

ITEM 4. DEVELOPMENT APPLICATION: 810-822 ELIZABETH STREET WATERLOO**FILE NO: D/2013/700****DEVELOPMENT APPLICATION NO: D/2013/700****SUMMARY****Date of Submission:** 29 May 2013**Additional information** 19 and 30 July 2013 and 21, 23 and 28 October 2013**Applicant:** Icon Developments Australia Pty Ltd**Architect:** MPRDG**Developer:** Waterloo Landholdings Pty Ltd**Owner:** Waterloo Landholdings Pty Ltd**Cost of Works:** \$50,281,582**Proposal Summary:** The subject application seeks consent for a mixed use development, ranging in height from 4 to 7 storeys, and encompasses the following:

- demolition of above ground structures;
- retention of basement car parking levels;
- 161 residential apartments;
- 1 retail tenancy;
- 122 car parking spaces;
- landscaping and public domain works; and
- staged construction.

The notification of the application resulted in three (3) submissions being received and objecting to the following matters:

- building height and number of storeys inconsistent with surrounding streetscape;
- overshadowing to Waterloo Oval;
- overlooking and loss of privacy; and
- traffic generation, insufficient car parking and increased demand on public transport network.

**Proposal Summary:
(continued)**

Under the provisions of Clauses 4.4 and 6.14 of SLEP 2012, a FSR of 2:1 is permissible where the development provides for public domain improvement works and community infrastructure. In accordance with these provisions, the owner of the site has made a formal offer to enter into a Voluntary Planning Agreement with Council. This agreement includes public domain improvement works to embellish the Elizabeth Street setback of the site and dedicate this land to Council. This agreement also includes the provision of a monetary contribution to the value of \$1,242,450.00 towards local stormwater projects and the provision of infrastructure in the Green Square Town Centre

The proposed development results in a numeric non-compliance with the building height development standard. This non-compliance is a consequence of retaining the existing basement car parking levels, and the LEP definition requiring this retained slab level to be the point from where the height of the building is to be measured from. Despite the numeric non-compliance, the proposed form and scale of the development is considered to be contextually appropriate for its location. As such, the written request submitted by the applicant to justify the departures from the height development standard under the provisions of Clause 4.6 of Sydney LEP 2012 is supported.

The applicant is seeking a waiver of the requirements for a competitive design process and preparation of a site specific development control plan as required by Clause 6.21 and 7.20 of the SLEP 2012. Considering the history of this particular proposal, and subject to the imposition of a design modification condition, the proposal is considered to provide an architectural form which responds appropriately to the site and achieves a satisfactory design outcome and streetscape presentation. As such, the waiver of both the competitive design process and preparation of a site specific development control plan is supported in this instance.

The proposal is considered to be a satisfactory design outcome and contextually appropriate for its siting in the Green Square urban renewal area.

Summary Recommendation:

The development application is recommended for deferred commencement consent requiring the owner of the site to execute the Voluntary Planning Agreement and register this agreement on title prior to the activation of the consent.

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:

City of Sydney Development Contributions Plan 2006

Attachments:

- A - Architectural Plans
- B - Photomontages
- C - Draft Voluntary Planning Agreement

RECOMMENDATION

It is resolved that:

- (A) pursuant to the provisions of Clause 6.21(6) of the Sydney Local Environmental Plan 2012, the consent authority waive the requirements of a competitive design process for the subject application as it is considered to be unreasonable and unnecessary in this instance;
- (B) pursuant to the provisions of Clause 7.20(3) of the Sydney Local Environmental Plan 2012, the consent authority waive the requirements for the preparation of a development control plan as it is considered to be unreasonable and unnecessary in this instance;
- (C) pursuant to the provisions of Clause 4.6 of the Sydney Local Environmental Plan 2012, the variation sought to Clause 4.3 (Building Height) of the Sydney Local Environmental Plan 2012 be supported in this instance; and
- (D) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2013/700, subject to the following:

(1) VOLUNTARY PLANNING AGREEMENT

Prior to activation of this consent:

- (a) The Voluntary Planning Agreement (Reference AMH/S107196: Exhibition Draft 20.09.13), prepared by Council and placed on public exhibition on 24 October 2013, shall be executed and submitted to Council;
- (b) The guarantee must be provided to Council in accordance with the Voluntary Planning Agreement; and
- (c) The Voluntary Planning Agreement, as executed, must be registered on the title of the land.

Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement consent condition, as indicated above, must be submitted to Council within **2 years** of the date of determination.

The consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent condition, as indicated above, has been satisfied.

Upon Council giving written notification to the Applicant that the deferred commencement consent condition has been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent condition.

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

This consent allows construction works to be broken into 3 stages, as follows:

- (a) **Construction Stage 1** – Demolition and Excavation works;
- (b) **Construction Stage 2** – Construction of all below ground structures; and
- (c) **Construction Stage 3** – Construction of all above ground structures, including fit-out and landscaping of the site.
- (d) Various conditions in this consent make reference to the requirements of conditions and the stage in which they may be satisfied.

(2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2013/700, dated 29 May 2013, and the following drawings:

| Drawing Number | Architect | Date |
|--|------------------|-------------|
| DA 1000 B <i>Site Plan</i> | MPRDG | 22 May 2013 |
| DA 2000 B <i>Basement Plan</i> | MPRDG | 22 May 2013 |
| DA 2001 B <i>Ground Floor Plan</i> | MPRDG | 22 May 2013 |
| DA 2002 B <i>Level 1 Plan</i> | MPRDG | 22 May 2013 |
| DA 2003 B <i>Level 2 Floor Plan</i> | MPRDG | 22 May 2013 |
| DA 2004 B <i>Level 3 Floor Plan</i> | MPRDG | 22 May 2013 |
| DA 2005 B <i>Level 4 Floor Plan</i> | MPRDG | 22 May 2013 |

| Drawing Number | Architect | Date |
|---|----------------|-----------------|
| DA 2006 B <i>Level 5 Floor Plan</i> | MPRDG | 22 May 2013 |
| DA 2007 B <i>Level 6 Floor Plan</i> | MPRDG | 22 May 2013 |
| DA 2008 B <i>Roof Plan</i> | MPRDG | 22 May 2013 |
| DA 2300 B <i>North & South Elevations</i> | MPRDG | 24 May 2013 |
| DA 2301 B <i>West Elevation</i> | MPRDG | 24 May 2013 |
| DA 2400 B <i>Cross Sections A & B</i> | MPRDG | 22 May 2013 |
| DA 2401 B <i>Cross Section C</i> | MPRDG | 22 May 2013 |
| DA 2601 C <i>Unit Type 2A & 2A Adaptable</i> | JPR Architects | 23 October 2013 |
| DA 2603 C <i>Unit Type 3A & 3A Adaptable</i> | JPR Architects | 23 October 2013 |
| DA 2604 C <i>Unit Type 3B & 3B Adaptable</i> | JPR Architects | 23 October 2013 |
| DA 2065 C <i>Unit Type 3C & 3C Adaptable</i> | JPR Architects | 23 October 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 payment of monetary contributions as stipulated at Schedule 1 of the Voluntary Planning Agreement shall be paid prior to the issue of any Construction Certificate for the development.

The completion of the developer's works as stipulated within the executed Voluntary Planning Agreement shall be completed and dedicated to Council prior to the issue of any Occupation Certificate.

(4) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

Individual Apartment Entries – Elizabeth Street frontage

- (a) Amended plans shall be submitted to provide individual entries from the Elizabeth Street frontage of the site to ground floor level apartments in Building D numbered D-G31, D-G37 and D-G38 and Level 1 apartment in Building B numbered B-111.

Car Park Ventilation Louvres

- (b) Amended plans shall be submitted to further refine the materials, colour scheme and use of landscape screening of the car park ventilation louvres located on the northern elevation of Building A and western elevations of Buildings B and D to minimise the visual impact of these service louvres on the facade.

Installation of Privacy Screens

- (c) Amended floor plans and southern elevation plan shall be submitted to include the installation of privacy screening along the southern elevation of the balconies of apartments numbered D-135, D-235, D-335, D-435, D-535 in Building D. These screens shall be to a minimum height of 1.6 metres above the finished floor level of each balcony and shall be designed to prevent views from these balconies towards the eastern elevation windows and balconies of the adjacent apartment building at 824-828 Elizabeth Street.

Exterior shade structures/devices on western elevation

- (d) Further details and amended elevation plans shall be submitted to demonstrate shade and weather protection screening to the glazing of habitable rooms on the western elevation of the development.

External Materials and Colour Scheme

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

The amended plans shall be submitted to, and approved by, Council's Director City Planning, Development and Transport prior to a Stage 2 Construction Certificate being issued.

(5) ON-SITE GARBAGE COLLECTION

The garbage/waste collection area and vehicle turntable located at the basement level of the development shall be redesigned to accommodate a Council waste collection vehicle of 9.24 metres in length in accordance with the City's '*Policy for Waste Minimisation in New Developments 2005*'.

An amended basement floor plan shall be submitted to illustrate a vehicle turntable with sufficient dimensions to accommodate a standard Council waste collection vehicle, with this plan to include any reconfiguration required to the basement layout in order to accommodate this revised garbage collection area.

The amended plans are to be submitted and approved by the Director City Planning, Development and Transport prior to the issue of a Stage 2 Construction Certificate.

(6) 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 (being drawings numbered DA 6000B and DA 6001B), prepared by MPRDG, dated 22 May 2013, as amended by Condition 4(e) of this consent.

(7) DESIGN QUALITY EXCELLENCE

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

(8) GROSS FLOOR AREA

The following applies:

- (a) The total Gross Floor Area of the development is 11,283sqm as calculated in accordance with the definition contained within the Sydney Local Environmental Plan 2012.
- (b) Prior to a final 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.

(9) BUILDING HEIGHT

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

| | RL to the parapet of the building | RL to the top of the skylights |
|-------------------|--|---------------------------------------|
| Building A | 48.45 | N/A |
| Building B | 48.25 | 48.45 |
| Building C | 45.15 | 45.35 |
| Building D | 45.65 | 45.85 |

- (b) Prior to an Occupation Certificate being issued for Stage 3, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifying Authority.

(10) 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.

(11) USE - SEPARATE DA REQUIRED

A separate development application for the fit-out and use of the retail tenancy must be submitted to and approved by Council prior to that fit-out or use commencing.

(12) USE OF COMMON AREAS AND FACILITIES

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

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

In accordance with Clause 7.13 of *Sydney Local Environmental Plan 2012*, and prior to any Construction Certificate being issued, 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 is \$1,926,234.87 based on the in lieu monetary contribution rate for non-residential development at \$45.61 per square metre of total non-residential floor area of 70sqm, and for residential development at \$136.87 per square metre of total residential floor area of 14,081sqm. Contributions will be indexed in accordance with the formula set out below.

Prior to any Occupation Certificate being issued 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) HPI₂ 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) HPI₁ 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 (\$)).

(14) 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 Category | Amount |
|-----------------------|----------------|
| Community Facilities | \$274,159.85 |
| Public Domain | \$168,866.65 |
| New Open Space | \$1,315,770.08 |
| New Roads | \$334,168.48 |
| Accessibility | \$13,859.95 |
| Management | \$14,985.80 |
| Total | \$2,121,810.81 |

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 – September Quarter 2013.

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

Please contact Council's Planning Administration staff at planningsystemsadmin@cityofsydney.nsw.gov.au 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.

(15) SIGNS - SEPARATE DA REQUIRED

A separate development application for any proposed business identification signs (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.

(16) RESTRICTION ON RESIDENTIAL DEVELOPMENT

The following restriction applies to buildings approved for residential use:

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

(17) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL

The following conditions apply to car parking:

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

(18) 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.

(19) 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***.

(20) CAR PARKING SPACES AND DIMENSIONS

A maximum of 122 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 Stage 2 Construction Certificate being issued.

(21) SMALL CAR PARKING SPACES AND DIMENSIONS

The design and layout of all off-street small car parking spaces 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 Stage 2 Construction Certificate being issued.

All small car spaces must be clearly marked and identifiable as small car spaces. The signs or line markings must be in place and approved by the Principal Certifying Authority prior to an Occupation Certificate being issued and must be maintained in good order at all times.

(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 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) 107 residential parking spaces.
- (b) 14 residential visitor parking spaces.
- (c) 1 retail/commercial parking space.

(23) 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 Stage 2 Construction Certificate being issued.

(24) SERVICE VEHICLE SIZE LIMIT

The size of vehicles servicing the property must be a maximum length of 9.5 metres.

(25) 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.

(26) 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.

(27) 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.

(28) 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*".

(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 a Stage 2 Construction Certificate being issued.

(30) 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.

(31) BICYCLE PARKING

A total of 199 bicycle parking spaces are to be provided. Of these:

- (a) A minimum of 170 of the spaces must be either class 1 or an on title storage area of the same dimensions;
- (b) A minimum of 17 spaces must be class 3 and available for the residential visitors to the site; and
- (c) A minimum of 2 spaces must be class 2 and available for the commercial staff at the site.

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, and
- (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.

(32) VEHICLE ACCESS

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

(33) SIGNS AT EGRESS

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

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

(34) 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.

(35) 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 an Occupation Certificate.

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

(36) 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.

(37) 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.

(38) TRAFFIC WORKS

Any proposals for alterations to the public road, involving traffic and parking arrangements, must be designed in accordance with RMS 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.

(39) 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".

(40) 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.

(41) LAND REMEDIATION

- (a) The Detailed Environmental Site Assessment, prepared by DLA Environmental, dated May 2013 (Revision R01, Project DL3043_S000611) shall be completed and the final Detailed Site Assessment shall be submitted to Council and the NSW accredited Site Auditor, James Davies of Environview PTY LTD, for approval immediately after demolition and prior to the execution of works associated with the built form (excluding building work directly related to remediation).
- (b) Any new information which comes to light during completion of the Detailed Site Assessment as recommended in (a) above, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Principal Certifying Authority.
- (c) The site is to be validated as being suitable for the proposed use prior to the installation of any foundations and above ground works in accordance with the Detailed Environmental Site Assessment by DLA Environmental dated May 2013 Revision R01, Project DL3043_S000611 and in accordance any further recommendations by the NSW accredited site auditor following completion of the Detailed Environmental Assessment.

(42) SITE AUDIT STATEMENT

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

(43) COMPLIANCE WITH ACOUSTIC REPORT

All recommendations outlined within the submitted Acoustic Report, prepared by Acoustic Logic, dated November 2012 (Report reference 20120949.1/1210A/R0/BW) must be implemented during construction and use of the premises, including all recommended ameliorative measures outlined at Section 4.7 and tables 4 and 5 of this report.

Further to the above, the recommendations of the Acoustic Report must be amended to include recommended treatments for the flooring of the external access walkways within the development to minimise noise transmission from footfall, considering the proximity to bedroom windows within the development. An amended copy of this Acoustic Report must be submitted to Council prior to the issue of a Stage 3 Construction Certificate.

(44) NOISE - GENERAL

- (a) The emission of noise associated with the use of the premises including the operation of any mechanical plant and equipment shall comply with the following criteria:
- (i) The LAeq, 15minute noise level emitted from the use must not exceed the background noise level LA90, 15minute by more than 5dB when assessed at the boundary of any affected residence.
 - (ii) The LAeq,15minute noise level shall be adjusted for modifying factors in accordance with Part 4 of the Environmental Protection Authority (EPA) NSW Industrial Noise Policy.
 - (iii) 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.

For internal residential amenity only:

- (b) An LAeq,15minute noise level emitted from the use must not exceed the LA90, 15minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence provided that;
- (i) Where the LA90, 15minute noise level is below the threshold of hearing Tf at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 - Normal Equal-Loudness-Level Contours then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.
 - (ii) The LAeq,15minute noise level and the LA90,15minute noise level shall both be measured with all external doors and windows of the affected residence closed;
 - (iii) The LA90,15minute noise level shall be measured in the absence of noise emitted from the use but with the ventilation equipment (excluding air-conditioning equipment) normally servicing the affected residence operating.

(45) AIR CONDITIONERS IN RESIDENTIAL BUILDINGS

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

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

(46) COMPLIANCE WITH DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE MANAGEMENT PLAN

- (a) All works conducted on site which form part of this development must be carried out in accordance with the ameliorative measures recommended within Section 7 of the submitted Noise Impact Assessment, prepared by Acoustic Logic, dated November 2012 (Reference 20120949.1/1210A/R0/BW).
- (b) Where all such control measures have been implemented and the resultant noise levels at any noise sensitive receiver are still in exceedance with the Council's noise criteria stated in the Construction Hours/Noise Code 1992, and are giving rise to sustained complaints, then the contractor must provide regular, appropriate and sustained periods of respite in accordance with the "Use of Appliances of a Highly Intrusive Nature" condition (below).

(47) 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 9am to 12pm and 2pm to 5pm Mondays to Fridays and 9am to 12pm and 2pm to 3.30pm Saturdays.
- (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'.

(48) 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.

(49) 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 Stage 3 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.

(50) SYDNEY AIRPORT CORPORATION APPROVAL

An approval for the proposed height of the development shall be obtained from Sydney Airport Corporation Limited in accordance with the Civil Aviation (Building Control) Regulations 1988, prior to the issue of a Construction Certificate.

(51) NO DEMOLITION PRIOR TO A CONSTRUCTION CERTIFICATE

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

(52) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL

- (a) A Waste Management Plan is to be submitted to and approved by Council prior to a Stage 2 Construction Certificate being issued. The plan must comply with the Council's Policy for Waste Minimisation in New Developments 2005. All requirements of the approved Waste Management Plan must be implemented during construction of the development.
- (b) The building must incorporate designated areas or separate garbage rooms constructed in accordance with Council's Policy for Waste Minimisation in New Developments 2005, to facilitate the separation of commercial waste and recycling from residential waste and recycling.

UPON COMPLETION OF THE DEVELOPMENT

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

(53) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

- (a) A Waste Management Plan is to be approved by the Certifying Authority prior to a Stage 2 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 an 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.

(54) WASTE AND RECYCLING COLLECTION CONTRACT

Prior to an 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.

(55) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

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

(56) 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.
 - (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.
 - (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.

(57) EROSION AND SEDIMENT CONTROL

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;
 - (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).

(58) DILAPIDATION REPORT

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 824-828 Elizabeth Street and 1-5 and 7-11 Hunter Streets are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Certifying Authority and the Council prior to the issue of any Construction Certificate.

UPON COMPLETION OF EXCAVATION/DEMOLITION

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

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

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

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

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

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

- (a) Prior to any Construction Certificate being issued, the following documents must be submitted to the Certifying Authority (CA) and a copy to Council (if Council is not the CA):
- (i) Dilapidation Report of adjoining buildings/structures.
 - (ii) Evidence that public utility services have been investigated.
- (b) If adjoining a Public Way:
- (i) Evidence of a \$10 million public liability insurance policy specifically indemnifying the City of Sydney, valid for at least the duration of the project. The original document must be submitted to Council.

- (ii) Bank guarantee in accordance with the Council's fees and charges. The original document must be submitted to Council.
- (c) Prior to commencement of work:
 - (i) The location of utility services must be fully surveyed and the requirements of the relevant public utility authority complied with; and
 - (ii) The following documents must be submitted to and approved by the Principal Certifying Authority (PCA) and a copy to Council (if Council is not the PCA):
 - a. Structural drawings and certification as prescribed elsewhere in this consent.
 - b. Geotechnical report and certification as prescribed elsewhere in this consent.
- (d) Prior to issue of an Occupation Certificate, the Principal Certifying Authority must receive written and photographic confirmation that the restoration of the public way has been complete in accordance with the following:
 - (i) All ground anchors must be de-stressed and isolated from the building prior to completion of the project.
 - (ii) The temporary structure, including foundation blocks, anchors and piers must be removed above and below the public way, prior to completion of project, down to a depth of 2m.
 - (iii) All timber must be removed.
 - (iv) All voids must be backfilled with stabilised sand (14 parts sand to 1 part cement).
 - (v) All costs for any reinstatement of the public way made necessary because of an unstable, damaged or uneven surface to the public way must be borne by the owner of the land approved for works under this consent.
- (e) The Bank Guarantee may be released after the Principal Certifying Authority submits certification to Council that all the works described in (d) above have been completed and that there is no remaining instability, damage or unevenness to the public domain as a result of the development. This certification is to include relevant photographs and must be to the satisfaction of the Council's Director City Planning, Development and Transport.

(60) 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.

(61) 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 a Stage 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) Location, numbers and type of plant species;

- (iv) Details of planting procedure and maintenance;
 - (v) Details of drainage and watering systems.
- (b) Prior to the issue of a Stage 3 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.

(62) 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 Stage 3 Construction Certificate being issued.

(63) TREES APPROVED FOR REMOVAL

All trees, detailed in the following table, are approved for removal. The tree numbers and locations in the following table correlate with the tree references in the 'Pre Development Tree Assessment', prepared by Stuart Pittendrigh, dated January 2013.

| Tree No: | Botanical Name | Location |
|----------|-----------------------|--------------------------|
| 1-2 | Ficus benjamina | McEvoy Street setback |
| 3-5 | Gleditsia triacanthos | McEvoy Street setback |
| 15-16 | Gleditsia triacanthos | Elizabeth Street setback |

(64) TREES THAT MUST BE RETAINED

- (a) No approval is granted for the removal of the trees listed in the following table, which Council has determined to be prominent landscape elements.
- (b) The tree numbers and locations in the following table correlate with the tree references in the 'Pre Development Tree Assessment', prepared by Stuart Pittendrigh, dated January 2013.

| Tree No: | Botanical / Common Name | Location |
|----------|-------------------------|---------------------------------|
| 6-11 | Melalueca quinquenervia | Street Trees – Elizabeth Street |
| 12-14 | Melalueca quinquenervia | Street Trees – McEvoy Street |

(65) 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) Stockpiling, storage or mixing of materials, washing of equipment, vehicle parking, disposal of liquids, machinery repairs and refuelling, disposal of building materials such as cement slurry, siting of offices or sheds and the lighting of fires, must not occur within Structural Root Zone (SRZ) distances detailed in the table below;
- (b) Excavation must not occur within the Structural Root Zone of any street tree detailed in the table below. If excavation is proposed within this zone, the Council's Tree Management Officer must be contacted immediately and the excavation must be carried out in accordance with Council's direction;

SRZ Schedule:

| Tree No | Species Name | Location | Radius (m) from Trunk |
|---------|-------------------------|------------------|-----------------------|
| 6 | Melalueca quinquenervia | Elizabeth Street | 3.6 metres |
| 7 | Melalueca quinquenervia | Elizabeth Street | 2.8 metres |
| 8 | Melalueca quinquenervia | Elizabeth Street | 2.8 metres |
| 9 | Melalueca quinquenervia | Elizabeth Street | 2.8 metres |
| 10 | Melalueca quinquenervia | Elizabeth Street | 2.5 metres |
| 11 | Melalueca quinquenervia | Elizabeth Street | 2.8 metres |
| 12 | Melalueca quinquenervia | McEvoy Street | 3.1 metres |
| 13 | Melalueca quinquenervia | McEvoy Street | 2.9 metres |
| 14 | Melalueca quinquenervia | McEvoy Street | 2.8 metres |

- (c) Tree trunk protection shall be undertaken prior to the issuing of the Construction Certificate. The protection shall be installed by a qualified Arborist (AQF 2 or 3) and must include;
 - (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunk at all times,
 - (ii) Tree trunk/s must be protected by wrapped hessian or similar material to limit damage, and
 - (iii) Timber planks (50mm x 100mm or similar) shall be placed around tree trunk/s. The timber planks shall be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion.
 - (iv) Tree trunk protection is to remain in place for the duration of construction and development works, and shall be removed at the completion of the project.

- (d) 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.
- (e) Materials or goods, including site sheds, must not be stored or placed:
 - (i) Around or under the tree canopy; or
 - (ii) Within two (2) metres of the trunks or branches of any street trees.
- (f) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9673, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

(66) SERVICES

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

(67) STREET TREE PRUNING

- (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'.

(68) 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 installation of the driveway crossover located at the south-east corner of the site;
 - (iii) During excavation and trenching within the Structural Root Zone of any street tree listed for retention; and
 - (iv) During any Landscape works within 3 metres of the trees trunk.
- (b) A Final Compliance Report shall be submitted to Council which provides details on the health and structure of tree to be retained and protected and must include:
- (i) Certification of compliance with each key milestone;
 - (ii) Details of any other 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).

(69) ADVANCE TREE PLANTING

Tree planting within the property must be undertaken in accordance with the following conditions, and to Council's satisfaction, prior to the issuing of any Occupation Certificate.

- (a) Four (4) trees are to be planted within the deep soil planting area at the completion of all construction works.
- (b) The tree species, when mature, must attain a minimum height of no less than eight (8) metres and minimum canopy spread of three (3) metres. Palms, fruit trees and species recognised to have a short life span are not considered a suitable replacement.
- (c) The tree must be grown to NATSPEC Guidelines for Specifying Trees to ensure quality trees and more successful establishment.
- (d) At the time of planting, the container size is to be a minimum of 75 litres and a minimum height of 2.2 metres.
- (e) The tree must be planted by a qualified Horticulturalist or Arborist of Level 2 under the Australian Qualifications Framework (AQF).
- (f) The replacement planting/s must be planted in such a manner as to promote good health during the establishment period, and must be maintained, as far as practicable to ensure tree growth into maturity.
- (g) Any newly planted tree that fails to establish within 2 years of the initial planting date must be replaced with a tree of comparable qualities.
- (h) Upon receipt and acceptance that all replacement tree planting/s have been completed to Council's satisfaction, an occupancy certificate will be issued.

(70) 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.

(71) UTILITY SERVICES

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of any 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.

(72) TELECOMMUNICATIONS PROVISIONS

- (a) Appropriate space and access for ducting and cabling is to be provided within the plant area and to each apartment within the building within for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery. The details must be submitted for the approval of the Certifying Authority prior to a Stage 2 Construction Certificate being issued.
- (b) A separate DA must be submitted prior to the installation of any external telecommunication apparatus, or the like.

(73) NOISE CONTROL VERIFICATION

The Principal Certifying Authority (PCA) shall obtain a statement from appropriately qualified acoustic consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants.

This statement shall certify that the acoustic mitigation measures outlined at Section 4.7 and Tables 4 and 5 of the Acoustic Report, prepared by Acoustic Logic, dated November 2012 (Reference 20120949.1/1210A/R0/BW) have been suitably incorporated into the development and that relevant noise amenity criteria set out within the Sydney Development Control Plan 2012 and AS 2107 have been satisfied prior to issue of Occupation Certificate.

The verification report must also include any mechanical services plant and equipment installed on the premises and confirm that the maximum operational noise levels from their use complies with the noise criteria set out within the Council's "Noise General" condition.

(74) 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 Stage 3 Construction Certificate, 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; and
- (b) identify acoustic mitigation measures to be incorporated into the building design to ensure compliance with the design goals contained within the Central Sydney DCP.

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.

(75) FLOOR TO CEILING HEIGHT

Prior to a Stage 3 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.

(76) 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 a Stage 3 Construction Certificate being issued.

(77) ADAPTABLE HOUSING

Prior to a Stage 3 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

is to be submitted to the Certifying Authority.

(78) PHYSICAL MODELS

- (a) Prior to a Stage 3 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 modellers 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.

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

- (a) Prior to a Stage 3 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;
 - (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.

(80) DEMOLITION/SITE RECTIFICATION

The following conditions apply to the development:

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued for construction of the substantive building.
- (b) Prior to 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 \$1,415,000 as security for the costs of such works provided that:
 - a. the maximum liability under the Deed must not exceed \$1,415,000; and
 - b. the Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.
 - (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:

- a. demolition of the existing building has commenced but not been completed;
 - b. the existing building has been demolished; or
 - c. the site has been excavated; or
 - d. the erection of the structure has commenced;
- (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 tenantable 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; and
- (g) Quantity Surveyors costing of the likely site rectification works required at each remaining stage.

(81) FOOTPATH DAMAGE BANK GUARANTEE

A Footpath Damage Bank Guarantee calculated on the basis of an area of 166 lineal metres of asphalt 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.

(82) 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.

(83) 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 and approved by Council's Public Domain Section prior to a Stage 2 Construction Certificate being issued.

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

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

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

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

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.

(84) PUBLIC DOMAIN WORKS - HOLD POINTS AND HANDOVER

- (a) Prior to a Stage 2 Construction Certificate being issued, 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.

(85) 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 to the existing stormwater pipe within the easement and 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. The existing stormwater pipe within the easement should be structurally adequate and required hydraulic capacity as required in Council Engineering Standards.
- (b) A final stormwater drainage plan shall generally be in accordance with the Concept Plan (reference 1222/SW 01-11), prepared by DP Consulting Group Pty Ltd. All approved details for the disposal of stormwater and drainage are to be implemented in the development.
- (c) Any proposed connection to the Council's underground drainage system will require the owner to enter into a Deed of Agreement with the Council and obtain registration on Title of a Positive Covenant prior to Construction Certificate being issued and prior to the commencement of any work within the public way.
- (d) The requirements of Sydney Water with regard to the on-site detention of stormwater must be ascertained and complied with. Evidence of the approval of Sydney Water to the on-site detention must be submitted prior to a Construction Certificate being issued.
- (e) 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.
- (f) 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.

(86) 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 any 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).

(87) 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".

(88) 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).
 - (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.

(89) 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.

(90) 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 Elizabeth Street and as stipulated in 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.

(91) LAND SUBDIVISION – SEPARATE DA REQUIRED

Any proposal for land subdivision will require a separate application to Council and the subsequent approval of the plan of subdivision and issue of a Subdivision Certificate under Section 109J of the *Environmental Planning and Assessment Act 1979*.

(92) STRATA SUBDIVISION – DEVELOPMENT CONSENT

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

(93) 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 Stage 3 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.

(94) CONTINUED PERFORMANCE OF MECHANICAL VENTILATION

The required operation and performance of any mechanical ventilation, air pressurisation or other smoke control system must not be impaired by the proposed partitioning layout.

(95) EMISSIONS

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

(96) MICROBIAL CONTROL IN WATER SYSTEMS

- (a) Prior to the issue of a Stage 3 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.
 - (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.

(97) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION

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

(98) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

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

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

Prior to the issue of a Stage 2 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).

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

- (a) Pursuant to Clause 98 of the Environmental Planning and Assessment Regulation 2000, the proposed building work must comply with the Building Code of Australia (BCA) including:
- (i) Structural provisions - Part B1;
 - (ii) Fire resistance and stability - Part C1;
 - (iii) Compartmentation and separation - Part C2;
 - (iv) Protection of openings - Part C3;
 - (v) Provision for escape (access and egress) - Part D1;
 - (vi) Construction of exits - Part D2;
 - (vii) Access for people with disabilities - Part D3;
 - (viii) Fire fighting equipment - Part E1;
 - (ix) Smoke hazard management - Part E2;
 - (x) Lift installation - Part E3;
 - (xi) Emergency lighting, exit signs and warning systems - Part E4;
 - (xii) Damp and weatherproofing - Part F1;
 - (xiii) Sanitary and other facilities - Part F2;

- (xiv) Room sizes - Part F3;
 - (xv) Light and ventilation - Part F4;
 - (xvi) Sound transmission and insulation - Part F5;
 - (xvii) Heating appliances, fireplaces, chimneys and flues - Part G2;
 - (xviii) Atrium construction - Part G3;
 - (xix) Energy Efficiency - Part J7.
- (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.

(101) 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.

(102) 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.

SCHEDULE 1C

During Construction/Prior to Occupation/Completion

(103) 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.

(104) BASIX

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

(105) 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.

(106) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS

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

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

(107) 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.

(108) 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.

(109) 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.

(110) 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.

(111) 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.

(112) 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.

(113) 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.

(114) ENCROACHMENTS – WIDENING OF ELIZABETH STREET

No portion of the proposed structure, including gates and doors opening and closing operations, shall encroach upon the area to be dedicated as road widening of Elizabeth Street.

(115) ENCROACHMENTS – NEIGHBOURING PROPERTIES

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

(116) ENCROACHMENTS – PUBLIC WAY

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

(117) 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.

(118) 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.

(119) 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.

(120) WASTEWATER TREATMENT DEVICES

All wastewater treatment devices (including drainage systems, sumps, traps and pumps) must be regularly maintained in good working order to ensure that they remain effective. A maintenance schedule shall be developed and kept on-site at all times for staff to comply with. All liquid and solid wastes collected from the treatment device must be disposed of in accordance with relevant environmental protection and waste control legislation

(121) RAINWATER HARVESTING & RAINWATER TANKS**(a) Use**

Rainwater is only to be collected from roof catchments and its use is restricted to toilet flushing, washing cars, garden use and for washing machines only.

(b) Installation requirements

- (i) All plumbing work is to be carried out by a licensed plumber and must be carried out in accordance with AS/NZS 3500:2003. A permit in accordance with the NSW Code of Practice - Plumbing and Drainage 2006 (as amended) is to be obtained from Sydney Water for the work to be carried out.
- (ii) Rainwater tanks shall be designed to include, but not be limited to the following:-

- (iii) Rainwater tanks shall be fixed to structurally adequate bases or walls in accordance with manufactures specifications or engineers details.
- (iv) Shall not be fixed to, or otherwise supported by a bounding common fence, wall or the like, without prior approval be adjacent land owners.
- (v) All roof gutter downpipes must be fitted with a first flush device in accordance with the manufacturer's recommendations.
- (vi) Openings being suitably sealed to prevent access by children and being fitted with a fine mesh screens in order to prevent penetration of contaminants and insects such as mosquitoes.
- (vii) All gutters, downpipes and associated supply pipe work must be free draining to prevent ponding of rainwater and made of suitable non corrodible materials.
- (viii) Shall have an overflow device being fitted to the rainwater tank which directs water into an existing stormwater drainage system, and shall have a suitable drainage plug/tap fitted and positioned in a manner that facilitates flushing and cleaning.
- (ix) The water supply system from a rainwater tank shall be clearly marked at intervals not exceeding 500 mm with the word 'RAINWATER' in contrasting colour, in accordance with AS 1345. Water outlets shall be identified as 'RAINWATER', or with a rainwater tap identified by a green coloured indicator with the letters 'RW'.
- (x) A suitable back up water supply using potable water must be provided to ensure that essential services such as toilet flushing are not contradicted where there is inadequate rainfall to meet demand or the rainwater harvesting system fails.

Rainwater tanks that are not directly connected with the potable supply, the indirect connection shall be by means of a visible "air gap" external to the rainwater tank, in accordance with the provisions of the National Plumbing Code AS /NZS 3500 - Minimum air gap requirements.

Where a rainwater tank is to be directly cross connected with the Sydney Water supply, an appropriate testable device shall be provided at the meter location on the potable water supply to prevent backflow of rainwater.. This device must meet the requirements of Sydney Water.

- (xi) Water pumps are to be located so as not causing an "offensive noise" as defined by the Protection of the Environment Operations Act 1997 to any affected receiver.

(c) Proximity to other services

That all rainwater pipes must be separated from any parallel drinking water service. Above ground pipes must be 100mm away and below ground 300mm away from any drinking water pipe

(d) Marking and labelling

(i) Above ground distribution pipes shall be continuously marked 'RAINWATER' in accordance with AS1345. Alternatively, adhesive pipe markers clearly labelled 'RAINWATER' made in accordance with AS 1345 can be used.

(ii) Below ground distribution pipes shall be continuously marked 'RAINWATER' at intervals not exceeding 500mm in accordance with AS1345. Alternatively, identification tape/pipe sleeve continuously marked 'RAINWATER' made in accordance with AS 2648 can be used.

(iii) All rainwater tank outlets, taps, valves and tank apertures shall be identified as 'RAINWATER' with a sign complying with AS1319 or a green coloured indicator with the letters 'RW'. Alternatively a permanent sign at the front of the premises and visible to all visitors may be displayed advertising rainwater use.

(e) Maintenance

(i) All rainwater tanks installed are to be maintained by the owner in accordance with these provisions, the NSW Health Department Circular no 2002/1 "Use of rainwater tanks where a reticulated potable supply is available" and any other local water utility requirements.

(ii) The rainwater collection system shall be constantly maintained in accordance to the manufacturer's instructions and in line with any approved maintenance plan so as to prevent risk of pathogenic microbial contamination including legionella and organisms.

SCHEDULE 2

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

SCHEDULE 3

(122) ROADS AND MARITIME SERVICES CONDITIONS

- (a) A Roads and Maritime Services (RMS) proposal for the widening of McEvoy Street affects the subject property by a cut-off measuring 5.49 metres by 5.49 metres on the corner of McEvoy Street and Elizabeth Street – DP 252608. This proposal was notified in Government Gazette No. 161 of 31 October 1980 as Road Widening Order under the provisions of Section 25 of the Roads Act 1993.

- (b) All new building or structures shall be erected clear of the land required for road and the existing McEvoy and Elizabeth Street road reserves (unlimited in height of depth).
- (c) The area required for road should be identified as a separate lot in any plan of subdivision.
- (d) The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS, in this regard, a swept path plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- (e) All works associated with the proposed development shall be at no cost to the RMS.

BACKGROUND

The Site

1. The site is located within the suburb of Waterloo, which is located approximately 2.5 kilometres south of the Sydney CBD. The site is within the boundaries of the Green Square urban renewal area, and is located approximately 700 metres northeast of the Green Square railway station.
2. The site has legal description of Lot 1 DP 79752, and is commonly known as 810-822 Elizabeth Street, Waterloo. The site is rectangular in shape and has two street frontages, bounded by McEvoy Street to the north and Elizabeth Street to the west. The site has a collective area of 5,660sqm.
3. Existing on site is a 4-storey commercial/industrial building, currently occupied by Australia Post as a warehouse and distribution centre. The existing development is serviced by two vehicular access driveways from its Elizabeth Street frontage. The site is burdened by an easement for a right of footway along the length of its eastern boundary.
4. **Figures 1 to 5**, below, illustrates the context of the site and the existing built form.

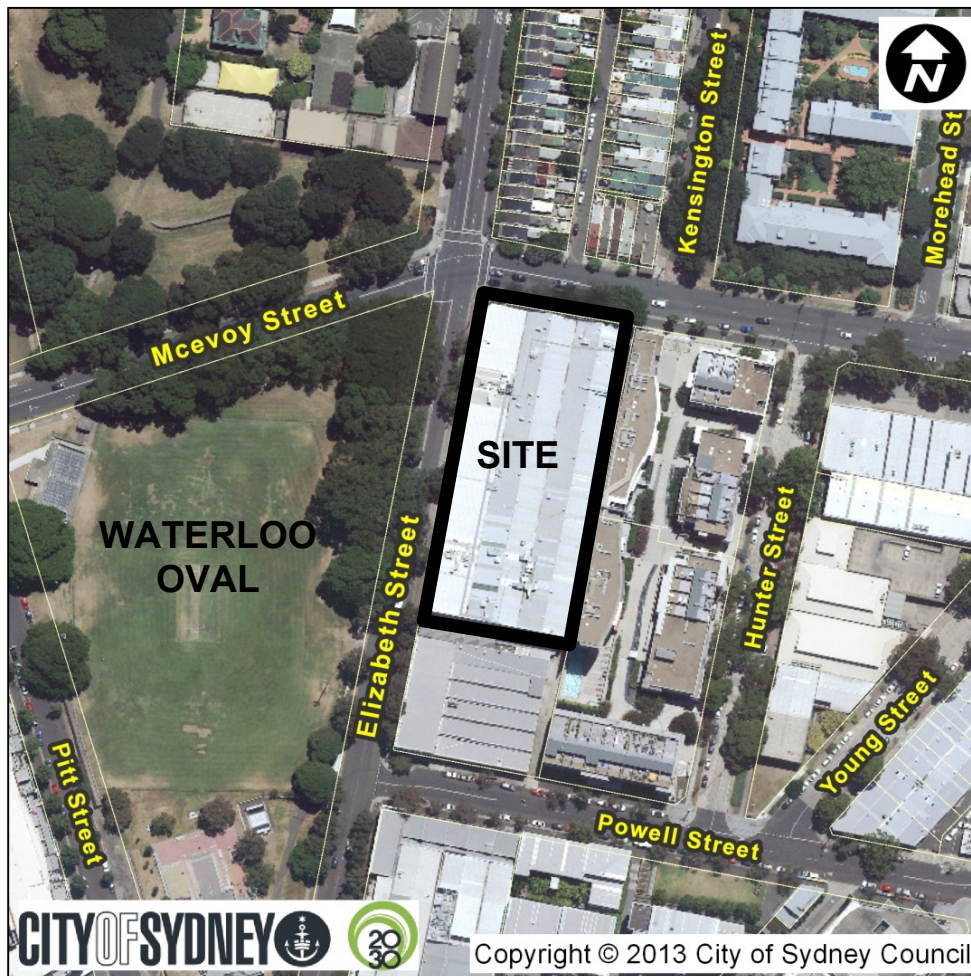


Figure 1: Location Plan



Figure 2: The existing building on site as viewed from the corner of Elizabeth and McEvoy Streets



Figure 3: The site and existing street trees as viewed from McEvoy Street



Figure 4: The site as viewed from Elizabeth Street



Figure 5: The northernmost existing driveways and vehicular crossing on the Elizabeth Street frontage of the site

Surrounding Development

5. The site is located in the southern-most section of the suburb of Waterloo, which is an area currently undergoing renewal as part of the greater Green Square redevelopment.
6. To the north of the site, on the opposite side of McEvoy Street, is the Waterloo Conservation Area, which is characterised by single-storey heritage-listed terrace houses (refer to **Figure 6**, below). On the northern-side of the intersection of McEvoy and Elizabeth Streets is the heritage-listed buildings and grounds of Our Lady of Mt Carmel Church and School (refer to **Figure 7**).
7. To the south of the site at 824-828 Elizabeth Street, is an approved 3-6 storey mixed use development that will accommodate 43 residential apartments and 1 retail tenancy. This development is currently under construction (refer to **Figure 8**, below).
8. To the east of the site, at 1-5 and 7-11 Hunter Street, is a 4-7 storey mixed use development that was approved in 2002 (refer to **Figure 9**). To the west of the site, on the opposite side of Elizabeth Street, is Waterloo Oval (refer to **Figure 10**).



Figure 6: Residential terrace house development located to the north of the site, on the opposite side of McEvoy Street



Figure 7: Our Lady of Mt Carmel Church and School located to the northwest of the site, located on the opposite side of both McEvoy and Elizabeth Streets



Figure 8: The 3-6 storey mixed use development currently under construction at 824-828 Elizabeth Street, located to the south of the site



Figure 9: The 4-7 storey mixed use development (known as 1-5 and 7-11 Hunter Street) located to the east of the site



Figure 10: Waterloo Oval, located to the west of the site, on the opposite side of Elizabeth Street

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

9. Development Application D/2012/1864 was lodged with Council on 2 December 2012. This application sought consent for a similar style and scale of development to that proposed in the subject application, being a new mixed-use development of 4-7 storeys, accommodating 163 residential apartments, 1 retail tenancy and 124 car parking spaces.
10. At the time of lodgement of this application, the planning instruments in force for the site were the South Sydney Local Environmental Plan 1998 (SSLEP 1998) and South Sydney Development Control Plan 1997 (SSDCP 1997).
11. This proposal was non-compliant with both the height and floor space provisions of the SSDCP 1997. Instead, the proposal was reliant upon the draft building height and floor space ratio development standards that were contained within the then Draft Sydney Local Environmental Plan 2011. It should be noted that this site benefited from an uplift in height, as well as a change in definition of what constituted "gross floor area" under the change in planning controls. This allowed a greater yield to be achieved than was permitted under the South Sydney planning controls.
12. The applicant was advised in correspondence, dated 13 March 2013, that the application was not supported due to the extent of variation sought to the SSLEP 1998 and SSDCP 1997. Whilst the Sydney Local Environmental Plan 2012 (SLEP 2012) had been gazetted during the assessment period, based on the savings provisions that were contained within this instrument, the application was required to be assessed against its compliance with the South Sydney planning controls. As such, it was recommended that the application be withdrawn and re-lodged to allow any new application to be assessed under the planning controls contained within the SLEP 2012. This correspondence also outlined a number of design modifications that would be required to be addressed in any amended scheme.
13. Following receipt of this correspondence and a meeting with Council staff, the applicant withdrew the development application on 20 March 2013.
14. Prior to the re-lodgement of the subject application, the applicant and their consultants attended a number of pre-lodgement meetings with Council staff in April 2013 to develop the scheme and address concerns that had been raised to the previous proposal.

PROPOSAL

15. The subject application seeks consent for the following works:
 - (a) demolition of above ground structures;
 - (b) retention of basement car parking levels;
 - (c) construction of a 4 to 7 storey mixed-use development, with a gross floor area of 11,283sqm, that accommodates 161 residential apartments and 1 retail tenancy of 70sqm;
 - (d) provision of 122 car parking spaces within the 2 retained basement levels of the proposed development, with vehicular access off Elizabeth Street via two driveways;

- (e) landscaping and public domain works; and
 - (f) staged construction, in the following three stages:
 - (i) construction stage 1 - demolition and excavation works;
 - (ii) construction stage 2 - construction of all below ground works; and
 - (iii) construction stage 3 - construction for all above ground works, including internal fit-out and landscaping of the site.
16. **Figures 12 to 15**, below, illustrate photomontages of the proposed development, with further architectural plans and elevations of the development provided at **Attachments A and B**.

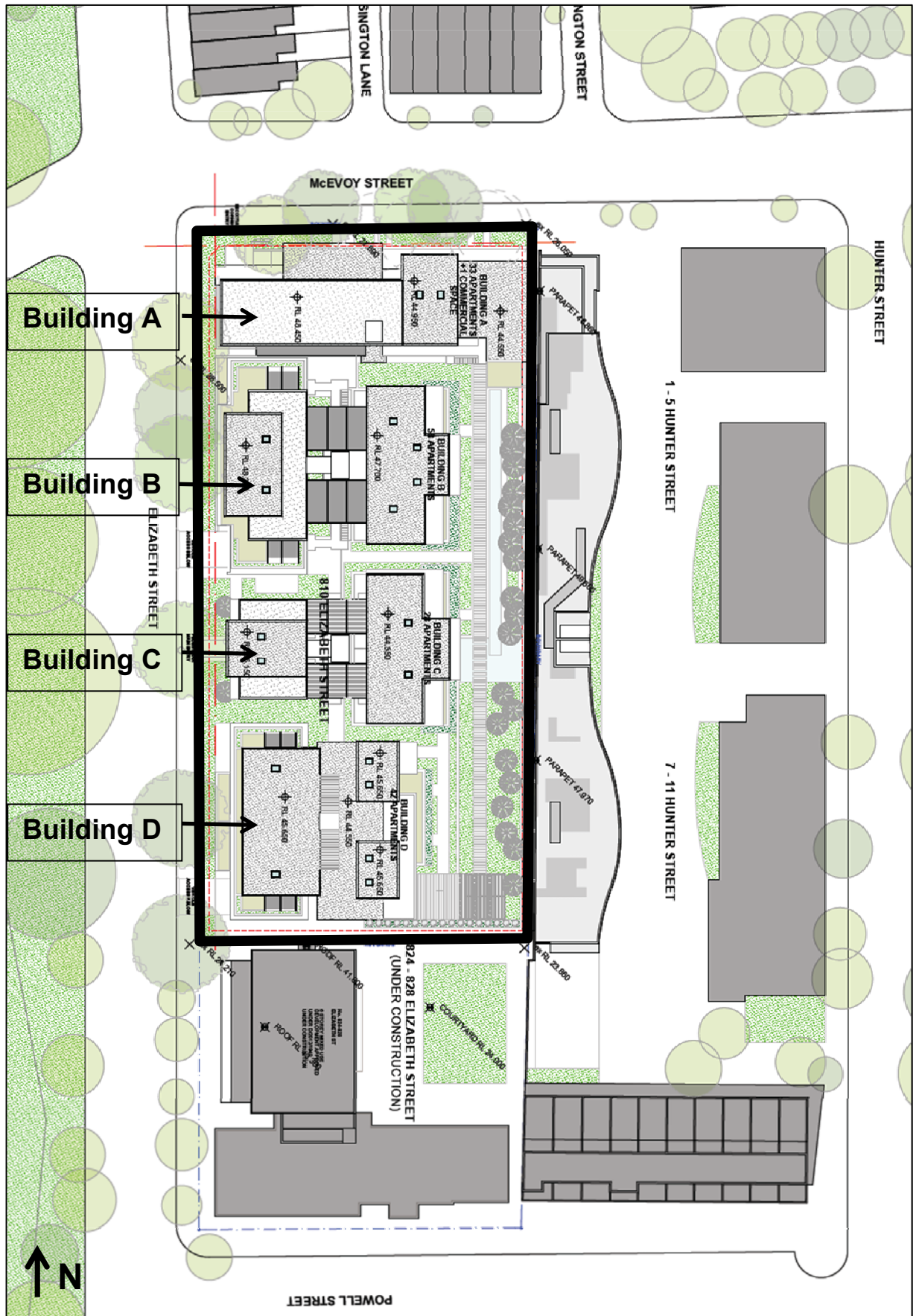


Figure 11: Site plan and context of surrounding development



Figure 12: Photomontage of the proposed development as viewed from the corner of Elizabeth and McEvoy Streets.



Figure 13: Photomontage of main pedestrian entry to the development as viewed from Elizabeth Street.



Figure 14: Photomontage of the proposed pedestrian entry, building forecourt and retail tenancy located at the northwestern corner of the development (Building A).



Figure 15: Photomontage of the proposed internal access walkways.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

17. 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.

Civil Aviation (Buildings Control) Regulations 1988

18. The Civil Aviation Regulations 1988 require any structure erected on this site above 15.24 metres to obtain approval from the Sydney Airport Corporation Limited. It should be noted that the proposed height of buildings does not enter prescribed airspace and does not require approval under the Commonwealth Airport (Protection of Airspace) Regulations.

19. As the development is proposed to be erected to a height of 21 metres above footpath level, an appropriate condition has been recommended for imposition to advise that the developer must obtain approval from Sydney Airport Corporation Limited prior to the issue of any Construction Certificate.

State Environmental Planning Policy No 55—Remediation of Land

20. 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.

21. The applicant has submitted both a Stage 1 and Stage 2 Environmental Site Assessment and Interim Site Audit Advice from a NSW EPA Accredited Site Auditor.

22. Due to the extent of site coverage and the occupation of the building, the areas of the site where testing and sampling could occur were limited. From the testing completed on the accessible portions of the site, the detailed environmental site assessment concluded that those portions of the site that were tested could be made suitable for the intended use. Based on this testing and the previous land uses on the site, the site assessment concluded that it is likely that the fill material and groundwater beneath the inaccessible portions of the site would be similar to the samples taken from elsewhere on the site. These conclusions were supported by the Site Auditor, who has advised that the site can be made suitable for its intended residential use.

23. Council's Health Compliance Unit are satisfied that sufficient documentation has been submitted to address contamination of the land and to satisfy the requirements of SEPP 55.

24. Appropriate conditions have been recommended for imposition to require the completion of testing and the detailed environmental site assessment immediately following demolition works on site, and that these findings are to be submitted to both Council and the Site Auditor prior to the commencement of building works.

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

25. 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 siting of the development is generally consistent with Council's strategic vision and appropriately responds to the development pattern and scale on adjacent sites.

The proposal responds to its context, with the built form able to activate the site's frontages through the provision of individual apartment entries and multiple access points to the communal open space. The proposal also incorporates a retail tenancy on its McEvoy Street frontage, with dedicated space allocated for an outdoor seating area that overlooks the park. These entries and ground floor uses provide a pedestrian scale to the development and allows casual surveillance of the streets and communal open space.

(b) **Principle 4:** Density

Complies: The development will contribute to the increase in the residential population on the site as envisaged by the planning controls.

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

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

(d) **Principle 6:** Landscape

Complies: A total of 1,607sqm of open space is provided across the site, which equates to 28.4% of the site area.

Where areas of the communal open space are located above the car park, a series of planter beds with soil depths of approximately 600mm are proposed. These planter beds allow for substantial planting ranging from a groundcover planting to shrubs/small trees. Palm trees are proposed along the eastern boundary of the site, with these providing screening and outlook from units.

The ground floor level units have been designed to be accessible from, as well as addressing, the communal open space. The communal open space and associated facilities will be accessible by residents from both Elizabeth and McEvoy Streets, as well as internally from the lift lobby of each building.

A total of 871sqm of deep soil planting are proposed across the site, which equates to approximately 15.4% of the site area or 54% of the area of open space. Due to the retention of existing basement levels, the areas that this open space can be provided is limited, and has been concentrated along the setback zones and in a consolidated portion of the communal open space, in the southeastern corner of the site.

(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) 67.7% of apartments (109 of 161 units) will receive two or more hours of solar access between 9.00am and 3.00pm on the winter solstice. This results in a minor departure from the 70% requirement of the RFDC guidelines, and results from:
 - a. the orientation of the site, which has a long north-south axis;
 - b. the need to orient units towards the street frontages, thereby the units are required to face east-west;
 - c. the limited northern exposure of the site, which is limited to McEvoy Street; and
 - d. the existing built form that surrounds the site.
- (ii) 100% of the units are cross ventilated, which exceeds the RFDC guideline recommendation of 60%.
- (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 – 50-65sqm;
 - b. 2 bedroom – 72-75sqm; and
 - c. 3 bedroom – 92-107sqm.

It should be noted that only one 3-bedroom unit has an internal area that is technically below the RFDC guideline of 95sqm. In this instance, no objection is raised as the extent of variation is minor and the design provides a compact 3-bedroom option with efficient design and good amenity.

- (iv) All apartments are provided with private outdoor balconies or courtyards that achieve the minimum RFDC guidelines of 8sqm.
- (v) Storage areas are provided within the units and basement level.

(vi) 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 and Infrastructure).

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) 67 x 1 bedroom (41.6%);
- (ii) 79 x 2 bedroom (49.1%); and
- (iii) 15 x 3 bedroom (9.3%) 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 has utilised a series of architectural elements and materials to modulate the bulk of the facades, as well as providing visual interest. Whilst the aesthetics of the proposal are generally supported and are considered to be contextually appropriate, it is considered that there is scope for further design refinement. Refer to further discussion at the issues section of this report.

26. 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

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

Clause 45 – Electricity transmission

28. 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 SEPP (Infrastructure) 2007.
29. Ausgrid responded in correspondence, dated 13 June 2013, to advise that a substation exists on site and may be affected by the proposed works. Further, it was noted that an additional new substation may be required.

30. The proposal retains the existing substation on site, which is located within the McEvoy Street setback. A condition is recommended for imposition to advise the applicant that a further electricity substation may be required at the request of Ausgrid.

Clause 101 – Development with a frontage to a classified road

31. The application is subject to Clause 101 of the SEPP as the site has frontage to McEvoy Street, which is a classified road.
32. 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

33. The application was referred to the Roads and Maritime Services (RMS) pursuant to Clause 104 of SEPP (Infrastructure) 2007 on 5 June 2013.
34. In correspondence, dated 26 June 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. It is noted that the proposal does not encroach on those portions of the site that are identified for future road widening.
35. It is noted that the application has proposed to extend the existing median strip in Elizabeth Street further southwards beyond the existing driveway to limit vehicular egress from this driveway to a left-in/left-out movement. The RMS has advised in their correspondence that they are supportive of the southward extension of the existing median strip in Elizabeth Street. However, the RMS have noted that Elizabeth Street is a regional road under the care and control of Council, and therefore, any approval and design of a median is a decision for Council.
36. The assessment undertaken by Council's Traffic Engineer has concluded that there would be insufficient traffic movements from the site to warrant a left-in/left-out restriction. Further to this, it has been noted that this driveway is located at least 100 metres from the signalised intersection, which is considered to be sufficient separation to allow this driveway to be unrestricted without impeding on the operation of the intersection. As such, no conditions are recommended requiring the extension of this intersection based on the impacts generated by the subject development. Should the developer wish to pursue a median extension, this can be considered as an independent process by the City's Traffic Operations Unit.
37. With the exception of the above, all other RMS conditions have been included within the recommendation section of this report.

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

38. The BASIX Certificate has been submitted with the development application.

39. 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 (Urban Renewal) 2010

40. The subject site is located within the boundaries of the Redfern Waterloo Precinct as identified by SEPP (Urban Renewal) 2010.
41. As the site is located within the boundaries of this precinct and has a capital investment value greater than \$5 million, the provisions of Clause 10 of the SEPP have been considered as part of the assessment of the application. Despite the site being located within this renewal area and having a cost of works greater than \$5 million, the Central Sydney Planning Committee is the consent authority for this development.
42. The proposed development satisfies the requirements of Clause 10 of the SEPP, as the proposal is:
- (a) consistent with principal objective of developing the precinct for urban renewal;
 - (b) provides for a medium density housing development within the urban renewal precinct;
 - (c) located adjacent to sites that have already been developed, and therefore, there is no scope of further amalgamation of lots; and
 - (d) the development of the site will not restrict or prevent the development of infrastructure, public domain or public transportation, noting that the proposal is accompanied by a Voluntary Planning Agreement that includes a monetary contribution towards the delivery of local infrastructure.
43. The proposed development of the site is consistent with the aims and objectives of this SEPP.

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

44. 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.
45. The proposed development of the site is consistent with the aims and objectives of this SEPP.

Sydney LEP 2012

46. The site has a dual zoning, being predominately zoned R1 – General Residential, with the exception of a 15sqm triangular area in the northwestern corner of the site, which is zoned SP2 – Infrastructure (Classified Road). The SP2 – Infrastructure zoning allows this portion of the site for future widening of McEvoy Street and acquisition by the Roads and Maritime Services.

47. The proposal is defined as a '*residential flat building*' and '*retail premises*', both of which are permissible uses within the R1 - General Residential zone pursuant to Clause 2.3 of SLEP 2012. All building works are setback from the land zoned SP2 – Infrastructure.
48. 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 22 metres for the subject site.</p> <p>The proposed development has a variable height of between 21.6 and 24.7 metres, when measured from existing ground level on the site. Considering the existing building on site has a 100% site coverage, existing ground level is taken from RL 23.95, which is the existing occupied basement floor level of the building.</p> <p>The proposal results in a technical variation from the development standard by a maximum of 2.7 metres in Buildings A and B.</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 by 12%.</p> <p>Refer to further discussion under the Issues section of this report.</p> |

| Compliance Table | | |
|---|------------|--|
| Development Control | Compliance | Comment |
| 4.4 Floor Space Ratio | Yes | <p>Clause 4.4 of SLEP 2012 stipulates a base floor space ratio of 1.5:1 for the site, with Clause 6.14 providing an opportunity for a further 0.5:1 of floor space where additional public domain improvement works and community uses are provided.</p> <p>As part of the subject application, the owner of the site has made a formal offer to enter into a Voluntary Planning Agreement with Council. This agreement includes public domain improvement works to embellish the Elizabeth Street setback of the site and dedicate this land to Council. A monetary contribution is also proposed to the value of \$1,242,450.00 for community and infrastructure works in accordance with the provisions of Clause 6.14 of SLEP 2012.</p> <p>The proposed development has a gross floor area of 11,283sqm as defined by the SLEP 2012, which equates to a FSR of 1.99:1.</p> |
| 4.6 Exceptions to development standards | Yes | <p>The proposal seeks to vary the development standard prescribed under Clause 4.3 (Building Height).</p> <p>See discussion under the heading Issues.</p> |

| Compliance Table | | |
|--|------------|---|
| Development Control | Compliance | Comment |
| 5.1 and 5.1A Development on land intended to be acquired for public purposes | Yes | <p>The northwestern splay corner of the site is identified for acquisition for classified road by the Roads and Maritime Services (RMS). This portion of the site has an area of 15sqm.</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 northwestern corner 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> |
| 5.9 Preservation of trees or vegetation | Yes | <p>The proposal includes the removal of 7 trees from the McEvoy and Elizabeth Street road reserves of the site. A further 9 existing street trees will be retained by the proposal (6 on Elizabeth Street and 3 on McEvoy Street).</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. 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 and new advanced trees to be planted on site.</p> |

| Compliance Table | | |
|--|-------------------|---|
| Development Control | Compliance | Comment |
| 5.10 Heritage conservation | Yes | <p>The subject site is located in the vicinity of a number of local heritage items, including Waterloo Park and Oval to the west of the site, the residential terrace row at 772-808 Elizabeth Street and Our Lady of Mt Carmel Church and School, both to the north of the site.</p> <p>The applicant has submitted a Heritage Impact Statement in accordance with the requirements of Clause 5.10(5) of SLEP 2012.</p> <p>It is noted that due to the separation of the site to adjacent heritage items, and with the retained street trees providing ample screening, that the proposal does not adversely impact on the significance of surrounding heritage items. As such, it is concluded that the proposal does not directly impact on the curtilage of any of the abovementioned heritage items.</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 6', and as such, is eligible for additional floor space of up to 0.5:1 of the site area, where the development provides for community infrastructure.</p> <p>As detailed elsewhere within this report, the proposal has been accompanied by an offer to enter into a Voluntary Planning Agreement. A draft VPA has been prepared and exhibited and outlines the range of community infrastructure projects that are to be delivered on the site and its immediate surrounds in accordance with the requirements of this clause.</p> |

| Compliance Table | | |
|---|-------------------|--|
| Development Control | Compliance | Comment |
| 6.21 Design excellence | Yes | <p>As a result of the site area, 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 and 7.7 of SLEP 2012, a maximum of 122 car parking spaces are permitted based on the proposed land uses.</p> <p>The application includes 122 ground and basement car parking spaces, which is compliant with the parking provisions of SLEP 2012.</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 | <p>The site is identified as being within a Class 5 Acid Sulphate Soil area pursuant to the requirements of the LEP.</p> <p>The detailed site assessment undertaken for the site has concluded that the proposed development would not disturb, expose or drain Acid Sulphate Soils, nor is it likely to cause environmental damage. As such, there is no requirement for any investigation or management plan to be prepared.</p> |

| Compliance Table | | |
|--|------------|--|
| Development Control | Compliance | Comment |
| 7.15 Flood planning | Yes | <p>The applicant has submitted a Flood Level Assessment analysing flood modelling for the site 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 acceptable with regard to internal floor levels and predicted flood levels.</p> |
| 7.16 Airspace operations | Yes | The development is not proposed to be constructed to a height that penetrates the prescribed airspace for Sydney Airport. |
| 7.19 Demolition must not result in long term adverse visual impact | Yes | The proposal involves demolition of existing structures on site with concurrent redevelopment. As such, the proposal adequately addresses the requirements of this clause. |
| 7.20 Development requiring preparation of a development control plan | Yes | <p>As a result of the site area, the proposal requires the preparation of a development control plan under the provisions of Clause 7.20 of SLEP 2012.</p> <p>The applicant has made a written submission seeking to waive the requirement to prepare a development control plan. Further discussion is provided at the Issues section of this report.</p> |
| 7.23 Large retail development near Green Square Town Centre | Yes | <p>The proposal incorporates 70sqm of retail floor space. As such, remains well below the maximum permissible tenancy size of 1,000sqm as stipulated by this clause of the LEP.</p> <p>The use of this retail floor space will be the subject of further future development applications.</p> |

Sydney DCP 2012

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

| |
|--|
| 2. Locality Statements – Waterloo Park |
| <p>The subject site is located in the Waterloo Park locality of Green Square. The proposed mixed use development is considered to be in keeping with the character of the area and design principles in that:</p> <ul style="list-style-type: none"> • the scale of the development is contextually appropriate to the area; • the development maximises its position adjacent to Waterloo Oval by addressing and providing passive surveillance of the park; • the proposal incorporates a retail/future café use opposite the park, which provides an active use to this frontage; and • the proposal includes a Voluntary Planning Agreement that incorporates public domain improvement works and monetary contributions towards the provision of upgraded infrastructure in the immediate locality. |

| 3. General Provisions | | |
|--------------------------------|-------------------|--|
| Development Control | Compliance | Comment |
| 3.2 Defining the Public Domain | Yes | <p>The proposal incorporates ground floor level retail and residential uses along both its McEvoy and Elizabeth Street frontages that both address and activate these street frontages.</p> <p>Despite this, it is considered that greater opportunity exists to provide individual entries to ground floor apartments on the Elizabeth Street frontage of the site. An appropriate design modification condition is recommended for imposition.</p> <p>The proposal retains the existing basement car parking levels and proposes to introduce ventilation louvres into the street facades to allow natural ventilation to these car parking levels. Considering the prominent corner location and the visibility of these facades, it is considered that further design refinement is required to ensure the integration of these louvres into the facades and use of appropriate landscape screening.</p> <p>The proposal does not adversely overshadow the adjacent publicly accessible open space of Waterloo Park/Oval during the winter solstice.</p> |

| 3. General Provisions | | |
|--|------------------------------------|---|
| Development Control | Compliance | Comment |
| 3.2.6 Wind effects 3.2.7 Reflectivity | Yes | <p>The applicant has submitted a pedestrian wind assessment and a reflectivity analysis.</p> <p>The conclusions of the wind report have been incorporated into the design to mitigate adverse impacts.</p> <p>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.</p> |
| 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 | <p>The site is not identified within the DCP as being a local centre within the Green Square area.</p> <p>In this instance as the proposal incorporates only a single tenancy with a floor area of 70sqm, the development is defined as providing 'minor retail development' that would activate the public domain and would service the immediate residential and worker population.</p> |
| 3.5 Urban Ecology | Yes | The proposed development involves the removal of 7 street trees. No objection has been raised by Council's Tree Management Officer to their removal, subject to the imposition of appropriate conditions. |
| 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. General Provisions | | |
|--|-------------------|---|
| Development Control | Compliance | Comment |
| 3.8 Subdivision, Strata Subdivision and Consolidation | Yes | Appropriate conditions of consent have been recommended for imposition. |
| 3.9 Heritage | Yes | Refer to discussion provided in LEP compliance table. |
| 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. |
| 3.11.13 Design and location of waste collection points | Yes | <p>The proposal has incorporated on-site garbage collection facilities, including a turntable for waste collection vehicles.</p> <p>The proposed turntable has been designed to accommodate an 8.8 metre long vehicle. Council's Policy for Waste Minimisation requires on-site collection to cater for a garbage collection vehicle with a length of 9.25 metres. As such, minor design amendments will be required to the basement configuration to allow a vehicle of this length to be accommodated on site. Further discussion is provided in the Issues section of this report.</p> |
| 3.12 Accessible Design | Yes | <p>The proposal incorporates 25 adaptable apartments, each allocated an accessible car parking space. This equates to 15.5% of all apartments within the development, which is compliant with Section 3.12.2 of SDCP 2012.</p> <p>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.</p> |
| 3.13 Social and Environmental Responsibilities | Yes | The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles. |

| 3. General Provisions | | |
|------------------------------|-------------------|--|
| Development Control | Compliance | Comment |
| 3.14 Waste | Yes | A condition has been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005. |
| 3.16 Signage and Advertising | Yes | Any signage associated with the retail tenancy will be the subject of a further development application and does not form part of the subject application. |

| 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 maximum height of 6 storeys for the subject site.</p> <p>The proposed development is generally 6-storeys in height, with a partial 7th storey proposed in Building B as a result of the topography of the site.</p> <p>The proposal has been amended to provide residential floor to floor heights of 3.05 metres, in order to ensure adequate internal floor to ceiling heights can be delivered on completion of the development.</p> |

| 4. Development Types | | |
|--|-------------------|--|
| 4.2 Residential Flat, Commercial and Mixed Use Developments | | |
| Development Control | Compliance | Comment |
| 4.2.2 Building setbacks | Yes | <p>A 2.4 metre setback is identified in the DCP along both the McEvoy and Elizabeth Street frontages of the site.</p> <p>With the exception of the retained ground and basement car parking levels, the proposed development is setback in accordance with the requirements of the DCP.</p> <p>It is noted on the plans that there are some ancillary structures, such as letterboxes and fencing/walls, shown in the Elizabeth Street setback area. An appropriate condition is recommended for imposition to advise that these structures shall be wholly setback within the boundaries of the site.</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>The proposal achieves 67.7% of apartments receiving a minimum of 2 hours direct sunlight to at least 1sqm of the living room windows and a minimum of 50% of private open space in mid-winter between 9.00am and 3.00pm.</p> <p>The following is noted with regard to additional shadows cast on adjacent residential properties:</p> <ul style="list-style-type: none"> the proposal does not results in detrimental overshadowing to the principal living areas and areas of open space of the adjacent apartments at 824-828 Elizabeth Street during the winter solstice, noting that these units retain the 2 hours of solar access to these key living areas during mid-winter; the new shadows cast by the development generally fall across the northern elevation of the adjacent apartment building at 824-828 Elizabeth Street. No objection is raised to this additional shadowing as this a secondary facade with only highlight windows to bedrooms, noting that all bedrooms have their primary window on another elevation and that these highlight windows still receive ambient light; the primary communal open space of this adjacent development will actually receive greater solar access during the morning hours of the winter solstice than it would currently receive due to the setback of the proposed development from its eastern boundary; and |

| 4. Development Types | | |
|---|------------|---|
| 4.2 Residential Flat, Commercial and Mixed Use Developments | | |
| Development Control | Compliance | Comment |
| 4.2.3.1 Solar access (continued) | | <ul style="list-style-type: none"> additional shadows will be cast across the western elevation of the adjacent apartment building at 1-5 & 7-11 Hunter Street in the afternoon of the winter solstice, however, openings in this elevation are limited to frosted glass bricks. The additional shadows cast will not prevent solar access from servicing this building as intended. |
| 4.2.3.5 Landscaping 4.2.3.6 Deep Soil 4.2.3.7 Private open space 4.2.3.8 Common open space | Yes. | Refer to discussion provided under SEPP 65 assessment. |
| 4.2.3.11 Acoustic Privacy | Yes | An Acoustic Assessment was submitted with the application. Appropriate recommendations have been contained within this report to ensure compliance with the DCP and achieve satisfactory internal amenity. |
| 4.2.3.12 Flexible housing and dwelling mix | Yes | As detailed elsewhere within this report, the proposed development provides a unit mix that is generally consistent with the DCP provisions and ensures a range of housing typologies will be available. |
| 4.2.4 Fine grain, architectural diversity and articulation | Yes | The scheme utilises architectural language and materials to provide visual interest, as well as breaking up the perceived bulk and scale of development. |
| 4.2.6 Waste minimisation | Yes | Refer to further discussion at the Issues section of this report. |
| 4.2.8 Letterboxes | Yes | Letterboxes are proposed to be grouped at the two ground floor level entries to the development and are notated on the plans. |

| 5.2 – Green Square | | |
|---|------------|--|
| Development Control | Compliance | Comment |
| 5.2.3 Community infrastructure | Yes | Refer to discussion in the LEP assessment provided elsewhere within this report. |
| 5.2.7 Stormwater management 5.2.9 Building design 5.2.10 Setbacks | | Refer to discussion elsewhere within the LEP and DCP compliance table. |
| 5.2.11 Car parks under the public domain | Yes | <p>As part of the scope of works contained within the VPA, the owner of the site proposes to dedicate 263sqm of land along the Elizabeth Street setback of the site to Council to allow for the widening and upgrade of the pedestrian footpath and public domain.</p> <p>The subject development proposes to retain the existing basement level as part of the redevelopment of the site. In its existing form, this basement level encroaches 960mm into the setback area that is to be dedicated to Council (which accounts for 96sqm of the dedicated land).</p> <p>In this instance as the basement is existing, there is no objection raised to this encroachment, subject to the ownership of land by Council being in stratum title above the waterproof membrane of this basement. Furthermore, it is noted that a soil depth of approximately 1.8 metres exists between the basement and ground level, which is considered a sufficient clearance for services and planting.</p> |

ISSUES

Waiver of requirement to prepare a Development Control Plan (Stage 1 DA)

50. As the site has an area that exceeds 5,000sqm and seeks consent for a new building on site, pursuant to the provisions of Clause 7.20(2)(b) of SLEP 2012, a development control plan (or Stage 1 development application) is required to be prepared.

51. Notwithstanding the above, the provisions of Clause 7.20(3) of SLEP 2012, allow the consent authority to waive this requirement where it is satisfied that the preparation of a plan would be unreasonable or unnecessary in the circumstances.
52. As the subject site has an area of 5,660sqm, the applicant has formally requested that the requirements of Clause 7.20 be waived by the consent authority.
53. It is considered in this instance that the request to waive the requirement for the preparation of a development control plan/Stage 1 development application is reasonable as:
 - (a) the site is the last of its street block (bounded by McEvoy, Hunter, Powell and Elizabeth Streets) to be developed, and as such, there is limited scope where the preparation of a development control plan could add value to the siting of buildings or distribution of massing on site. In this instance, the proposal has adopted a perimeter block pattern to align with the development on adjacent sites to the east and south;
 - (b) the siting of the buildings has been predicated by the setback, building separation and solar access requirements of SEPP 65/Residential Flat Design Code and the SDCP 2012, with the site area not of a sufficient size to allow any significant alternative building locations or orientations;
 - (c) the limited site area, residential zoning of the site and the low-rise nature of the locality does restrict the extent that a site specific development control plan can contribute to an overall better design outcome for the site; and
 - (d) a series of pre-lodgement meetings were held with the applicant to analyse the site's constraints and develop contextually appropriate footprints and envelopes, which would replicate the analysis undertaken as part of the preparation and assessment of a development control plan.
54. In this instance, it is considered that the requirement for the applicant to prepare a development control for the site would be unreasonable and unnecessary in this instance, and it is recommended that the requirement of Clause 7.20 be waived.

Waiver of Design Competition

55. Clauses 6.21 and 7.20 of the SLEP 2012 stipulate that where the site area exceeds 5,000sqm, the consent authority must not grant development consent unless a competitive design process has been undertaken.
56. The site area of the proposed development exceeds 5,000sqm, and by virtue of Clause 6.21(5), requires a competitive design process. However, pursuant to the provisions of Clause 6.21(6) of SLEP 2012, this requirement may be waived:

“if the consent authority is satisfied that such a process would be unreasonable or unnecessary in the circumstances”
57. As part of the documentation lodged with the application, the applicant has formally requested that the requirements of Clause 6.21 be waived by the consent authority.

58. Considering the merits relating to this specific application, it is considered that the request to waive the requirement for a design competition is reasonable based on the recent application history for this site. This is based on the following specific circumstances of this application:
- (a) a previous development application D/2012/1864 for a similar design concept was lodged with Council on 4 December 2012. This was prior to the gazettal of the SLEP 2012, and was based on the previous planning controls, being the South Sydney LEP 1998 and DCP 1997, which did not have any competitive design process requirements. This application was withdrawn at the request of Council staff in order to allow a resolution of outstanding design issues, and most importantly, to remove the ambiguity around the applicable planning instruments in force during the transitional period between the SSLEP 1998/SSDCP 1997 and the SLEP 2012;
 - (b) following the withdrawal of the above development application, a series of pre-lodgement meetings were held with the applicant to further refine the internal planning of the development and develop the architectural facade design; and
 - (c) further to this, 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.
59. Based on the above application history and design refinement that has occurred over the past year, 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. As such, it is recommended that the requirement of Clause 6.21 be waived.

Exception to Development Standard – Building Height

60. Clause 4.3 of the Sydney LEP 2012 stipulates a maximum building height of 22 metres for the site. The subject development application has a variable maximum building height between 21.6 metres (Building C) to 24.7 metres (Building B).
61. In this instance, where the existing building on site has 100% site coverage and the proposal seeks to retain the existing slab levels, by virtue of the definition of “*ground level (existing)*” pursuant to SLEP 2012, the technical height of the building is required to be measured from the lowest existing slab level on site (noting this is both an existing car park and commercial floor space. In this instance, this level is at RL 23.95).
62. **Figures 16** and **17**, below, illustrate the location of “*ground level (existing)*” (as defined by SLEP 2012), and also demonstrates the difference between the existing ground level slab on site and the level of the public domain/footpath on both the Elizabeth and McEvoy Street frontages of the development.
63. As a result in the definition of “*ground level (existing)*” and the requirement that building height be measured from this point, the proposal results in a maximum breach of 2.7 metres (at Building B) from the 22 metre height control. This is demonstrated at **Figures 16** and **17**, below, and occurs at the uppermost floor of Buildings A and B (located in the northwestern corner of the site).

64. The proposal results in a breach to the 22 metre height development standard by 2.7 metres or a 12 % variation.
65. 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 2.7 metres. 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.
66. 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.

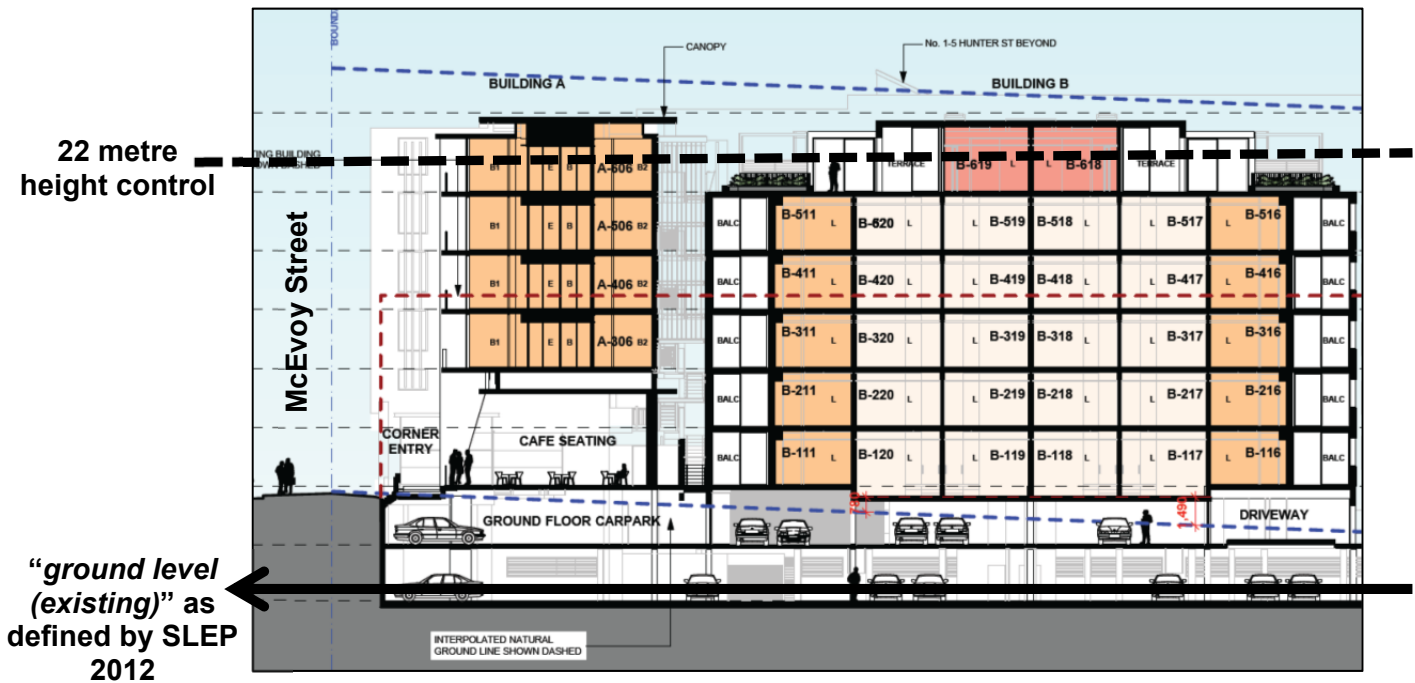


Figure 16: North-South section of Buildings A and B illustrating the location of existing ground level on site and the technical breach to the building height development standard

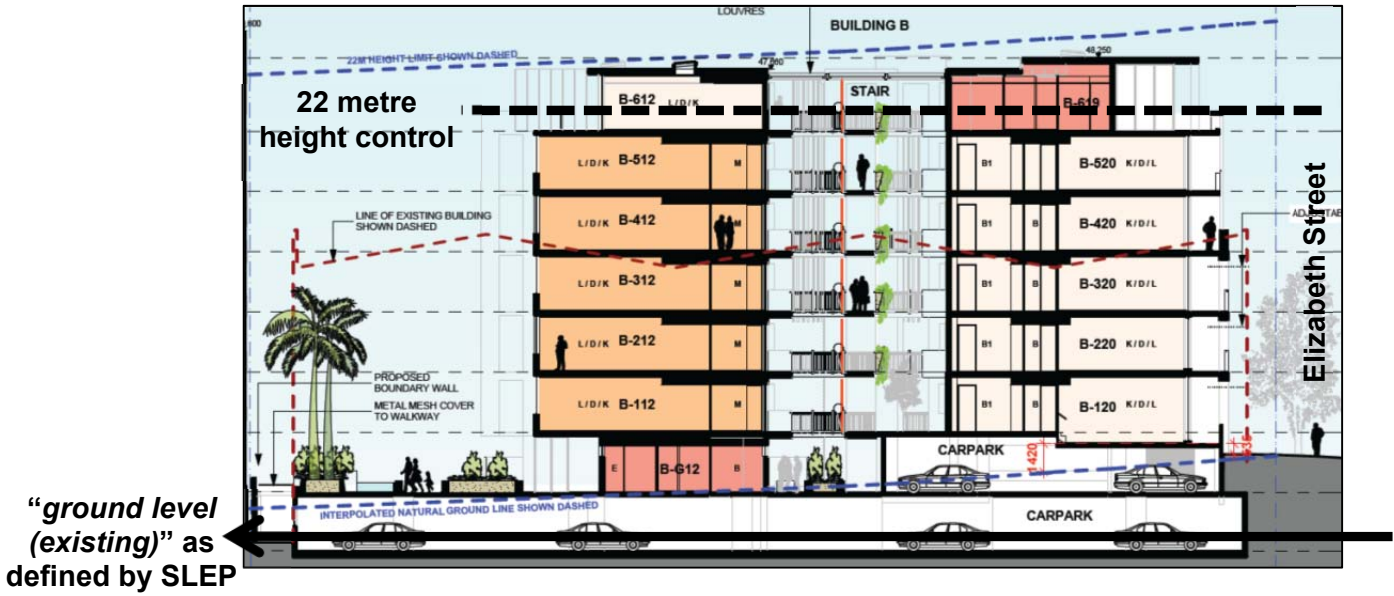


Figure 17: East-West section of Building B illustrating the location of existing ground level on site and the technical breach to the building height development standard

| 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 breach to the development standard results from the technical definition as to what constitutes existing ground level, with this being below footpath level on both frontages of the site. Where a building height of 22 metres is measured from existing footpath level (being an average of RL 29.00) or from an interpolated ground level based on the surrounding ground levels to the site, then the proposal achieves compliance with the 22 metre height control; • Strict compliance with the technical interpretation of building height for this site would result in a 5-storey development that does not relate to the 6-7 storey height of neighbouring developments and is inconsistent with the desired development for the site as stipulated in Council’s own number of storeys control in the SDCP 2012; |

| Clause 4.6 Requirement | Assessment |
|---|---|
| | <ul style="list-style-type: none"> • The proposed heights of the development are contextually appropriate based on the height and number of storeys of the adjacent residential apartment buildings at both 1-5 & 7-11 Hunter Street (to the east) and 824-828 Elizabeth Street (to the south) • The proposal provides a transitioning of heights from north to south to appropriately respond to the streetscape and topographical changes; • The proposal provides a built form of a high quality detail and articulation that is sympathetic to the heritage character of the locality and provides a land use that positively reinforces the residential character of the area; • The proposal will not impact on scenic or iconic views from surrounding development. <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 breach results from a technical interpretation of LEP definitions. When the height of the development is measured from footpath level, its maximum height is 21 metres, and results in a built form that is consistent with the desired scale and form envisaged by the planning controls for the site; • The proposed development replicates the height and number of storeys of developments on adjacent sites within this street block, and therefore, the height is considered to be contextually appropriate; |

| Clause 4.6 Requirement | Assessment |
|--|--|
| | <ul style="list-style-type: none"> • The proposed development reflects the transitioning and redevelopment of the site as part of the Green Square urban renewal, and will have a positive contribution to the public domain and activate the street frontages, particularly its frontage to Waterloo Oval. As detailed elsewhere within the report, the proposed height of the development will not have an adverse shadowing impact across the adjacent public open space of Waterloo Oval and Park; and • The proposal is consistent with the objective of view sharing and does not result in the loss of iconic views from adjacent developments. |
| <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 R1 – General Residential zone, as outlined earlier in this report.</p> |

67. 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.

Floor Space and Voluntary Planning Agreement

68. In accordance with the provisions of Clause 6.14 of the SLEP 2012, the site is located within a nominated area where greater density/floor space is obtainable on the provision that the subject development contributes to community infrastructure.
69. The site is located within 'Area 6', which permits an additional 0.5:1 FSR, where community infrastructure is provided. The subject application seeks to utilise a FSR of 0.49:1 or 2,793sqm of this additional floor space, to achieve a collective total floor space for the development of 1.99:1.
70. In correspondence, dated 15 July 2013, the owner of the site has made a written offer to Council to enter into a Voluntary Planning Agreement to provide the community infrastructure and public benefits as required under Clause 6.14 of SLEP 2012.
71. The draft Voluntary Planning Agreement that has been prepared in association with the subject development application provides for the following public benefits:

- (a) dedication of a 2.4 metre wide strip of land along the Elizabeth Street frontage of the development site (with an area of 263sqm) to allow for a widened pedestrian footpath;
 - (b) embellishment of the Elizabeth Street setback area to the value of \$30,000 to provide for new pedestrian paving;
 - (c) payment of a monetary contribution of \$900,000 towards a stormwater harvesting project in Waterloo Oval and \$63,450 towards the renewal and upgrade of stormwater/drainage infrastructure in the immediate locality; and
 - (d) payment of a monetary contribution of \$279,000 towards the provision of infrastructure within the Green Square Town Centre.
72. The draft planning agreement has been publicly exhibited for a 28-day period, between 24 October 2013 and 22 November 2013, in accordance with the requirements of Section 93G of the Environmental Planning and Assessment Act, 1979. At the time of preparation of this report, no submissions had been received.
73. Subject to their being no unresolvable objection to the Voluntary Planning Agreement, the application is recommended for deferred commencement consent to require the owner of the site to execute this planning agreement and register it on title before activation of the consent. This will ensure that the consent cannot be acted upon without assurance that the public benefits/community infrastructure will be delivered in accordance with the provisions of this agreement.

Urban Design and Design Refinement

74. As detailed throughout this report, there has been evolution in the interior planning, siting of buildings and the facade treatment/material selection of the scheme from that which was originally lodged with Council in December 2012 under the previous planning controls (this being the withdrawn development application D/2012/1864).
75. In its revised form, the design concept is generally supported by City staff and the Design Advisory Panel; however, it is considered that further design refinement is required to address the following matters:
- (a) provision of individual entries to the following residential apartments that front Elizabeth Street (Apartments D-G31, D-G37, D-G38 and B-111) in order to provide greater activation to the streetscape (refer to **Figure 18**, below);
 - (b) further resolution of the treatment of the ventilation louvres on the northern elevation of Building A and western elevations of Buildings B and D that service the car parking levels. In their current form, these louvres are proposed to a height of 1.4 metres above footpath level (refer to **Figure 19**, below). Consideration should be given to selection of materials and colours to ensure an appropriate blending with the podium treatment of the development, and the use of landscaping screening to minimise the visual impact of these service louvres on the facade;
 - (c) details of glazing and/or shade and weather protection screening to the glazing of habitable rooms on the western elevation of the development to ensure a consistency of material and colour scheme treatment; and

- (d) further resolution of the materials and colour scheme is required to ensure cohesion in the streetscape facades and a successful delivery of the stone feature elements.
76. In order to ensure the above matters are resolved to Council’s satisfaction, it is recommended that a design modification condition be imposed requiring that further details be submitted and approved to the satisfaction of Council.

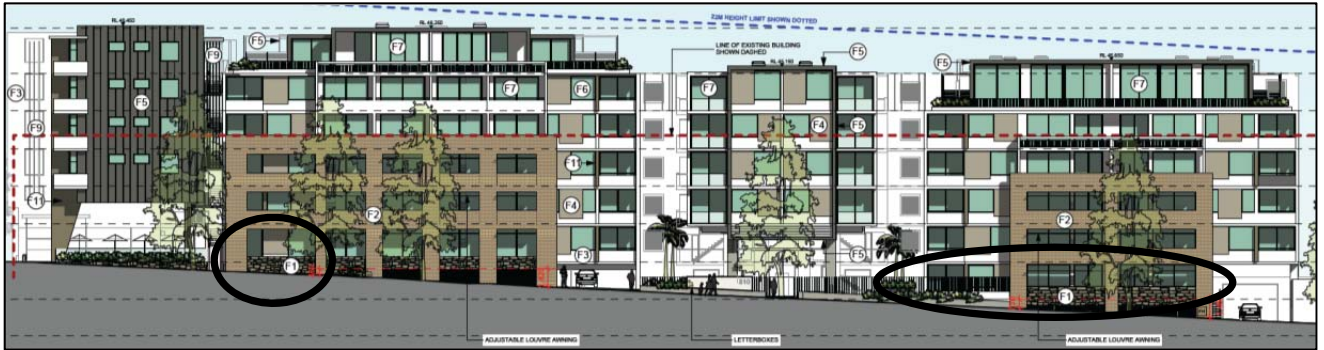


Figure 18: The location of ground floor apartments on the Elizabeth Street (western elevation) frontage of the site that are capable of accommodating an individual entry.



Figure 19: Example of proposed ventilation louvres on the Elizabeth Street frontage of Building B.

Amenity

Internal amenity

- 77. A principal feature of the design concept for the proposal is the incorporation of external access walkways and bridges, which provide a sense of individual entry to each apartment, as opposed to a traditional corridor within an apartment building. This design concept was supported by the Design Advisory Panel, with it noted that this arrangement and design allows for good natural light and ventilation to all apartments.
- 78. There has been significant design resolution to address potential overlooking from these walkways/bridges to internal facing windows of apartments. In its revised form there are elements where these walkways are separated from apartment windows by between 1.2 to 3.4 metres in Building A and approximately 3.75 metres in Buildings B and C. **Figures 20** and **21**, below, illustrates the use of offset windows, external operable privacy louvres, strategically placed lift cores/services and feature planting to minimise direct overlooking.

79. Whilst it is considered that sufficient screening and design mechanisms have been incorporated into the proposal to prevent direct overlooking into bedroom windows from these walkways, it is still considered that there is scope for potential acoustic privacy impacts to arise. It is recommended that a condition be imposed to require investigation of floor finishes along the internal walkways to minimise footfall noise transferring to surrounding apartments.

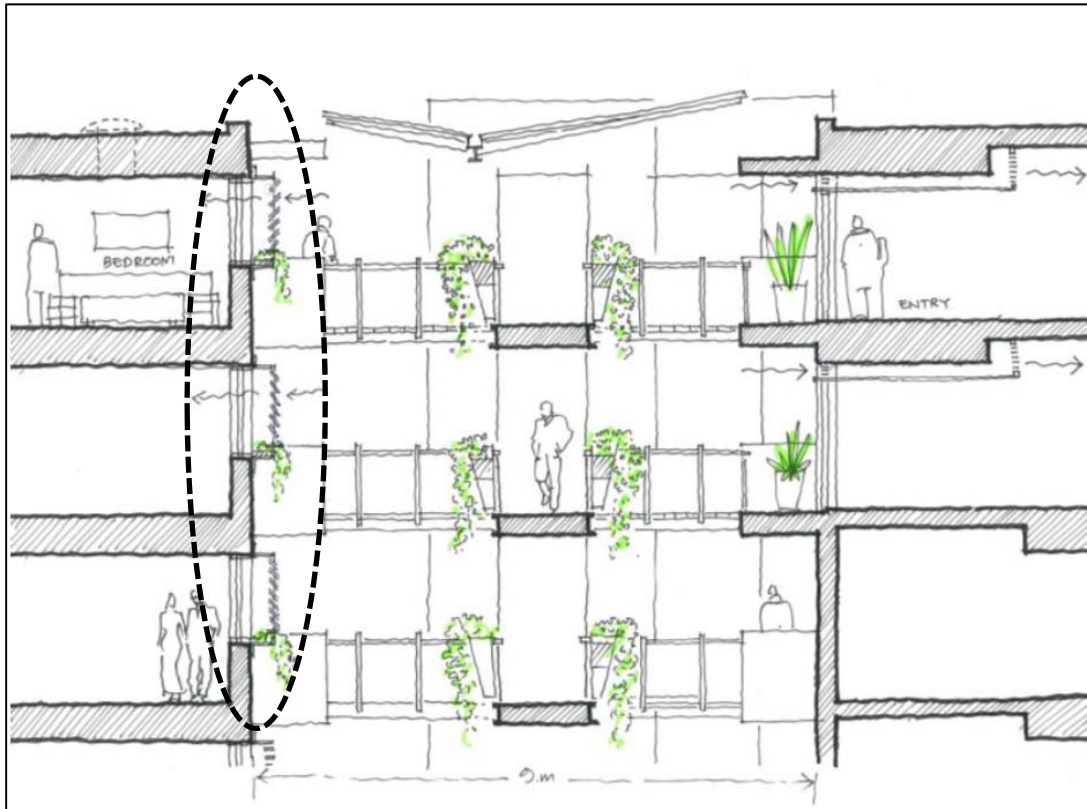


Figure 20: The proposed atrium/internal walkways between buildings (for Buildings B and C), with external operable privacy louvres shown.

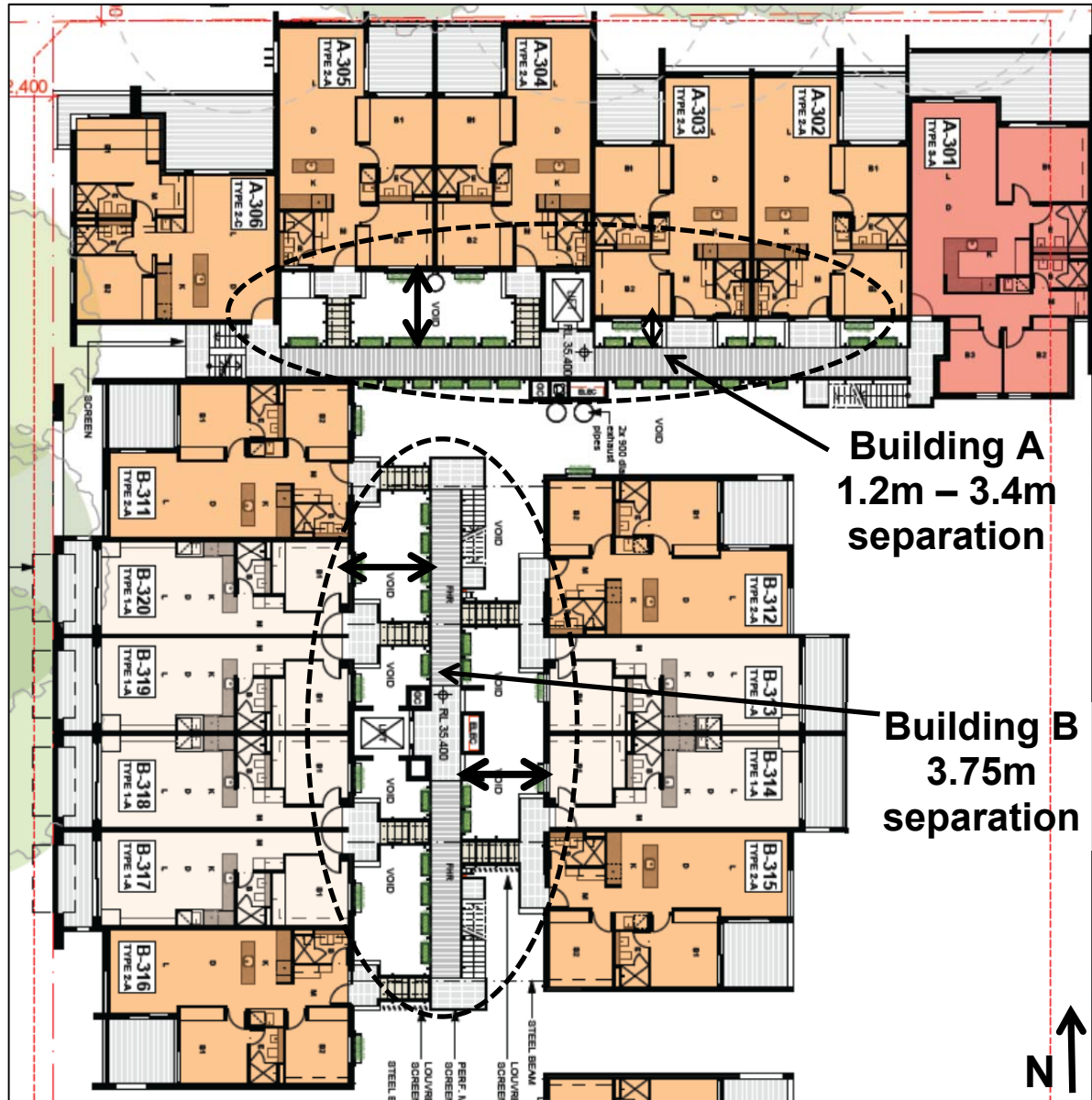


Figure 21: Separation distances between internal walkways to internally facing bedroom windows of apartments.

Overlooking to 824-828 Elizabeth Street

80. As detailed in **Figures 22** and **23**, below, opportunity exists for overlooking from the balconies of the apartments located in the southeastern corner on Levels 1 to 5 of the proposed development (being Apartments D-135 to D-535, inclusive). These proposed balconies are separated 6 metres from the bedroom windows of the adjacent apartment building to the south at 824-828 Elizabeth Street, where the Residential Flat Design Code recommends a separation of 12 metres between habitable rooms and balconies.
81. In this instance as the angle is oblique, it is considered that the separation distance is acceptable, subject to the introduction of some form of privacy screening along the southern elevation of these balconies. An appropriate design modification condition is recommended to this effect.

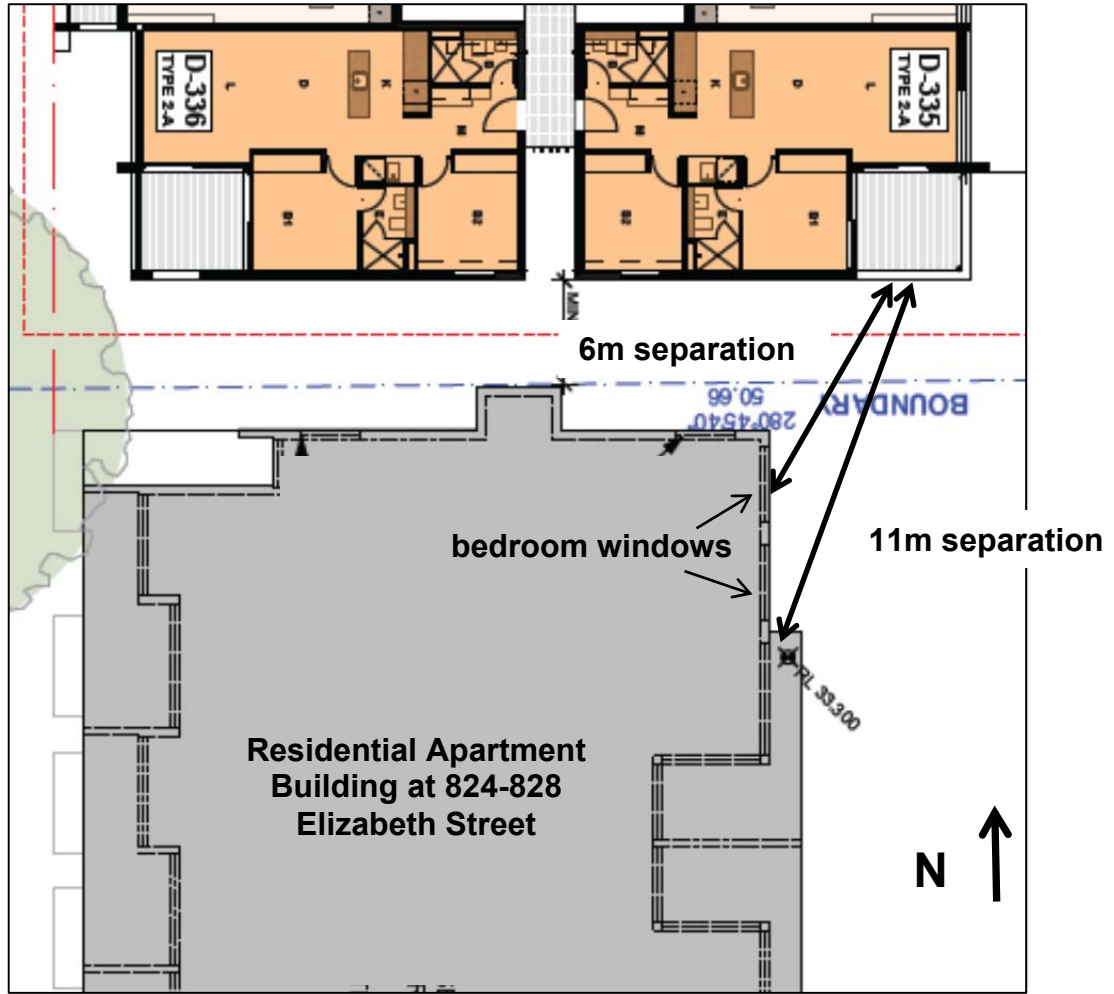


Figure 22: Separation distances between the balconies of the proposed development and the bedroom windows and balconies of the adjacent apartment building.

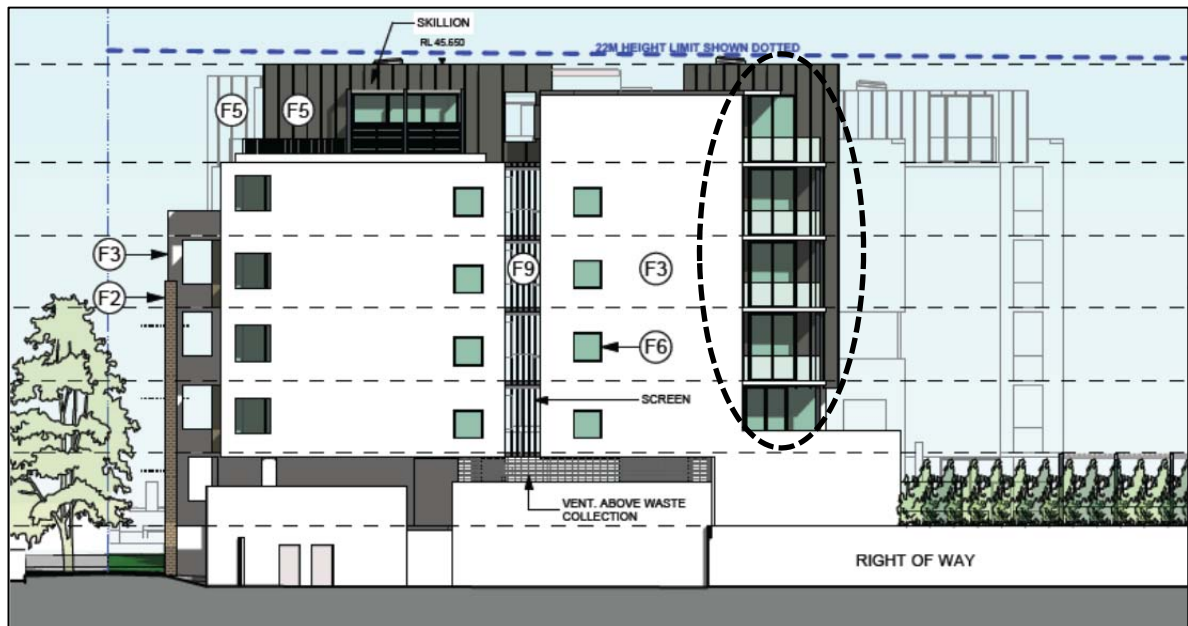


Figure 23: Existing balustrade and balcony treatment of the apartment in the southeastern corner of the development.

On-site Garbage collection

82. The proposed development includes a garbage storage and on-site waste collection area in the southwestern corner of the site. The waste collection area and turntable has been designed to accommodate an 8.8 metre long vehicle. **Figure 24**, below, illustrates the proposed garbage room configuration.
83. In accordance with Council's Policy for Waste Minimisation in New Development 2005, the standard vehicle used for garbage collection by the City have a length of 9.24 metres and require a clearance length of 9.54 metres.
84. Whilst the provision of these facilities on-site is supported, further design refinement will be required to the basement configuration to allow for a larger vehicle turntable to be provided on site to allow standard waste collection vehicles to both access and manoeuvre on site. In order to achieve the requisite clearance and turntable of a sufficient length, reconfiguration and/or relocation of the 3 residential storage cages and one car parking space located directly to the north of the garbage collection area will be required.
85. A design modification condition has been recommended for imposition to this effect.

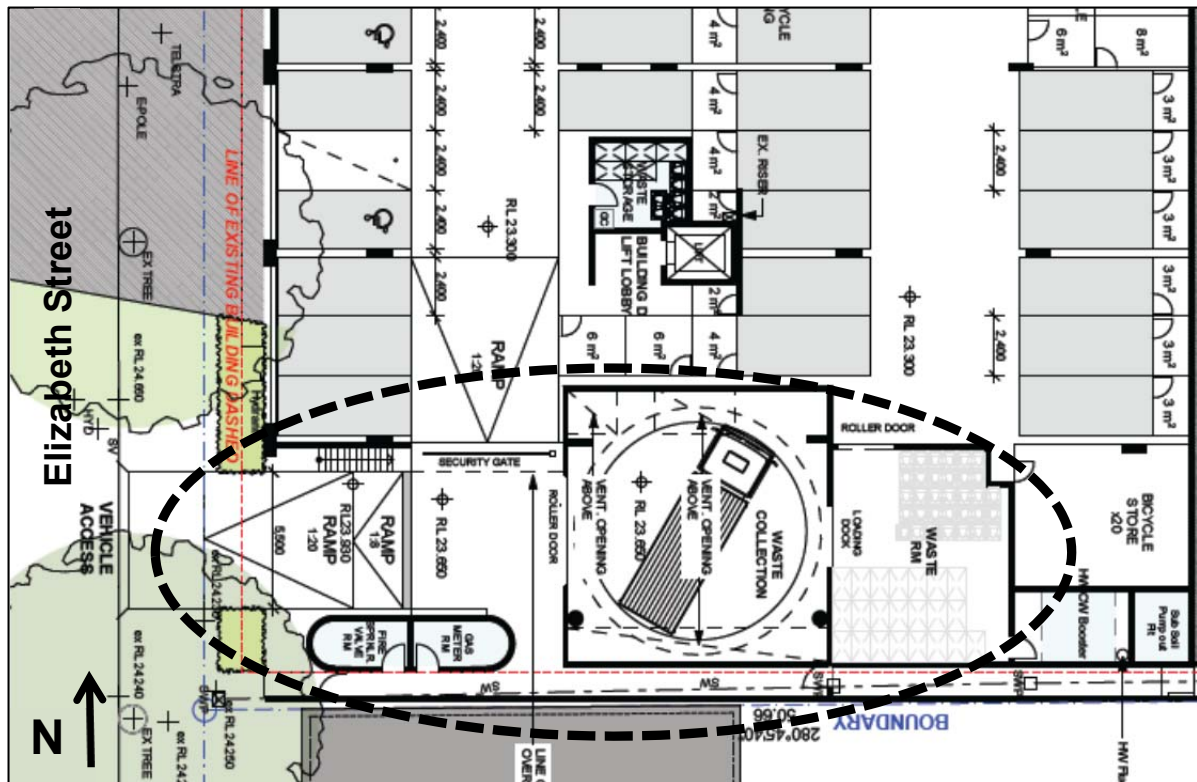


Figure 24: Proposed on-site garbage collection area, including vehicle turntable, in the basement car park.

Other Impacts of the Development

86. The proposed development is capable of complying with the BCA. It is Classes 2, 6 and 7a.

87. 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

88. 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

89. The application was referred to Council's Urban Designer; Public Domain Unit; Health; Tree Management Officer; Building Services Unit; and Transport Management Unit. All appropriate conditions recommended for imposition from the referrals have been included in the recommendation section of this report.

EXTERNAL REFERRALS

Notification, Advertising and Delegation

90. In accordance with Schedule 1 of the Sydney DCP 2012, the proposed development is required to be notified and advertised. As such the application was notified and advertised for a period of 28 days, between 5 June 2013 and 4 July 2013. As a result of this notification there were three (3) submissions received, the content of which is detailed below:

(a) Height/Number of storeys:

- (i) out of character with the surrounding neighbourhood, particularly terraces to the north of the site; and
- (ii) results in additional overshadowing to the park.

Response – The site marks the northern-most boundary of the Green Square urban renewal precinct, and as such, marks the transition from the residential terraces of the Conservation Area to the north to the redevelopment precinct to the south. The floor space and height proposed is reflective of the planning controls contained within both the SLEP 2012 and SDCP 2012, and therefore, represents the desired level of density and scale for this site to ensure the delivery of the housing yield required for the Green Square precinct.

The proposed height and scale of the development is considered to be contextually appropriate with the adjacent developments at 1-5 and 7-11 Hunter Street and 824-828 Elizabeth Street and, as has been assessed elsewhere within this report, the proposal does not result in adverse overshadowing to the principal areas of public open space of Waterloo Oval/Park.

(b) Traffic and Parking:

- (i) disagrees with the findings and conclusions of the Transport Impact Study, based on the quoted traffic volumes, impact of the proposal and serviceability of the site by public transport and cycleways;

- (ii) increased traffic congestion and congestion of bus services along Elizabeth Street due to number of additional residents; and
- (iii) insufficient car parking for the number of apartments proposed.

Response - The proposal has provided the maximum permissible number of car parking spaces under the provisions of the SLEP 2012 based on the land use and unit mix within the development.

The Transport Impact Study has been reviewed by both Council's Traffic Engineer and the Roads and Maritime Services who have agreed with the conclusions regarding existing and proposed traffic movements in the vicinity of the site. The additional number of cars has been assessed as not adversely impacting on the useability of local street network and as not adversely impacting on the performance of the intersection at McEvoy and Elizabeth Streets.

As part of the delivery of infrastructure for Green Square, further reviews are being undertaken of the existing service of this area by public transportation and the City has the Cycle Strategy and Action Plan 2007-2017, which is to facilitate the delivery of the cycleway network over the coming years.

- (c) Overlooking from the upper levels of Building A (on McEvoy Street) to the interior of a terrace house fronting Kensington Street.

Response – It is noted that the north facing balconies of Building A are separated some 43 metres from the submitter's dwelling in Kensington Street. This is well in excess of separation distances required between balconies and habitable rooms as stipulated by both the Residential Flat Design Code and the SDCP 2012.

Whilst it is understood that the submitter has a glazed roof to the living areas of their dwelling, this separation distance, coupled with the retained street trees and the roof structures of dwellings in McEvoy Street between these two sites, is considered to prevent direct view lines and overlooking from upper level balconies in the proposed development.

Notification of the Voluntary Planning Agreement

- 91. The draft Voluntary Planning Agreement and its accompanying documents were placed on public exhibition for a 28-day period commencing on 24 October 2013 in accordance with the requirements of Section 93G of the Environmental Planning and Assessment Act, 1979. At the time of writing, no submissions were received as a result of the exhibition period.

PUBLIC INTEREST

- 92. 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

- 93. In accordance with the provisions of the City of Sydney Development Contributions Plan 2006, the proposed development is subject to a Section 94 contribution.

94. A credit of 332 workers for the previous existing workforce for the site has been included in the applicable contribution payable. Including this existing workforce credit, a total contribution of \$2,121,810.81 is payable with this application.

RELEVANT LEGISLATION

95. The Environmental Planning and Assessment Act 1979.

CONCLUSION

96. The proposal is considered to be generally consistent with the relevant planning controls and responds appropriately to the constraints of the site.
97. Whilst the proposed development results in a numeric non-compliance with the building height development standard, this is a consequence of the technical definition of existing ground level and where the height of the building is measured from. The proposed form and scale of the development is considered to be contextually appropriate for its location. Subsequently, the written request submitted by the applicant to justify the departures from the height development standard under the provisions of Clause 4.6 of Sydney LEP 2012 is supported.
98. Based on the recent application history of the site, the applicant has sought that the consent authority waive the requirements for a competitive design process and preparation of a development control plan under Clause 6.21 and Clause 7.20 of the SLEP 2012. Considering the history of this particular proposal and subject to the imposition of design modification conditions, the proposal is considered to provide an architectural form which responds appropriately to the site and achieves a satisfactory design outcome and streetscape presentation. As such, the waiver of both the competitive design process and preparation of a site specific development control plan is supported in this instance.
99. Subject to satisfaction of the above, and with the imposition of the recommended conditions, the proposal is considered to be a satisfactory design outcome and contextually appropriate for its siting in the Green Square urban renewal area.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Nicola Reeve, Senior Planner)