

ITEM 6. DEVELOPMENT APPLICATION: 5 LINK ROAD - 947 SOUTH DOWLING STREET AND 132-142 EPSOM ROAD ZETLAND**FILE NO:** D/2012/1955**DEVELOPMENT APPLICATION NO:** D/2012/1955**SUMMARY**

Date of Submission: 17 December 2012
Amended scheme – 6 August 2013, 26 August 2013
and 26 September 2013

Applicant: Tripod Property Group Pty Ltd

Architect: Turner Studio

Developer: Tripod Property Group Pty Ltd

Owner: Tripod Property Group Pty Ltd

Cost of Works: \$81,886,812

Proposal Summary: The subject application seeks consent for a Stage 2 development application for the detailed design of a mixed use development ranging in height from 2 to 14 storeys, and encompasses the following:

- excavation for basement car parking levels;
- 189 residential apartments;
- 6,151sqm of retail/commercial floor space;
- 277 car parking spaces; and
- landscaping and public domain works.

The notification of the application resulted in one submission being received and objecting to documentation accompanying the application that suggested that the installation of the signalised intersection at Link and Epsom Road would be a cost sharing arrangement with the Overland Gardens development.

Preliminary concerns identified with the proposal in the assessment related to:

- inconsistency with the Stage 1 development consent;
- land use and unit mix;
- architectural treatment and expression; and
- ground level treatment to communal areas within the site.

Amended plans and additional information have been submitted to address these issues.

**Proposal Summary
(continued):**

In its amended form, the proposal is considered to be generally consistent with the relevant planning controls and existing consents in place for the site. The applicant has submitted a statement under the provisions of Clause 4.6 of Sydney Local Environmental Plan 2012 (SLEP 2012) to justify the variation of the building height and floor space ratio development standards

The applicant is seeking a waiver of the requirements for a competitive design process of Clause 6.21 of the SLEP 2012 based on the lodgement date of the application (on 17 December 2012) and the extensive strategic planning and application history that relates to this site. Considering the history of the site, and the amendments made to the proposal, the amended scheme is considered to provide an architectural form which responds appropriately to the constraints and opportunities of the site and achieves a satisfactory design outcome and streetscape presentation. As such, the waiver of the competitive design process is supported in this instance.

Due to the proposed development being of a height that it penetrates the prescribed airspace of Sydney Airport, under the provisions of Clause 7.16 of the Sydney Local Environmental Plan 2012, concurrence is required from the Department of Transport and Infrastructure/ Civil Aviation Safety Authority (CASA) prior to any approval being granted. At the time of writing, no formal response has been received from CASA. As such, it is recommended that the determination of the application be delegated to the Chief Executive Officer following the receipt of this advice.

Summary Recommendation:

Authority be delegated to the Chief Executive Officer to determine the application having regard to the content of this report and the recommended conditions, following receipt of concurrence from the Department of Transport and Infrastructure.

Development Controls:

- (i) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (ii) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

Developer Contributions:

- (iii) City of Sydney Development Contributions Plan 2006

Attachments:

- A - Architectural Plans
- B - Photomontages

RECOMMENDATION

It is resolved that, pursuant to Section 40(2) of the City of Sydney Act 1988, authority be delegated to the Chief Executive Officer to determine the application having regard to the content of the subject report, including the recommended conditions of consent. This delegation is subject to the condition that determination of the application shall be in accordance with any advice received from the relevant Commonwealth body regarding the development and its acceptable impact with regard to the Limitations or Operations Surface for Sydney Airport.

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 4 stages, as follows:

(a) Construction Phase 1 (Building A)

- (i) Excavation and construction of basement car parking level beneath Building A;
- (ii) Construction of Building A, including fit-out of basement parking level and all above ground residential levels (Note: internal fit-out of ground floor retail tenancies is subject to further development applications);
- (iii) Construction of pedestrian through-site link;
- (iv) Construction of vehicular access driveway from Epsom Road; and
- (v) Provision of a temporary waste collection zone on the eastern end of Building A.

(b) Construction Phase 2 (Building D- Shell and Core only)

- (i) Excavation and construction of basement car parking levels beneath Building B/C/D;
- (ii) Construction of the shell and core only of Building D, from ground level to podium (being Level 02);
- (iii) Construction of vehicular access from Link Road, including internal access driveway; and
- (iv) Construction and landscaping works to the communal ground floor level public plaza.

(c) Construction Phase 3 (Building C)

- (i) Construction of Building C – including the fit-out of all residential levels (Levels 02 to 07) and lift cores, fire stairs and residential lobbies on Ground Level and Level 01; and
- (ii) Construction of the landscaping of the communal podium at Level 02 of Building B/C/D.

(d) Construction Phase 4 (Building B)

- (i) Construction of Building B – including the fit-out of all residential levels (Levels 02 to 13) and lift cores, fire stairs and residential lobbies on Ground Level and Level 01.

Various conditions in this consent make reference to the requirements of conditions and the stage in which they are to be satisfied.

(2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2012/1955, dated 17 December 2012, and the following drawings:

Drawing Number	Architect	Date
DA02 Revision E Site/Roof Plan	Turner	23 August 2013
DA03 Revision L B2 Plan	Turner	31 July 2013
DA04 Revision M B1(A) + B1(B) Plan	Turner	23 August 2013
DA05 Revision V Ground Floor Plan	Turner	26 September 2013
DA06 Revision W Level 01 Plan	Turner	26 September 2013
DA07 Revision U Level 02 Plan	Turner	26 September 2013
DA08 Revision R Level 03 Plan	Turner	23 August 2013
DA09 Revision S Level 04 Plan	Turner	23 August 2013
DA10 Revision R Level 05 Plan	Turner	23 August 2013

Drawing Number	Architect	Date
DA11 Revision R Level 06 Plan	Turner	23 August 2013
DA12 Revision R Level 07 Plan	Turner	23 August 2013
DA13 Revision P Level 08 Plan	Turner	23 August 2013
DA14 Revision P Level 09 Plan	Turner	23 August 2013
DA15 Revision P Level 10 Plan	Turner	23 August 2013
DA16 Revision P Level 11 Plan	Turner	23 August 2013
DA17 Revision P Level 12	Turner	23 August 2013
DA18 Revision P Level 13 Plan	Turner	23 August 2013
DA21 Revision H North Elevation – Link Road	Turner	23 August 2013
DA22 Revision G South Elevation - Epsom Road	Turner	31 July 2013
DA23 Revision J East Elevation- South Dowling Street	Turner	23 August 2013
DA24 Revision I West Elevation- Link Road	Turner	23 August 2013
DA31 Revision H Section AA	Turner	23 August 2013
DA32 Revision G Section BB	Turner	23 August 2013
DA33 Revision G Section CC	Turner	31 July 2013
DA34 Revision G Section DD	Turner	23 August 2013
DA35 Revision G Section EE	Turner	23 August 2013

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 identified in Schedule 3 of the Voluntary Planning Agreement as being required for Phase 1 of the development of the subject site and the adjacent property at 87-103 Epsom Road, Zetland, shall be provided prior to the issue of any Occupation Certificate.

(4) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

Deletion of at-grade car parking spaces:

- (a) Deletion of the thirteen (13) at-grade car parking spaces (identified as parking spaces GF.(V).001 to GF.(V).(A).013, inclusive) located on the northern side of the internal driveway adjacent to the ground floor retail tenancies of Building D;
- (b) Details of an alternate treatment converting this parking area to either an extension of the pedestrian colonnade of Building D and/or an extension to the landscape treatment of the public plaza; and
- (c) **Note:** Further consideration to the appropriateness of car parking at this location should form part of a development application for the future use of one or more of the retail/commercial tenancies on the site.

Internal floor level of retail tenancy RT.01A:

- (d) The internal floor level of ground floor level retail tenancy RT.01A in Building A shall be raised by 300mm to RL 22.6 to reflect the recommendations of flood assessment report; and
- (e) Amended plans shall be submitted to demonstrate compliance with the required internal finished floor level and any modifications required to the forecourt entry as a result of the amended levels, this shall include an amended ground floor plan and elevation plans of the building.

The amended plans shall be submitted to, and approved by, Council's Director City Planning, Development and Transport prior to a Phase 1 Construction Certificate being issued.

(5) DESIGN DETAILS (MAJOR DEVELOPMENT)

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board, and specifications (Revision D), prepared by Turner Studio, dated 12 December 2012.

(6) 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; and
 - (iii) evidence of the design architect's commission is to be provided to the Council prior to release of any Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of the Council.

(7) GROSS FLOOR AREA

The following applies:

- (a) The total Gross Floor Area of the development is 21,780.1sqm as calculated in accordance with the definition contained within the Sydney Local Environmental Plan 2012, including the following maximum gross floor area for the specified land uses:
- (i) Residential – 15,628.71sqm; and
 - (ii) Retail/Commercial – 6,151.39sqm.
- (b) Prior to any Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under the Sydney Local Environmental Plan 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.

(8) BUILDING HEIGHT

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

	Maximum RL
Building A	50.00
Building B	69.50
Building C	51.45
Building D	32.00

- (b) Prior to a **final** Occupation Certificate being issued for each phase, 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) RETAIL TENANCY RESTRICTION

Any future partitioning/division of the retail floor space within the development shall ensure that all retail tenancies have an internal area of 1,000sqm or less.

(11) USE - SEPARATE DA REQUIRED

No consent is given or implied for the use and fit-out of any non-residential floor space within the development. A separate development application for the fit-out and use of all retail and commercial floor space, including the indicative child-care centre use, must be submitted to and approved by Council prior to that fit-out or use commencing.

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

In accordance with Clause 7.16 of *Sydney Local Environmental Plan 2012*, and **prior to a Construction Certificate being issued for each Construction Phase**, 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 Construction Phase is detailed below:

Construction Phase 1 Contribution:

The contribution is \$942,618.99 based on the in lieu monetary contribution rate for non-residential development at \$45.61 per square metre of total non-residential floor area 1,003sqm, and for residential development at \$136.87 per square metre of total residential floor area 6,552.73sqm. Contributions will be indexed in accordance with the formula set out below.

Construction Phase 2 Contribution:

The contribution is \$239,315.67 based on the in lieu monetary contribution rate for non-residential development at \$45.61 per square metre of total non-residential floor area 5,247sqm. Contributions will be indexed in accordance with the formula set out below.

Construction Phase 3 Contribution:

The contribution is \$1,138,514.77 based on the in lieu monetary contribution rate for residential development at \$136.87 per square metre of total residential floor area 8,318.22sqm. Contributions will be indexed in accordance with the formula set out below.

Construction Phase 4 Contribution:

The contribution is \$426,707.28 based on the in lieu monetary contribution rate for residential development at \$136.87 per square metre of total residential floor area 3,117.61sqm. Contributions will be indexed in accordance with the formula set out below.

Prior to an Occupation Certificate being issued **for each Construction Phase** 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 (being 1 March 2013 to 28 February 2014) 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 = $C \times \text{HPI}_2 / \text{HPI}_1$, 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 (being 1 March 2013 to 28 February 2014).

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 (\$)).

(13) SECTION 94 SOUTHERN PRECINCT CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2006

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

Contribution payable at Construction Phase 1 Construction Certificate:

Contribution Category	Amount
Community Facilities	\$166,707.41
Public Domain	\$102,682.15
New Open Space	\$800,075.68
New Roads	\$203,196.65
Accessibility	\$8,427.77
Management	\$9,112.36
Phase 1 Total	\$1,290,202.03

Contribution payable at Construction Phase 2 Construction Certificate:

Contribution Category	Amount
Community Facilities	\$67,279.95
Public Domain	\$41,440.57
New Open Space	\$322,895.36
New Roads	\$82,006.31
Accessibility	\$3,401.29
Management	\$3,677.58
Phase 2 Total	\$520,701.05

Contribution payable at Construction Phase 3 Construction Certificate:

Contribution Category	Amount
Community Facilities	\$183,704.48
Public Domain	\$113,151.37
New Open Space	\$881,649.39
New Roads	\$223,914.08
Accessibility	\$9,287.04
Management	\$10,041.44
Phase 3 Total	\$1,421,747.79

Contribution payable at Construction Phase 4 Construction Certificate:

Contribution Category	Amount
Community Facilities	\$62,124.12
Public Domain	\$38,264.87
New Open Space	\$298,151.09
New Roads	\$75,721.97
Accessibility	\$3,140.64
Management	\$3,395.76
Phase 4 Total	\$480,798.44

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

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

where:

C is the original contribution amount as shown above;

CPI₂ is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of statistics at the time of payment; and

CPI₁ is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the date of calculation being – June Quarter 2013.

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

Please contact Council's Planning Administration staff at planningsystemsadmin@cityofsydney.nsw.gov.au to confirm the amount payable, prior to payment.

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

(14) SIGNS - SEPARATE DA REQUIRED

A separate development application for any proposed signs additional to those approved as part of this consent (other than exempt or complying signs under Council's exempt and complying DCPs) must be submitted to and approved by Council prior to the erection or display of any such signs.

(15) SIGNAGE STRATEGY

A separate development application is to be submitted seeking approval of a signage strategy for the building. The signage strategy development application must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

(16) CONTROL OF LIGHT INTO THE ENVIRONMENT

Lighting installed in the open and/or public spaces must comply with AS1158 series-lighting for roads and public spaces. The design and placement must be so that lighting does not create a nuisance or negatively affect the amenity of the surrounding neighbourhood, for that purpose lighting must also comply with AS4282-1997 control of obtrusive effects of outdoor lighting.

(17) RESTRICTION ON RESIDENTIAL DEVELOPMENT

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the building (levels 01 to level 13, inclusive) must be used as permanent residential accommodation only and not for the purpose of a hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with the *Sydney Local Environmental Plan 2012*.
- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from "residential accommodation" as defined in *Sydney Local Environmental Plan 2012*. The covenant is to be registered on title **prior to an Occupation Certificate being issued for Phases 1, 3 and 4** 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.

(18) RESTRICTION ON USE OF CAR SPACES – RESIDENTIAL AND MIXED USE

The following conditions apply to car parking:

- (a) The on-site car parking spaces, exclusive of service and visitor car spaces, are not to be used other than by an occupant, tenant or resident of the subject building.
- (b) Prior to an Occupation Certificate being issued, a documentary restrictive covenant, is to be registered on the Title of the development site pursuant to section 88E of the *Conveyancing Act 1919*, to the effect of (a) above. The covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
- (c) Any future strata subdivision of the site is to include a restriction on User pursuant to section 39 of the *Strata Titles (Freehold Development) Act, 1973*, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate restrictive covenant pursuant to section 88B of the *Conveyancing Act 1919* burdening all car parking part - lots in the strata scheme.

(19) 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.

(20) 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***.

(21) CAR PARKING SPACES AND DIMENSIONS

A maximum of 264 off-street car parking spaces must be provided. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan. The details must be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued for each construction phase.

(22) ALLOCATION OF PARKING

The approved parking spaces must be allocated as detailed below. All spaces must be appropriately line-marked and labelled according to this requirement prior to the issue of an Occupation Certificate for each Construction Phase or the use commencing, whichever is earlier. If the development is to be strata subdivided, the car park layout must respect the required allocation:

- (a) 153 residential parking spaces;
- (b) 19 residential visitor parking spaces;
- (c) 88 retail/commercial parking spaces; and
- (d) 4 car share car parking spaces.

(23) CAR SHARE SPACES

- (a) A minimum of 4 car parking spaces are to be allocated for the exclusive use of car share scheme vehicles, as illustrated on approved architectural plan DA04 (Revision M), prepared by Turner, and dated 23 August 2013.

- (b) The spaces must be retained as common property of the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time.
- (c) The spaces must not be used by vehicles other than approved car share operators.
- (d) The spaces must be sign posted for use only by car share vehicles and well lit.
- (e) The spaces must be publicly accessible at all times.
- (f) The car share spaces are to be available at the same time that the car park commences operation.

Prior to the issue of a Phase 3 Construction Certificate, the applicant must submit for approval by Council's Director City Planning, Development and Transport, information relating to how the car share users will gain access to the space.

(24) STACKED PARKING EMPLOYEES OR TENANTS ONLY

Any stacked parking spaces (maximum 2 spaces, nose to tail) must be attached to the same strata title comprising a single dwelling unit or commercial/retail tenancy, subject to the maximum parking limit applying. The stacked parking spaces must be designated (with appropriate signage) for employee or tenant parking only (not visitor parking), prior to an Occupation Certificate being issued. The moving of stacked vehicles must occur wholly within the property.

(25) BICYCLE PARKING

A minimum of 196 Class 1, 15 Class 2 and 34 Class 3 bicycle parking spaces must be provided within the development.

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 except that:

- (a) all bicycle parking for occupants of residential buildings must be Class 1 bicycle lockers;
- (b) all bicycle parking for staff / employees of any land uses must be Class 2 bicycle facilities; and
- (c) all bicycle parking for visitors of any land uses must be Class 3 bicycle rails.

(26) BICYCLE FACILITIES

A bicycle facilities room must be provided close to staff / employee bicycle parking and include:

- (a) 3 showers with change area; and
- (b) 9 personal lockers.

(27) SERVICE VEHICLES

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

(28) SERVICE VEHICLE SIZE LIMIT

The size of vehicles servicing the property must be a maximum length of 12.5 metres.

(29) ACCESSIBLE CAR 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 any Construction Certificate being issued.

(30) 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.

(31) 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.

(32) 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.

(33) 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.

(34) 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.

(35) TRAFFIC SIGNALS

- (a) The design and signal plan of the future signalised intersection must be approved by the NSW Roads and Maritime Services prior to the issue of any Construction Certificate for the site.
- (b) The future traffic signals must be installed and operational prior to any Occupation Certificate being granted for the site.
- (c) The design and installation works must be at no cost to Council.

(36) LINK ROAD DRIVEWAY

The Link Road driveway shall be physically restricted ensure a left-in/ left-out vehicle movement arrangement only. This restriction shall include the installation of a separator median within the street.

The median concept design and location of the median strip will require a referral to the Local Pedestrian and Traffic Calming Committee (LPCTCC) and approval from Council Officers prior to any Phase 2 Construction Certificate being issued.

The median must be constructed as per the conditions of the LPCTCC, and it must be designed and constructed at no cost to Council.

The median must be constructed prior to any Occupation Certificate for the development being issued.

(37) EPSOM ROAD DRIVEWAY

- (a) That the driveway access to the site at Building A on the northern side of Epsom Road, adjacent to Southern Cross Drive, is designed and provided such that:
 - (i) a right turn bay is provided for a length of 30 m for the east to north movement; and
 - (ii) landscaping and kerbs are developed such that no left turn from the development onto Epsom Road is permitted.

(38) HOLDING AREAS

Areas within the site must be clearly sign-posted and line marked as waiting bays for the purpose of allowing clear access to vehicles entering or exiting the site via a one-way access driveway. Details must be submitted to and approved by the Certifying Authority prior to a Construction Certificate being issued.

(39) 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*".

(40) VEHICLE ACCESS

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

(41) 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; and
- (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.

(42) 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.

(43) 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.

(44) LOADING/PARKING KEPT CLEAR

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

(45) 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.

(46) 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".

(47) 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 Local Pedestrian, Cycling and Traffic Calming Committee prior to any work commencing on site.

(48) VEHICLE FOOTWAY CROSSING

A separate application is to be made to, and approved by, Council for the construction of any proposed 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 any Occupation Certificate.

Note: In all cases, the construction materials should reinforce the priority of pedestrian movement over that of the crossing vehicle.

(49) LAND REMEDIATION

- (a) The site is to be remediated and validated in accordance with the Remediation Action Plan, prepared by GHD - Tripod Property Group Pty Ltd, dated July 2012 (Report reference 21/21716/182328) and Interim Advice Letter 040713, Site Audit No. 239, prepared by NSW EPA Accredited Site Auditor Dr Ian Swane, dated 9 July 2013.
- (b) Any variations to the proposed Remediation Action Plan shall be approved in writing by a NSW EPA Accredited Site Auditor and Council prior to the commencement of such work.
- (c) 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 EPA Environmental Guidelines Assessment, Classification and Management of Non- Liquid Wastes'. 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.

(50) 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 Section A Site Audit Statement from a NSW EPA Accredited Site Auditor is to be submitted to Council's Health and Building Unit clearly indicating that the site is suitable for the proposed use. Conditions on the Site Audit Statement shall form part of the consent.
- (b) **Note:** Where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council these should be discussed with Council before the Site Audit Statement is issued.

(51) COMPLIANCE WITH ACOUSTIC REPORT

All recommendations outlined within the submitted Acoustic Report, prepared by Acoustic Logic, dated 24 May 2012 (Report reference 20120436.1/2405A/R4/HP- Revision 4) must be complied with throughout the construction and future use of the development.

(52) NOISE USE

- (a) The emission of noise associated with 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.

(53) 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 ($L_{A90, 15\text{minutes}}$) by more than 5dB(A). The source noise level must be measured as a LAeq 15 minute.

(54) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE MANAGEMENT PLAN

A site specific noise management plan shall be submitted to the Council's Health and Building Unit for comment and written approval prior to the issue of any Construction Certificate.

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 ($LA_{90, 15\text{min}}$) 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; and
- (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.

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

All recommendations outlined within the approved Demolition, Excavation and Construction Noise Management Plan must be complied with at all times throughout the development.

(56) INTRUDER ALARM

Intruder alarm/s associated with the development must operate only in accordance with the requirements of Clause 53 of the *Protection of the Environment Operations (Noise Control) Regulation 2008* under the *Protection of the Environment Operations Act, 1997*.

(57) 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.

(58) 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.

(59) NO DEMOLITION PRIOR TO A CONSTRUCTION CERTIFICATE

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

(60) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL

- (a) A Waste Management Plan is to be submitted to and approved by Council prior to any 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 any Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

(61) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

- (a) A Waste Management Plan is to be approved by the Certifying Authority prior to any 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 Building Waste Management Plan must be implemented during construction of the development.

UPON COMPLETION OF THE DEVELOPMENT

- (b) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must ensure that waste handling works have been completed in accordance with: the Waste Management Plan; other relevant development consent conditions; and Council's Policy for Waste Minimisation in New Developments 2005.

(62) WASTE AND RECYCLING COLLECTION CONTRACT

Prior to any Occupation Certificate being issued 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.

(63) GARBAGE ROOM

The garbage room is to be constructed in accordance with the City of Sydney's policy for Waste Minimisation in New Developments and the Building Code of Australia. 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's requirements. A constant supply is to be available within the vicinity.

(64) 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 Climate Change and Water (DECCW) waste tracking requirements. For further information contact DECCW on 131 555.

(65) IMPORTED WASTE DERIVED FILL MATERIAL

The only waste derived fill material that may be received at the development site is:

- (a) Virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act 1997*); and
- (b) Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

(66) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

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

(67) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT

- (a) Prior to the commencement of demolition and/or 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) a Demolition Work Method Statement prepared by a licensed demolisher who is registered with the Work Cover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted);

- (iii) an Excavation Work Method Statement prepared by an appropriately qualified person; and
 - (iv) a Waste Management Plan for the demolition and or 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; and
 - (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 demolition, 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; and
 - (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) 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; and
 - (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; and
 - (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 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.

(70) 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.

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.

(71) LANDSCAPING OF THE SITE

- (a) A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council prior to the issue of any Phase 2 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) details of planting procedure and maintenance including how access to the planter boxes will be provided, and outlining the intended strategy for decommissioning or modifying the green wall planting works should plants fail. This strategy is to ensure that the finish to the building is well maintained and attractive throughout its life;
 - (iv) location, numbers and type of plant species;
 - (v) details of planting procedure and maintenance; and
 - (vi) details of drainage, watering systems and waterproofing details (as applicable).
- (b) Prior to the issue of any Phase 2 Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property.
- (c) All landscaping in the approved plan is to be completed prior to any Occupation Certificate being issued.

(72) LANDSCAPED (GREEN) ROOFS

- (a) A detailed plan of the green roof/podium planting, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council prior to the issue of a Phase 3 Construction Certificate. The plan must include:

- (i) a Design Statement that includes details of proposed use of the green roof, general accessibility, a description of the environmental parameters it sets out to address, including noise and privacy treatment and performance specification;
 - (ii) Survey Plans showing existing and proposed services and engineering details of existing roofs proposed to be retrofitted;
 - (iii) location of existing and proposed structures and hard landscaping on the rooftop, retaining walls, and roof fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components;
 - (iv) details of the location, sizes and numbers of plants used with reference to NATSPEC (if applicable), with preference for drought resistant species and those specified for use by the City of Sydney;
 - (v) details of installation methodology including structural reinforcement or retention structures for sloping roofs, including details of prevention of slippage;
 - (vi) details of accessible and inaccessible areas on the Green Roof. Where proposed to be inaccessible, Green Roofs are required to remain such during occupation of the property; and
 - (vii) details of drainage and irrigation systems, including overflow provisions.
- (b) Prior to the issue of a Phase 3 Construction Certificate, a Maintenance Manual is to be submitted and approved by the Principal Certifying Authority. A copy of the Maintenance Manual is to be kept on site at all times during construction and shall be produced to Council on request. The Maintenance Manual shall include as a minimum:
- (i) frequency and methodology of different maintenance requirements;
 - (ii) details of safety procedures;
 - (iii) laminated copies of 'As Built' drawings;
 - (iv) manufacturer's contact details and copies of manufacturers' typical details and specification; and
 - (v) copies of warranties and guarantees relating to all materials and plant used in construction.
- The owner of the premises shall at all times comply with the on going maintenance requirements of the Maintenance Manual and shall promptly upon request produce a copy of the Manual to Council.
- (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued for Phase 4.

- (d) Prior to the issue of a Phase 3 Construction Certificate, the certifying authority must assess and approve the proposed design of the waterproofing system against the relevant performance provisions of the Building Code of Australia as required by Clause A0.5 of the Code and ensure the following is satisfied:
 - (i) a report from a structural engineer confirming the adequacy of the structure to support the saturated weight-bearing capacity of the green roof; and
 - (ii) a report from a hydraulic engineer certifying the drainage overflow provisions and water retention cells in the drainage layer used to facilitate self-watering for the plants.

(73) LETTERBOXES

All letterboxes are to be designed and constructed to be accessible from the public way. Details of the location and design of all letterboxes are to be submitted to and approved by Council prior to the Construction Certificate being issued.

(74) COMPLIANCE WITH ARBORIST'S REPORT

All recommendations contained in the Development Impact Assessment Report prepared by 'Earthscape Horticultural Services', dated July 2013, must be implemented during the demolition, construction and use of the development, including the following:

- (a) Appendix 2 – Tree Protection Measures; and
- (b) Appendix 7 – Tree Protection Plan (reference should also be made to the this plan for trees approved for removal)

(75) SITE SUPERVISION AND REPORTING

- (a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone in accordance with Australian Standard 4970 Protection of Trees on Development Sites. The Arborist must certify compliance with each key milestone detailed below:
 - (i) the Arborist must certify the installation of the tree protection measures to Council and the Principal Certifying Authority prior to the issuing of a construction certificate;
 - (ii) during excavation and trenching within the Tree Protection Zone;
 - (iii) during any Landscape works within 3 metres of the trees trunk.
- (b) A quarterly 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;

- (ii) details of any other work undertaken on any tree(s) to be retained or within TPZs; and
- (iii) documentary evidence of compliance with tree protection and measures (including photographs and site notes);

(76) TREE PRUNING (private property)

The consent from Council must be obtained prior to the undertaking of any tree pruning works, including tree roots greater than 40mm in diameter. Only minor pruning works will be approved by Council.

(77) STREET TREE PROTECTION

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

- (a) Tree trunk and major limb protection must be undertaken prior to or during the installation of any hoarding or scaffoldings. The protection must be installed by a qualified Arborist (AFQ 2 or 3) and must include:
 - (i) an adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunk at all times;
 - (ii) tree trunk/s and/or major branches, located within 500mm of any hoarding or scaffolding structure, must be protected by wrapped hessian or similar material to limit damage;
 - (iii) timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion; and
 - (iv) tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project.
- (b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.
- (c) Materials or goods, including site sheds, must not be stored or placed:
 - (i) around or under the tree canopy; or
 - (ii) within two (2) metres of tree trunks or branches of any street trees.

- (d) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9333, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

(78) 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 hoardings, scaffolding, or to accommodate the loading/unloading of vehicles, 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'.
- (c) The removal of any street tree approved by Council must include complete stump removal and the temporary reinstatement of levels so that no trip or fall hazards exist until suitable replanting occurs. These works must be completed immediately following the trees removal.

(79) ELECTRICITY SUBSTATION

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Energy Australia, prior to a Construction Certificate being issued or the commencement of the use, whichever is earlier.

(80) UTILITY SERVICES

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of each 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.

(81) 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 each Construction Certificate being issued.
- (b) A separate DA must be submitted prior to the installation of any external telecommunication apparatus, or the like.

(82) NOISE CONTROL VERIFICATION

An acoustic verification report must be submitted to the Principal Certifying Authority (PCA) prior to a 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.

The report must also confirm that resultant operational noise levels from the mechanical plant and equipment is in compliance with the "Noise Use" condition which forms part of this consent when operating to maximum capacity at the most noise sensitive time of the day.

(83) 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 for Construction Phases 1, 3 and 4, and must be suitably 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;
- (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; and
- (c) the Certifying Authority (PCA) must ensure that the acoustic mitigation measures identified in the subject report are suitably incorporated into the development as erected prior to the issue of an Occupation Certificate.

(84) 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.

(85) 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 *Sydney Development Control Plan 2012*.

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 each Construction Certificate being issued.

(86) 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 *Sydney Development Control Plan 2012*; and
- (b) demonstrating (in a checklist) compliance with Australian Standard AS4299

is to be submitted to the Certifying Authority.

(87) PHYSICAL MODELS

- (a) Prior to a Phase 1 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 an Occupation Certificate being issued, an accurate 1:500 scale model of the development as constructed must be submitted to Council for the City Model in Town Hall House.

Note:

- (i) The models must be constructed in accordance with the Model Specifications available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements>. Council's modelers must be consulted prior to construction of the model.
- (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.

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

- (a) Prior to a Phase 1 Construction Certificate being issued, an accurate 1:1 electronic CAD model of the detailed construction stage drawings for that stage must be submitted to Council for the electronic Visualisation 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; and
 - (iii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

- (c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements>. Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.
- (d) 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.

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

The following conditions apply to the development:

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued for construction of the substantive building.

- (b) Prior to any 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 \$2,841,500 dollars as security for the costs of such works provided that:
 - a. the maximum liability under the Deed must not exceed \$2,841,500 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 tenable stage;

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

- (d) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:
 - (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (iii) to take place on the site; and
 - (ii) in the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.
- (e) The Deed may, if the Director 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; and
 - (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; and
 - (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.

(90) FOOTPATH DAMAGE BANK GUARANTEE

A Footpath Damage Bank Guarantee calculated on the basis of 128 lineal metres of the 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 any 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.

(91) APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE

- (a) A separate application under Section 138 of the Roads Act 1993 is to be made to Council to erect a hoarding and/or scaffolding in a public place and such application is to include:-
- (i) architectural, construction and structural details of the design in accordance with the *Policy for the Design and Construction of Hoarding* (September 1997) and the *Guidelines for Temporary Protective Structures* (April 2001); and
 - (ii) structural certification prepared and signed by an appropriately qualified practising structural engineer.

Evidence of the issue of a Structural Works Inspection Certificate and structural certification will be required prior to the commencement of demolition or construction works on site.

Assessment of the impacts of construction and final design upon the City of Sydney's street furniture such as bus shelters, phone booths, bollards and litter bins and JCDecaux street furniture including kiosks, bus shelters, phones, poster bollards, bench seats and litter bins. The applicant is responsible for the cost of removal, storage and reinstallation of any of the above as a result of the erection of the hoarding. In addition, the applicant is responsible for meeting any revenue loss experienced by Council as a result of the removal of street furniture. Costing details will be provided by Council. The applicant must also seek permission from the telecommunications carrier (e.g. Telstra) for the removal of any public telephone.

- (b) Should the hoarding obstruct the operation of Council's CCTV Cameras, the applicant must relocate or replace the CCTV camera within the hoarding or to an alternative position as determined by Council's Contracts and Asset Management Unit for the duration of the construction of the development. The cost of relocating or replacing the CCTV camera is to be borne by the applicant. Further information and a map of the CCTV cameras is available by contacting Council's CCTV Unit on 9265 9232.
- (c) The hoarding must comply with the Council's policies for hoardings and temporary structures on the public way. Graffiti must be removed from the hoarding within one working day.

(92) BARRICADE PERMIT

Where construction/building works require the use of a public place including a road or footpath, approval under Section 138 of the Roads Act 1993 for a Barricade Permit is to be obtained from Council prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

(93) PUBLIC DOMAIN PLAN

Three copies of a detailed Public Domain Plan must be prepared by an architect, urban designer or landscape architect and must be lodged with Council's Public Domain Section and be approved by Council prior to any 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.

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

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

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

(94) ALIGNMENT LEVELS

- (a) Prior to any 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.

(95) 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".

(96) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT

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

- (a) Prior to any 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 any 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 and any connection into the existing stormwater channel which traverses the site must be ascertained and complied with. Evidence of the approval of Sydney Water to the on-site detention and any proposed stormwater connections must be submitted to Council prior to any 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.

(97) DESIGN AND CONSTRUCTION OF ROADS AND DRAINAGE WORKS

- (a) The final design and construction of all road and drainage works, including temporary road works, shall be undertaken in accordance with City's current technical specification and standard details for civil works. Detailed plans and construction specifications for the works shall be prepared and certified as complying with Council's specifications prior to the issue of the first Construction Certificate for each Stage of works. A design certification report for the road works shall be prepared by an appropriately qualified civil engineer and shall be submitted for approval of Council prior to the issue of the first Construction Certificate for that Stage.
- (b) The submission to Council is to provide plans and specifications sufficient to describe in detail the design, scope and extent of all proposed road, drainage and infrastructure works for the construction of the road and drainage works prepared and certified by a Professional Engineer, and is to include:
 - (i) details of existing and final site contours, levels and volumes of proposed earthworks providing confirmation that the site contours and levels will not adversely impact upon the flow of floodwater on the site;
 - (ii) geometric design and pavement design of the road network including formation widths, batter slopes, longitudinal sections, cross-sections, materials, specifications and thicknesses of pavement and surfacing;
 - (iii) kerb and gutter design and specifications and any necessary works and matching into existing formations including a minimum 600mm existing road pavement restoration;
 - (iv) geometric and hydraulic design of all stormwater drainage structures and systems including drainage swales and temporary downstream drainage, if required, and specifications and materials and details of connections into Council's public stormwater system;
 - (v) details of design and specifications for footpaths, retaining walls, pedestrian and associated verge works,
 - (vi) details of structures and conduits for the provision and installation of any public utility services and any adjustment to existing services required; and
 - (vii) specifications showing assumptions, calculations and testing.
- (c) The certification for each Stage is to include confirmation from a Professional Engineer that the design complies with Council's Development Specifications for Civil Works Design and Construction or Council's specification current at the time.
- (d) The documentation is to be fully coordinated with the approved Public Domain and Landscape plans for the development.

(98) 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; and
- (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.

(99) PUBLIC DOMAIN WORKS - HOLD POINTS AND HANDOVER

- (a) Prior to any 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.

(100) 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).

(101) ROAD DEDICATION

The owner of the site is to dedicate as Public Road vested in Council's ownership and free of cost to Council, the Widening of Epsom Road and the curved splay widening at the intersection of Epsom and Link Roads as stipulated in development consent D/2013/792 and the Voluntary Planning Agreement for the site.

A separate application is to be made to Council for approval of the Plan of Subdivision of the site excising and dedicating the road/widening and issue of the Subdivision Certificate under Part 4A of the *Environmental Planning and Assessment Act 1979*. Such subdivision for dedication purposes will not require Development Consent or a Section 73 (Subdivider) Compliance Certificate from Sydney Water.

(102) SUBDIVISION

Any proposal to subdivide the site, other than subdivision to effect the dedications, will require separate applications to Council to obtain Development Consent for the proposal and issue of the Subdivision Certificate under Part 4A of the *Environmental Planning and Assessment Act, 1979*.

(103) CONSTRUCTION CERTIFICATE FOR SUBDIVISION WORKS

In accordance with the provisions of Section 109C of the *Environmental Planning and Assessment Act 1979*, a Construction Certificate for the above Subdivision Work, being the construction of Road Widening Variable Width of Epsom Road and Link Road, is to be obtained from Council or an appropriately accredited private certifier and submitted to Council as the Principal Certifying Authority, prior to the commencement of any such work on the site.

(104) PRINCIPAL CERTIFYING AUTHORITY

In accordance with the provisions of Sections 81A and 109E of the *Environmental Planning and Assessment Act 1979*, Council is to be formally appointed the Principal Certifying Authority for the Subdivision Work, prior to the commencement of any such work on the site.

(105) COMPLETION OF SUBDIVISION WORKS

Prior to the issue of the Subdivision Certificate for the Plan of Subdivision effecting the dedication, the 'Subdivision Work' on the site is to be completed in accordance with the requirements and to the satisfaction of Council as the Principal Certifying Authority.

A separate application can be made to Council to exercise the provisions of Section 109C(2) of the Act with regard to the bonding of any incomplete works.

(106) PUBLIC UTILITY SERVICES

- (a) Prior to the commencement of any subdivision work on the site or adjoining public domain work, documentary evidence is to be submitted to Council that the requirements of all public utility service authorities with services to be installed in the roads have been satisfied with regard to the design and provision of those services.
- (b) Prior to the issue of the Subdivision Certificate for the widening dedication, documentary evidence is to be submitted to Council that the requirements of all public utility service authorities have been satisfied with regard to the completion of construction and installation of those services.

(107) 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.

(108) MICROBIAL CONTROL IN WATER SYSTEMS

- (a) Prior to the issue of a Construction Certificate detailed plans of any water cooling system (including cooling towers) as defined under the Public Health Act 2010 must be prepared by a suitably qualified person and certified in accordance with AS3666: 1: 2011 Air handling and water systems of buildings – Microbial Control – Design, installation and commissioning and must be submitted to and approved by Council.
- (b) Water cooling system operation and maintenance manuals and maintenance service records shall be readily available at the premises for inspection by an authorised officer upon request. Such records must be kept on the premises in accordance with Clause 2.6 to AS/NZS 3666:2:2011 Air handling and water systems of buildings – Microbial control, operation and maintenance.
- (c) The installation, operation and maintenance of warm water systems and water cooling systems (as defined under the Public Health Act 2010) must comply with the following:
 - (i) Public Health Act 2010, Public Health Regulation 2012 and Parts 1 and 2 (or part 3 if a Performance-based water cooling system) of AS3666:2011 Air handling and water systems of buildings – Microbial Control and the NSW Health Code of Practice for the Control of Legionnaires Disease; and
 - (ii) prior to the issue of an Occupation Certificate or if non applicable, prior to commencement of the use, the owner or occupier of the premises at which any warm water system and/or water cooling system is installed must cause notice of such installation(s) by providing to Council's Environmental Health department, written notification by way of the prescribed form under Clause 12 to the Public Health Regulation 2012. Any changes to these particulars must be notified to Council's Environmental Health department in writing within 7 days of the change(s). Copies of the notification forms are available on the City of Sydney website.

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

Prior to the issue of a 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).

(110) 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.

(111) GEOTECHNICAL REPORT AND CERTIFICATION

Prior to commencement of any foundation or bulk excavation, a Geotechnical Report must be submitted to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy submitted to Council (if it is not the Principal Certifying Authority).

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

- (a) Pursuant to Clause 98 of the Environmental Planning and Assessment Regulation 2000, the proposed building work must comply with the Building Code of Australia (BCA).
- (b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, an alternative building solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.
- (c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 96 of the Act to be lodged with Council to amend this consent.

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

(113) 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.

(114) 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.

SCHEDULE 1C**During Construction/Prior to Occupation/Completion****(115) 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.

(116) BASIX

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

(117) 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 Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".

Note: The "City of Sydney Code of Practice for Construction Hours/Noise 1992" allows extended working hours subject to the approval of an application in accordance with the Code and under Section 96 of the Environmental Planning and Assessment Act 1979.

(118) 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; and
- (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.

(119) USE OF APPLIANCE OF A HIGHLY INTRUSIVE NATURE

- (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 (EHO to specify hours).
- (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'.

(120) 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.

(121) HAZARDOUS AND INDUSTRIAL WASTE

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) Work Health and Safety Act 2011;
- (e) *New South Wales Construction Safety Act 1912 (Regulation 84A-J Construction Work Involving Asbestos or Asbestos Cement 1983);*
- (f) Work Health and Safety Regulation 2011; and
- (g) *The Occupational Health & Safety (Asbestos Removal Work) Regulation 1996.*

(122) 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.

(123) 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.

(124) 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.

(125) 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.

(126) ACCESS DRIVEWAYS TO BE CONSTRUCTED

Approved driveways are to be constructed for all vehicular access to the construction site in accordance with the requirements of Council's "Driveway Specifications" to the satisfaction of Council.

(127) 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.

(128) 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.

(129) 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.

(130) STREET NUMBERING – MAJOR DEVELOPMENT

Prior to an Occupation Certificate being issued, 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.

SCHEDULE 3**(131) ROADS AND MARITIME CONDITIONS**

- (a) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RMS for approval, prior to the commencement of any works. Details should be forwarded to:

The Sydney Asset Management
Roads and Maritime Services
PO Box 973, Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before RMS approval is issued. With regard to the Civil Works requirement, please contact the RMS Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

- (b) The developer is to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to the RMS for assessment. The developer is to meet the full cost of assessment by the RMS.
- (c) This report would need to address the following key issues:
- (i) the impact of excavation/rock anchors on the stability of Southern Cross Drive and detailing how the carriageway would be monitored for settlement.
 - (ii) the impact of the excavation on the structural stability of Southern Cross Drive.
 - (iii) the report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973, Parramatta CBD 2124.
Telephone: 8848 2114
Fax: 8849 2766.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owners of the roadway is given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- (d) If not already in place, full time "No Stopping" restrictions are to be implemented along the full Link Road frontage of the development site. This restriction should be implemented prior to the commencement of any demolition works relating to the proposed development. Prior to the installation of the parking restrictions the applicant is to contact RMS Traffic Management Services on phone (02) 8849 2294 for a works inspection.
- (e) Any proposed temporary or partial road closure will require the applicant to apply for a Road Occupancy Licence (Form C and D) by contacting the Transport Management Centre's Planned Incidents Unit on (02) 8396 1513 during office hours (8.00am to 4.00pm) or 131 700 after hours.
- (f) The applicant will be required to submit the Road Occupancy Licence forms/traffic management plan at least 10 working days prior to the start of works. Plans should be forwarded to Rohit Autar, Supervisor Planned Incidents Unit, Transport Operations, Transport Management Centre or on facsimile (02) 8396 1530.
- (g) In due course the applicant will need to obtain a Road Opening Licence. Details can be obtained from RMS Sydney Project Services on 8849 2496.
- (h) The developer shall dedicate land as public road to facilitate the signalisation of the Link Road intersection, which shall be dedicated at no cost to the RMS or Council.

To ensure that sufficient land is dedicated from the site as public road to facilitate the signalisation of the Link Road and Epsom Road intersection, a geometric layout of the proposed traffic signal and associated civil works shall be submitted and endorsed by the RMS, prior to the execution of the land dedication and prior to any Construction Certificate being released.

- (i) The proposed turning areas are to be kept clear of any obstacles, including parked cars, at all times.
- (j) Provision for building maintenance and removalist vehicles need to be provided on site.
- (k) All traffic control during construction must be carried out by accredited RMS approved traffic controllers.
- (l) All works/regulatory signposting associated with the proposed development are to be at no cost to the RMS.

SCHEDULE 4**Terms of Approval****Integrated Development Approvals**

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

General

1. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
2. The design and construction of the structure shall preclude the need for permanent dewatering by waterproofing those areas that may be impacted by any water table (i.e. a fully tanked structure) with adequate provision for unforeseen fluctuations of water table levels to prevent potential future inundation.
3. Construction methods and material used in and for construction shall not cause pollution of the groundwater.

Prior to excavation

4. Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken and a report provided to the NSW Office of Water. A schedule and indicative plans of the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.
5. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the calculation method shall be included in the report.
6. A copy of a valid development consent for the project shall be provided to the NSW Office of Water.
7. Groundwater quality testing shall be conducted and a report supplied to the NSW Office of Water. Samples must be taken prior to the commencement of pumping, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
8. The method of disposal of pumped water shall be nominated (i.e. street drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (tailwater) must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.

9. Contaminated groundwater shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water (tailwater) that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

10. Piping or other structures used in the management of pumped groundwater (tailwater) shall not create a flooding hazard. Control of pumped groundwater (tailwater) is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
11. Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.
12. Pumped groundwater (tailwater) shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater (tailwater) shall be complied with.
13. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulphate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
14. The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.
15. Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety precautions.

Following excavation

16. All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.

BACKGROUND

The Site

1. The site is located within the suburb of Zetland, which is located approximately 4 kilometres south of the Sydney CBD. Zetland is located within the boundaries of the Green Square urban renewal area. The subject site is located approximately 1 kilometre southwest of the Green Square railway station.
2. The subject site currently encompasses three allotments, and has a legal description of Lots 15 to 17, DP 237495. These lots have a street address of 5 Link Road, 947 South Dowling Street and 132-142 Epsom Road, Zetland, respectively. The site forms the northern portion of a development site that has been referred to in the past as the “Dolina” site.
3. The site is triangular in shape and has three street frontages, South Dowling Street to the east, Epsom Road to the south and Link Road to the west. The collective site has an area of 11,366sqm. **Figures 1 and 2**, below, illustrates the location and context of the site.
4. Existing on site are a series of single and two-storey older-style industrial and warehouse buildings (refer to **Figures 3 to 6**, below). The northern portion of the site is occupied and in use as a motor vehicle showroom.



Figure 1: Location Plan



Figure 2: Aerial view of the site looking south



Figure 3: The Link Road frontage of the site looking northwards



Figure 4: The existing 2-storey warehouse building on the southern portion of the site, as viewed from Link Road



Figure 5: The existing 2-storey warehouse building as viewed from Epsom Road



Figure 6: The motor vehicle showroom use currently operating on the northern portion of the site



Figure 7: The South Dowling Street/Southern Cross Drive overpass as viewed from Epsom Road

Surrounding Development

5. The site is located within an area currently undergoing transition, and whilst many of the surrounding sites are currently being used for commercial and light industrial purposes, including motor-vehicle showrooms, it is anticipated that these sites will be redeveloped in coming years as part of the gentrification of Green Square.



Figure 8: The existing warehouse and self-storage use located to the south of the site, on the opposite side of Epsom Road



Figure 9: The existing motor vehicle showroom located to the west of the site, on the opposite side of Link Road

6. **Figure 10**, below, illustrates the following redevelopment precincts that are located in the vicinity of the site:

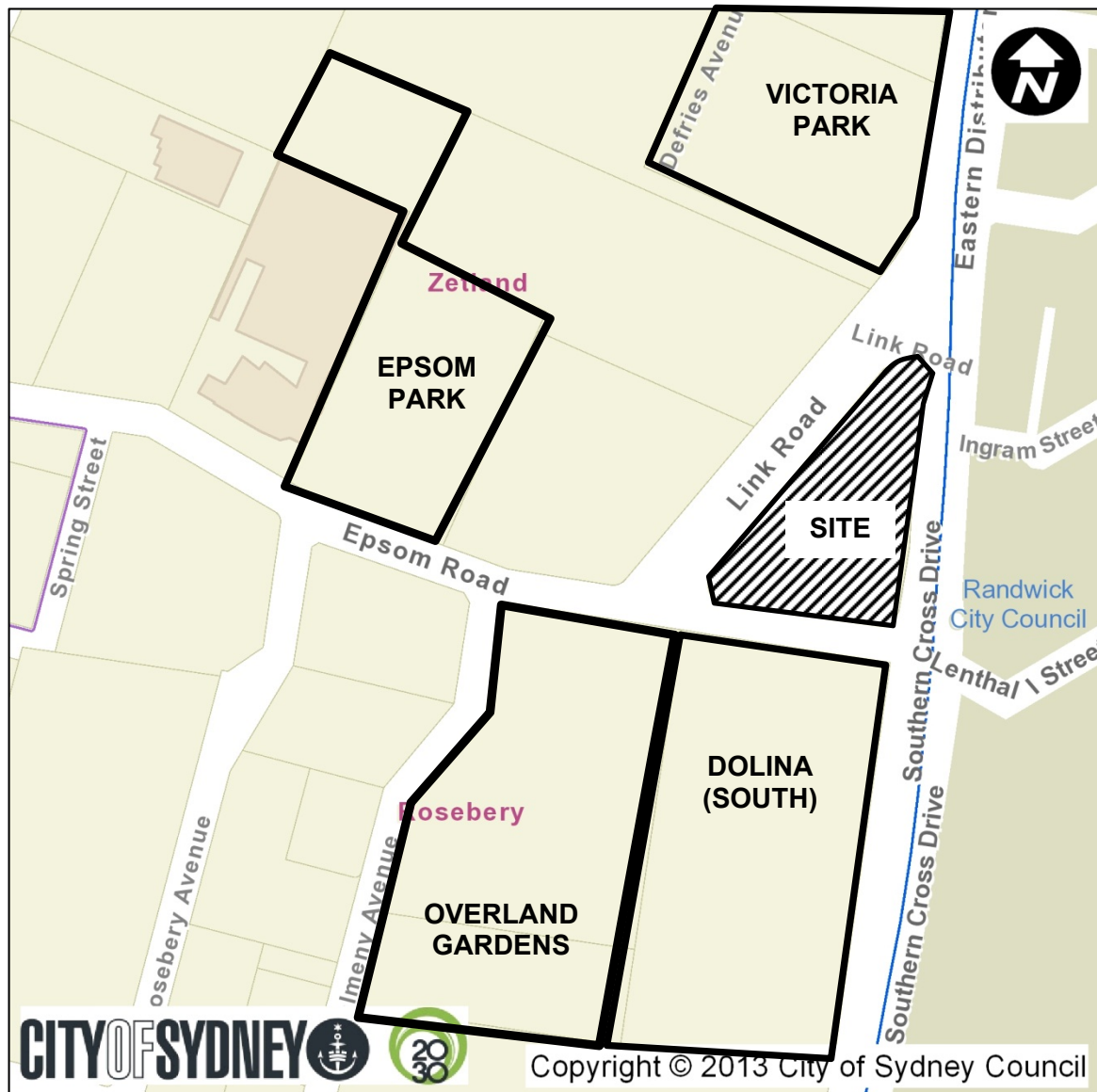


Figure 10: The redevelopment sites located in the vicinity of the subject site

- (a) Victoria Park – Located to the north of the site, on the opposite side of Link Road are the southern-most development sites of Victoria Park. The sites, at 10-12 Defries Avenue (D/2011/64/1) and 899 South Dowling Street (D/2011/64/2), are currently under construction and on completion will be a series of residential apartment buildings ranging in height from 7 to 22 storeys.
- (b) Epsom Park – Located to the west of the site on the opposite side of Link Road is the redevelopment precinct known as Epsom Park. To date, this precinct has yet to be developed. The Land and Environment Court granted deferred commencement consent to a Stage 1 development application (D/2011/1760) for the site at 106-116 Epsom Road for 6 indicative building envelopes ranging in height from 5 to 14 storeys.

- (c) Dolina (South) – Located directly to the south of Epsom Road, and forming part of the same Stage 1 development application consent (being D/2005/1340) as the subject site. This southern portion of the site at 87-103 Epsom Road has consent for 7 indicative building envelopes. Further discussion is provided on the Stage 1 consent in relevant history section of this report, below.
 - (d) Overland Gardens – Located to the southwest of the site, on the opposite side of Epsom Road, is the redevelopment site that has been known as ‘Overland Gardens’ (67-77 Epsom Road and 95 Dalmeny Avenue) and is now being marketed as Rosebery Village. This site has Stage 1 consent for 6 indicative building envelopes ranging in height from 4 to 13 storeys. Development consent has since been granted for several detailed design (Stage 2) development applications for the development of the 3 southernmost buildings (known as Buildings D, G and H) pursuant to D/2011/1202 and D/2012/1422.
7. Directly to the east of the site is South Dowling Street/Southern Cross Drive. On the opposite side of South Dowling Street is the low-density residential neighbourhood of West Kensington.

Relevant History to this Site

Stage 1 Development Application (D/2005/1340)

8. Deferred commencement consent was granted by the NSW Land and Environment Court on 20 February 2007 for a Stage 1 Development Application (D/2005/1340) for the subject site and the site to the south, located on the opposite side of Epsom Road (known as 87-103 Epsom Road). The consent became operable on 16 September 2011.
9. The Stage 1 consent granted approval to the following:
- (a) demolition of existing structures;
 - (b) remediation of the site;
 - (c) indicative building envelopes and heights for 11 new buildings, in the following breakdown:
 - (i) northern allotment (being the subject site) – indicative building envelopes for 4 new buildings, with a maximum collective Floor Space Ratio (FSR) of 2:1 or 22,732sqm (as calculated and defined by the South Sydney Development Control Plan 1997) in the following configuration:
 - a. a minimum of 6,822sqm of commercial floor space; and
 - b. a maximum of 15,910sqm of residential floor space.
 - (ii) southern allotment – indicative building envelopes for 7 new buildings, with a maximum collective FSR of 1.7:1 or 54,213sqm (as calculated and defined by the South Sydney Development Control Plan 1997) in the following configuration:

- a. a minimum of 1,070sqm of commercial floor space; and
 - b. a maximum of 53,143sqm of residential floor space.
- (d) public domain improvement works, which have been included in a Voluntary Planning Agreement (refer to further discussion below). These works include:
- (i) stormwater management system;
 - (ii) reconstruction of parts of Epsom Road and Link Road, including road widening, intersection upgrade and provision of a signalised intersection and a new cycleway along the southern side of Epsom Road;
 - (iii) construction of 5 new roads traversing the southern allotment and dedication of this land to Council for the purposes of public roads; and
 - (iv) dedication of land (approximately 4,738sqm) on the southern portion of the site as public open space.
- (e) staging of the development of the collective site into four stages.
10. **Figure 11**, below, illustrates the Stage 1 approved locations of buildings on the site and the boundaries of the staged construction.

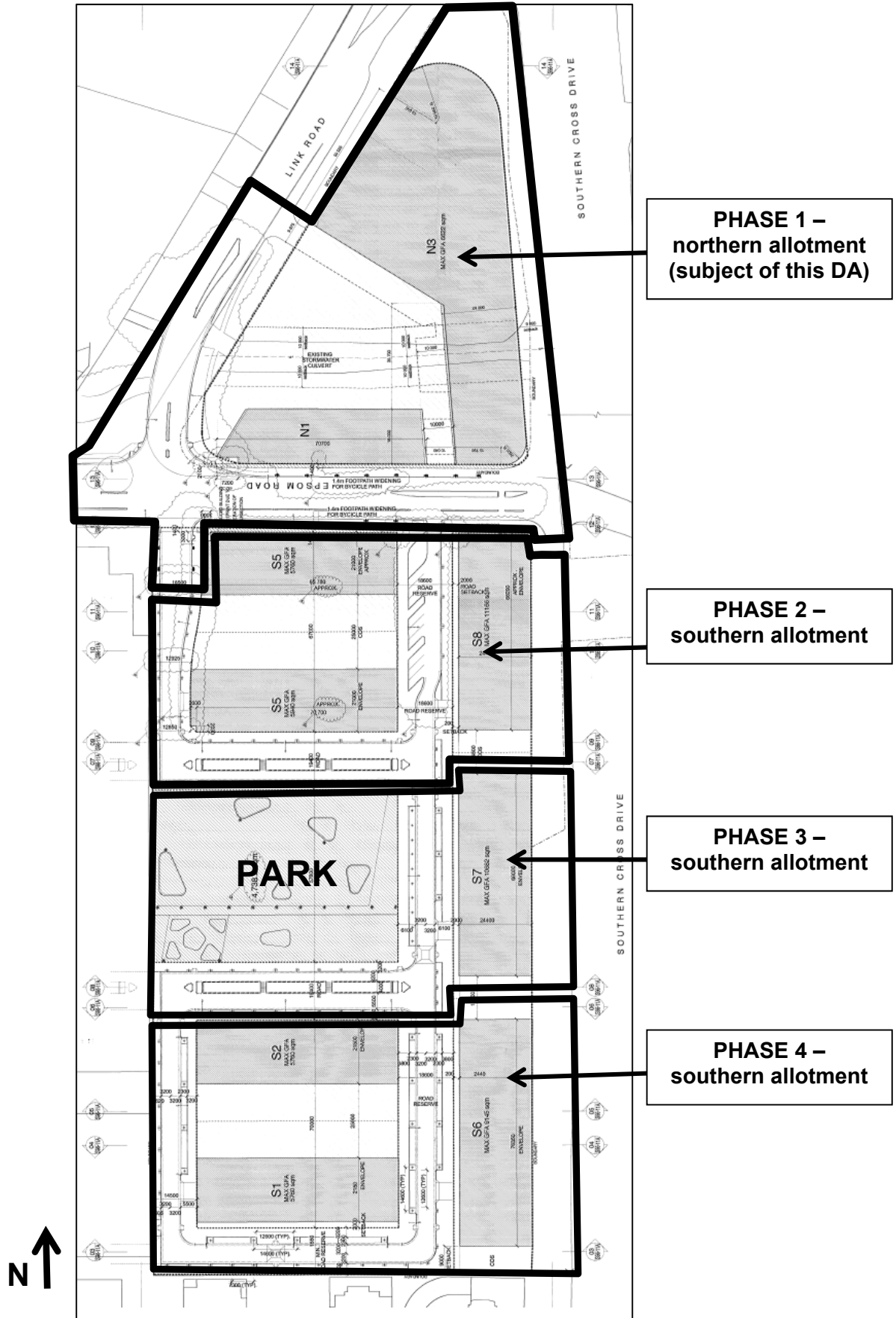


Figure 11: The approved locations of the 11 buildings pursuant to D/2005/1340

Voluntary Planning Agreement

11. The Stage 1 Development Application granted consent to the staging of future construction of new buildings and public domain works into the four phases detailed below.
12. The provision of these public domain improvement works was the subject of a Voluntary Planning Agreement (VPA) between both owners of the northern and southern allotments and Council. This agreement was executed on 16 November 2011.
13. The VPA includes the undertaking of the following public domain improvement works in the following phases:
 - (a) Phase 1 (northern allotment):
 - (i) dedication of 1,051.6sqm of land to Council along the Epsom Road and Link Road frontages for the purposes of road widening and the upgrade of the intersection of Link and Epsom Roads;
 - (ii) dedication of 1.4 metre width of land for road widening on both sides of Epsom Road and to allow the provision of a cycleway along the southern side of Epsom Road;
 - (iii) provision of a signalised intersection at the junction of Epsom Road and Link Road; and
 - (iv) streetscape upgrade work, including new road and stormwater infrastructure, landscaping and street furniture.
 - (b) Phase 2 (southern allotment):
 - (i) dedication of 3,614.2sqm of land to Council for the purposes of new public roads;
 - (ii) construction of a new east-west road and part construction of 2 new north-south roads; and
 - (iii) streetscape upgrade work, including new road and stormwater infrastructure, landscaping and street furniture.
 - (c) Phase 3 (southern allotment):
 - (i) dedication of 7,787sqm of land to Council for the purposes of new public roads and public park;
 - (ii) construction of a new east-west road and part construction of the new north-south road; and
 - (iii) streetscape upgrade work, including new road and stormwater infrastructure, landscaping and street furniture.
 - (d) Phase 4 (southern allotment):
 - (i) dedication of 3,880sqm of land to Council for the purposes of new public roads;

- (ii) construction of a new east-west road and construction of the remainder of the new north-south roads; and
- (iii) streetscape upgrade work, including new road and stormwater infrastructure, landscaping and street furniture.

PROPOSAL

14. The subject application seeks consent for the construction of works relating to the northern allotment only.
15. In detail, the proposal seeks consent for the following works:
 - (a) excavation and construction of basement car parking, accommodating 277 car parking spaces, with vehicular access off Epsom Road and Link Road;
 - (b) construction of 4 mixed use buildings ranging in height from 2 to 14 storeys, accommodating 189 apartments (15,628.71sqm) and a retail/commercial floor area of 6,151.39sqm, in the following configuration:
 - (i) Building A – 6 to 8 storeys in height and containing 72 apartments, 608sqm of ground floor retail floor space and 395sqm of first floor commercial floor space;
 - (ii) Building B - 14 storeys in height and containing 85 apartments;
 - (iii) Building C – 8 storeys in height and containing 32 apartments; and
 - (iv) Building D (podium) - 2 storeys in height and containing 6,151sqm of retail/commercial floor space.
 - (c) landscaping and public domain works, including:
 - (i) provision of a communal landscaped plaza,
 - (ii) through-site link connecting Epsom Road to Link Road;
 - (iii) land dedication for road widening to facilitate intersection/streetscape upgrade works; and
 - (d) staged construction.
16. Whilst the subject application has assessed the appropriateness of the nominated non-residential floor space proposed as part of the subject development, it should be noted that these are indicative at present. The fit-out and use of each tenancy, including the child care centre, restaurant and showroom will be the subject of further separate development applications to assess their individual operational requirements.
17. Plans, elevations and photomontages of the development are provided in **Attachments A and B**.

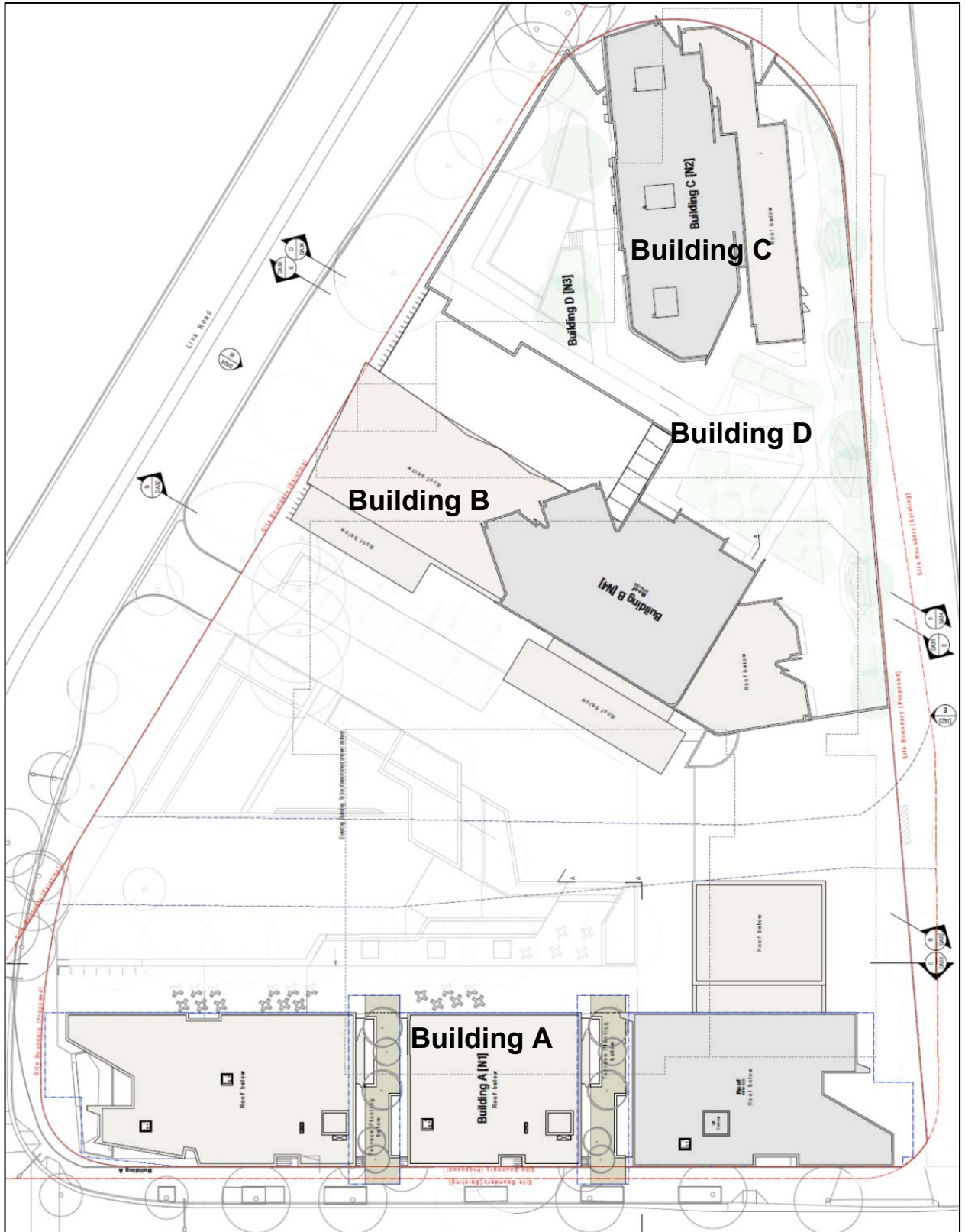


Figure 12: Site Plan



Figure 13: The southern elevation of Building A as viewed from Epsom Road



Figure 14: The western elevation of Buildings C and D and northern elevation of Building B as viewed from Link Road



Figure 15: Buildings A and B and the communal plaza as viewed from Link Road

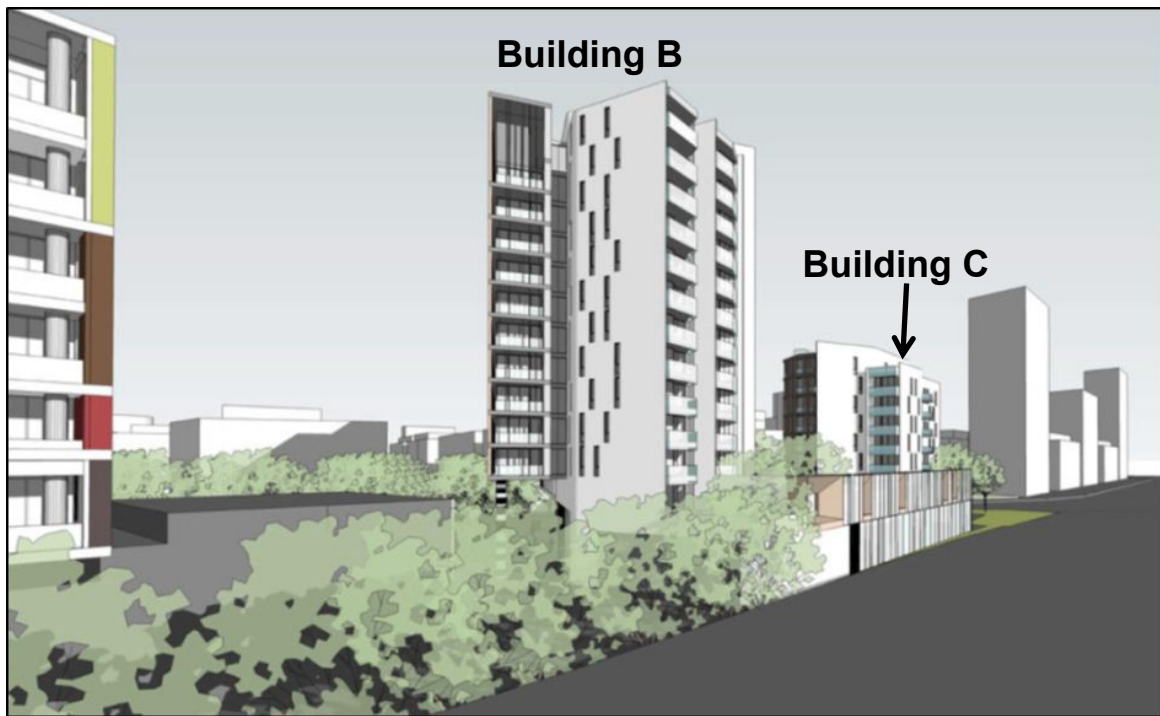


Figure 16: Perspective drawing of the proposed development as viewed from South Dowling Street/Southern Cross Drive overpass (looking north)

Application History and Amendments

18. The subject application was lodged with Council on 17 December 2012.
19. Following a preliminary assessment of the application by City staff and the Design Advisory Panel, the applicant was advised in correspondence, dated 9 May 2013, that the application required modification to address the following issues:
 - (a) additional information on the design excellence provisions of the Sydney Local Environmental Plan 2012 (SLEP 2012);

- (b) design refinement to the architecture and facade treatments of Buildings A and C;
 - (c) modification to the land use mix to ensure consistency with the Stage 1 consent (D/2005/1340), including the relocation of the indicative child care centre;
 - (d) a reduction in the provision of car parking spaces to comply with the development standard contained within the SLEP 2012;
 - (e) revision to design of the through-site link and internal access driveway due to safety concerns;
 - (f) modification to the unit mix to provide a greater provision of 3-bedroom apartment typologies;
 - (g) increase in the floor to floor heights to ensure the requisite internal floor-to ceiling height of 2.7 metres can be achieved; and
 - (h) additional specialist reports relating to contamination, trees, flooding and traffic.
20. Amended documentation to address these matters were submitted on 6 August 2013 and 26 August 2013.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

21. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
- (a) Environmental Planning Instruments and DCPs.

Commonwealth Airports Act 1996 and Civil Aviation (Buildings Control) Regulations 1988

22. The proposed development results in buildings that penetrate the prescribed airspace as detailed under Section 181 of the Airports Act 1996, and as such, formal approval is required from the Civil Aviation Safety Authority (CASA).
23. In accordance with the above provisions, and those replicated at Clause 7.16 of SLEP 2012, the application was referred to Sydney Airport Corporation Limited on 2 January 2013. At the time of writing, a response from Sydney Airport had not been received. It is understood from discussion with a representative of Sydney Airport Corporation that the application is progressing through the approval process and is currently under assessment by CASA.
24. Clause 7.16 of the SLEP 2012 states that the consent authority cannot grant development consent until such time as the relevant Commonwealth body advises that:
- (a) the development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or
 - (b) the development will not penetrate the Limitation or Operations Surface.

25. As such, consent cannot be granted until this advice has been received. It is recommended that a decision on the application be delegated to the Chief Executive Officer pending receipt of a response from the Civil Aviation Safety Authority or authorised delegate of that authority.

Water Management Act 2000

Aquifer Interference Approval

26. The proposed excavation works to accommodate the basement car parking levels are to a depth where dewatering of the site will be required. The application was subsequently referred to the NSW Office of Water in accordance with the provisions of Section 91 of the Water Management Act, 2000.
27. The NSW Office of Water granted its concurrence in correspondence, dated 11 January 2013, and has provided its General Terms of Approval. These General Terms of Approval have been included within the recommendation, and will be imposed on any consent granted.

Controlled Activity Approval

28. An existing Sydney Water culvert traverses the site in an east/west direction. The proposal seeks to discharge its stormwater directly to this easement via either the existing or a new connection.
29. As detailed above, the application was referred to the NSW Office of Water on 17 December 2012 to ascertain whether a controlled activity approval was required under the provisions of Section 91 of the Water Management Act, 2000.
30. The NSW Office of Water has confirmed in correspondence, dated 2 August 2013, that the proposed development does not require controlled activity approval and that this component does not require concurrence from the NSW Office of Water.
31. The application has been referred to Sydney Water to ascertain their approval for works above and in the vicinity of their asset. Further discussion is provided at the referral section of this report.

Roads Act 1993

32. The application was lodged as integrated development under the Roads Act 1993 due to the associated road works to be undertaken to Link and Epsom Roads (that were approved under the Stage 1 consent). As such, the application was referred to the Roads and Maritime Services (RMS) as integrated development on 17 December 2012.
33. In correspondence, dated 23 April 2013, the RMS advised that the application did not constitute integrated development, as Council is both the consent authority for the development and the approval authority.
34. Based on this advice, the application has not been assessed as integrated development with regard to the Roads Act, 1993.

State Environmental Planning Policy No 55—Remediation of Land

35. 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.
36. The applicant has submitted a revised Remediation Action Plan limited to this northern site, dated July 2012, and Interim Advice prepared by a NSW EPA Accredited Site Auditor, dated July 2013. This Interim Advice concludes that the proposed remediation strategy is practical and capable of remediating the site to a condition suitable for its intended land uses.
37. Council's Health Compliance Unit are satisfied that sufficient information has been submitted to conclude that the site can be made suitable for the proposed uses and to satisfy the requirements of SEPP 55, subject to the imposition of appropriate conditions.

State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development

38. 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 the Stage 1 consent. Whilst there are elements that do result in some variation to the Stage 1 envelopes/footprints, these variations are considered to be minor in nature and appropriate setbacks and building scales are retained. Further discussion is provided at the Issues section of this report.

The proposal responds to its context, with the built form activating the site's frontages through the provision of residential lobbies and future retail tenancies. These entries provide a sense of address, a pedestrian scale to the development and allows casual surveillance of the streets and communal open space/through site link.

(b) **Principle 4: Density**

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

(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: The proposal incorporates the following landscape elements across the site:

- (i) a 2,200sqm publicly accessible ground level plaza to the north of Building A, with the landscape design of this area to include a central grassed area, bio-filtration swale, timber decking and substantial planting (refer to **Figure 17**, below);
- (ii) a 1,560sqm communal terrace at Level 2 for use by residents of the development, which provides a lawn area and mounded soil and raised planter beds with soil depths varying between 350mm to 1 metre to accommodate screening scrubs and small trees. This terrace will include the provision of a range of seating areas and communal facilities (refer to **Figure 18**);
- (iii) elevated planter beds incorporated into the architectural design of Building A on Levels 4 and 5, proposed a depth of 1.2 metres to allow for tree planting (refer to **Figure 19**, below); and
- (iv) a Level 1 terrace of approximately 386sqm that will service the adjacent commercial tenancy, and subject to development consent being obtained under a separate application, can be used as an outdoor play area for a future child care centre use.

A total of 1,124sqm of deep soil planting is provided (which equates to approximately 11.4% of the site area or 30% of the area of open space).

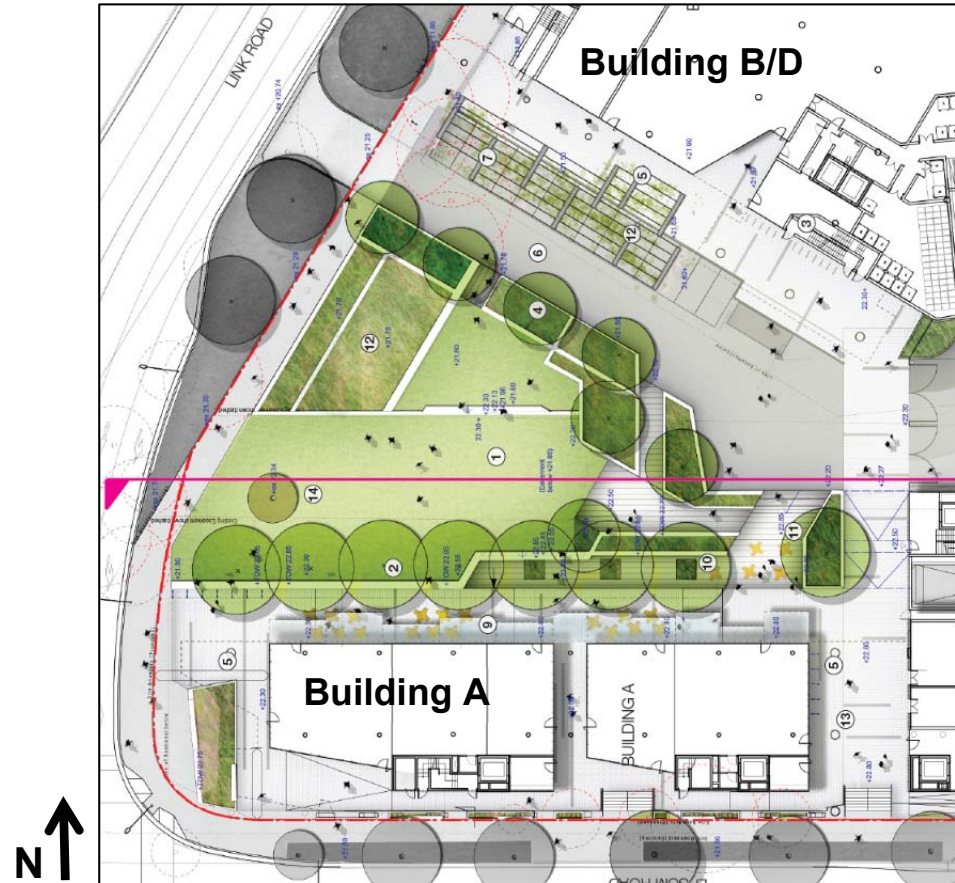


Figure 17: The proposed landscape treatment of the ground level plaza

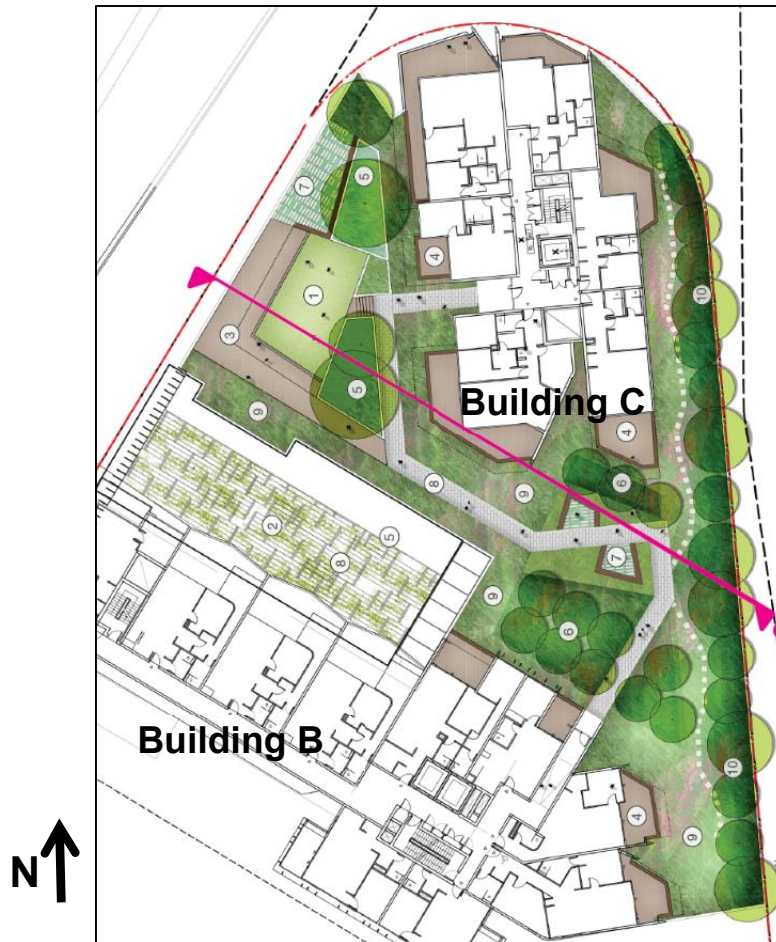


Figure 18: The proposed landscape treatment of the Level 2 podium terrace



Figure 19: Elevated planter beds incorporated into architectural treatment of Building A

(e) **Principle 7: Amenity**

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

The unit sizes, width and depth dimensions generally meet the requirements in the Residential Flat Design Code (RFDC) and all units have a 2.7 metre floor to ceiling height:

- (i) 64% of apartments will receive two or more hours of solar access between 9.00am and 3.00pm on the winter solstice.

As the internal floor plates are restricted by the approved Stage 1 envelopes and physical constraints of the site, the extent of variation from the RFDC rules of thumb are supported in this instance. It is noted that 70% of apartments receive the two hours of solar access between the hours of 9.00am and 5.00pm on the winter solstice.

- (ii) 72% of the units are cross ventilated, which exceeds the RFDC guidelines.

- (iii) The development proposes apartments with internal areas detailed below, all of which are generally compliant with the minimum areas of the RFDC guidelines:

- a. 1 bedroom – 50-64sqm;
- b. 2 bedroom – 71-96sqm;
- c. 3 bedroom – 94-135sqm.

- (iv) Acoustic and visual privacy is achieved through a layout which creates satisfactory separation.

- (v) 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 1sqm at a maximum), which is considered acceptable in this instance.

- (vi) Storage areas are provided within the units and basement level.

- (vii) 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) 77 x 1 bedroom (41%),
- (ii) 93 x 2 bedroom (49%) and
- (iii) 19 x 3 bedroom (10%) apartments.

The proposal generally achieves compliance with the DCP requirements, and is considered to be acceptable in providing a range of housing options.

(h) **Principle 10: Aesthetics**

Complies: The proposal utilises architectural expression, materiality and use of colour to create recessive elements, articulation and visual interest of the facades.

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

State Environmental Planning Policy (Infrastructure) 2007

40. The following provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application:

Clause 45 – Electricity transmission

41. As the development site is within the vicinity of existing power lines and an electricity substation, the application was referred to Ausgrid under the provisions of Clause 45 of the SEPP (Infrastructure) 2007.
42. Ausgrid responded in correspondence, dated 14 January 2013, to advise that an existing substation exists on site and would require removal and the inclusion of a new substation as part of the subject application.
43. The proposal incorporates two new substations within the ground floor of Building A, which responds to this requirement and ensures the maintenance of the local electricity network.

Clause 101 – Development with a frontage to a classified road

44. The application is subject to Clause 101 of the SEPP as the site has frontage to South Dowling Street/Southern Cross Drive, which is a classified road.
45. The application is considered to satisfy Clause 101 of the Infrastructure SEPP, as it does not provide access to the site from the classified road. Further to this, appropriate acoustic conditions have been recommended for imposition on any consent granted.

Clause 104 – Traffic generating development

46. The application was referred to the Roads and Maritime Services (RMS) pursuant to Clause 104 of SEPP (Infrastructure) 2007 on 2 January 2013.

47. In correspondence, dated 22 March 2013, the RMS has advised that they raise no objection to the proposed development on the provision there is no encroachment on or over portions of the site that are subject to future road widening, and subject to the imposition of recommended conditions.
48. It is noted that the proposal does not encroach on those portions of the site that are identified for future road widening. The RMS conditions have been included within the recommendation section of this report.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

49. The BASIX Certificate has been submitted with the development application.
50. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

State Environmental Planning Policy No 32 - Urban Consolidation (Redevelopment of Urban Land)

51. SEPP 32 provides for the increased availability of housing within the inner city and to assist in meeting the demand for housing close to employment, leisure and retail opportunities.
52. The proposed development of the site is consistent with the aims and objectives of SEPP.

Sydney Local Environmental Plan 2012

53. The site has a dual zoning, being predominately zoned B4 – Mixed Use, with the exception of the northern-most tip, which is zoned SP2 – Infrastructure (Classified Road) to allow for a future road widening and acquisition of land by the Roads and Maritime Services.
54. With the exception of landscaping works, the proposal is confined to the land zoned B4 – Mixed Use under the Sydney Local Environmental Plan 2012 (SLEP 2012).
55. The proposal is defined as a '*residential flat building*' and '*commercial premises*', both of which are permissible uses within the B4- Mixed Use zone pursuant to Clause 2.3 of SLEP 2012.
56. The proposed landscaping works on the portion of the site zoned SP2 – Infrastructure would be defined under the LEP as '*landscaped area*'. It is considered landscaping works are a permissible use within the SP2 – Infrastructure zone as they constitute both '*earthworks*' and ancillary landscaping works along the road reserve corridor.
57. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Table		
Development Control	Compliance	Comment
4.3 Height of Buildings	No	<p>Clause 4.3 of SLEP 2012 permits a maximum height of 40 metres for the subject site.</p> <p>The Stage 1 consent also nominates maximum heights (in RLs) for each of the 4 buildings on the site.</p> <p>Each of the 4 buildings has a maximum height as follows:</p> <p>Building A – 28.5 metres (RL 50);</p> <p>Building B – 47.97 metres (RL 69.5);</p> <p>Building C – 29.8 metres (RL 51.45);</p> <p>and</p> <p>Building D – 11.8 metres (RL 32).</p> <p>The applicant has submitted a written statement under the provisions of Clause 4.6 of SLEP 2012 seeking to vary the building height development standard for Building B by 19.9%.</p> <p>Refer to further discussion under the Issues section of this report.</p>
4.4 Floor Space Ratio	No	<p>Clause 4.4 of SLEP 2012 stipulates a base floor space ratio of 1:1 for the site, with Clause 6.14 providing an opportunity for a further 0.75:1 of floor space where additional public domain improvement works and community uses are provided.</p> <p>The Stage 1 consent approved a FSR for the northern lot of 2:1, with gross floor area defined under the South Sydney DCP 1997. This consent included a Voluntary Planning Agreement, requiring extensive public domain works.</p> <p>The proposed development has a gross floor area of 21,780.1sqm as defined by the SLEP 2012, which equates to a FSR of 1.9:1.</p>

Compliance Table		
Development Control	Compliance	Comment
4.4 Floor Space Ratio (continued):	No	<p>Notwithstanding the above, Clause 4.5 of SLEP 2012, requires any land to be dedicated as community land (i.e. the land to be dedicated to the RMS for road widening) to be deducted from the site area. Considering this provision, the site area reduces to 10,626.8sqm, and results in the FSR for the proposal increasing to 2.05:1.</p> <p>The applicant has submitted a written statement under the provisions of Clause 4.6 of SLEP 2012 seeking to vary the FSR development standard by 17.1%.</p> <p>Refer to further discussion under the Issues section of this report.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standard prescribed under Clause 4.3 (Building Height) and Clause 4.4 (Floor Space Ratio).</p> <p>See discussion under the heading Issues.</p>
5.1 and 5.1A Development on land intended to be acquired for public purposes	Yes	<p>The northern tip of the site is identified for acquisition for classified road by the Roads and Maritime Services (RMS).</p> <p>As detailed above, the application has been supported by the RMS, as with the exception of landscaping works, no new building works are proposed within the portion of the site zoned SP2 – Infrastructure.</p> <p>It is considered that the proposed landscaping works on this northern portion of the site that is subject to future road widening constitute 'earthworks', and as such, is permissible within the SP2 – Infrastructure pursuant to Clause 5.1A of SLEP 2012.</p>

Compliance Table		
Development Control	Compliance	Comment
5.9 Preservation of trees or vegetation	Yes	<p>The proposal includes the removal of 26 trees from the site and the Epsom and Link road reserves of the site.</p> <p>The applicant has submitted an Arborist report to justify the removal of the vegetation from site.</p> <p>The application was referred to Council's Tree Management Unit for review. It was noted in this referral that by virtue of the approved Stage 1 building footprints and intersection upgrade works, that the Court consent had allowed the removal of these trees.</p> <p>Based on this Stage 1 consent, no objection has been raised to the removal of the designated trees, subject the imposition of appropriate tree protection conditions for the trees being retained on site.</p>
Part 6 Local provisions - height and floor space		
6.14 Community infrastructure floor space at Green Square.	Yes	<p>The site is located in 'Area 7', and as such, is eligible for additional floor space of up to 0.75:1 of the site area, where the development provides for community infrastructure.</p> <p>As detailed elsewhere within this report, the Stage 1 consent for the site incorporated a range of community infrastructure projects that are to be delivered on the site and its immediate surrounds. These community infrastructure projects are outlined in the VPA for the site. As part of the development of this site, the community infrastructure improvement works to be delivered include road widening and upgrade of the intersection at Link and Epsom Roads.</p> <p>An assessment of the proposal against the FSR development standard, including the additional community infrastructure floor space, is provided in the Issues section below.</p>

Compliance Table		
Development Control	Compliance	Comment
6.21 Design excellence	Yes	<p>As a result of the site area and the height of buildings proposed, the competitive design process provisions of Clause 6.21(5) of SLEP 2012 are applicable.</p> <p>The applicant has made a written submission seeking to waive the competitive design process requirements. Further discussion is provided at the Issues section of this report.</p>
Part 7 Local provisions—general		
Division 1 Car parking ancillary to other development	Yes	<p>Pursuant to Clauses 7.5 to 7.7 of SLEP 2012 (inclusive), a maximum of 289 car parking spaces are permitted based on the proposed land uses.</p> <p>The amended application includes 277 ground and basement car parking spaces, which is compliant with the parking provisions of SLEP 2012.</p> <p>Refer to further discussion in the issues section regarding the deletion of 13 at-grade car parking spaces. This would reduce the overall parking provision on the site to a total of 264 spaces.</p>
7.13 Affordable housing	Yes	A condition of consent shall be imposed in relation to an affordable housing contribution.
7.14 Acid Sulphate Soils	Yes	The site is not identified as being within an Acid Sulphate Soil classified area pursuant to the requirements of the LEP. As such, there is no requirement for any investigation or management plan to be prepared.

Compliance Table		
Development Control	Compliance	Comment
7.15 Flood planning	Yes	<p>The applicant has submitted a Flood Impact Assessment analysing flood modelling for the site both pre and post construction, and providing flood planning level requirements.</p> <p>This report has been peer reviewed by Council's Development Engineer. The proposal is considered to be generally acceptable with regard to internal floor levels and predicted flood levels, subject to the raising of the finished internal floor level of retail tenancy RT.01A (being the ground floor level westernmost tenancy of Building A) by 300mm to RL 22.6.</p> <p>An appropriate design modification condition is recommended for imposition to resolve the levels and treatment of this southwestern corner of Building A.</p>
7.16 Airspace operations	Yes	<p>The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport.</p> <p>Further discussion on the referral to the Civil Aviation Safety Authority (CASA) is provided under the assessment of the proposal against the Airports Act 1996.</p> <p>As at the time of writing, no response had been received from CASA. As such, it is recommended that determination of the application be deferred to the Chief Executive Officer until such time as approval is granted to the penetration of the proposed buildings into the prescribed airspace.</p>
7.19 Demolition must not result in long term adverse visual impact	Yes	<p>The proposal involves demolition of existing structures on site with concurrent redevelopment. As such, the proposal adequately addresses the requirements of this clause.</p>

Compliance Table		
Development Control	Compliance	Comment
7.20 Development requiring preparation of a development control plan	Yes	<p>As a result of the site area, the subject site would require the preparation of a development control plan under the provisions of Clause 7.20 of SLEP 2012.</p> <p>As detailed in the history section of this report, the site has a valid Stage 1 consent (being D/2005/1340). This Stage 1 consent is the equivalent of a development control plan and details allowable building envelopes, vehicular access, land use mix and maximum floor space.</p> <p>It is considered that the current Stage 1 consent for the site addresses the requirements of Clause 7.20 of SLEP 2012.</p>
7.23 Large retail development near Green Square Town Centre	Yes	<p>The proposal incorporates 6,151sqm of retail and commercial floor space. The provision of this extent of non-residential floor space is consistent with the Stage 1 consent for the site.</p> <p>The use of this retail/commercial floor space will be the subject of further future development applications.</p> <p>However, it is noted that no single tenancy has an area of or greater than 1,000sqm, and as such, is compliant with the requirements of SLEP 2012.</p>

Sydney DCP 2012

58. The relevant matters to be considered under Sydney Development Control Plan 2012 (SDCP 2012) for the proposed development are outlined below.

2. Locality Statements – North Rosebery

The subject site is identified as being within the North Rosebery locality of Green Square pursuant to Section 2 of the SDCP 2012.

The proposed mixed-use development is considered to be in keeping with the character of the area and design principles in that:

- it assists in the transitioning of the area from a former industrial area to new mixed use neighbourhood;
- proposes new tower buildings along South Dowling Street that will provide an acoustic buffer to the wider locality; and
- provides for the upgrade of Epsom Road.

3. General Provisions

Development Control	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>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, cycleway and intersection upgrade.</p> <p>The proposal incorporates a 2,200sqm area of communal open space to the north of Building A. Whilst not an area to be dedicated as public open space, it is adjacent to the through site link and will be accessible and useable by both residents of the development and visitors to the site.</p>
3.2 Defining the Public Domain	Yes	<p>The proposal incorporates ground floor level retail/commercial uses along both its Epsom and Link Road frontages that both address and activate these street frontages.</p> <p>The proposal provides each building and street frontage with a number of entries to both residential lobbies and commercial/retail tenancies.</p> <p>The architectural treatment of Building A has been modified to break up the building bulk and will improve the streetscape presentation of the site along its Epsom Road frontage.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.2.4 Footpath awnings	Yes	The architecture of the development incorporates a series of colonnades and undercroft spaces, which act as awnings and weather protection along the principal facades of each building.
3.2.6 Wind effects 3.2.7 Reflectivity	Yes	The applicant has submitted a pedestrian wind assessment and a reflectivity analysis. It is noted that the recommendations contained within the wind report have been incorporated into the design to mitigate adverse impacts. An appropriate condition has been imposed to ensure the recommendations of the reflectivity analysis are incorporated into the final design to ameliorate solar glare impacts to pedestrians and motorists.
3.3 Design Excellence and Competitive Design Processes	No (but assessed as acceptable)	Refer to further discussion provided at the issues section of this report.
3.4 Hierarchy of Centres, City South	Yes	The site is not identified within the DCP as being a local centre within the Green Square area. Whilst the proposed development does incorporate 6,151sqm of retail and commercial floor space, no single tenancy has a floor plate that exceeds 1,000sqm. As such, the development is defined as providing 'minor retail development' that would activate the public domain and provide local shopping opportunities or services to the immediate residential and worker population.
3.5 Urban Ecology	Yes	The proposed development involves the removal of 26 trees. No objection has been raised by Council's Tree Management Officer to their removal, subject to the imposition of appropriate conditions.

3. General Provisions		
Development Control	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	The development is compliant with BASIX for the residential component. The non-residential areas have been designed to comply with Section J of the BCA .
3.7 Water and Flood Management	Yes	Refer to discussion provided in LEP compliance table.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	No subdivision works are proposed as part of the subject application.
3.11 Transport and Parking	Yes	Appropriate conditions are recommended in relation to the provision of car parking and bicycle storage within the basement car park. The proposal accommodates for on-site servicing and waste collection in accordance with the requirements of the DCP.
3.12 Accessible Design	Yes	The proposal incorporates 28 adaptable apartments, each allocated an accessible car parking space. This equates to 14.8% of all apartments within this stage of the development, which is generally compliant with Section 3.12.2 of SDCP 2012. A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.1 Building height	Yes	<p>The height in storeys map identifies a variable maximum height of between 3 to 15 storeys for the subject site. This is generally consistent with the heights approved in the Stage 1 consent. Further discussion on height is provided at the Issues section of this report.</p> <p>The proposal has been amended to provide residential floor to floor heights of 3.05 metres for Building C and 3.1 metres for Buildings A and B, in order to ensure adequate internal floor to ceiling heights can be delivered on completion of the development.</p>
4.2.2 Building setbacks	Yes	<p>A 10 metre landscape setback is identified in the DCP along the Link Road frontage of the site.</p> <p>The proposal incorporates the 10 metre landscape zone along its western boundary to Link Road, with the ground floor of Buildings B and D then setback a further 4 metres from this landscape zone.</p> <p>All other setbacks proposed generally replicate the approved building footprints and envelopes of the Stage 1 consent.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.3.1 Solar access	Yes	<p>As detailed in SEPP 65 assessment, the proposal achieves 64% of apartments receiving a minimum of 2 hours direct solar access to the primary living area in mid-winter between 9.00am and 3.00pm.</p> <p>As the proposal has generally retained the building envelopes approved under the Stage 1 consent, the extent of overshadowing from these built forms has already been assessed as satisfactory as part of that application.</p> <p>Despite this, it is noted that the shadows cast by the proposed development fall predominately across the surrounding road network, within the subject site or to the site directly south of Epsom Road (which also formed part of the Stage 1 consent).</p>
4.2.3.5 Landscaping	Yes	<p>The subject stages of development include the delivery of a 2,200sqm ground level plaza and 1,560sqm of communal courtyard on the podium of Building D. These spaces contribute to the overall communal open space and facilities available for residents.</p> <p>The design of the central plaza includes grassed lawns, bio-swale, timber decking and substantial planting.</p> <p>The podium courtyard on Level 2 incorporates barbeque facilities, seating areas and substantive planting in beds that range in depth between 300mm and 1 metre.</p>
4.2.3.6 Deep Soil	Yes	<p>The development provides 1,124sqm of deep soil planting, which equates to approximately 11% of the site area.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.3.11 Acoustic Privacy	Yes	<p>An Acoustic Assessment was submitted with the application, in particular to assess the potential impacts associated with traffic noise to the proposed residential apartments.</p> <p>Appropriate recommendations have been contained within this report to demonstrate the necessary glazing and acoustic seal requirements to ensure compliance with the DCP and SEPP (Infrastructure) requirements and ensure internal amenity.</p>
4.2.3.12 Flexible housing and dwelling mix	Yes	<p>As detailed elsewhere within this report, the proposed development provides a unit mix that is consistent with the DCP provisions and ensures a range of housing typologies will be available.</p>
<p>4.2.4 Fine grain, architectural diversity and articulation</p> <p>4.2.5 Types of development</p>	Yes	<p>The scheme utilises differing architectural language and materials for each building to provide visual interest and identity to the buildings, as well as breaking up the perceived bulk and scale of development.</p> <p>Buildings B and C have floorplates of approximately 500-600sqm on their upper levels, which is consistent with the slender tower forms desired by the DCP.</p> <p>The site is identified in the DCP as being a 'highly visible' site capable of accommodating a landmark building or tower. The proposal incorporates a single tower, being Building B. The siting of the tower has been predicated by the Stage 1 consent, however, does still achieve a separation of approximately 150 metres from the closest approved tower to the north of the site, located at 899 South Dowling Street (located in Victoria Park). This is in excess of the DCP requirements to prevent tower clustering and reinforces the urban form of South Dowling Street.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.5.3 Development on busy roads and active frontages	Yes	<p>The eastern boundary of the site fronts South Dowling Street/Southern Cross Drive, which is identified as a busy road due to the level of traffic volume.</p> <p>The proposal has been amended to refine the balcony design of lower level units on the eastern elevation of Building A fronting South Dowling Street/Southern Cross Drive. In its amended form, the proposal is considered to respond to the constraints of the site and provide useable balconies with satisfactory amenity, which also act as a buffer to the principal internal living areas of each apartment.</p>
4.2.6 Waste minimisation	Yes	<p>The proposal incorporates separate residential and commercial garbage storage rooms. Collection of garbage is proposed from the loading dock on the southern elevation of the ground floor of Building B. Appropriate conditions are recommended for imposition to ensure compliance with the <i>Policy for Waste Minimisation in New Developments 2005</i>.</p>
4.2.8 Letterboxes	Yes	<p>An appropriate condition is recommended for imposition.</p>

4. Development Types – Child Care Centre		
Development Control	Compliance	Comment
4.4.4 Child care centre	Yes (subject to a further DA)	<p>An indicative child care centre use is illustrated on the ground floor and Level 1 of Building D, with an indicative internal area of 743sqm and outdoor play terrace of 386sqm. The use and fit-out of this floor space would be subject to a separate development application.</p> <p>As originally lodged, the child care centre had been indicatively illustrated on Level 1 of Building D adjacent to South Dowling Street. Whilst not being approved as part of this application, the proposed siting of a future child care centre has been amended during the assessment to address initial concerns regarding the amenity (both acoustic and air quality).</p> <p>The revised location allows drop-off and collection of children from directly in front of any future centre, on the internal driveway, and has been designed with a dedicated lift access (notated as lift core L5). In the location proposed it is considered that there is scope to consider a future child care centre use, subject to a detailed assessment of the capacity and compliance of the fit-out with the appropriate regulations. A condition is recommended for imposition to advise that the use and fit-out of this floor space shall be the subject of a further development application.</p>

5. Specific areas – Green Square		
Development Control	Compliance	Comment
5.2.3 Community infrastructure	Yes	Refer to discussion in the LEP assessment provided elsewhere within this report.
5.2.5 Pedestrian and bike networks	Yes	<p>The City of Sydney Cycleway Strategy 2007-2017 identifies the Epsom Road frontage of the site as being required to ensure Route R6 (Leichhardt to Moore Park) is achieved. The proposal includes dedication of land along the Epsom Road frontage to facilitate road widening and the future provision of the cycleway.</p> <p>The proposal incorporates a 10 metre wide, 2-storey high through-site link through Building A in accordance with the Stage 1 consent.</p>
5.2.6 Public open space	Yes	<p>The site is identified as being within Area 'D' – North Rosebery, with the DCP requiring a 8,000sqm local neighbourhood park for this area.</p> <p>Whilst not proposed or required to be provided on the subject site, it should be noted that the Stage 1 consent for the southern portion of the Dolina site is required to provide a 5,000sqm public park.</p>
5.2.7 Stormwater management		Refer to discussion elsewhere within the LEP and DCP compliance table.
5.2.8 Highly visible sites		
5.2.9 Building design		
5.2.10 Setbacks		

ISSUES

Waiver of Design Competition

59. Clause 6.21 of the SLEP 2012 stipulates that the consent authority must not grant consent to a development where the proposal exceeds 25 metres in height and the site area exceeds 5,000sqm unless a competitive design process has been undertaken.

60. Whilst the proposed height of the development and site area would by virtue of Clause 6.21(5) require a competitive design process, pursuant to the provisions of Clause 6.21(6) of SLEP 2012, the consent authority may waive the requirement:

“if the consent authority is satisfied that such a process would be unreasonable or unnecessary in the circumstances”

61. In correspondence, dated 31 July 2013, the applicant has formally requested that the requirements of Clause 6.21 be waived by the consent authority.

62. It is considered in this instance the request to waive the requirement for a design competition is reasonable as:

- (a) the site has been subject to a detailed site analysis as part of the Stage 1 development application, which is equivalent to the site and context assessment that would occur as part of a competitive design process;
- (b) the Stage 1 development consent for the site remains in force and under the provisions of Section 83D of the Environmental Planning and Assessment Act, 1979, any detailed design (Stage 2) development application must be consistent with that consent. Hence, there is limited scope to vary the approved Stage 1 building envelopes and land use mix, and remain consistent with the staged consent;
- (c) the subject application was lodged on the 17 December 2012, being the next business day following the gazettal of the SLEP 2012. Therefore, the architectural design and all supporting documentation had been prepared for submission to Council based on the previous planning controls, being the South Sydney LEP 1998 and DCP 1997, which did not have any competitive design process requirements; and
- (d) the architectural treatment of the building's facades has been modified as part of the assessment process to reflect the feedback of Council staff and the Design Advisory Panel to ensure a high standard of architectural design.

63. In this instance, it is considered that the requirement for the applicant to undertake a competitive design process for the site would be unreasonable and unnecessary in this instance, and it is recommended that the requirement of Clause 6.21 be waived.

Consistency with Stage 1 Consent

64. The provisions of Section 83D of the Environmental Planning and Assessment Act, 1979 state that where a Stage 1 development consent for a site remains in force, that the determination of any further development application in respect to that site cannot be inconsistent with the Stage 1 consent.

65. The table, below, demonstrates that the proposed application remains consistent with key conditions imposed on the Stage 1 development consent, being D/2005/1340.

Stage 1 consent requirement	Comment
Approved Development (Condition 1)	The development is consistent with the approved Stage 1 plans in terms of their envelopes, siting and building height.
Remediation (Condition 1A)	Interim Advice has been submitted by an EPA accredited Site Auditor to demonstrate that the site can be remediated in accordance with the Remediation Plan.
Compliance with the Voluntary Planning Agreement (Condition 1B)	The proposal is to deliver the Phase 1 public domain improvement works detailed within the VPA, and will be required to complete these works prior to any Occupation Certificate being issued.
Demolition/Site Rectification (Condition 15)	<p>This condition requires concurrent demolition/excavation works on the subject site with the issue of a Construction Certificate for the Phase 1 public domain works detailed within the VPA.</p> <p>Appropriate conditions have been imposed to ensure that public domain improvement works required to be delivered with this northern portion of the collective 'Dolina' site occurs concurrently with any demolition and redevelopment of the site.</p>
Road Network Plan (Condition 18)	Able to comply, subject to the imposition of a further condition relating to the design of the Epsom Road driveway to investigate methods for controlling traffic movements from the site .
Dedication of Land for Road Purposes (Condition 25)	The dedication of land along the Epsom Road frontage of the site is a requirement of the VPA as part of the Phase 1 public domain works. Appropriate conditions have been imposed on the consent to ensure compliance with this requirements.
Commonwealth Airport Act 1996 (Condition 46)	<p>The application has been referred to the Civil Aviation Safety Authority (CASA) due to the proposed buildings entering into prescribed airspace for Sydney Airport.</p> <p>As a time of writing, no response had been received from CASA. As such, it is recommended that the application be delegated to the Chief Executive Officer to determine once a response is received from CASA.</p>
Floor Space Ratio - Northern Site (Condition 49)	Refer to discussion below.

Stage 1 consent requirement	Comment
Building Setouts (Condition 51) Building Envelopes (Condition 52)	<p>The proposal seeks minor variations to the building envelopes from those approved in the Stage 1 consent. The location and extent of these variations in the Stage 1 envelopes are detailed in Figures 20 to 22, below.</p> <p>As detailed in Figure 20, the proposal has transferred floor space from the lower southeastern corner of Building A and instead has relocated this floor space to the upper floors. No objection is raised to this variation as:</p> <ul style="list-style-type: none"> • the overall maximum height and width of the building is retained; • the varied envelope does not result in any greater amenity or environmental impact to surrounding sites; and • the relocated floor space would receive better amenity than if delivered at these lower levels, adjacent to the freeway. <p>In addition to the above, there are elements on Buildings B and C where minor variations to the envelopes/footprints are proposed. As the approved Stage 1 envelopes have not been wholly utilised, and the variation is resulting from articulation of balconies and/or architectural features, no objection is raised to these minor elements of variation.</p>
Design for Road Traffic Noise (Condition 53)	<p>Since the approval of the Stage 1 consent, the provisions of SEPP (Infrastructure) 2007 have been introduced, and these provisions supersede the criteria specified in this condition.</p> <p>Due to the proximity of the development to Southern Cross Drive, the proposal has been assessed against the internal noise criteria contained within SEPP (Infrastructure) 2007. An acoustic report was submitted with the amended application to demonstrate attenuation measures that are required to be implemented to ensure compliance is achieved with the acoustic criteria of the SEPP. An appropriate condition is recommended to require compliance with the recommendations of the acoustic report.</p>
Epsom Road Portal Through Building N1/ A (Condition 56)	<p>The proposal incorporates a 10 metre wide, 2-storey high, through-site link through Building A connecting Epsom Road to the ground level plaza.</p>

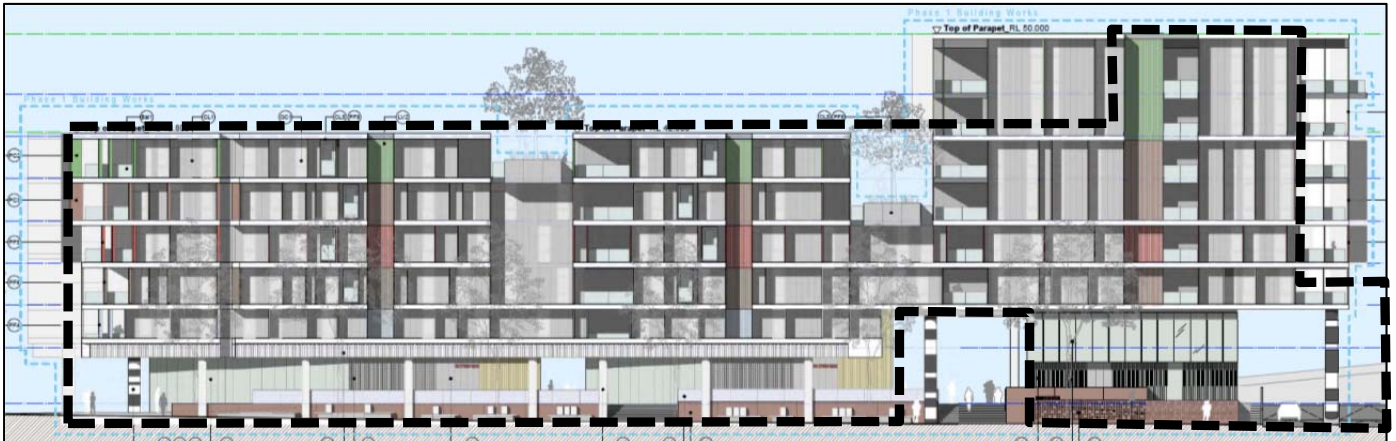


Figure 20: Overlay of approved Stage 1 building envelope on Building A



Figure 21: Balcony elements on Building B outside of the approved envelope

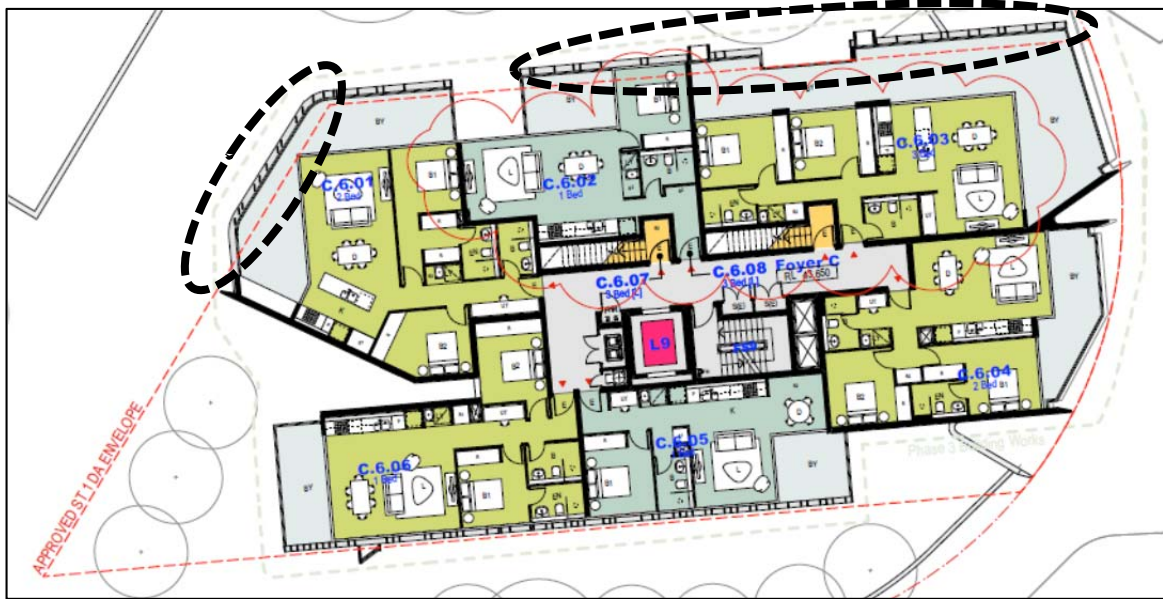


Figure 22: Balcony elements and facade detail of Building C outside the approved envelope

Floor Space and Land Use Mix

66. Condition 49 of the Stage 1 consent stipulated a maximum floor space for the subject site, including a breakdown between land uses and building footprints. **Tables 1 and 2**, below, provide a comparison and assessment of the proposal against the Stage 1 consent.
67. At the time of determination of the Stage 1 consent in 2007, the planning instrument applicable to the site was the South Sydney Local Environmental Plan 1998 and South Sydney Development Control Plan 1997 (SSDCP 1997). As such, the floor space expressed in Condition 49 is calculated in accordance with definition of 'gross floor area' as contained within the SSDCP 1997.
68. The SSDCP 1997 has now been superseded and the definition of gross floor area has changed in the SLEP 2012. However, for the purposes of establishing consistency of the proposal against its Stage 1 consent, consideration has been given to compliance of the proposal against the floor space breakdown that was contained in Condition 49. As such, the following tables have calculated 'gross floor area' in accordance with SSDCP 1997.

Table 1: Comparison of land use split and total floor space between Stage 1 consent and subject development application

	Approved land use distribution in Stage 1 consent	Proposed land use distribution in subject DA	Variation
Non-residential	6,822sqm (min) 30%	6,250sqm 28%	-572sqm
Residential	15,910sqm (max) 70%	16,476.56sqm 72%	+566.56sqm
Total	22,732sqm	22,726.56sqm	-5.44sqm

Table 2: Comparison of distribution of floor space within buildings between Stage 1 consent and subject development application

Building	Approved floor space distribution	Proposed floor space distribution	Variation
Building N1/ A	5,668sqm (max)	5,976.73sqm	+308.73
Building N2/ C	4,460sqm (max)	2,861.61sqm	-1,598.39
Building N3/ D	6,822sqm (max)	6,250sqm	-572sqm
Building N4/ B	5,782sqm (max)	7,638.22sqm	+1,856.22sqm
Total	22,732sqm	22,726.56sqm	

69. As detailed in the above tables, the proposed development provides a maximum gross floor area of 22,726.56sqm or a FSR of 2:1, as defined by the SSDCP 1997, and is consistent with the maximum permissible floor space stipulated by the Stage 1 consent. Further to this, the proposed land use split of 72% residential floor space and 28% non-residential floor space is considered to be generally consistent with desired mix of uses on the site as approved under the Stage 1 consent.
70. With regard to the distribution of floor space amongst the buildings as is required by Condition 49, it is noted that Buildings B, C and D are all interconnected and share a common podium element. Therefore, the ability to analyse the distribution of floor space amongst these buildings as separate building elements is limited.

71. Whilst there may appear to be variation as to where floor space has been provided on the site, such as between Buildings B and C, the proposal is compliant with the building envelopes approved under the Stage 1 consent. Therefore, the floor space has been massed in the locations approved under the Stage 1 consent, with the variation coming from what elements of the development are defined as being a part of a particular building. To this end, the proposal is considered to be generally consistent with the desired distribution of floor space as required under Condition 49 of the Stage 1 consent.

Exception to Development Standard – Floor Space Ratio

72. Clause 4.4 of the Sydney LEP 2012 stipulates a base floor space ratio of 1:1 for the site, with Clause 6.14 providing an opportunity for a further 0.75:1 of floor space where additional public domain improvement works and community uses are provided.
73. The Stage 1 development application was assessed and determined under the provisions of the South Sydney LEP 1998 and DCP 1997, and pre-dated the gazettal of the current floor space ratio development standard contained within the Sydney LEP 2012. The Stage 1 consent approved a FSR for the northern lot of 2:1, as defined under the South Sydney DCP 1997. This consent included a Voluntary Planning Agreement, as detailed elsewhere within this report, requiring extensive public domain works.
74. The proposed development has a gross floor area of 21,780.1sqm as defined by the SLEP 2012, which equates to a FSR of 1.9:1.
75. Notwithstanding the above, Clause 4.5 of SLEP 2012, requires any land that is to be dedicated as community land (i.e. the land to be dedicated to the RMS for road widening) to be deducted from the site area. Considering this clause, the site area reduces to 10,626.8sqm, and the overall FSR for the proposal increases to 2.05:1.
76. The applicant is relying on the provisions of Clause 4.6 of SLEP 2012 seeking to vary the floor space ratio development standard by 17.1%. Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The Council may grant the exception pursuant to the Director-General's general concurrence granted on May 2009 to cover Clause 4.6(4)(b) of SLEP 2012.
77. In order to demonstrate that the strict numeric compliance is unreasonable and unnecessary in this instance pursuant to the provisions of Clause 4.6, the proposed non-compliance has been considered against the objectives of the floor space ratio development standard in the following table:

Clause 4.6 Requirement	Assessment
<p>Cl.4.6(4)(a)(i) The applicant must submit a written request to vary the development standard.</p>	<p>A written request has been submitted to Council justifying the proposed departures from the floor space ratio development standard on the following basis:</p> <ul style="list-style-type: none"> • The proposed floor space is consistent with the approved gross floor area and FSR expressed in the Stage 1 development consent, as is required under the EP&A Act; • The VPA for the site has been prepared, executed and registered on title. This VPA is based on the approved floor space contained within the Stage 1 consent for the site (being 22,732sqm or 2:1, as calculated under the SSDCP 1997 definition of gross floor area). Compliance with the FSR control contained in the SLEP 2012 would result in an inconsistency with the Stage 1 consent and the VPA documentation and its commitments; • The proposed floor space is able to be accommodated within building envelopes that are generally compliant with the building height development standard of SLEP 2012 and height in storeys control of SDCP 2012, therefore reflect a density envisaged by the controls. It is noted that these planning controls have been formulated to reflect the form of the Stage 1 consent, whereas, the FSR control is inconsistent with the yield able to be accommodated within these envelopes; • The proposal, by way of the VPA commitments, will upgrade the surrounding infrastructure to cater for the increased residential and workforce population. • Comment: The applicant's written rationale adequately addresses the objectives associated with varying the development standard.

Clause 4.6 Requirement	Assessment
<p>Cl.4.6(4)(a)(ii) Council must be satisfied that the proposed development is consistent with the objectives of the development standard.</p>	<p>The proposed development is consistent with the objectives for floor space ratio provided under Clause 4.4 of the SLEP 2012 for the following reasons:</p> <ul style="list-style-type: none"> • The proposed floor space and density of the development are contextually appropriate for the site and its surrounds, and reflects the transitioning and redevelopment of the site as part of the Green Square urban renewal. • The proposed development incorporates a mix of land uses consistent with both the zoning of the site and conditions imposed on the Stage 1 consent. • The development will provide community infrastructure/public domain works to improve the surrounding road network for vehicle, bicycle and pedestrian movements. This will cater for the increased population resulting from the proposal and the greater redevelopment of the Zetland/North Rosebery area. • The extent of non-compliance with the numeric floor space ratio development standard has resulted from an anomaly in the drafting of the planning controls, where the controls have not reflected valid consents in place and the need for subsequent applications to remain consistent under the provisions of the Environmental Planning and Assessment Act, 1979.
<p>Cl.4.6(4)(a)(ii) Council must be satisfied that the proposed development is consistent with the objectives for development within the zone in which the development is proposed to be carried out.</p>	<p>The development is consistent with the objectives of the B4 zone, as outlined earlier in this report.</p>

78. It is considered that the written statement provided by the applicant has sufficiently justified that strict numeric compliance with the development standard is unreasonable and unnecessary in this instance. For the reasons outlined above, the proposed development is considered to be appropriate and it is recommended that a Clause 4.6 Exception be granted to the floor space ratio development standard.

Exception to Development Standard – Building Height

- 79. Clause 4.3 of the Sydney LEP 2012 stipulates a maximum building height of 40 metres for the site. The subject development application has been lodged with maximum building heights that vary between 11.8 metres (Building D) to 47.97 metres (Building B), which is consistent with envelopes approved for this site under the Stage 1 development consent D/2005/1340.
- 80. The Stage 1 development application was assessed and determined under the provisions of the South Sydney LEP 1998 and DCP 1997, and pre-dated the gazettal of the current height development standard contained within the Sydney LEP 2012.
- 81. It is noted that the heights of Buildings A, C and D are all compliant with the 40 metre building height development standard. Building B has a maximum height of 47.97 metres, and as such, results in a breach to the 40 metre height development standard by 7.97 metres or a 19.9% variation.
- 82. The applicant is relying on the provisions of Clause 4.6 of SLEP 2012 seeking to vary the height development standard by a maximum of 7.97 metres for Building B. Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The Council may grant the exception pursuant to the Director-General’s general concurrence granted on May 2009 to cover Clause 4.6(4)(b) of SLEP 2012.
- 83. In order to demonstrate that the strict numeric compliance is unreasonable and unnecessary in this instance pursuant to the provisions of Clause 4.6, the proposed non-compliance has been considered against the objectives of the height development standard in the following table:

Clause 4.6 Requirement	Assessment
<p>Cl.4.6(4)(a)(i) The applicant must submit a written request to vary the development standard.</p>	<p>A written request has been submitted to Council justifying the proposed departures from the height development standard on the following basis:</p> <ul style="list-style-type: none"> • The buildings are consistent with the approved Stage 1 development consent as is required under the EP&A Act; • With the exception of Building B, all other buildings are compliant with the height development standard. • The building heights are contextually appropriate providing a transitioning of heights from north to south, stepping down from Victoria Park (to the north) to North Rosebery (to the south). • The proposal will not impact on scenic or iconic views from surrounding development.

Clause 4.6 Requirement	Assessment
	<p>Comment: The applicant's written rationale adequately addresses the objectives associated with varying the development standard.</p>
<p>Cl.4.6(4)(a)(ii) Council must be satisfied that the proposed development is consistent with the objectives of the development standard.</p>	<p>The proposed development is consistent with the objectives for building height provided under Clause 4.3 of the SLEP 2012 for the following reasons:</p> <ul style="list-style-type: none"> • The Stage 1 consent applies to both the subject site and the 'Dolina South' site, located on the southern side of Epsom Road. This Stage 1 consent considered it a more appropriate response to the site conditions and constraints to provide a higher density and yield on this northern site, with the southern site to accommodate lower scaled buildings and areas of open space that more effectively transition into the existing built form of Rosebery. As such, the design response was providing tower forms to the proposed height on the subject site, which reflect the built form of development to the north of the site along South Dowling Street. • The proposed buildings are generally consistent with the height in storeys control contained in the SDCP 2012; • The appropriateness of the envelopes with regard to view sharing was considered as part of the Stage 1 development consent, where it was determined that the approved building heights and envelopes would not result in the loss of iconic or significant views. • The extent of non-compliance with the numeric building height development standard has resulted from an anomaly in the drafting of the planning controls, where the controls have not reflected valid consents in place and the need for subsequent applications to remain consistent under the provisions of the Environmental Planning and Assessment Act, 1979.

Clause 4.6 Requirement	Assessment
<p>Cl.4.6(4)(a)(ii) Council must be satisfied that the proposed development is consistent with the objectives for development within the zone in which the development is proposed to be carried out.</p>	<p>The development is consistent with the objectives of the B4 zone, as outlined earlier in this report.</p>

84. It is considered that the written statement provided by the applicant has sufficiently justified that strict numeric compliance with the development standard is unreasonable and unnecessary in this instance. For the reasons outlined above, the proposed development is considered to be appropriate and it is recommended that a Clause 4.6 Exception be granted to the height development standard.

Urban Design and Design Refinement

85. Concern was initially raised to the proposal by City staff and the Design Advisory Panel with regard to the following matters:
- (a) Further design refinement required to facade treatments of Buildings A and C;
 - (b) Land-use mix inconsistent with Stage 1 development consent, with the reduction in non-residential floor space sought not being supportable;
 - (c) Inappropriate location of indicative child care centre use, and its associated outdoor terrace, adjacent to South Dowling Street/ Southern Cross Drive;
 - (d) Potential pedestrian and vehicular conflict as a result of the design of through-site link and internal access driveway; and
 - (e) Unit mix is inconsistent with SDCP 2012, with an oversupply of one-bedroom apartments and an undersupply of three-bedroom apartments.
86. Subsequent amendments were made to the proposal to respond to the above concerns. These amendments included:
- (a) Revision to the facade treatment and architectural expression of Buildings A and C to provide a greater vertical emphasis and reduce the perception of building bulk and length;
 - (b) A modified land use mix to increase the amount of non-residential floor space within the development from 22% to 28% and provision of a unit mix that is compliant with the requirements of SDCP 2012;
 - (c) Relocation of the indicative future child care centre tenancy to the Link Road frontage of the site, noting that this use would be subject of a separate application; and
 - (d) Reconfiguration of the through site link/access driveway design, including the use of material changes and physical barriers to minimise conflict between pedestrian and vehicle users of the public domain.

Car Parking

87. The proposal incorporates 13 visitor car parking spaces along the northern side of the internal access driveway adjacent to the retail tenancies of Building D (refer to **Figure 23**, below). These would be private car parking spaces that are not controlled or regulated by Council.
88. The applicant has indicated the intention that these car parking spaces be used as visitor parking spaces for the retail and commercial land uses provided on the site. Based on the location of the spaces and the indicative land uses nominated, these parking spaces are ideally located to service as drop-off/collection spaces for any future child care centre use on the site.
89. The subject application is approving generic retail and commercial floor plates only, with the future uses of these spaces to be the subject of further development applications. Sufficient car parking has been provided within basement level 1 to cater to the needs of the generic retail and commercial floor space. Should any future use have more specific car parking requirements, such as child care drop off/collection requirements, then consideration of the appropriateness of the amount and location of car parking, can form part of the assessment of the detailed use development application. Any consideration or approval of these spaces at this time is considered to be premature.
90. It is recommended that a design modification condition be imposed to advise that no consent is granted to these 13 car parking spaces and that an alternate landscaping or paving treatment be provided adjacent to the colonnade entry of Building D.

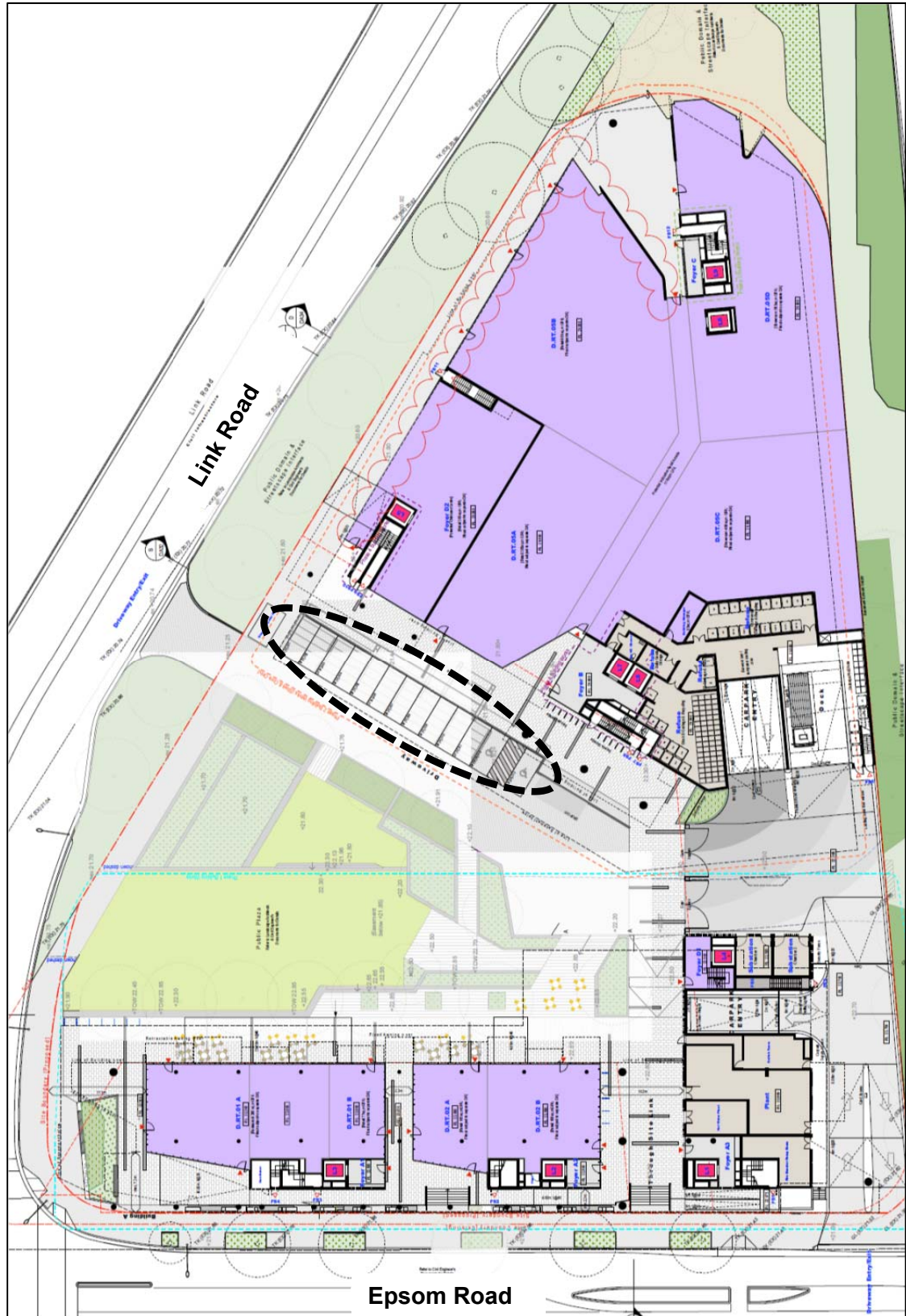


Figure 23: The proposed location of the 13 at-grade visitor car parking spaces

91. As a result of the deletion of these 13 car parking space, the total number of parking spaces provided on the site reduces to 264. The table, below, provides a breakdown of the proposed and permissible on the site. It is noted that should a future use development application seek to reinstate these at-grade car parking spaces, the non-residential parking provision is beneath the maximum permissible under Sydney LEP 2012.

Apartment Type/Use	Maximum permissible under DCP	Permissible Spaces	Proposed	Complies
1-bedroom	77 units x 0.5 = 38.5	155	151	✓
2-bedroom	93 units x 1 = 93			
3-bedroom	19 unit x 1.2 = 22.8			
Visitor	30 units x 0.2 = 6 40 units x 0.125 = 5 119 units x 0.067 = 7.973	19	21	X
Retail/Commercial		115	88	✓

93. As the proposed development has provided 2 visitor car parking spaces in excess of the maximum permissible under the Sydney LEP 2012, it is recommended that these spaces be converted to car parking spaces allocated to residential units. This would increase the overall residential parking provision to 153 spaces, which remains beneath the maximum permissible under the LEP.

Access

94. Access for disabled persons can be provided to the premises.

Other Impacts of the Development

95. The proposed development is capable of complying with the BCA.
96. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

97. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial/residential surrounding and amongst similar uses to that proposed.

INTERNAL REFERRALS

98. The application was referred to Council's Urban Designer; Public Domain Unit; Health; Tree Management Officer; Building Services Unit; and Transport Management Unit.

99. 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.

EXTERNAL REFERRALS

Sydney Water

100. The proposal seeks to construct internal driveways, pathways and landscaping over the culvert easement. No basement or new buildings are proposed to be constructed within this easement.
101. The application was referred to Sydney Water, and a meeting was held between the applicant and representatives of Sydney Water.
102. In correspondence, dated 26 September 2013, Sydney Water advised that they raise no objection to the proposed driveway and landscaping works being constructed over the stormwater channel and easement.

ADVERTISING AND NOTIFICATION

103. The application constitutes integrated development and as such the application was notified and advertised for 30 days, between 3 January 2013 and 3 February 2013, in accordance with the provisions of Environmental Planning and Assessment Regulations 2000.
104. As a result of this notification, one (1) submission was received.
- (a) Object to statement within the Traffic and Parking Assessment Report that the adjacent Overland Garden development site is part of a cost sharing arrangement to deliver the upgrade of the Epsom and Link Road signalised intersection

Response - Pursuant to the Stage 1 development consent and associated VPA, the applicant/developer of the subject site is required to dedicate land, undertake embellishment works and signalise the intersection prior to the occupation of any of the buildings on site occurring.

This VPA and its commitments relate only to the owners of the subject site and the site on the southern side of Epsom Road (known as 87-103 Epsom Road). It is agreed that the Overland Gardens development is not subject to this agreement and has its own VPA to provide other public domain improvement works.

Any potential agreement for a cost sharing arrangement is a private matter between the respective land owners. The application has been assessed based on the obligations of the VPA for the subject site requiring the delivery of the intersection prior to the occupation of any of the buildings on this site.

PUBLIC INTEREST

105. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

FINANCIAL IMPLICATIONS/S94 CONTRIBUTION**Section 94 Contributions**

106. In accordance with the provisions of the City of Sydney Development Contributions Plan 2006, the proposed development is subject to a Section 94 contribution.
107. A credit of 167 workers for the previous existing workforce for the site has been included in the applicable contribution payable.
108. Including this existing workforce credit, a total contribution of \$3,713,449.31 is payable with this application. As the proposal seeks staged construction, the contribution has been calculated in four payments to correlate with the applicable floor space being constructed/delivered at that phase of development.

RELEVANT LEGISLATION

109. The Environmental Planning and Assessment Act 1979, Water Management Act, 2000 and Commonwealth Airports Act 1996.

CONCLUSION

110. The proposal has been amended during the assessment period to address preliminary concerns relating to inconsistency with the Stage 1 development consent, land use and unit mix, architectural treatment and expression and ground level treatment to communal areas within the site.
111. As amended, the proposal is considered to be generally consistent with the relevant planning controls and existing consents in place for the site, and responds appropriately to the constraints of the site. The proposal is considered to be a satisfactory design outcome and contextually appropriate for its siting in the Green Square urban renewal area.
112. The subject site benefits from a Stage 1 development consent that was approved by the Land and Environment Court in 2007. Under the provisions of the Environmental Planning and Assessment Act, 1979, any future detailed design development applications are required to remain consistent with this Stage 1 consent. The proposal, as amended, has remained consistent with the Stage 1 development consent with regard to building envelopes, floor space and land uses.
113. Whilst the proposed development results in numeric non-compliances with the floor space ratio and building height development standards, this is a consequence of the planning controls not accurately reflecting the Stage 1 development consent. As the proposal meets the test of consistency with the Stage 1 consent, the written request submitted by the applicant to justify the departures from the floor space ratio and height development standards under the provisions of Clause 4.6 of Sydney LEP 2012 are supported.

114. Due to the proposed development being of a height that it penetrates the prescribed airspace of Sydney Airport, under the provisions of Clause 7.16 of the Sydney LEP 2012, concurrence is required from the Civil Aviation Safety Authority (CASA) prior to any approval being granted. At the time of writing, no formal response has been received from CASA. As such, it is recommended that the determination of the application be delegated to the Chief Executive Officer following the receipt of this advice.

LOUISE KERR

Acting Director City Planning, Development and Transport

(Nicola Reeve, Senior Planner)