or service must be distinguished by a combination of layering and/or symbology schema. The submitted plans must be accompanied by a comma delimited text file, detailing the layering and/or symbology schema.
- (d) The electronic model must be constructed in accordance with the City's electronic data protocol. The protocol provides specific details of the information required to be shown and is available online at www.cityofsydney.nsw.gov.au/Development/DevelopmentApplicationGuide/PreparingandLodgingaDA.asp. Council's Design/Technical Support staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.
- (e) Prior to an Occupation Certificate being issued, a second and updated "as built" 1:1 electronic model, in accordance with the above requirements, of the completed development must be submitted to Council for the electronic City Model.

Note: The submitted model/data must be amended to reflect any modifications to the approval (under section 96 of the *Environmental Planning and Assessment Act*) that affect the location of any of the underground services or structures and/or external configuration of building above ground.

(98) EMISSIONS

- (a) The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.
- (b) Gaseous emissions from the development must comply with the requirements of the Protection of the Environment Operations Act, 1997 and Regulations. Uses that produce airborne particulate matter must incorporate a dust collection system.

(99) CAR PARK VENTILATION

The car park must be ventilated in accordance with the *Building Code of Australia* and, where necessary, Australian Standard AS1668, Parts 1 and 2. Ventilation must be controlled by carbon monoxide monitoring sensors to ensure compliance with occupant health requirements.

(100) MECHANICAL VENTILATION

- (a) The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1-1998 and AS1668.2-1991.

- (b) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1-1998 and AS1668.2-1991, 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.

(101) MICROBIAL CONTROL

- (a) All cooling towers and cooling and warm water systems must be operated and maintained in accordance with AS 3666.2:1995, (or AS 3666.3:2000 subject to prior notification to Council) the *Public Health Act 1991*, and *Public Health (Microbial Control) Regulation 2000*.
- (b) A true copy of the annual certificate as stipulated in clause 9(2) of the *Public Health (Microbial) Regulation 2000* which certifies the effectiveness of the process of disinfection used for the water cooling system, must be submitted to Council prior to the period ending 30 June each year.
- (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 warm water systems installed on the premises in accordance with the *Public Health (Microbial Control) Regulation 2000*.

(102) AIR HANDLING

In the event of any process in any room being of such a nature that heat, excessive moisture, dangerous or noxious gases, fumes or other aerosols are given-off, an air handling system must be installed providing positive capture and removal of the effluents. The effluent must be discharged to atmosphere at a point that will not create a nuisance and located in a position complying with AS 1668.2.

(103) CONTROL OF LEGIONNAIRES DISEASE

- (a) The *Public Health Act 1991*, *Public Health (Microbial Control) Regulation 2000* 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) The owner or occupier of the building must register and provide particulars of any water cooling, and warm-water systems as required under the provisions of the *Public Health Act, 1991* and Regulation. Registration forms are available from Council.

(104) NOISE CONTROL VERIFICATION

- (a) An acoustic verification report must be submitted to the Principal Certifying Authority (PCA) prior to Construction 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 Australian Association of Acoustic Consultants outlining all central services mechanical plant and equipment installed within the development.
- (b) The report must also confirm that resultant operational noise levels from the mechanical plant and equipment is in compliance with the "Noise Use - General" condition which forms part of this consent when operating to maximum capacity at the most noise sensitive time of the day.

(105) ASBESTOS REMOVAL WORKS

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Workcover NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal Licence which ever applies.
- (b) Five days prior to the commencement of licensed asbestos removal, Workcover must be formally notified of the works.. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.
- (c) All works must be carried out in accordance with the Work Health and Safety Regulation 2011 and the NSW Government and Workcover document entitled How to Safely Remove Asbestos, Code of Practice and the City of Sydney Asbestos Policy.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site.
- (e) Asbestos to be disposed of must only be transported to waste facilities licensed to accept asbestos. The names and location of these facilities are listed in Part 6 of the City of Sydney's Asbestos Policy.
- (f) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).
- (g) No asbestos laden skips or bins are to be left in any public place without the approval of Council.
- (h) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

- (i) The site notice board must include the following:
 - (i) contact person for the site;
 - (ii) telephone and facsimile numbers and email address; and
 - (iii) site activities and time frames.

SCHEDULE 1C

During Construction/Prior to Occupation/Completion

(106) 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.

(107) RIGHT OF PUBLIC ACCESS

Prior to the issue of an Occupation Certificate for Stage 3B, a documentary Right of Public Access is to be created over the Through-site link within the site, shown as "Public Pedestrian Way" on the approved drawings, pursuant to the provisions of the Conveyancing Act 1919 and registered on Title of the subject land.

The Right of Public Access is to burden the affected part of the site, from Lamond Lane northerly to the Stage 2/Stage 3 subdivision boundary and is to be defined in stratum, limited in depth to approximately the top of the basement car parking structure and created in appropriate terms granting unrestricted public pedestrian access, without cars and vehicles, exclusive of bicycles and wheelchairs and other aids for the disabled and with guide dogs for the visually or hearing impaired, and granting rights for access by Council's domestic waste collection/compaction vehicles, and is to be created appurtenant to and to the satisfaction of Council.

(108) POSITIVE COVENANT

Prior to the issue of an Occupation Certificate, a documentary Positive Covenant is to be registered on the Title of the subject land, pursuant to the provisions of the Conveyancing Act 1919 and appurtenant to Council. The Positive Covenant is to be created in terms indemnifying Council against any claims and damages arising from the rights granted by the Right of Public Access and the use of the Through-site link and is to require the maintenance of a \$20,000,000 public indemnity insurance policy and is to require the maintenance, repair, upkeep and lighting of the Through-site link, in accordance with the requirements and to the satisfaction of Council

(109) BASIX

All commitments listed in each relevant BASIX Certificate for the development must be fulfilled prior to an Occupation Certificate being issued.

(110) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the *City of Sydney Building Sites Noise Code* and Australian Standard 2436 - 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".

(111) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS

A site notice is to be prominently displayed at the boundary to each frontage of the site for the purposes of informing the public of appropriate project details and relevant approvals. The notice(s) is to satisfy all of the following requirements:

- (a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (b) The notice is to be durable and weatherproof and is to be displayed throughout the construction period;
- (c) A copy of the first page of the development approval, building approval (including any modifications to those approvals) and any civic works approvals is to be posted alongside the notice in weatherproof casing;
- (d) The approved hours of work, the Principal Certifying Authority including contact address and certification details, the name of the site manager, the responsible managing company, its address and 24 hour contact phone number for any enquiries, including construction/noise complaint, are to be displayed on the site notice;
- (e) The notice(s) is to be mounted at eye level on the perimeter hoardings and is also to state that unauthorised entry to the site is not permitted.

(112) SYDNEY WATER CERTIFICATE

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council or the Principal Certifying Authority prior to an Occupation Certificate or subdivision/strata certificate being issued.

(113) PROTECTION OF STREET TREES DURING CONSTRUCTION

All street trees adjacent to the site not approved for removal must be protected at all times during demolition and construction, in accordance with Council's Tree Preservation Order.

Details of the methods of protection must be submitted to and be approved by Council prior to the issue of the Construction Certificate and such approval should be forwarded to the Principal Certifying Authority. All approved protection measures must be maintained for the duration of construction and any tree on the footpath which is damaged or removed during construction must be replaced.

(114) VEHICLE CLEANSING

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

(115) CONTAMINATED WASTE

The generation, storage, transport, treatment or disposal of industrial, hazardous or Group A liquid waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997 and the NSW Department of Environment and Conservation's (DEC) waste tracking requirements. For further information contact the Department of Environment and Conservation (DEC) on 133 372.

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the Department of Environment and Conservation (DEC) and the NSW Work Cover Authority pursuant to the provisions of the following:

- (a) *Protection of the Environment Operations Act 1997.*
- (b) *Protection of the Environment Operations (Waste) Regulation 1996.*
- (c) *Waste Avoidance and Recovery Act 2001.*
- (d) *New South Wales Occupational Health & Safety Act 2000.*

- (e) *New South Wales Construction Safety Act 1912 (Regulation 84A-J Construction Work Involving Asbestos or Asbestos Cement 1983).*
- (f) *The Occupational Health & Safety Regulation 2001.*
- (g) *The Occupational Health & Safety (Asbestos Removal Work) Regulation 1996.*

(116) COVERING OF LOADS

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

(117) 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.

(118) NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

(119) USE OF APPLIANCE OF A HIGHLY INTRUSIVE NATURE - TIME RESTRICTION.

- (a) The operation of high noise intrusive plant and machinery such as pile-drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436-2010 "Guide to Noise Control on Construction, Maintenance and Demolition Sites is restricted to the hours of:
 - (i) 8:30am-12:30pm and 1:30pm–4:30pm Mondays to Saturday;
 - (ii) No work is permitted on Sundays or Public Holidays
- (b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies with 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'.
- (c) All reasonable and feasible steps must be taken to ensure that noise levels from activities conducted on site are kept to a minimum including the adoption of less noise intrusive plant and equipment or technologies.

(120) USE OF MOBILE CRANES

The following requirements apply:

- (a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.
- (b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (c) Special operations and the use of mobile cranes must comply with the approved hours of construction. Mobile cranes must not be delivered to the site prior to 7.30am without the prior approval of Council.

(121) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties.

(122) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

(123) SURVEY

All footings and walls adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be submitted to the Principal Certifying Authority indicating the position of external walls in relation to the boundaries of the allotment.

(124) SURVEY CERTIFICATE AT COMPLETION

A Survey Certificate prepared by a Registered Surveyor must be submitted at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment.

(125) STREET NUMBERING – MAJOR DEVELOPMENT

Prior to an Occupation Certificate being issued for Stages 3B, 4B and 5, street numbers and the building name must be clearly displayed at either end of the ground level frontage in accordance with the *Policy on Numbering of Premises within the City of Sydney*. If new street numbers or a change to street numbers is required, a separate application must be made to Council.

SCHEDULE 2

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

BACKGROUND

The Site

1. The site is located within the suburb of Zetland, which is located approximately 4 kilometres south the Sydney CBD. Zetland is located within the boundaries of the Green Square urban renewal area, with the subject site being located approximately 500 metres northeast of the Green Square railway station.
2. The subject site currently encompasses 3 allotments, and has a legal description of Lots 100, 101 and 102, DP 1177468. The central portion of the site (being Lot 101), which accommodates the proposed works, is known as 13 Joynton Avenue, Zetland. The site has been referred to in the past as the “Email” site.
3. The site is irregular in shape and has three street frontages, O’Dea Avenue to the north, Joynton Avenue to the east and McPherson Lane to the south. The collective site has an area of 25,300sqm.
4. **Figure 1**, below, illustrates the location and context of the site.

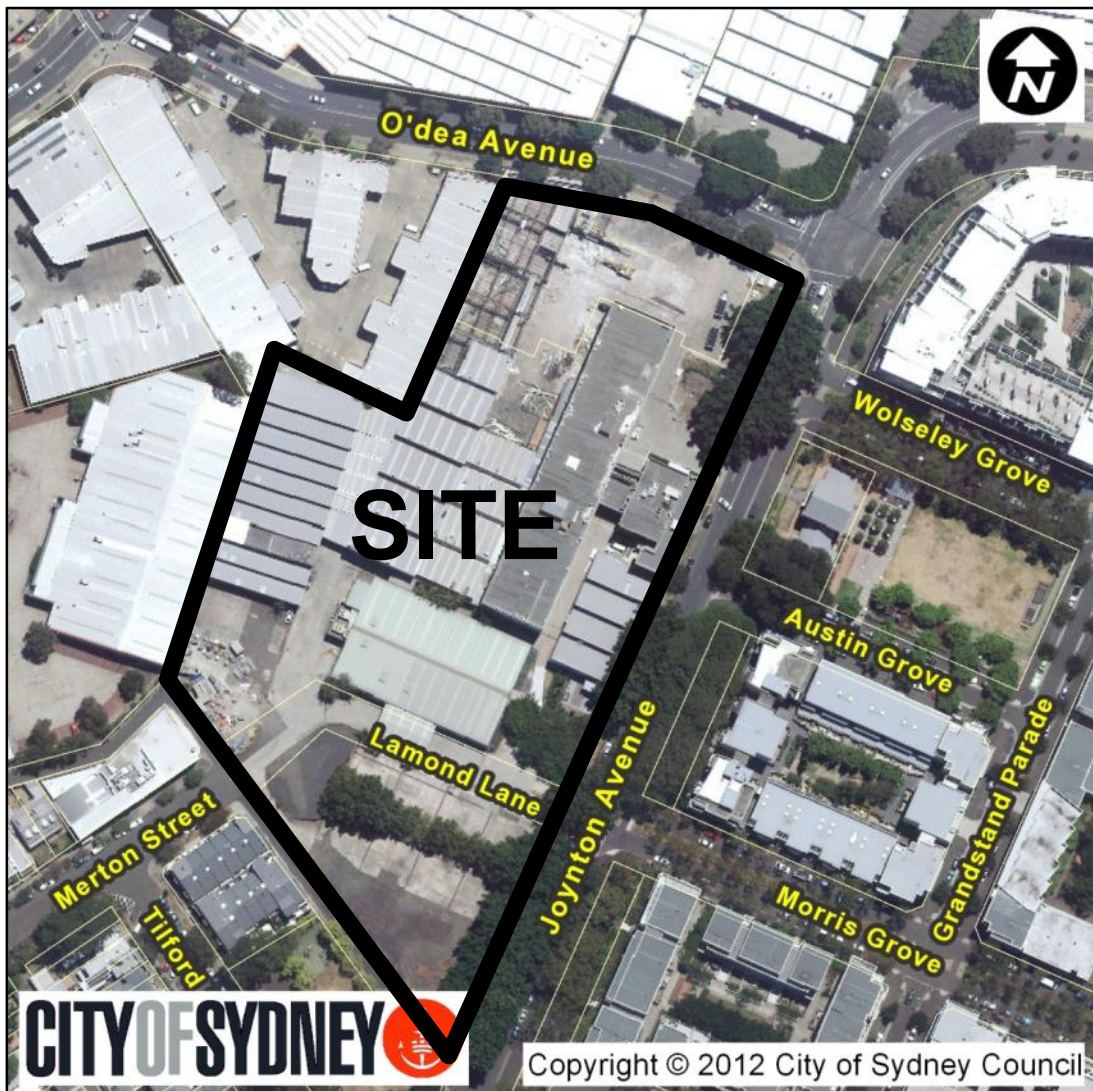


Figure 1: Location Plan

5. The site formerly housed four buildings and an open car park that were associated with the former industrial usage of the site. The remnants of these buildings remain on the Joynton Avenue frontage of the site and currently house the sales office and display apartment.
6. The first stage of development on the site (known as Building G), which is located in the northern portion of the site fronting O'Dea Avenue, has been completed and is occupied (refer to **Figures 2 and 9**, below). As part of the public domain improvement works to be delivered at Stage 1 was the construction and delivery of Lamond Lane. **Figure 3** illustrates the completed Lamond Lane, which at the time of writing had yet to be officially opened to traffic.
7. Construction works have commenced on Stage 2, known as Buildings C and D, refer to **Figure 4**. Stage 2 is located adjacent to the western boundary of the site.



Figure 2: The completed Stage 1 building (known as Building G) as viewed from the corner of O'Dea Avenue and Joynton Avenue



Figure 3: The completed Lamond Lane that connects Joynton Avenue to Merton Street



Figure 4: Construction works currently underway on site for Stage 2 (known as Buildings C and D)

Surrounding Development

8. Properties located directly to the north and west of the site are currently used for commercial/industrial development, and house buildings up to 5-storeys in height (refer to **Figures 5** and **6**). Whilst these sites are currently occupied by non-residential uses, the zoning of these sites is for mixed use development, and as such, it is envisaged that these sites will be redeveloped in the future.
9. To the east of the site, on the opposite side of Joynton Avenue, is the Victoria Park development (refer to **Figure 7**, below).
10. Joynton Avenue, itself, is an iconic streetscape within Green Square, with the row of mature fig trees located along both sides of the street, which are identified as heritages items within the South Sydney LEP 1998 and Sydney LEP 2012.

11. Directly to the south of the site, on the opposite side of McPherson Lane, is Mary O'Brien Reserve and the residential worker's cottages/terrace development located on Tilford Street (refer to **Figure 8**, below).



Figure 5: Existing warehouse development located on the opposite side of O'Dea Avenue



Figure 6: The adjacent warehouse/industrial development located at 888 Bourke Street (to the west of the site)



Figure 7: Residential development in Victoria Park, located to the east of the site on the opposite side of Joynton Avenue



Figure 8: Mary O'Brien Reserve and residential development located to the south of the site

Relevant History to this Site***Email site Masterplan (U02/854)***

12. The former South Sydney Council endorsed a Masterplan for the subject site on 9 April 2003. The Masterplan approved the following works:
 - (a) demolition of existing structures on site;
 - (b) construction of 7 new buildings that range in height from 4 to 12 storeys, with a collective maximum FSR for the site of 2:1; and
 - (c) public domain improvement works.

Stage 1 Development Application (D/2004/225)

13. Deferred commencement consent was granted by the Central Sydney Planning Committee (CSPC) on 20 October 2005 for a Stage 1 Development Application (D/2004/225) for the subject site. The consent became operable on 12 July 2010.
14. This application approved both the Stage 1 indicative envelopes and the detailed design for Building G fronting O'Dea Avenue, which was the first stage developed on the site.
15. Approval was given to the following works as part of this application:
 - (a) demolition of existing structures on site;
 - (b) indicative building envelopes and heights for 7 new buildings, with a collective FSR of 2:1 (this equates to a gross floor area for the site of 50,599sqm);
 - (c) provision for a total of 550 dwellings, 240sqm of non-residential floor space and 493 car parking spaces across all stages;
 - (d) public domain improvement works, which have been included in a Voluntary Planning Agreement (refer to further discussion provided below). These works include:
 - (i) dedication of land within the southern portion of the site, adjacent to Mary O'Brien Reserve, to increase public open space and provide a stormwater infrastructure works;
 - (ii) provision of a through-site link between O'Dea Avenue and the new park to the south of the site;
 - (iii) provision of setback along the Joynton Avenue frontage of the site to allow the retention of the mature fig trees, streetscape upgrade works and stormwater works; and
 - (iv) new publicly dedicated internal road through the site connecting Joynton Avenue and Merton Street (known as Lamond Lane), and traffic calming works to adjacent streets.
 - (e) staging of the redevelopment of the site into 5 stages; and

- (f) construction of a 13-storey mixed-use development (Building G), accommodating 143 residential apartments, 82sqm of retail floor space and 154 car parking spaces.
16. The approval of this Stage 1 application effectively amended the previous Masterplan, varying the building heights and locations. **Figure 9**, below, illustrates the Stage 1 approved locations of buildings on the site, and the boundary of communal open space provided with each stage.

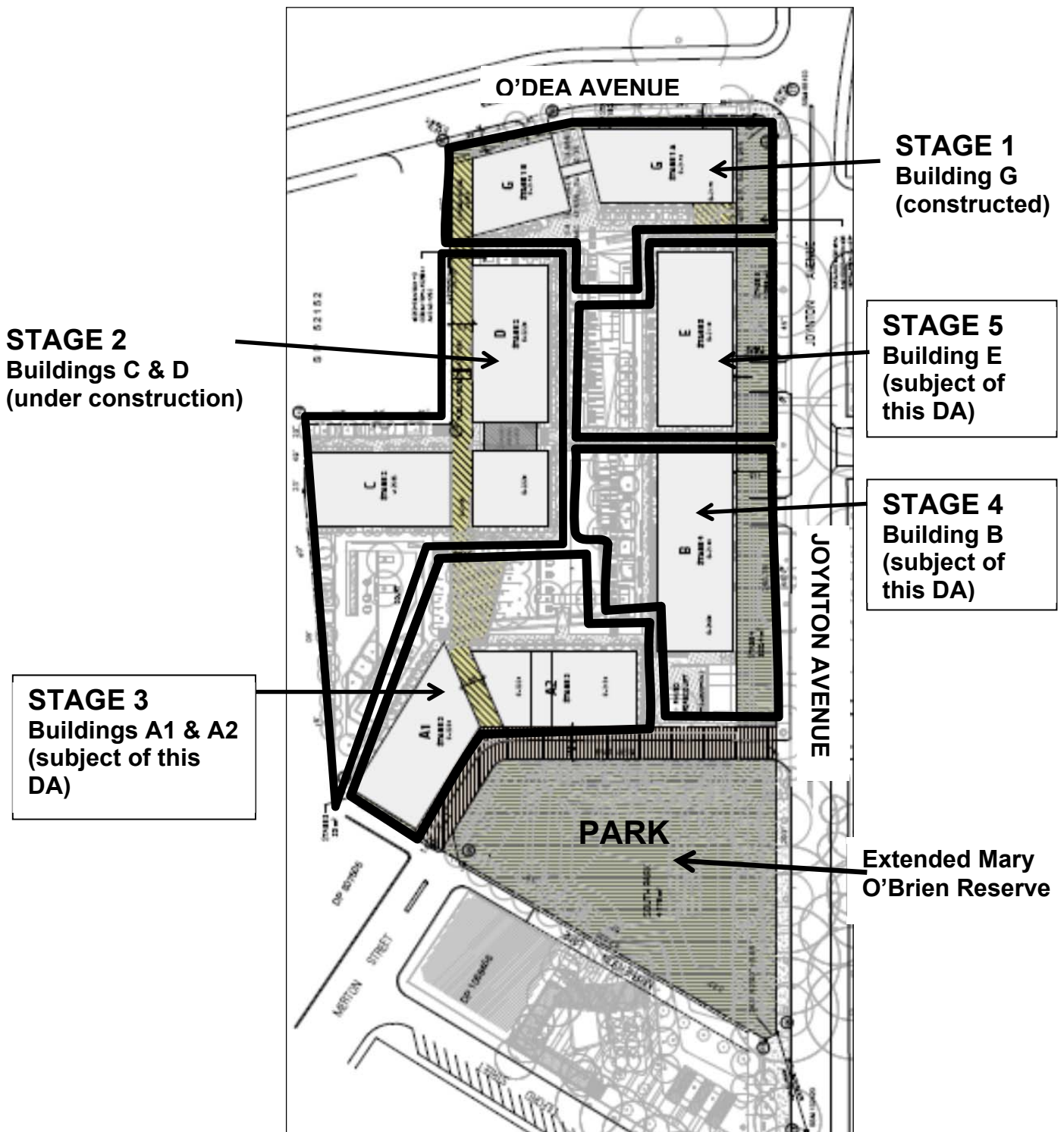


Figure 9: The approved locations of the 7 buildings pursuant to D/2004/225

Stage 2 Development Application (D/2010/2168)

17. Development Application D/2010/2168 was approved by Council on 19 September 2011, with the proposal comprising:
 - (a) excavation of the site and construction of 2 new apartment buildings (Buildings C and D) accommodating 170 residential apartments, with ground level and basement car parking for 163 car parking spaces and 70 bicycle parking spaces;
 - (b) construction of a temporary access driveway across the site from Joynton Avenue to the proposed Stage 2 car park;
 - (c) landscaping works for Stage 2 of the site, including the provision of the through site link and communal open space to the south of the proposed buildings; and
 - (d) staged construction.



Figure 10: A photomontage of the approved Buildings C and D that comprise Stage 2 of the collective development of the site

Staged construction/Voluntary Planning Agreement

18. The Stage 1 Development Application granted consent to the staging of future construction of new buildings and public domain works into the following five stages.
19. The provision of these public domain improvement works was the subject of a Voluntary Planning Agreement (VPA) between the applicant and Council. This agreement was executed on 7 July 2010.
20. At the time of writing, the VPA includes the undertaking of the following public domain improvement works at the following stages:
 - (a) Stage 1 - Construction of Building G:

- (i) streetscape upgrade works along O’Dea Avenue;
 - (ii) construction and dedication of the Lamond Lane;
 - (iii) construction of part of the north-south through site link; and
 - (iv) construction of part of the Joynton Avenue drainage works.
- (b) Stage 2 – Construction of Buildings C and D;
- (i) construction of the new park in the southern portion of the site;
 - (ii) construction of the second part of the north-south through site link;
 - (iii) construction of first part of the detention basin works; and
 - (iv) construction of traffic calming measures in Tilford Street.
- (c) Stage 3 – Construction of Buildings A1 and A2:
- (i) dedication of the new park to Council;
 - (ii) construction of the remainder of the through site link; and
 - (iii) construction of the McPherson Lane streetscape upgrade works.
- (d) Stage 4 – Construction of Building B:
- (i) construction of Joynton Avenue streetscape upgrade works;
 - (ii) construction of the remainder of the Joynton Avenue drainage works.
- (e) Stage 5 – Construction of Building E:
- (i) construction of the remainder of the Joynton Avenue streetscape upgrade works.

PROPOSAL

21. The subject application seeks consent for the construction of the remaining stages (known as Stages 3 to 5, as detailed in **Figure 9**, above) of the site. Collectively, the proposal seeks consent for the following works:
- (a) excavation and construction of the remaining portions of the integrated basement car parking level, accommodating a further 159 car parking spaces and 92 bicycle parking spaces, with vehicular access off Joynton Avenue and Lamond Lane;
 - (b) construction of 4 residential apartment buildings ranging in height from 4 to 9 storeys, accommodating 207 apartments and a gross floor area of 19,525sqm, in the following configuration:
 - (i) Building A1 - 5 storeys in height and containing 23 apartments;
 - (ii) Building A2 - 7 storeys in height and containing 42 apartments and a 75sqm retail tenancy;

- (iii) Building B – 7 storeys in height and containing 67 apartments and a 130sqm retail tenancy; and
 - (iv) Building E - 9 storeys in height and containing 75 apartments.
- (c) landscaping and public domain works, including the provision of a communal landscaped courtyard, through site link and Joynton Avenue streetscape upgrade works; and
- (d) staged construction.
22. Plans, elevations and photomontages of the development are provided in **Attachments A and B**.



Figure 11: The northern elevation of Building A2 as viewed from the internal communal courtyard



Figure 12: The western elevation of Building B as viewed from the internal communal courtyard



Figure 13: View of Buildings B and E looking north along Joynton Avenue



Figure 14: The proposed pedestrian entry to the site from Joynton Avenue between Buildings B and E

Application History and Amendments

23. The subject application was lodged with Council on 16 July 2012.
24. Following a preliminary assessment of the application by City staff, the applicant was advised in correspondence, dated 18 September 2012 and 22 November 2012, that the application required modification to address the following issues:
 - (a) auditing of the cost of work of the proposal by a Quantity Surveyor;
 - (b) deletion of a proposed pedestrian bridge connecting Buildings A1 and A2;
 - (c) separation between buildings and inconsistencies with the Stage 1 building envelopes;
 - (d) residential amenity of apartments resulting in variations sought from SEPP 65/ Residential Flat Design Code;
 - (e) activation of Joynton Avenue and Lamond Lane street frontages through the introduction of individual entries to the ground floor level apartments and reduced height of front fences; and
 - (f) additional information on the Joynton Avenue setback treatment and timber decking walkway.
25. Amended documentation to address these matters was submitted in 28 November 2012.

IMPLICATIONS OF THE PROPOSAL**Section 79C Evaluation**

26. 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**WATER MANAGEMENT ACT 2000**

27. The proposed excavation works to accommodate the basement car park on the subject site are not to a depth that would permanently penetrate the water table, and as such, the application does not require referral to the NSW Office of Water for a dewatering licence.
28. It should be noted that a Water Licence was issued by the NSW Office of Water (at the time known as the Department of Water and Energy) for temporary dewatering of the site for the construction of the basement car park as part of the Stage 1 works on the site. The General Terms of Approval were included as conditions of consent on the Stage 1 Development Application. As the subject application is not Integrated Development, no further concurrence is required.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

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

SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)

30. SEPP 32 provides for the increased availability of housing within the inner city and to assist in meeting the demand for housing which is close to employment, leisure and retail opportunities.
31. The proposed development is consistent with the aims and objectives of SEPP 32 and the State Government's urban consolidation initiatives. The site is urban land that has the potential to accommodate multi-unit housing. It is strategically located in proximity to the Sydney CBD and is generally serviced by existing public infrastructure, transport and community facilities.

SEPP 55 – Remediation of Land

32. SEPP 55 requires the consent authority to consider whether the land is contaminated prior to consenting to the carrying out of development. If the land is contaminated, the consent authority must be satisfied that the land is suitable for its intended use in its present state, or that it will be suitable after remediation. The provisions of SEPP 55 are replicated in the City of Sydney Contaminated Land DCP 2004.
33. A letter of Interim Advice was provided with the Stage 1 development application, and was prepared by a NSW Accredited Site Auditor, dated 15 February 2005. This interim advice states that the site can be made suitable for the intended residential use.

34. A further updated letter of advice, prepared by Environmental Investigations and dated 20 May 2012, has been submitted with the subject application to relate specifically to Stages 3 to 5. This advice states the following:

“the site as a whole is capable of being made suitable for the proposed medium density residential development. Similar to the Stage 1 development, further soil and groundwater investigations are proposed for Stages 3, 4 and 5 after building demolition and prior to construction works. A dedicated Stage 3, 4 and 5 RAP will be provided once additional investigations are completed.”

35. Council’s Health Unit are satisfied of the suitability of the site for residential development, subject to the imposition of conditions requiring the submission of additional remediation and audit information.

SEPP 65 - Design Quality of Residential Flat Development

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

- (a) **Principles 1, 2 and 3:** Context, Scale and Built Form

Complies: The building envelope and block analysis undertaken as part of the Stage 1 assessment concluded that the proposed building envelopes and the siting of each building was consistent with Council’s strategic vision and appropriately responded to future development on adjacent sites.

Generally, the massing and heights of the four buildings reflect the desired built form of both the Masterplan and Stage 1 consent. Whilst there are elements of the proposal that do result in some variation to the footprints and height of each building, these variations are considered to be minor in nature and appropriate setbacks and building scales are retained.

The proposal responds to its context, with the built form activating three of the site’s frontages through the provision of individual apartment entries and retail tenancies. These entries provide a sense of address, a pedestrian scale to the development and allows casual surveillance of the streets/parks.

- (b) **Principle 4:** Density

Complies: The development will contribute to the increase in the residential population on the site as envisaged by the Masterplan and Stage 1 consents.

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

Complies: The residential component of the proposal is compliant with the requirements of BASIX, and an appropriate condition is recommended to ensure that the development complies with the commitments contained on its BASIX certificate.

(d) **Principle 6: Landscape**

Complies: A landscape concept plan for the collective Email site was approved as part of the Stage 1 development consent. The VPA prepared in association with the Stage 1 consent ties the delivery of public domain improvement works with stages of development on the site.

Stages 3 to 5 of the development includes the delivery of the remainder of the north-south through site link, which will provide pedestrian access from O'Dea Avenue through the site to Lamond Lane and the new park (Mary O'Brien Reserve extension) and the Joynton Avenue setback treatment and provision of a pedestrian boardwalk.

Internally within the site, each of the stages include the partial provision of the communal courtyard located to the west of Buildings B and E. These works contribute to the overall landscape design for the site approved as part of the Stage 1 application (refer to **Figure 15**, below).

The ground floor level units in Buildings A2, B and E have been designed to be accessible from, as well as addressing, the communal courtyard. The communal courtyard will be accessible by residents from Joynton Avenue and Lamond Lane, as well as internally from the lift lobby of each building.

Areas where deep soil planting can be achieved within this stage of the development are limited due to the siting of the approved integrated basement car park. In this instance, the proposed buildings and the majority of the communal courtyard are located above the slab of the car park. The Stage 1 approval considered deep soil planting for the site as whole, with compliance able to be achieved as a result of deep soil planting being located along Joynton Avenue and in the new park to the south of the site.

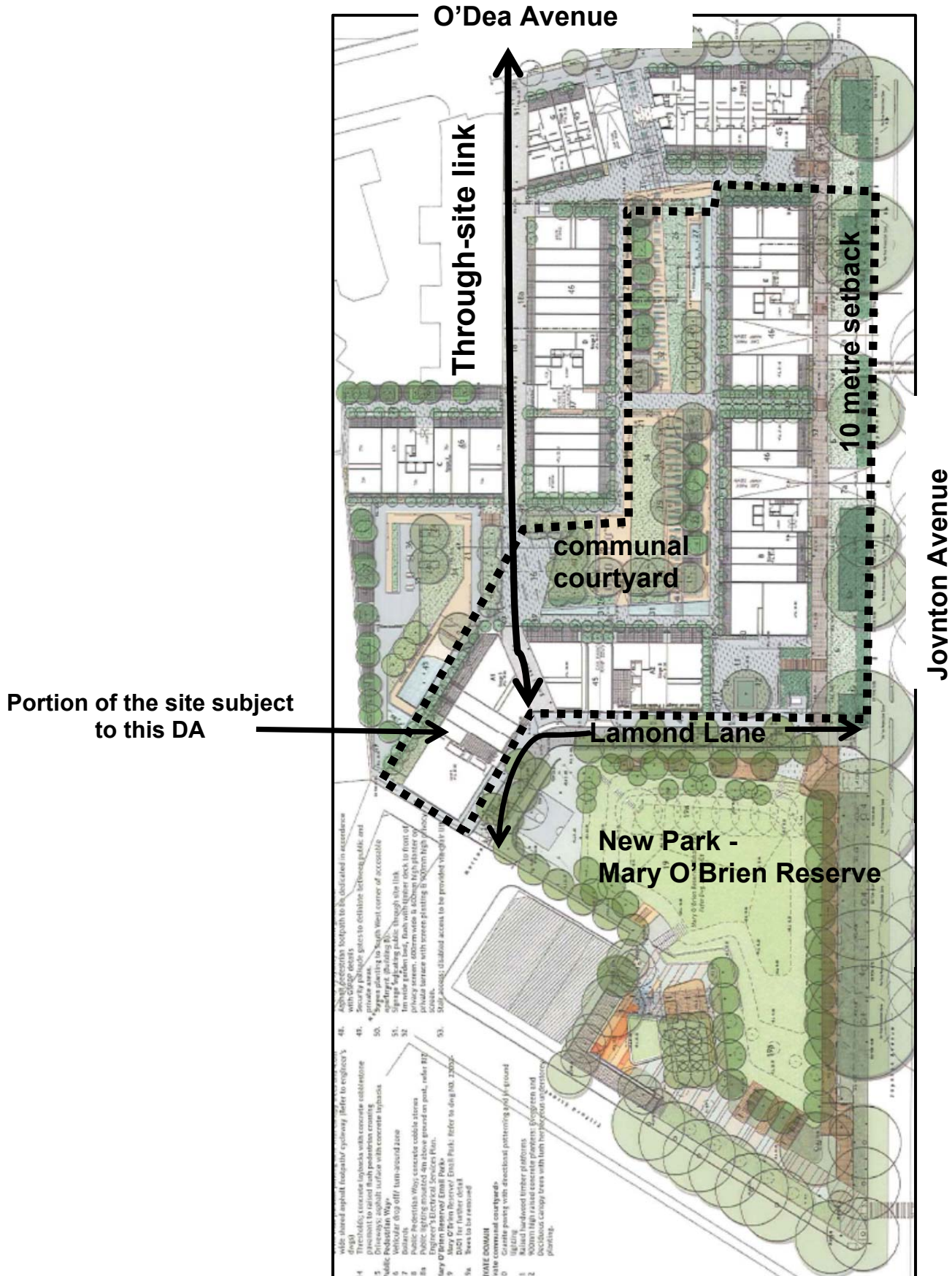


Figure 15: The landscape concept plan approved for the site as part of the Stage 1 consent

(e) **Principle 7: Amenity**

Generally complies: The proposal provides for an adequate level of amenity as follows:

- (i) The unit sizes, width and depth dimensions generally meet the requirements in the RFDC and all units have a 2.7 metre floor to ceiling height;
- (ii) 62% of apartments within Stages 3 to 5 will receive two or more hours of solar access between 9.00am and 3.00pm on the winter solstice. Whilst this represents a slight departure from the RFDC guideline (where 70% of apartments should receive 2 hours of solar access in high density areas), variation is supported in this instance as the Masterplan and Stage 1 consent for this site have dictated the building location, envelopes and orientation. When the collective site is considered as a whole, as was assessed by the Stage 1 consent, 70% of apartments do achieve 2 hours of solar access on the winter solstice.
- (iii) 71% of the units within Stages 3 to 5 are cross ventilated, which exceeds the RFDC guidelines.
- (iv) The development proposes apartments with internal areas detailed below, all of which are compliant with the minimum areas of the RFDC guidelines:
 - a. Studio – 39sqm
 - b. 1 bedroom – 50-76sqm;
 - c. 2 bedroom – 71-103sqm;
 - d. 3 bedroom – 103-114sqm.
- (v) Acoustic and visual privacy is achieved through a layout which creates satisfactory separation.
- (vi) All apartments are provided with private outdoor balconies or courtyards. Whilst a small percentage of units have outdoor areas that are technically below the RFDC guidelines, the extent of variation is minor (being only 2sqm at a maximum), which is considered acceptable in this instance.
- (vii) Storage areas are provided within the units and basement level.
- (viii) Disabled access is provided to all units.

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

Complies: The proposed development has been assessed against the Crime Prevention Through Environmental Design Principles outlined in 'Crime prevention and the assessment of development applications – Guidelines under Section 79C of the Environmental Planning and Assessment Act 1979' prepared by the Department of Urban Affairs and Planning (now Department of Planning).

The development provides the opportunity for the casual surveillance of the surrounding public domain and communal areas through balconies and windows along all facades.

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

Complies: The proposed development has the following unit mix:

- (i) 81 x studio/1 bedroom (39%),
- (ii) 112 x 2 bedroom (54%) and
- (iii) 14 x 3 bedroom (7%) apartments.

The proposal generally achieves compliance with the DCP requirements, and is considered to be acceptable in providing a range of housing options. Furthermore, the unit mix is consistent with the Stage 1 consent for the collective Email site development. Further discussion is provided in the issues section of this report.

(h) **Principle 10: Aesthetics**

Complies: The proposal utilises architectural expression and materiality to create recessive elements, articulation and visual interest of the facades, particularly along the eastern and western elevations of Building D.

- 37. 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.

SEPP (Building Sustainability Index: BASIX) 2004

- 38. A BASIX certificate was submitted confirming the proposal will meet NSW government minimum requirements for sustainability if built in accordance with the certificates commitments.

LEPs AND DCPs

- 39. The following Local Environmental Plans are relevant to the proposal:

South Sydney Local Environmental Plan 1998

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

Development Controls	Permissible under South Sydney LEP 1998	Proposal as assessed under South Sydney LEP 1998
Planning Principles (Part 2)	Development is to be considered having regard to the goals and objectives within the Strategy for a Sustainable City of South Sydney.	The proposed development application satisfies the Strategy.

Development Controls	Permissible under South Sydney LEP 1998	Proposal as assessed under South Sydney LEP 1998
Zoning Controls (Part 3)	Mixed Uses 10(a)	The proposal is defined as 'multiple dwellings' and 'commercial premises' or 'shop' within Schedule 1 of SSLEP 1998, with these uses being permissible within this zone.
Heritage Conservation (CI 22 to 27)	Development is to satisfy certain heritage requirements.	<p>The site is located adjacent to the heritage listed fig trees along Joynton Avenue.</p> <p>The proposed development is adequately separated from the Joynton Avenue frontage of the site and, as such, does not impact upon the significance of these trees.</p> <p>Appropriate conditions have been recommended for imposition to protect the street trees.</p>
Vision for Green Square (CI 27A) Planning Principles for Green Square (CI 27B)	Diversity, connectivity, interdependency and long-term growth.	The proposal will provide an appropriate mix of residential apartments located close to transport, social infrastructure and facilities.
Determination of Development Applications (CI 27C)	Consent not to be granted unless development within Green Square is consistent with adopted Master Plan.	The proposed development is generally consistent with the Masterplan and Stage 1 consent.
Affordable housing (CI 27P)	Development within Zone 10(a) is subject to affordable housing contributions.	A condition of consent shall be imposed in relation to an affordable housing contribution.

Development Controls	Permissible under South Sydney LEP 1998	Proposal as assessed under South Sydney LEP 1998
Urban Design Principles and Master plans (CI 28)	Development is to satisfy urban design requirements. Before granting consent to development in Zone 5 or on a site greater than 5000 sqm Council must consider any master plan for the land that is available.	The proposed development is consistent with the Stage 1 consent and Masterplan for the site.
Flood Liable Land (CI 38)	Council is to consider the likely impacts of flooding in determining an application for the erection of a building or the carrying out of works on land.	The development satisfies these provisions and appropriate conditions have been recommended for imposition.
Contaminated Land (CI 39)	Council is to consider the issue of contamination in determining an application for a residential, child care centre or commercial use on land previously occupied by an industrial use.	The development satisfies these provisions. The site has previously been used for manufacturing purposes. The applicant has submitted documentation from a Site Auditor stating that the site can be made suitable for its intended use and appropriate conditions have been recommended for imposition.

Sydney Local Environmental Plan 2012

41. The Sydney LEP 2012 was gazetted by the Minister for Planning and Infrastructure on 14 December 2012. The LEP includes a savings provisions in the form of Clause 1.8A(1) as follows:

“If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had been exhibited but had not commenced.”

42. This provision enables the application to be determined under the provisions of the South Sydney LEP 1998 that were in force at the time of lodgement of this development application, regardless of whether the Sydney LEP 2012 was made at the time of determining the subject application.
43. The relevant provisions of the Sydney Local Environmental Plan 2012 have been taken into consideration in the assessment of the proposal as detailed below.

Zoning

44. The site is located within the B4 – Mixed Use zone. The proposed development is classified as a “*mixed use development*” pursuant to Clause 1.4 of the Sydney LEP 2012, which is a permissible use within the B4 - Mixed Use zone.

Height and Floor Space

45. Clause 4.3 of the Sydney LEP 2012 permits a maximum height of 18 metres for Building A1 and 27 metres for Buildings A2, B and E on the site. A 3 metre height controls applies to the 12 metre Joynton Avenue setback of the site.
46. Generally, Buildings A1, A2 and B are compliant with the applicable height control under Sydney LEP 2012, with minor breaches of approximately 3 metres resulting from the uppermost level balcony protrusions. No objection is raised to these minor breaches as they occur centrally within the site and result from the height controls not being reflective of the Stage 1 approved building envelopes.
47. Building E has a maximum height (as measured to the top of the roof-top canopy) of 32 metres, which results in a 5 metre non-compliance with the height control stipulated within Sydney LEP 2012. No objection is raised to the non-compliance of the height of this building with the LEP 2012 as the height of the building has been reduced by 2.8 metres under the Stage 1 approved envelope.
48. Clause 4.4 of the Sydney LEP 2012 stipulates a base floor space ratio of 1.5:1 for the site, with Clause 6.14 providing the opportunity for a further 0.5:1 of floor space where additional public domain improvement works and community uses are provided. Both the Masterplan and Stage 1 development consent approved a FSR of 2:1 for the site as whole, which is consistent with these controls, as the approval included extensive public domain works.

Car Parking

49. The Sydney LEP 2012 permits a maximum of 156 car parking spaces, including 4 retail spaces, 136 residential spaces and 16 visitor spaces. The proposed development provides 159 car parking spaces (including 6 visitor spaces), which has been calculated in accordance with the parking rate imposed as a condition on the Stage 1 consent. Further discussion on the provision of car parking and visitor spaces on the site is provided at the issues section of this report.

Heritage

50. The site is located adjacent to the Joynton Avenue street trees, which are listed as a heritage item within the Sydney LEP 2012. The proposed works will not adversely impact on the significance of these heritage items due to the separation of the subject buildings from the Joynton Avenue frontage of the site.

Affordable Housing

51. The site would be subject to an affordable housing dedication or contribution pursuant to Clause 7.15 of the Sydney LEP 2012. The imposition of an affordable housing contribution is consistent with the current provisions of the South Sydney Local Environmental Plan 1998, and, an appropriate condition is recommended for imposition on any consent granted.

South Sydney DCP 1997

52. Compliance of the proposal with the DCP controls is summarised below:

Matter to be Considered	Compliance	Comment
PART C: PUBLIC DOMAIN		
Public Domain Improvement Section 2	✓	Complies: The applicant entered into a VPA as part of the Stage 1 consent. This VPA documents public domain improvement works across the site, including the provision of the through-site link.
Security Section 3	✓	Complies: The proposal introduces activation to all street frontages, which achieves passive surveillance both over the communal areas of the site, the street and Mary O'Brien Reserve.
Implementation (Section 94, FSR Bonus) Section 4	✓	Able to comply: Public domain improvement works in lieu of monetary contributions were included in the VPA for the site.
PART D: SOCIAL PLANNING		
Access Section 2	✓	Complies: All buildings proposed have entry lobbies that are accessible from the street, and provide equitable access to all levels via lifts.
Social Housing and Mix Section 3	✓	Complies: The proposed apartment mix is consistent with the Stage 1 consent.
Community Infrastructure Section 5	✓	Complies: As required by conditions imposed on the Stage 1 consent, infrastructure that services the site will be upgraded to cater for the increased demand.

Matter to be Considered	Compliance	Comment
PART E: ENVIRONMENTAL DESIGN CRITERIA		
Floor Space Ratio Section 2.2	✓	<p>Complies: Both the Masterplan and Stage 1 consent adopted a maximum FSR of 2:1 for the collective site. This is consistent with the FSR control of DCP 1997.</p> <p>The Stage 1 consent for the site approved a collective gross floor area for all 7 buildings on the site of 50,599sqm.</p> <p>The four buildings proposed in Stages 3 to 5 of the development of this site have a total GFA of 19,525sqm.</p> <p>When considered with the approved floor space for Stage 1 (Building G) and Stage 2 (Buildings C and D), the site as a whole remains 87sqm below the maximum approved floor space for the site of 50,599sqm.</p>
Height and Scale Section 2.3	✓	<p>Generally complies: DCP 1997 stipulates a 12 metre height control for the entire site. The Stage 1 consent supersedes this control and provides maximum heights for each of the 7 buildings on site.</p> <p>Further discussion on compliance with the Stage 1 building heights is provided at the issues section of this report.</p>

Matter to be Considered	Compliance	Comment
Site Analysis/Layout Section 1.1 and 1.2 Public/Private Open Space Section 1.3 and 1.4 Landscaping Section 1.5 Parking, Access and Servicing Section 1.6 Storm water Drainage Section 1.7 Building Envelope Section 2.1 Setbacks Section 2.4	✓	Addressed under Part G: Green Square 2006 Controls, below.
Site Facilities Section 1.9	✓	Complies: Site facilities including garbage rooms, plant and storerooms are provided.
Façade Treatment Section 2.5	✓	Complies: The facades incorporate a number of differing elements and materials which introduce depth, variation and articulation and creates a satisfactory level of visual interest.
Visual and Acoustic Privacy Section 4.1	✓	Complies: The proposal provides satisfactory separation and design to achieve an appropriate level of privacy within the development.
Access and Mobility Section 4.4	✓	Complies: The proposal provides equitable access via internal lifts.
Fire Regulations Section 4.6	✓	Able to comply.
Energy Efficiency Section 5.1 to 5.3	✓	Complies: The development is BASIX compliant.
Operational Controls Section 6	✓	Able to comply: The proposed incorporates 205sqm of retail floor space. The future use and fit-out of these two tenancies will be the subject of further future development applications.

South Sydney Development Control Plan: Urban Design – Part G: Special Precinct No. 9 Green Square (2006)

53. Compliance of the proposal with the DCP controls is summarised below:

Matter to be Considered	Compliance	Comment
PART 2: URBAN STRATEGY		
Landscape Elements <i>Section 2.2</i>	✓	<p>Complies: The applicant entered into a VPA as part of the Stage 1 consent. This VPA documents public domain improvement works across the site, including the provision of the through-site link and extension to Mary O'Brien Reserve.</p> <p>The subject stages of development include the delivery of the 3,000sqm central landscaped courtyard, which contributes to the overall communal open space and facilities available for residents. The design of the central courtyard includes barbeque areas, grassed lawns, water features, timber decking and substantial planting.</p>
Transport and Parking <i>Section 2.3</i>	✓	<p>Complies: Refer to discussion and compliance table provided elsewhere within this report.</p>
Stormwater Management <i>Section 2.5</i>	✓	<p>Complies: Conditions relating to stormwater and drainage will be included in any development consent.</p>
Land Use and Neighbourhood Character <i>Section 2.7</i>	✓	<p>Complies: The development responds appropriately to the future desired character of the area by providing a built form and land uses that is consistent with Email site Masterplan and Stage 1 consent and the vision for the greater redevelopment of the Green Square Urban Renewal area.</p>

PART 3: URBAN FRAMEWORK PLAN		
<p>Built Form <i>Section 3.2</i></p> <p>Building Type and Envelopes <i>Section 3.2.1</i></p> <p>Height and Scale Variations <i>Section 3.2.2</i></p>	✓	<p>Complies: The envelopes and footprints of the built form on site has been established through the endorsement of the Masterplan in 2003 and the Stage 1 consent in 2005. The proposal is considered to be generally consistent with the envelopes, floor space and height established in the Stage 1 consent.</p>
<p>Building Interface <i>Section 3.2.4</i></p>	✓	<p>Complies: The development has generally been designed to provide an appropriate interface with the public domain and contains the active uses at the ground level of the building.</p>
<p>Noise <i>Section 3.2.8</i></p>	✓	<p>Complies: The SSDCP 1997 imposes more stringent acoustic attenuation standards for developments within the Green Square redevelopment area to specifically deal with the potential conflict between the older existing industrial uses and the new mixed-use redevelopments, which are aligned with the desired future character. Furthermore, it is acknowledged that this redevelopment area must also consider noise conflicts from traffic and aircraft noise.</p> <p>The subject application has been accompanied by an acoustic report and includes noise attenuation measures that satisfactorily address these requirements.</p> <p>Conditions of consent are recommended for imposition to ensure that these acoustic attenuation measures are implemented during construction.</p>

City of Sydney Access DCP 2004

54. The development has been designed to provide a high level of access to all apartments and provides a total of 32 adaptable apartments. This provision satisfies the requirement of the Access DCP 2004 to provide 15% of apartments as capable of being adapted to be accessible. The proposal has incorporated 38 accessible car parking spaces, which equates to one space for every adaptable apartment and 6 accessible visitor spaces.

55. Based on the scale of the development, the Access DCP and DCP 11 require only that a total of 31 adaptable apartments be provided and that a maximum of 2 accessible visitor spaces.
56. As the proposal has a visitor parking provision below the maximum permissible, it is recommended that the accessible and adaptable parking spaces that are in excess of the requirements be converted to standard visitor spaces. Further discussion is provided at the issues section of this report.

Green Square Affordable Housing Development Control Plan 2002

57. The DCP requires 3% of residential and 1% of non-residential total floor area to be provided for affordable housing, either in kind / on-site or a monetary contribution in lieu. An appropriate condition of consent has been recommended based on a total residential floor area (including balconies) of 20,976sqm and non-residential floor area of 205sqm, and results in a contribution amount of \$2,902,018.72.

Sydney Development Control Plan 2012

58. The provisions of the Sydney DCP 2012 have been considered in assessment of this application. Generally, the provisions of this DCP replicate those currently contained within the South Sydney DCP 1998, and as such, have been addressed throughout this report.

Strategy for a Sustainable City of South Sydney

59. One of the principal objectives of the LEP as stated in Clause 7 is to implement the goals and objectives contained in the Strategy for a Sustainable City of South Sydney. Clause 8 also provides that in assessing any development application that the Council must take into consideration the goals and objectives of the Strategy as they relate to the proposed development.
60. In order to realise the main goal of the strategy, a number of detailed strategies were developed and are grouped under sub-goals of Environment, Land Use and Transport, Character and Identity, Community Well-Being and City Management. An assessment of the development application reveals that it meets the goals of the above strategies.

ISSUES

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

Building Height

62. The South Sydney DCP 1997 stipulates a 12 metre height control for the entire site, however, the Stage 1 consent superseded this control, and stipulated the following building heights (as measured to the uppermost structure):
 - (a) Building A1- 15.3 metres;
 - (b) Building A2 - 22.47 metres;
 - (c) Building B – 24.65 metres; and

- (d) Building E – 33.7 metres.
- 63. The proposal has reduced the height of Building E by 2.8 metres under the Stage 1 approved building envelope. Minor increases are proposed to Buildings A1, A2 and B as a result of introduction of the shade structures on the roof top terraces in Building B and clerestory windows in Buildings A1 and A2. The location and extent of breaches in height are detailed in Figures 16 and 17, below.
- 64. In this instance, the increases in height are considered to be minor (being between 600mm and 2 metres), and have been appropriately setback from all elevations of each building to reduce visibility, perceived additional bulk and creation of additional amenity or environmental impacts. As such, no objection is raised as the overall envelope is consistent with the approved building envelope and intended scale.

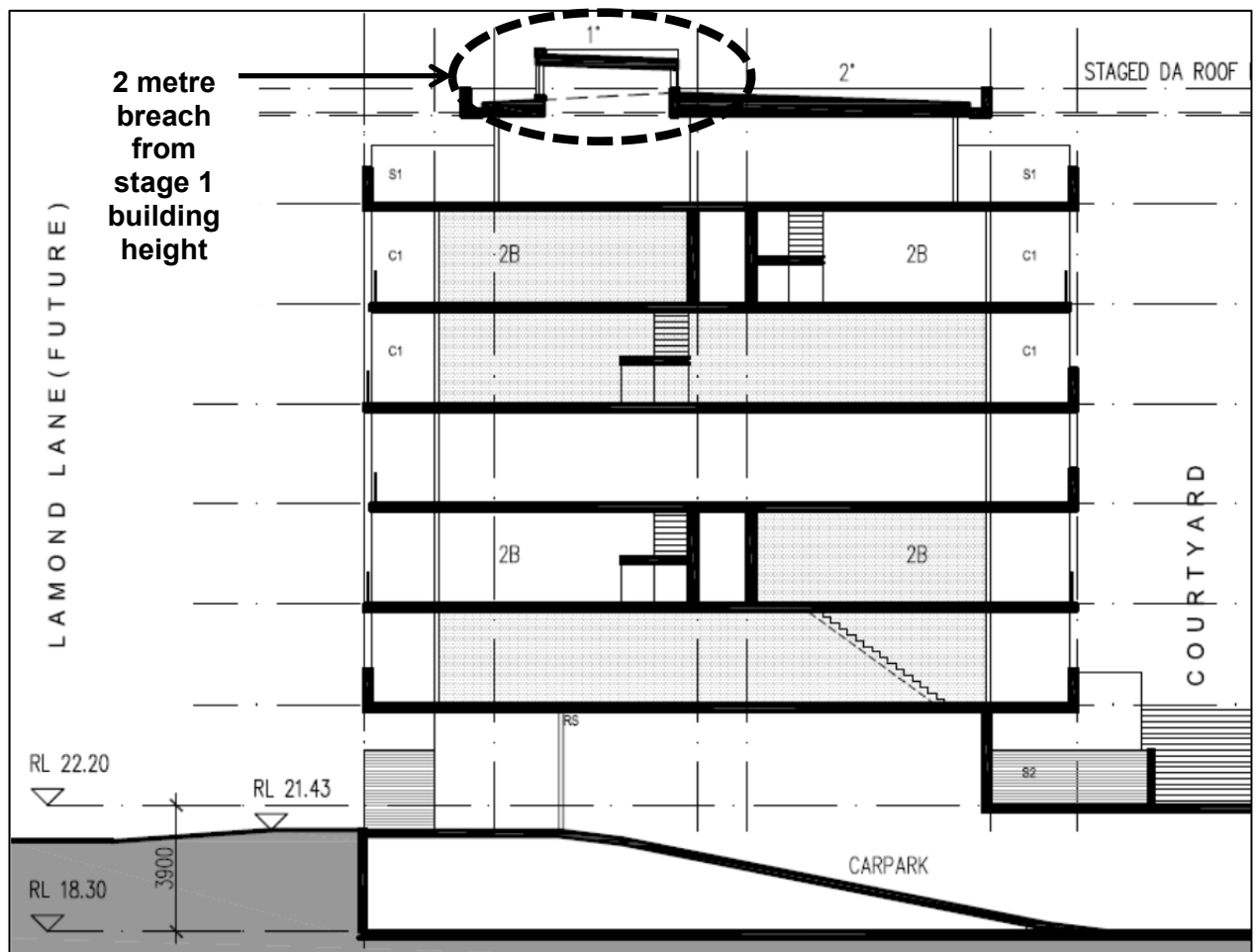


Figure 16: Clerestory window elements of Building A2 in breach of the approved Stage 1 building height

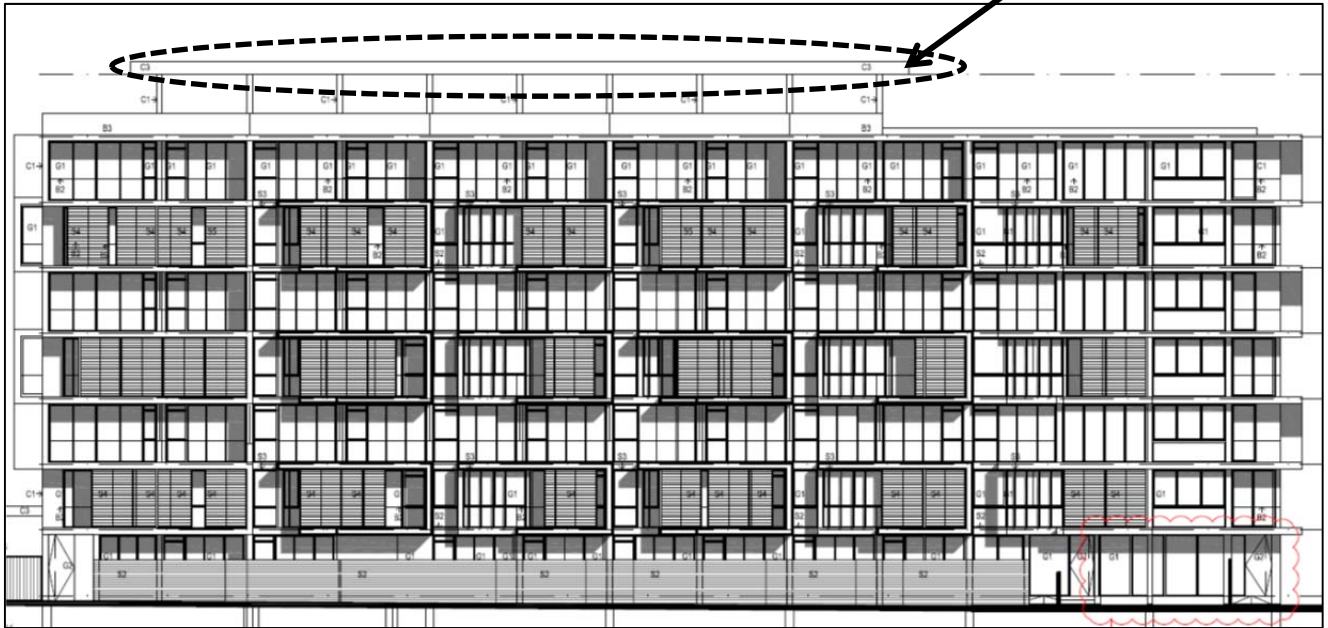


Figure 17: Roof terrace shade structure element of Building B in breach of the approved Stage 1 building height

Urban Design

65. Concern was initially raised to the proposal by City staff with regard to the following matters:
- reduced separation between buildings on site and variations to the approved Stage 1 building envelopes, resulting from window projections and linking pedestrian bridges;
 - lack of activation of the street frontages at ground level of Joynton Avenue and Lamond Lane and the internalisation of the development;
 - internal residential amenity and ill-planned interiors of certain apartment typologies; and
 - non-compliances with SEPP 65/Residential Flat Design Code regarding number of apartments sharing a single lift core and corridor.
66. Subsequent amendments were made to the proposal to respond to the above concerns. These amendments included:
- revising internal layouts of apartments to improve their amenity and functionality;
 - deletion of the connecting pedestrian bridge linking Buildings A1 and A2;
 - introduction of a further lift core in Building A1;
 - providing individual apartment entries from the street to all ground floor level units; and
 - lowered front fence heights to improve casual surveillance.

67. All modifications made are considered to be an improvement on the scheme originally lodged and improve both the amenity of the development for future residents and the relationship of the development with the streetscape/ surrounding locality.
68. Whilst amendments were made to respond to the majority of matters raised, the revised scheme still includes window projections on Buildings B and E, which reduce the separation between these two buildings by some 2 metres and result in minor non-compliances with the Stage 1 building envelopes.
69. In this instance, the applicant has undertaken further design development of these facades. The minor variation to the Stage 1 envelopes is considered acceptable in this instance as:
- (a) adequate separation is retained between solid external walls of the two buildings (greater than 5 metres between the principal blank walls and 3 metres between the window projections);
 - (b) the addition of the window projections provide articulation and visual interest to what was previously blank unmodulated facades (refer to photomontage at Figure 18, above);
 - (c) the introduction of these window projections provide increased visual and acoustic privacy to the occupants of these apartments; and
 - (d) all windows and associated window projections are offset, and do not allow any overlooking between units.



Figure 18: Photomontage of the view between Buildings B and E as viewed from Joynton Avenue

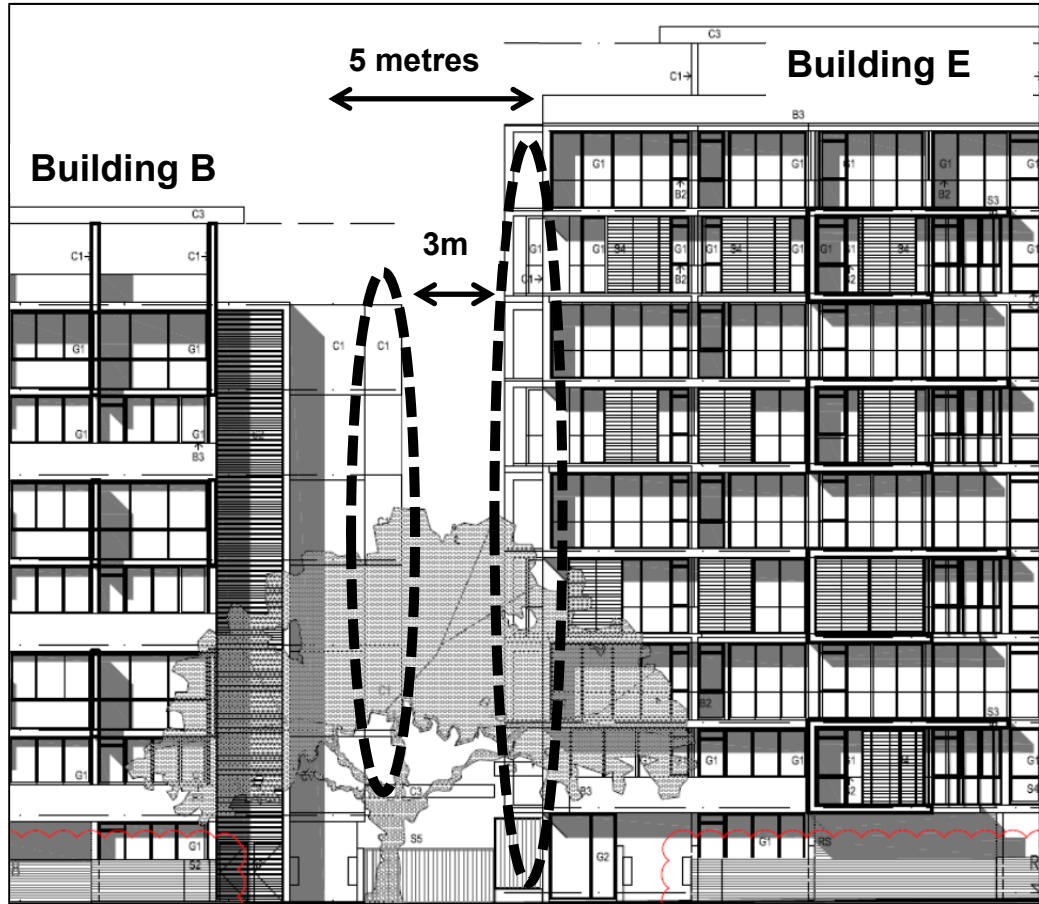


Figure 19: Location of the proposed window projections and reduced separation between Buildings B and E

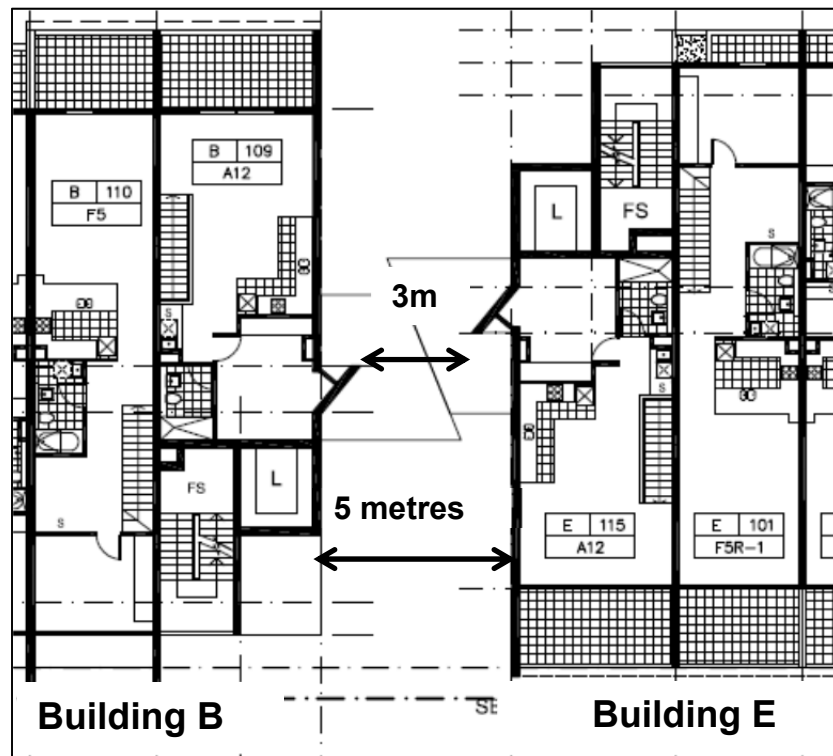


Figure 20: The proposed separation between Buildings B and E

Car Parking

70. The Stage 1 development application for the site included as a conditions of consent:
- a maximum number of car parking spaces for the site (being 472 spaces);
 - a breakdown of the maximum number of car parking spaces to be provided at each stage (being 159 spaces for Stages 3 to 5); and
 - a parking rate for visitor parking.
71. Generally, the Stage 1 consent in its conditions of consent adopted the car parking rates stipulated by DCP 11, which was the applicable planning control in force at the time of its determination in 2005.
72. Collectively, the proposal remains compliant with both the maximum number of spaces for these stages and for the site as a whole. Compliance of the proposal with car and bicycle parking rates of DCP 11 is summarised in the following table and further discussion is provided on visitor parking on the site below:

South Sydney DCP 11: Transport Guidelines for Development				
Apartment Type/Use	Maximum permissible under DCP	Permissible Spaces	Proposed	Complies
Studio/1-bedroom	81 units x 0.5 = 40.5	162* (*Stage 1 stipulates a maximum of 159 spaces, including visitors)	153	✓
2-bedroom	112 units x 0.9 = 100.8			
3-bedroom	14 unit x 1.2 = 16.8			
Retail	205m ² /50m ² = 4			
Bicycles - Residential	207 units /3	69	70	✓
Bicycles - Visitor	207 units /10	21	22	✓

Visitor Car Parking

74. As the site has an integrated basement shared by all five development stages, the Stage 1 consent considered the provision of visitor parking collectively for the site. Visitor car parking rates were included as a condition of consent on the Stage 1 approval, and compliance of the proposal with this condition is summarised in the table below.

Visitor Car Parking – as stipulated by Condition 47 of Stage 1 Consent				
Stage	Parking Rate	Maximum Permissible	Approved/ Proposed	Complies
Stage 1	148 units/ 6	25	26	✓
Stage 2	165 units/6	28	19	
Stages 3 - 5	30 units / 6 = 5 40 units/ 10 = 4 137 units/ 20 = 6.85	16	6	
Total		69	51* (*Increased to 54 spaces by condition)	

75. The proposal includes a total of 51 visitor car parking spaces across all five stages of the development. As detailed in the above table, the proposed development is compliant in its provision of visitor parking as the condition is expressed as a maximum allowance.
76. Due to the scale of the development, it is considered that variation in the amount of visitor parking below the 69 space maximum could be supported. In this instance, it is considered that there is scope to convert accessible parking spaces provided in excess of the planning control requirements to increase visitor parking provision. As such, it is recommended that:
- (a) one unit currently designed to be adaptable is not required, therefore, the unit does not require the allocation of an accessible parking space. One adaptable parking space can be deleted and converted to a standard residential parking space;
 - (b) conversion of 2 accessible parking spaces to standard visitor parking spaces; and
 - (c) conversion of the 3 'shared' zone spaces between these accessible spaces to visitor parking spaces (refer to **Figure 21**, below).
77. Such an amendment would result in the provision of an additional 3 visitor parking spaces, increasing the total visitor parking provision in this application to 9 spaces and overall on the site to 54 spaces.



Figure 21: 'Shared zone' spaces (shown marked with a diagonal line) located between accessible parking spaces

Unit Mix

78. The Stage 1 development application considered and endorsed a unit mix for the collective development of the site, and whilst no specific land use mix condition was imposed, a unit mix breakdown for each of the 7 buildings on the site was detailed in a traffic and parking condition. The planning assessment report and traffic and parking condition originally imposed on the Stage 1 consent included the following unit mix:
- (a) 13 x SOHO units (2.4%);
 - (b) 201 x 1 bedroom/Studio units (36%);
 - (c) 317 x 2 bedroom units (58%); and
 - (d) 20 x 3 bedroom units (3.6%).
79. The most recent modification to the Stage 1 consent (DU/2004/225/I) amended the traffic and parking condition to delete the detailed breakdown of apartment mix in each building as a result of design progression of the interiors of the remaining buildings and in response to market demand in the 8 years since the Stage 1 consent was granted. Despite this modification, the subject application is still required to be assessed against its consistency with the Stage 1 consent, including the unit mix assessed in this original application, pursuant to the provisions of Section 83D of the Environmental Planning and Assessment Act, 1979.
80. The following table details the consistency of the proposed application, as well as the site as a whole, against the unit mix endorsed in the Masterplan and Stage 1 consent:

Unit Type	Stage 1 approved mix	Approved mix Stages 1 and 2 (DU/2004/225 & D/2010/2168)	Proposed mix Stages 3-5	Collective total for site
SOHO	13 (2.4%)	7 (2%)	-	7 (1%)
1 bed/studio	201 (36%)	72 (22%)	81 (39%)	153 (29%)
2 bed	317(58%)	242 (74%)	112 (54%)	354 (66%)
3 bed	20 (3.6%)	7 (2%)	14 (7%)	21 (4%)
TOTAL	550	328	207	535

81. Whilst some variation is proposed between the distribution of 1 and 2 bedroom apartments, the overall mix is considered to be generally consistent with the desired mix and apartment envisaged for the site in both the Masterplan and Stage 1 consent, as well as providing a reasonable range of housing typologies to cater for market demand.

Retail Shopfront treatment

82. Concern was raised to the scheme originally lodged regarding the lack of retail floor space within the proposal, the subsequent inconsistencies with Stage 1 land use mix and lost opportunities to activate the streetscape.

83. The amended scheme has increased the provision of retail floor space within the proposal by 139sqm, to a total of 205sqm provided within two tenancies located in Building A2 and Building B. As amended, the proposal is considered to be consistent with the Stage 1 approved land use mix for the collective site.

84. The amended scheme has introduced a new retail tenancy on the ground and first floor levels of the southeastern corner of Building A2. Whilst this is considered to be a positive addition to the development to cater to both future residents of the development and the broader local community, it is considered that the architectural language and streetscape treatment of this retail tenancy appears residential in context (refer to **Figure 22**, below).

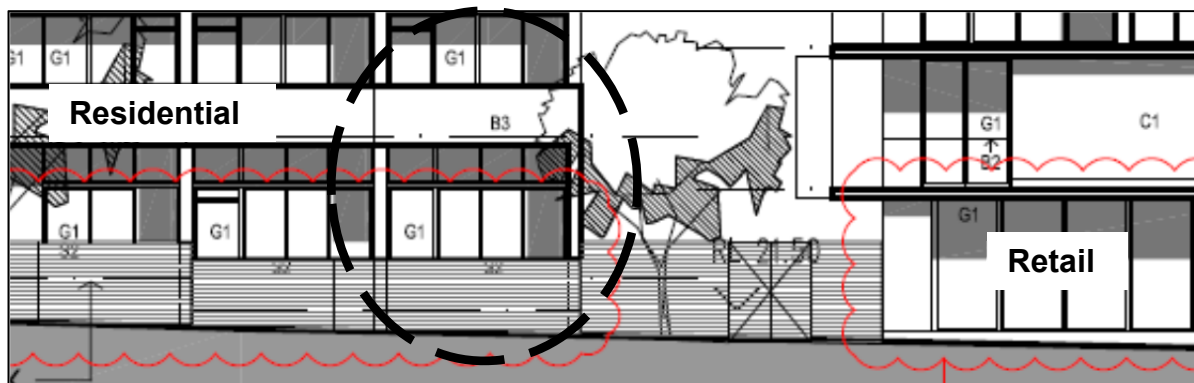


Figure 22: The proposed retail tenancy in Building A2 (circled) as viewed from Lamond Lane and Mary O’Brien Reserve

85. It is considered that there are opportunities to alter the facade treatment of this retail tenancy to make it more accessible and open to the street and distinguish it from adjacent residential apartments. A condition of consent is recommended that amended plans be submitted modifying the southern facade treatment at both ground and first floor level of this tenancy.

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

86. The proposed development will not result in any significant additional impacts other than those already identified and discussed above.

BCA Matters

87. The BCA Classification of the building is Classes 2, 6 and 7a.
88. The development is capable of satisfying the requirements of the BCA without significant modification.

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

89. The site is suitable for the proposed development. Site suitability has already been discussed in the table/issues section above.

Section 79C (1) (e) Public Interest

90. The proposed development is generally consistent with the relevant controls. In this regard it is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed on any consent.

POLICY IMPLICATIONS

91. Not applicable to this report.

FINANCIAL IMPLICATIONS - SECTION 94 CONTRIBUTIONS

Section 94 Contributions

92. The Stage 1 consent included public domain improvement works that would be provided in-lieu of payment of a monetary Section 94 Contribution to a total cost of \$7,149,226.91. With indexation, the Section 94 offset amount incorporated in the VPA is \$7,781,160.70.
93. The proposed public domain works to expand Mary O'Brien Reserve, undertake stormwater detention works and to dedicate the park to Council were identified within Council's Section 94 Contributions Plan, and as such, where provided as part of a DA, these works would offset any monetary contribution required. The provision of these works and their monetary value was documented within the VPA for the site.
94. After indexation, the contributions applicable to the collective site would remain below the Section 94 works in kind total as documented within the VPA. As such, no contribution is applicable to the subject development application.

PUBLIC CONSULTATION**Section 79C(1)(d)****Advertising and notification**

95. The application was advertised and notified for 28 days between 23 July 2012 and 21 August 2012 in accordance with the provisions of the City of Sydney Notification of Planning and Development Applications Development Control Plan 2005. Notices were placed on the site of the proposal, advertised in the local press and adjoining and nearby owners and occupiers of surrounding buildings within a 125 metre radius of the site were notified of the proposal and invited to comment.
96. A total of 5 submissions were received. The grounds for objection are summarised as follows:-
- (a) Buildings A1 and A2 should be reduced in height to 4-storeys to be more reflective of the surrounding built form and character.

Comment: Buildings A1 and A2 are proposed to have maximum heights of 5 and 7 storeys, respectively. The uppermost storey of both buildings has been recessed and setback from the Lamond Lane (southern) elevation to reduce the visibility and impact of this storey on the streetscape. Both Buildings A1 and A2 are generally compliant with the height approved in the Stage 1 development consent (both when expressed as a height in storeys and pursuant to the definition of height contained within the South Sydney DCP 1997).

- (b) The proposal results in overshadowing of the extended Mary O'Brien Reserve and adjacent apartment building in Tilford Street.

Comment: As the proposal does not seek any substantive variation from the envelopes approved at Stage 1 for Buildings A1 and A2 (with the exception of a minor breach resulting from the centrally located clerestory roof windows), the shadows cast by these buildings was assessed as acceptable in the Stage 1 consent.

- (c) Object to areas of open space provided in the development not be publicly accessible similar to Victoria Park.

Comment: The VPA and Stage 1 consent require land dedication to extend the existing Mary O'Brien Reserve and the design and landscaping of this park. Upon completion, this park will be publicly accessible and in Council ownership. The remainder of areas of open space across the site are to be communal areas of open space for the residents of the development. This scenario is similar to Victoria Park where public parks were created throughout the development, however, each building or development site includes communal facilities and areas of open space that are not accessible to the general public.

- (d) Increased traffic generation resulting from the proposal, particularly onto Merton Street and Elizabeth Street.

Comment: The proposal results in an overall reduction in the total number of car parking spaces on the site by 21 spaces from that originally approved in the Stage 1 consent (to a total of 472 spaces). Impacts on local traffic conditions resulting from the maximum parking provision was assessed under the Stage 1 consent, and included a series of vehicular access ramps to O'Dea Ave, Joynton Ave and Lamond Lane to disperse traffic movements onto the surrounding streets. The proposal does not result in any additional traffic demand beyond that assessed as acceptable in the Stage 1 consent.

- (e) Increased demand for on-street car parking spaces

Comment: Ample on-site car parking is provided within the integrated basement level for both visitor and residential parking as was assessed as acceptable in the Stage 1 consent. As the total number units has decreased from that envisaged and approved at Stage 1, it is not anticipated that there would be any additional demand for on-street car parking spaces with satisfactory parking to meet the needs of the residents of the development being available within the basement. Furthermore, conditions of consent are recommended to restrict the purchasers of the development from being able to participate in the resident parking permit scheme.

- (f) The proposed appears to increase the number of buildings on site, with Buildings A1 and A2 being two separate buildings but appearing to be one by including a linked walkway.

Comment: Whilst the Masterplan developed for this site had originally envisaged a single building on the southern boundary aligning with Lamond Lane, the Stage 1 development application granted consent to the splitting of this building into two separate buildings, known as Buildings A1 and A2.

EXTERNAL REFERRALS

Commonwealth Airports (Protection of Airspace) Regulations 1996

97. The proposal has been referred to the Sydney Airport Corporation in accordance with the requirement of Clause 8 of the Airports (Protection of Airspace) Regulation 1996 as Building E of the development is defined as a 'controlled activity' (a building which is proposed within 'prescribed airspace').
98. It is noted that the Stage 1 development application included a referral and approval by the then Department of Transport and Regional Services under the provisions of the Airports (Protection of Airspace) Regulations 1996 for the heights sought for all 7 buildings on the site. Conditions were imposed on the Stage 1 consent to reflect this referral. As detailed elsewhere within this report, the maximum heights of all buildings are generally reflective of this Stage 1 consent.
99. To date no written comments have been provided from Sydney Airport Corporation on the subject application. Despite this, the application is able to be determined without response as there is no concurrence requirement in the South Sydney LEP 1998 and DCP 1997 or the Environmental Planning Assessment Act or Regulation. Furthermore, the issue of Airport referrals is not an Integrated matter under Section 91 of the Environmental Planning and Assessment Act.

100. Notwithstanding this, the applicant cannot act upon a development consent and carry out a 'controlled activity' unless it has been granted approval pursuant to Section 183 of the Airports Act 1996. This approval is granted by the Department of Infrastructure, Transport, Regional Development and Local Development (Federal department) and the applicant is encouraged to engage in consultation with the Department. An appropriate condition is recommended for imposition.

Ausgrid

101. Ausgrid (formerly Energy Australia) advised that an electrical substation/s shall be provided within the site. The proposal includes the removal of the existing substation fronting Joynton Avenue and the installation of a new substation in the southeastern corner of the site, to be incorporated into the paved forecourt between Buildings A2 and B. Further details on the treatment of this substation will be detailed on the landscaping plan to be submitted and approved at Construction Certificate stage.

INTERNAL REFERRALS

102. The application was referred to Council's Urban Designer; Public Domain Unit; Health; Tree Management Officer; Building Services Unit; and Transport Management Unit.
103. Those issues identified with the proposal as originally lodged have been addressed within this report. All appropriate conditions recommended for imposition from the referrals have been included in the recommendation section of this report.

RELEVANT LEGISLATION

104. The Environmental Planning and Assessment Act 1979.

CONCLUSION

105. The proposal has been amended during the assessment period to address preliminary concerns regarding residential amenity, the public domain/ground level interface and consistency of the proposal with the Stage 1 building envelopes.
106. As amended, the proposal is considered to be consistent with the relevant planning controls and responds appropriately to the constraints of the site. With the imposition of the recommended conditions, and when considered in the context of the Email site as a whole, the proposal is considered to be a satisfactory design outcome.

GRAHAM JAHN

Director City Planning, Development and Transport

(Nicola Reeve, Senior Planner)