

**ITEM 5. DEVELOPMENT APPLICATION: 40 - 46 MCEVOY STREET WATERLOO****FILE NO: D/2013/1150****DEVELOPMENT APPLICATION NO: D/2013/1150****SUMMARY****Date of Submission:** 9 August 2013, amended drawings 15 November 2013**Applicant:** Karimbla Construction Services (NSW) Pty Ltd.**Architect:** Tony Caro Architecture Pty Ltd.**Developer:** Karimbla Properties (No 30) Pty Ltd.**Owner:** Karimbla Properties (No 30) Pty Ltd.**Cost of Works:** \$60,286,105**Proposal Summary:** Construction of a 6 storey mixed use development comprising of 3 buildings accommodating 232 residential units, a 58 place childcare centre and small retail premises, basement car park for 177 vehicles, site landscaping and public domain improvements.

The application was exhibited for a period of 30 days and eight submissions were received raising concerns relating to height, bulk and scale and a number of amenity impacts arising from the redevelopment of the site. These concerns have been considered and addressed within this report.

The proposed development is generally consistent with the core development standards and zone objectives contained in SLEP 2012. The development will provide ground level retail space and a childcare centre and contributes 232 residential apartments to the housing stock required for the incoming population anticipated for the Green Square locality.

The building design has been the subject of a competitive design process and represents a well resolved architectural design that adopts an appropriate form, scale and expression to the three street frontages and surrounding land. The design provides generous setbacks for landscaping to improve and enhance the public domain and proposes large communal areas for private recreation.

**Proposal Summary:  
(continued)**

The development performs well against the relevant built form and amenity controls in SDCP 2012 and SEPP 65. A good level of internal amenity is afforded to future residents and is maintained to adjoining residential apartments.

The proposal seeks to maximise and slightly exceed the permitted floor space on the land by undergoing a competitive design process and providing community infrastructure. The minor exception to the FSR development standard is assessed to be acceptable in this circumstance as the proposed FSR is consistent with the draft FSR development standard for the site.

The development demonstrates that the design excellence objectives are achieved and an additional 10% of floor space can be awarded by the consent authority in this instance.

The application was accompanied by a public benefit offer for land dedication, embellishment and a monetary contribution to be allocated toward infrastructure within Green Square Town Centre. A draft Planning Agreement has been prepared to secure the provision of the community infrastructure. The terms of the planning agreement have been publicly exhibited between 16 January 2014 and 14 February 2014, and at the time of preparing this report no submissions had been received.

The requirement for a site specific DCP has been assessed as unnecessary in this circumstance given that there are recently adopted built form standards and controls for the site, and the considered site planning undertaken during the site specific competitive design process.

**Summary Recommendation:**

It is recommended that Development Application No. D/2013/1150 be approved as a deferred commencement consent, requiring the planning agreement to be executed and registered on title and the submission of a Remediation Action Plan to Council prior to the consent becoming operational.

- Development Controls:**
- (i) State Environmental Planning Policy No 55— Remediation of Land
  - (ii) State Environmental Planning Policy No 65— Design Quality of Residential Flat Development
  - (iii) State Environmental Planning Policy 70 Affordable Housing (Revised Schemes)
  - (iv) State Environmental Planning Policy (Infrastructure) 2007
  - (v) State Environmental Planning Policy No 32— Urban Consolidation (Redevelopment of Urban Land)
  - (vi) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
  - (vii) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
  - (viii) Planning Proposal for amendment to Sydney Local Environmental Plan 2012 - Design Excellence Incentive
  - (ix) Planning Proposal for amendment to Sydney Local Environmental Plan 2012 – Various Sites in Waterloo
  - (x) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

**Attachments:**

- A - Architectural Drawings
- B - Photomontages and Perspectives
- C - Materials Schedule and Sample Board

**RECOMMENDATION**

It is resolved that:

- (A) pursuant to the provisions of Clause 7.20(3) of Sydney Local Environmental Plan 2012, the consent authority waive the requirements for the preparation of a site specific development control plan as it is considered to be unreasonable and unnecessary in this instance;
- (B) pursuant to the provisions of Clause 6.21(7) of Sydney Local Environmental Plan 2012, the consent authority award 10% additional floor space to the development as the proposal exhibits design excellence;
- (C) pursuant to the provisions of Clause 4.6 of Sydney Local Environmental Plan 2012, the variation sought to Clause 4.4 Floor Space Ratio 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/2013/1150, subject to the following deferred commencement conditions:

The consent is not to operate until the following conditions are satisfied within **24 months** of the date of this determination:

**(1) PLANNING AGREEMENT**

- (a) That a Planning Agreement in accordance with the public benefit offer made by Karimbla Properties (No 30) Pty Ltd on 13 November 2013 be executed and submitted to Council; and
- (b) The guarantee must be provided to Council in accordance with the Planning Agreement at the time of execution; and
- (c) The Planning Agreement, as executed, must be registered on the title of the land in accordance with the Planning Agreement.

**(2) LAND REMEDIATION**

A Remediation Action Plan (RAP) is to be submitted to Council and must refer to further information detailed within Number 1-3 page 3, Interim Advice 2 reference 13045, prepared by NSW EPA Accredited Site Auditor Kylie Lloyd from Zoic Environmental Pty Ltd, 29th November 2013.

The RAP must be prepared in accordance with the NSW EPA "Guidelines for Consultants Reporting on Contaminated Sites" and Planning NSW Guidelines "Managing Land Contamination Planning Guidelines" and Council's Development Control Plan "Contaminated Land."

Note: The RAP shall be reviewed by a NSW EPA Accredited Site Auditor and include a statement issued by the auditor certifying that the RAP is practical and the site will be suitable after remediation for the proposed use before any consent is granted.

- (E) evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within **24 months** of the date of this determination of this deferred commencement consent, failing which this deferred development consent **will lapse** pursuant to section 95(6) of the Environmental Planning and Assessment Act 1979;
- (F) the consent will not operate until such time that the Council notifies the Applicant, in writing, that deferred commencement consent conditions, as indicated above, have been satisfied; and
- (G) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent, and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions:

### SCHEDULE 1A

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

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

#### (1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2013/1150 dated 9 August 2013, amended on 15 November 2013, and the following drawings:

Drawing Number	Revision	Architect	Date
A099	C	Tony Caro Architecture	14 November 2013
A100	F	Tony Caro Architecture	14 November 2013
A101	F	Tony Caro Architecture	14 November 2013
A102	F	Tony Caro Architecture	14 November 2013
A103	F	Tony Caro Architecture	14 November 2013
A104	F	Tony Caro Architecture	14 November 2013
A105	F	Tony Caro Architecture	14 November 2013
A106	G	Tony Caro Architecture	14 November 2013
A150	C	Tony Caro Architecture	14 November 2013
A151	C	Tony Caro Architecture	14 November 2013
A152	C	Tony Caro Architecture	14 November 2013
A153	C	Tony Caro Architecture	14 November 2013
A154	C	Tony Caro Architecture	14 November 2013
A155	C	Tony Caro Architecture	14 November 2013
A156	C	Tony Caro Architecture	14 November 2013
A157	C	Tony Caro Architecture	14 November 2013
A158	C	Tony Caro Architecture	14 November 2013
A159	C	Tony Caro Architecture	14 November 2013
A160	C	Tony Caro Architecture	14 November 2013

Drawing Number	Revision	Architect	Date
A161	C	Tony Caro Architecture	14 November 2013
A200	D	Tony Caro Architecture	14 November 2013
A300	C	Tony Caro Architecture	14 November 2013
A301	D	Tony Caro Architecture	14 November 2013
A310	D	Tony Caro Architecture	14 November 2013
A311	D	Tony Caro Architecture	14 November 2013
A312	E	Tony Caro Architecture	14 November 2013
A400	C	Tony Caro Architecture	14 November 2013
A401	C	Tony Caro Architecture	14 November 2013
A402	C	Tony Caro Architecture	14 November 2013
A403	C	Tony Caro Architecture	14 November 2013
A404	C	Tony Caro Architecture	14 November 2013
A405	C	Tony Caro Architecture	14 November 2013
A406	C	Tony Caro Architecture	14 November 2013
A407	C	Tony Caro Architecture	14 November 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.

## (2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

### (a) Access to communal courtyards

- (i) Building A - provide doors from each residential lobby directly into the courtyard (north). The lobby in the north western corner of Building A requires relocation of the manager's room;
- (ii) Building B - provide a door from the southern residential lobby directly into courtyard (south); and
- (iii) Building C - relocate the lift core and residential lobby to the west where kitchen in child care centre is currently located and provide a corridor to directly access courtyard (south).

### (b) Light and ventilation to all corridors

- (i) Insert a minimum 1.2m wide slot with opening to the corridor through unit 5, on levels 3, 4, 5 and 6 within the north eastern part of Building A; and
- (ii) Insert a minimum 1.2m wide slot with opening to the corridor between units 9 and 10, on level levels 3, 4, 5 and 6 within the north western corner of Building A.

- (c) The rooms in the apartments nominated as “*study*” are to be modified to remove all doors to the rooms, delete any illustrated beds in the rooms and ensure that the area forms a contiguous part of surrounding area in the apartment.
- (d) Reduce the width of the vehicular driveway cross over to a maximum of 6 metres wide.
- (e) Design details of the proposed palisade style fencing to the ground floor residential apartments that address the street.

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

### **(3) DESIGN QUALITY EXCELLENCE**

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

### **(4) FLOOR SPACE RATIO - ALL OTHER AREAS**

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the mixed use development must not exceed 2.2:1 calculated in accordance with *Sydney Local Environmental Plan 2012*. For the purposes of the calculation of FSR, the Gross Floor Area of the child care centre component is 394.9sqm, of the retail component is 143sqm, of the residential component is 20929.8sqm, and the total Gross Floor Area is 21,468sqm.
- (b) Prior to an 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 *Sydney Local Environmental Plan 2012*, applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.

**(5) BUILDING HEIGHT**

- (a) The height of the building must not exceed RL 39.6 (AHD) to the top of the building and RL 37.5 (AHD) to the parapet of the building.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifying Authority.

**(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, and specifications prepared by Tony Caro Architecture submitted with the application.

**(7) USE - SEPARATE DEVELOPMENT APPLICATION REQUIRED**

Separate development application for the fitout and use of the retail tenancy must be submitted to and approved by Council prior to that fitout or use commencing.

**(8) USE OF COMMON AREAS AND FACILITIES**

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

**(9) SIGNS - SEPARATE DEVELOPMENT APPLICATION REQUIRED**

A separate development application for any proposed signs (other than signs under relevant exempt and complying policies) must be submitted to and approved by Council prior to the erection or display of any such signs.

**(10) USE OF STUDY**

The rooms in the apartments nominated as "study" shall be used for study and storage purposes and shall not be converted to a separate habitable bedroom.

**(11) EASTERN BOUNDARY FENCE**

A 2.4m high masonry wall (measured from the level of the adjoining land) is to be provided along the common eastern boundary (where the proposed buildings do not abut the boundary).

**(12) DETAILS OF CHILD CARE CENTRE**

The following details and information are to be submitted and approved by the Director City Planning, Development and Transport prior to any Construction Certificate for Building C being issued:

- (a) Detailed plans, sections and elevations specific to the child care centre, including the following modifications:



- (i) A built in nappy change area is to be provided in the children's bathroom associated with the 0-2's and 2-3's playroom.
  - (ii) Provision of a bathroom for children adjoining the 3-5's playroom.
  - (iii) Provision of a laundry.
  - (iv) Provision of a separate entrance to the kitchen i.e. not through the staff room.
- (b) Confirmation of the number of children per room and that 33% of the child care places are for children aged under two years old.
  - (c) Detailed landscape plan specific to the outdoor play area demonstrating compliance with the controls in 4.4.4.4 of Sydney DCP 2012. Detail includes but is not limited to, detail of designated areas for age groups, fencing, soft fall areas, shading devices and protection measures for falling objects from residential apartments.
  - (d) An operational Plan of Management for the child care centre.
  - (e) An Emergency Evacuation Plan for the child care centre.

**(13) CAPACITY - CHILD CARE CENTRE**

The total number of children at the centre at any one time must not exceed 58 per day, with the following limitations for each age group:

- (a) 33% of total number are to be 0-2 year olds.

The total number and age break down is subject to approval by the Department of Education and Communities (DEC) and any change to the figures stated above will require the lodgement of a Section 96 application to modify this consent to reflect the final numbers approved by the DEC.

**(14) DEPARTMENT OF EDUCATION AND COMMUNITIES**

- (a) A service approval to operate the child care centre must be obtained from the Department of Education and Communities prior to commencement of operations at the child care centre.
- (b) Full compliance with any service approval requirements of the Department of Education and Communities is required.

**(15) EMERGENCY EVACUATION PLAN PRIOR TO OCCUPATION CERTIFICATE**

Prior to issue of an Occupation Certificate the owner/operator must have in place an emergency evacuation plan that encompasses the requirements of the NSW Fire Brigade and outlines the procedures by which staff will be trained in emergency procedures.

**(16) 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	\$513,289.26
Public Domain	\$316,156.58
New Open Space	\$2,463,419.24
New Roads	\$625,639.00
Accessibility	\$25,948.96
Management	\$28,056.81
<b>Total</b>	<b>\$3,972,509.85</b>

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

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

where:

C is the original contribution amount as shown above;

CPI<sub>2</sub> is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of statistics at the time of payment; and

CPI<sub>1</sub> is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the date of calculation being the September 2013 quarter.

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

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

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

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

In accordance with Clause 27P of *Sydney Local Environmental Plan 2012*, and prior to a 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 **\$3,480,959.74** based on the in lieu monetary contribution rate for non-residential development at \$45.61 per square metre of total non-residential floor area 692sqm, and for residential development at \$136.87 per square metre of total residential floor area 25,202sqm. Contributions will be indexed in accordance with the formula set out below.

Prior to an 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 (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 =  $C \times HPI_2 / HPI_1$ , where:
- (i) C is the original contribution amount as shown above;
  - (ii)  $HPI_2$  is the Established House Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the time of the payment; and
  - (iii)  $HPI_1$  is the Established House Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics that applied at the date of the consent (1 March 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 (\$)

#### (18) TREES APPROVED FOR REMOVAL

- (a) All trees detailed in Table 1 below are approved for removal
- (b) Table 1 – Trees to be removed during the development works

Tree No:	Botanical Name / Common Name	Location
5	<i>Corymbia citriodora</i> (Lemon Scented Gum)	Southern boundary – Allen St
6	<i>Agonis flexuosa</i> (Willow Myrtle)	Southern corner – crn Allen St & George St
7	<i>Eucalyptus racemosa</i> (Scribbly Gum)	Southern corner – crn Allen St & George St
12	<i>Populus deltoides</i> (Cottonwood)	Street Tree – George St
17	<i>Agonis flexuosa</i> (Willow Myrtle)	North-west corner – crn George St & McEvoy St
19	<i>Schinus areira</i> (Peppercorn tree)	Northern boundary – McEvoy St
21	<i>Liquidambar styraciflua</i> (Liquidambar)	Northern boundary – McEvoy St

- (c) Reference should be made to the Arboricultural Assessment Report prepared by 'TALC' dated 6 June 2013 for tree numbering and locations.

**(19) TREES THAT MUST BE RETAINED**

- (a) Approval is NOT granted for the removal of the following trees, which Council has determined to be prominent landscape elements.
- (b) Table 2 – Tree Retention

Tree No:	Botanical / Common Name	Location
1 – 4	Eucalyptus microcorys (Tallow Wood)	Street trees – Allen St
8 – 11	Populus deltoides (Cottonwood)	Street Trees – George St
13 – 16	Acmena smithii (Lilly Pilly)	Eastern boundary – George St
18, 20, 22-23	Liquidambar styraciflua (Liquidambar)	Street trees – McEvoy St

- (c) Reference should be made to the Arboricultural Assessment Report prepared by 'TALC' dated 6 June 2013 for tree numbering and locations

**(20) 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.

**(21) 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.

**(22) ACCESSIBLE PARKING SPACE**

A minimum of 35 accessible parking spaces are to be provided.

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

**(23) 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".

**(24) BICYCLE FACILITIES**

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

- (a) 1 shower with change area; and
- (b) 7 personal lockers.

#### **(25) BICYCLE PARKING**

A minimum of 268 bicycle parking spaces are to be provided across the site including a minimum of 232 Class 1 bicycle lockers, 7 Class 2 bicycle facilities and 29 Class 3 bicycle rails.

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.

Note: It is preferable that bicycle parking for visitors (i.e. Class 3 bicycle rails) are provided at ground floor level and not within the basement.

#### **(26) CAR PARKING SPACES AND DIMENSIONS**

A maximum of 177 off-street car parking spaces must be provided in the basement.

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

#### **(27) PARKING ALLOCATION**

The 177 car parking spaces in the basement are to be allocated so that the following maximums are not exceeded:

- (a) Residential – maximum 164 spaces;
- (b) Residential visitor– maximum 9 spaces;
- (c) Childcare centre – maximum 3 spaces (located below Building C); and
- (d) Retail – maximum 1 space.

Note: Childcare drop off/pick up spaces are also required to be provided within the basement.

**(28) CHILD CARE DROP OFFS**

- (a) A total of 7 childcare drop-off and pick-up parking spaces must be provided, of which a minimum of 4 are required off street (within the development).
- (b) These spaces are to be grouped together within the basement area, as close as possible to the lift shaft servicing the child care centre (under Building C).
- (c) 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 Certifying Authority prior to a Construction Certificate being issued.

**(29) CHANGES TO KERB SIDE PARKING RESTRICTIONS**

A separate submission must be made to the Sydney Traffic Operations Unit seeking the City's approval for any changes to kerb side parking arrangements. There is no guarantee kerb side parking will be changed or that any change will remain in place for the duration of the development use.

The submission must include two plans. One showing the existing kerb side parking restriction signs and stems, the second showing the proposed kerb side parking restriction signs and stems. Both plans must include changes to all signs and stems from the kerb line of the nearest intersection.

All costs associated with the changes to sign posting will be at no cost to Council.

**(30) 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.

**(31) 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.

**(32) 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.

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

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

No accessible car parking spaces are to be located on a ramp.

**(34) LOCATION OF VISITOR PARKING**

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

**(35) MOTORCYCLES**

An area equivalent to a minimum of 4 car spaces (or 14 individual spaces) must be provided for motorcycles.

**(36) 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.

**(37) 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**.

**(38) 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.



**(39) SERVICE VEHICLES**

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

**(40) 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.

**(41) STACKED PARKING EMPLOYEES OR TENANTS ONLY**

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

**(42) 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.

**(43) VEHICLE ACCESS**

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

**(44) 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.

#### **(45) RESTRICTION ON RESIDENTIAL DEVELOPMENT**

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the building (Levels 1 – 6 in Buildings A and B and Levels 2 – 6 in Building C) 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 flat building* as defined *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.

#### **(46) RESTRICTION ON USE OF CAR SPACES - MIXED USE**

The following conditions apply to car parking:

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

- (b) Prior to an Occupation Certificate being issued, a documentary restrictive covenant, is to be registered on the Title of the development site pursuant to section 88E of the *Conveyancing Act 1919*, to the effect of (a) above. The covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
- (c) Any future strata subdivision of the site is to include a restriction on User pursuant to section 39 of the *Strata Titles (Freehold Development) Act, 1973*, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate restrictive covenant pursuant to section 88B of the *Conveyancing Act 1919* burdening all car parking part - lots in the strata scheme.

**(47) PARKING ON COMMON PROPERTY AREAS**

No part of the common vehicular circulation and parking areas, apart from the visitor vehicle spaces which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles or boats. Any strata subdivision of the building is to include an appropriate documentary restriction pursuant to Section 88B of the *Conveyancing Act 1919*, so burdening common property, with the Council being the authority to release, vary or modify the restriction.

**(48) CHILD CARE CENTRE – DROP OFF AND PICK UP CAR SPACES**

- (a) The child care centre off- street drop-off and pick-up parking spaces are to be used only for the purpose of dropping off and picking up children attending the child care centre within the development;
- (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 spaces from drop-off and pick-up spaces for use only by the child care centre. 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 Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.

**(49) LAND SUBDIVISION – SEPARATE DA REQUIRED**

Any proposal for land subdivision will require a separate application to Council to obtain development consent 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*.

**(50) 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 the *Strata Schemes (Freehold Development) Act 1973*.

**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.

**(51) STRUCTURAL CERTIFICATION FOR DESIGN - BCA (ALL BUILDING CLASSES)**

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

**(52) 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, with attention drawn to travel distances from sole-occupancy unit doorways to exits;
  - (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;

Note: For restaurants, cafes, bars and the like, sanitary facilities (including accessible facilities for persons with disabilities complying with AS 1248.1) must be provided for customers where more than 20 seats are provided, including seating for any future footway dining facilities.

(xiv) Room sizes - Part F3;

(xv) Light and ventilation - Part F4;

(xvi) Sound transmission and insulation - Part F5;

(xvii) Provision for cleaning windows NSW - Part G1.101 & Outdoor Play SpacesG1.3;

(xviii) Energy Efficiency - Part J.

- (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.

### **(53) 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.

### **(54) 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.

### **(55) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

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

**(56) 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 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.
  - (vi) Removal of the pathway in the northern courtyard leading to the eastern boundary.
- (b) Prior to the issue of a Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property.
- (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

**(57) LANDSCAPED (GREEN) ROOFS**

Prior to the issue of a Construction Certificate the following design details of the proposed landscaped roof area should be submitted to and approved by Council:

- (a) A detailed plan of the green roof, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by the Director City Planning, Development and Transport prior to the issue of a Construction Certificate. The plan must include:
  - (i) Location of existing and proposed structures on the rooftop, including cross-sectional details of all components on the green roof;
  - (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
  - (iii) Details of the soil / media depth with a preference for minimum soil depths of 200mm for grass, 400mm shrubs and 800mm for larger trees;
  - (iv) Details of drainage and irrigation systems, including overflow provisions.

- (b) Prior to the issue of a Construction Certificate, the following details need to be submitted and approved by the Principal Certifying Authority:
  - (i) Evidence the green roof has been assessed as part of the structural certification provided for the development.
  - (ii) Evidence the green roof has been assessed as part of the waterproofing certification provided for the development.
- (c) The rooftop concrete slab must be cured prior to installing waterproofing.
- (d) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.
- (e) Prior to the issue of an Occupation Certificate, a maintenance plan is to be submitted and approved by the Director City Planning, Development and Transport. The maintenance plan is to be complied with during occupation of the property.

**(58) TREE PROTECTION ZONE**

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

**TPZ Schedule**

<b>Tree No</b>	<b>Species Name</b>	<b>Location</b>	<b>Radius (m) from Trunk</b>
13	Acmena smithii	Eastern boundary – George Street	3.0 m
14	Acmena smithii	Eastern boundary – George Street	3.6 m
15	Acmena smithii	Eastern boundary – George Street	2.4 m
16	Acmena smithii	Eastern boundary – George Street	3.6 m

- (b) Amend the design of driveways, paths etc prior to the issuing of the Construction Certificate to ensure the TPZ specified in the table above is achieved for all trees listed for retention.
- (c) Each TPZ must be:
  - (i) Enclosed with a 1.8m high fully supported chainmesh protective fencing. The fencing shall be secure and fastened to prevent movement. The fencing shall have a lockable opening for access. Woody roots shall not be damaged during the establishment or maintenance of the fencing;

- (ii) Kept free of weed and grass for the duration of works;
  - (iii) Mulch installed / maintained to a depth of 75mm for the duration of works; and
  - (iv) Have two signs identifying the name and contact details of the site Arborist attached facing outwards in a visible position. All signs must remain in place until works are completed on site.
- (d) The following works shall be excluded from within any TPZ:
- (i) Soil cut or fill including excavation and trenching;
  - (ii) Soil cultivation, disturbance or compaction;
  - (iii) Stockpiling storage or mixing of materials;
  - (iv) The parking, storing, washing and repairing of tools, equipment and machinery;
  - (v) The disposal of liquids and refuelling;
  - (vi) The disposal of building materials;
  - (vii) The sitting of offices or sheds;
  - (viii) Any action leading to the impact on tree health or structure.
- (e) All work undertaken within or above the TPZ must be:
- (i) Supervised by a qualified Consultant Arborist, who holds the Diploma in Horticulture (Arboriculture), Level 5 under the Australian Qualification Framework;
  - (ii) Undertaken in accordance with all directions given by the Site Arborist and/or Council.

#### **(59) 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.



**(60) SITE SUPERVISION AND REPORTING**

- (a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone in accordance with Australian Standard 4970 Protection of Trees on Development Sites. The Arborist must certify compliance with each key milestone detailed below:
- (i) The Arborist must certify the installation of the tree protection measures to Council and the Principal Certifying Authority prior to the issuing of a construction certificate;
  - (ii) During demolition of any hardsurface material from within the Tree Protection Zone of any tree listed for retention;
  - (iii) During any excavation and trenching within the Tree Protection Zone;
  - (iv) During any Landscape works within 3 metres of the trees trunk.
- (b) A monthly 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 works undertaken on any tree to be retained or within TPZ/s;
  - (iii) Documentary evidence of compliance with tree protection and measures (including photographs and site notes).

**(61) TREE PRUNING (private property)**

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

**(62) STREET TREE PROTECTION**

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

- (a) Tree trunk protection shall be undertaken prior to the issuing of the Construction Certificate. The protection shall be installed by a qualified Arborist (AQF 2 or 3) and must include;
- (i) An adequate clearance, minimum 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.
- (b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.
- (c) Materials or goods, including site sheds, must not be stored or placed:
  - (i) Around or under the tree canopy; or
  - (ii) Within two (2) metres of the trunks or branches of any street trees.
- (d) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9673, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

### **(63) STREET TREE PRUNING AND REMOVAL**

- (a) Approval is not granted for the removal of any street trees.
- (b) 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.
- (c) Any pruning that is required to accommodate hoardings, scaffolding, or to accommodate the loading/unloading of vehicles, and has been approved by Council shall be carried out by a qualified Arborist (AQF3), and must be in accordance with AS4373 Australian Standards 'Pruning of Amenity Trees'.

### **(64) DILAPIDATION REPORT – MAJOR EXCAVATION**

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of:
  - (i) 34-38 McEvoy Street, Waterloo; and
  - (ii) 266 Pitt Street, Waterloo (also known as 25-33 Allen St, Waterloo)

are to be prepared by an appropriately qualified structural engineer prior to commencement of excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Certifying Authority and the Council prior to the issue of a Construction Certificate.

#### UPON COMPLETION OF EXCAVATION

- (b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of 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.

#### UPON COMPLETION OF CONSTRUCTION

- (c) A third Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of the development. A copy of the third 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.

### **(65) EROSION AND SEDIMENT CONTROL - MORE THAN 2,500SQM**

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

- (a) The SWMP must identify and respond to all items for Erosion and Sediment Control Plans listed in the condition above, as well as:
  - (i) existing site contours;
  - (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).

**(66) ROAD OPENING PERMIT**

A separate **Road Opening Permit** under Section 138 of the Roads Act 1993 must be obtained from Council prior to the commencement of any:

- (a) Excavation in or disturbance of a public way, or
- (b) Excavation on land that, if shoring were not provided, may disturb the surface of a public road (including footpath).

**(67) ALIGNMENT LEVELS**

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

**(68) PUBLIC DOMAIN PLAN**

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

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

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.

**(69) PUBLIC DOMAIN WORKS - HOLD POINTS AND HANDOVER**

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

**(70) 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".

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

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

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

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

- (a) A PDF format report containing all images at a scale that clearly demonstrates the existing site conditions;
- (b) Each image is to be labelled to identify the elements depicted, the direction that the image is viewed towards, and include the name of the relevant street frontage;
- (c) Each image is to be numbered and cross referenced to a site location plan;

- (d) A summary report, prepared by a suitable qualified professional, must be submitted in conjunction with the images detailing the project description, identifying any apparent existing defects, detailing the date and authorship of the photographic record, the method of documentation and limitations of the photographic record;
- (e) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

## **(72) PRESERVATION OF SURVEY MARKS**

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

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

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

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

## **(73) PROTECTION OF SURVEY INFRASTRUCTURE**

Prior to the commencement of any work on site, a statement prepared by a Surveyor registered under the Surveying Act 2002 must be submitted to Council verifying that a survey has been carried out in accordance with the Surveyor General's Direction No. 11 – Reservation of Survey Infrastructure. Any Permanent Marks proposed to be or have been destroyed must be replaced, and a "Plan of Survey Information" must be lodged at the Land and Property Management Authority.

Reason: To ensure that the survey control infrastructure and cadastral framework are preserved for the public benefit and in accordance with the Surveying Act 2002.

## **(74) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT**

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

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

#### **(75) STORMWATER QUALITY**

Details demonstrating how the development achieves the post-development pollutant load standards identified in control 3.7.3 in *Sydney DCP 2012* are to be submitted and approved by the Director City Planning, Development and Transport prior to a Construction Certificate being issued.

#### **(76) 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.

#### **(77) 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.

#### **(78) FOOTPATH DAMAGE BANK GUARANTEE (Public Domain Damage Deposit)**

A Footpath Damage Bank Guarantee calculated on the basis of 165 lineal metres of the concrete and asphalt footpath site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Footpath Damage Bank Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

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

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



**(79) ELECTRICITY SUBSTATION**

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

**(80) TELECOMMUNICATIONS PROVISIONS**

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

**(81) UTILITY SERVICES**

To ensure that utility authorities are advised of the development:

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

**(82) 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 Section A Site Audit Statement from a NSW EPA Accredited Site Auditor is to be submitted to Council Health and Building Unit clearly indicating that the **site is suitable** for the proposed use. Conditions on the Site Audit Statement shall form part of the consent.

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

**(83) HAZARDOUS AND INDUSTRIAL WASTE**

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the NSW Environmental Protection Authority, and the NSW WorkCover Authority pursuant to the provisions of the following:

- (a) Protection of the Environment Operations Act 1997.
- (b) Protection of the Environment Operations (Waste) Regulation 2005.
- (c) Waste Avoidance and Recovery Act 2001.
- (d) Work Health and Safety Act 2011.
- (e) Work Health and Safety Regulation 2011.

**(84) IMPORTED WASTE DERIVED FILL MATERIAL**

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

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

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

**(85) CONTAMINATED WASTE**

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

**(86) ASBESTOS REMOVAL WORKS**

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Workcover NSW, holding either a Friable (Class A) or a Non-Friable (Class B) Asbestos Removal Licence which ever applies.

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

#### **(87) WATER POLLUTION**

No wastewater, chemicals or other substances harmful to the environment shall be permitted to discharge to Council's stormwater system. Only clean, unpolluted water is permitted to discharge into the stormwater system.

#### **(88) CONNECTION TO SEWERS OF SYDNEY WATER CORPORATION**

Wastewater arising from the use must be directed to the sewers of the Sydney Water Corporation (SWC) under a Trade Waste License Agreement. The pre-treatment of wastewater may be a requirement of the Corporation prior to discharge to the sewer. Details of the Corporation's requirements should be obtained prior to the commencement of construction work.

**(89) DUST MANAGEMENT**

All reasonable and feasible steps must be taken to ensure that dust from activities conducted on site is kept to a minimum. This includes the covering and wetting down of disturbed soils.

All dust control measures outlined in Section 8 of Construction & Environmental Management Plan, prepared by Green Square Consortium Pty Ltd, revision A, 22<sup>nd</sup> August 2013 shall form part of this consent.

**(90) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN**

- (a) A site-specific noise and vibration management plan shall be submitted to the Council Health and Building department for comment and written approval prior to Construction Certificate. The Plan must be prepared by a suitably qualified person who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants.
- (b) The plan must include but not be limited to the following:-
  - (i) Identification of noise and vibration sensitive receivers near to the site.
  - (ii) A prediction as to the level of noise and vibration impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the City of Sydney Construction Hours /Noise Code of Practice 1992 for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedances of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
  - (iii) A representative background noise measurement (LA90, 15min) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
  - (iv) Confirmation of the level of community consultation that has and will be undertaken with Building Managers/occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases

- (v) Confirmation of noise, vibration and dust monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.
- (vi) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (vii) Details of any noise and vibration mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- (viii) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

**(91) 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 submitted and approved Demolition, Excavation and Construction Management Plan.
- (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.
- (c) Such periods should where possible be set and agreed with the Council and be given at times high noise levels are, or are likely, to cause most offence.

**(92) NOISE USE – GENERAL**

- (a) The emission of noise associated with the operation of any mechanical plant and equipment shall comply with the following criteria:
  - (i) The LAeq, 15minute noise level emitted from the use must not exceed the background noise level LA90, 15minute by more than 5dB when assessed at the boundary of any affected residence.
  - (ii) The LAeq, 15minute noise level shall be adjusted for modifying factors in accordance with Appendix 2 of the Noise Guide for Local Government published by DECCW.

- (iii) The background noise level shall be measured in the absence of noise emitted from the use in accordance with *Australia Standard AS 1055.1-1997-Description and measurement of environmental noise*.
- (iv) The use of the premises shall be controlled so that any emitted noise is at level so as not to create an “offensive noise” as defined in the Protection of the Environment Operations Act 1997.

#### **Internal residential amenity**

- (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 (excluding air-conditioning equipment) normally servicing the affected residence operating.

#### **(93) USE OF INTRUSIVE APPLIANCES - TIME RESTRICTION**

- (a) The operation of high noise intrusive plant and machinery such as pile-drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436-2010 "Guide to Noise Control on Construction, Maintenance and Demolition Sites" is restricted to the hours of:
  - (i) 9:00am -12:00pm and 1:00 pm– 4:30pm Mondays to Friday
  - (ii) 9:00am – 1:00pm on Saturdays
  - (iii) No work is permitted on Sundays or Public Holidays
- (b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436- 2010 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'.

- (c) All reasonable and feasible steps must be taken to ensure that noise levels from activities conducted on site are kept to a minimum including the adoption of less noise intrusive plant and equipment or technologies.

**(94) COMPLIANCE WITH ACOUSTIC REPORT**

- (a) All recommendations contained in Section 4.3 – 4.3.5, Noise Impact Assessment prepared by Acoustic Logic, Project Number 20130340.1, Document reference 20130340.1/0207A/R0/TA, 2 July 2013 must be implemented during construction and use of the premises.
- (b) Prior to Construction Certificate, the applicant is required to ensure that vibration isolation of the building structure complies with vibration goals set out in Section 5.2. Detailed design of any structural vibration isolation system.
- (c) 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, certifying that the acoustic and vibration mitigation measures outlined in the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied prior to issue of Occupational Certificate.

**(95) AIR CONDITIONERS IN RESIDENTIAL BUILDINGS**

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

- (a) emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
  - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
  - (ii) before 7.00am and after 10.00pm on any other day; or
- (b) emit a sound pressure level when measured at the boundary of any other residential property, at a time other than those *specified* in (i) and (ii) above, which exceeds the background ( $L_{A90, 15\text{minutes}}$ ) by more than 5dB(A). The source noise level must be measured as a LAeq 15 minute.

**(96) INTRUDER ALARM**

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

**(97) NOISE CONTROL VERIFICATION**

An Acoustic Verification Report must be submitted to the Council Health and Building Unit South Team prior to Construction Certificate from an accredited acoustic consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants outlining all central services mechanical plant and equipment installed within the development.

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

**(98) DEWATERING**

- (a) If any dewatering of the site is to be undertaken, a bore licence may be required from the NSW Office of Water (NOW) under the provisions of Part V of the Water Act 1912. The NOW licences dewatering to allow excavation for construction for a temporary period, usually 12 months.
- (b) All conditions within the NOW licence will form part of this consent.

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

**(99) 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 and AS1668.2, the Building Code of Australia and relevant Australian Standards must be prepared by a suitably qualified person certified and certified in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.
- (c) Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, must be submitted to the Principal Certifying Authority.



**(100) MICROBIAL CONTROL IN WATER SYSTEMS**

- (a) Prior to the issue of a Construction Certificate detailed plans of any water cooling system (including cooling towers) as defined under the Public Health Act 2010 must be prepared by a suitably qualified person and certified in accordance with AS3666: 1: 2011 Air handling and water systems of buildings – Microbial Control – Design, installation and commissioning and must be submitted to and approved by Council.
- (b) Water cooling system operation and maintenance manuals and maintenance service records shall be readily available at the premises for inspection by an authorised officer upon request. Such records must be kept on the premises in accordance with Clause 2.6 to AS/NZS 3666:2:2011 Air handling and water systems of buildings – Microbial control, operation and maintenance.
- (c) The installation, operation and maintenance of warm water systems and water cooling systems (as defined under the Public Health Act 2010) must comply with the following:

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.

- (d) 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.

**(101) GARBAGE ROOM**

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

**(102) CAR PARK VENTILATION**

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

**(103) FUTURE FOOD USE – MECHANICAL VENTILATION PROVISION**

Any mechanical exhaust systems are to be designed to be capable of accommodating exhaust requirements for any 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 as 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.

**(104) SWIMMING POOL - WASTE AND OVERFLOW WATERS**

Swimming pool waste and overflow waters must be collected and directed to the sewer in accordance with the requirements of Sydney Water, and details are to be submitted with the application for a Construction Certificate to the satisfaction of Council or the accredited certifier and approved by the certifying authority.

**(105) WASTE AND RECYCLING MANAGEMENT - MINOR**

The proposal must comply with the relevant provisions of Council's *Policy for Waste Minimisation in New Developments 2005* which requires facilities to minimise and manage waste and recycling generated by the proposal.

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

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

**UPON COMPLETION OF THE DEVELOPMENT**

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

**(107) WASTE MANAGEMENT FACILITIES – GARBAGE COLLECTION VEHICLES**

Prior to the issue of a Construction Certificate for the development, the waste management facilities within the building are to be consistent with Council's "Policy for Waste Minimisation in New Developments 2005" and redesigned to provide for:

- (a) the maximum grade of any ramp to be accessed by Council's garbage collection vehicles is to be no more than 1:8 with suitable transitions at either end of the ramp,
- (b) all driveways and paved areas accessed by Council's garbage collection vehicles must be provided with a minimum vertical clearance of 4 metres, taking such items as pipes, ducts and the like into account,
- (c) the residential garbage room servicing the proposed building to include adequate space for the separation of putrescible waste from waste suitable for recycling,
- (d) the physical separation of residential waste from that generated by the commercial and retail tenancies which is to be collected by a private contractor.

### **(108) WASTE AND RECYCLING COLLECTION**

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

### **(109) PHYSICAL MODELS**

- (a) Prior to a 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 mode of the development as constructed must be submitted to Council for the City Model in Town Hall House.

#### Note:

- (i) The models must be constructed in accordance with the Model Specifications available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements>. Council's modelers must be consulted prior to construction of the model.
- (ii) The models are to comply with all of the conditions of the Development Consent.
- (iii) The models must be amended to reflect any further modifications to the approval (under section 96 of the Environmental Planning and Assessment Act) that affect the external appearance of the building.

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

- (a) Prior to a Construction Certificate being issued, an accurate 1:1 electronic CAD model of the detailed construction stage drawings 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.

**(111) ROADS AND MARITIME SERVICE CONDITION**

The developer is to submit design drawings and documents relating to the excavation of the site and support structures to RMS for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by RMS.

The report and any enquiries should be forwarded to:

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

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

### **(112) SYDNEY WATER CONDITION**

In accordance with Sydney Water's requirements for building over and/or adjacent to stormwater assets, no buildings or permanent structures are to be proposed within 1 metre from the external face of the stormwater pipe. Therefore, a 4500mm wide corridor along the stormwater pipe is to be free from buildings or permanent structures.

## **SCHEDULE 1C**

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

#### **(113) 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.

#### **(114) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

**(115) 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.

**(116) 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.

**(117) 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.

**(118) EROSION AND SEDIMENT CONTROL**

The Soil and Water Management Plan (SWMP) or Erosion and Sediment Control Plan (ESCP) which has been approved by the Principal Certifying Authority must be implemented in full during the construction period.

During the construction period:

- (a) erosion and sediment controls must be regularly inspected, repaired and maintained in working order sufficient for a 10 year Average Recurrence Interval (ARI) rainfall event;
- (b) erosion and sediment control signage available from Council must be completed and attached to the most prominent structure visible at all times when entering the site for the duration of construction; and
- (c) building operations and stockpiles must not be located on the public footway or any other locations which could lead to the discharge of materials into the stormwater system.

**(119) PROTECTION OF STREET TREES DURING CONSTRUCTION**

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

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

**(120) 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.

**(121) 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.

**(122) 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.

**(123) 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](http://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.

**(124) 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.

**(125) 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.

#### **(126) 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.

#### **(127) USE OF MOBILE CRANES**

The following requirements apply:

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



**SCHEDULE 2**

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

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

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

**SCHEDULE 3****CONCURRENCE CONDITIONS - RAILCORP**

- (128) All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:
- (a) Preliminary geotechnical investigation report (Ref CES121006-MG-AC, dated 21 December 2012) prepared by Consulting Earth Scientists (CES).
  - (b) Correspondence from JK Geotechnics titled "Geotechnical Assessment: Proposed Development 40-46 McEvoy St, Waterloo, NSW" dated 16 September 2013 Ref 26867RN Let.
  - (c) Correspondence from JK Geotechnics titled "Geotechnical Assessment: Proposed Development 40-46 McEvoy St, Waterloo, NSW" dated 21 November 2013 Ref 26867RN Let1 Rev1.
  - (d) Sediment Control Plan (Dwg No. E-500 dated 8 February 2013), prepared by Meriton Group.
  - (e) Hard & Forester Consulting Surveyors Drawing titled "Airport Line Tunnel Protection Limits" (Dwg No. 1098590003 Rev 00 dated 05-11-2001).
  - (f) Hard & Forester Consulting Surveyors Drawing titled "Tunnel Notification Zone South Sydney Council" (Dwg No. 83370109 Sheet 4 of 12 dated Nov 2001).

- (g) Parking Level 01 plan and section (Dwg No A099 - Issue 6 1/8/2013) prepared by Tony Caro Architecture Pty Lid.
  - (h) Cardno Hard & Forester Drawings titled "Position of New South Rail Tunnel Structure in Relation to Proposed Development Site 40-46 McEvoy St Waterloo" Rev 00 dated 10 Sept 2013 [Plan & Cross Section, Sheets 1 and 2J;
  - (i) Subject to the following modifications:
  - (j) Final structural (including footing design) and architectural drawing (including cross-section drawings) are to be provided to RailCorp for review and endorsement.
  - (k) Final Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that RailCorp will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
  - (l) The potential effect of construction induced settlement due to groundwater drawdown/dewatering to be assessed and addressed in a report submitted to RailCorp for review and endorsement.
  - (m) Confirmation of the groundwater level to be undertaken and its impact on the rail tunnel during works is to be assessed and provided to RailCorp for endorsement.
  - (n) The construction sequencing to be provided to RailCorp for review and endorsement.
  - (o) Allowable footing loads at ground surface level are to be limited to 6MPa.
  - (p) Any conditions issued as part of RailCorp's approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.
  - (q) The Principle Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from RailCorp that this condition has been complied with. A Construction Certificate is not to be issued until the measures detailed in this condition of consent have been incorporated into the construction drawings and specifications. Prior to the commencement of works the Principal Certifying Authority is to provide verification to RailCorp that this condition has been complied with.
- (129)** If required by RailCorp, a Final Comprehensive Finite Element Analysis is to be undertaken to RailCorp's requirements. This analysis is to be provided to RailCorp for review and endorsement to be undertaken for submission and review. The finite element analysis report to detail the input data comprising, but not limited to, the in-situ locked up stress, groundwater level, dewatering within the model, location and inclination of bedding planes, joints in the rock, material properties etc.

- (130) The following items are to be submitted to RailCorp for review and endorsement prior to the issuing of a Construction Certificate:
- (a) Machinery to be used during demolition, excavation and construction.
  - (b) The Principle Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from RailCorp that this condition has been complied with.
- (131) No modifications may be made to that approved design without the consent of RailCorp.
- (132) If required by RailCorp, prior to the commencement of works or the issue of a Construction Certificate (whichever occurs first) the Applicant is to submit to RailCorp a tunnel movement and vibration Monitoring Plan for review and endorsement. Works shall not commence or a Construction Certificate issued until RailCorp has issued its written endorsement to the Monitoring Plan. The monitoring plan is to be in place until the end of construction works.
- (133) Prior to the commencement of works or the issue of a Construction Certificate (whichever occurs first) a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works (including demolition, excavation and construction) are to be submitted to RailCorp for review and endorsement. Works shall not commence or a Construction Certificate issued until RailCorp has issued its written endorsement certifying compliance with this condition.
- (134) If required by RailCorp, prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from RailCorp and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by RailCorp.
- (135) An acoustic assessment is to be submitted to Council and RailCorp prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines". The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principle Certifying Authority with the application for a Construction Certificate.
- (136) Prior to the issue of a Construction Certificate the Applicant is to submit to RailCorp for review and endorsement a revised Electrolysis Report that meets RailCorp's. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.

- (137) Prior to the issuing of a Construction Certificate the Applicant is to submit to RailCorp a plan showing all crane age and other aerial operations for the development and must comply with all Rai/Corp requirements. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.
- (138) Prior to the issue of a Construction Certificate the Applicant must hold current public liability insurance cover for a sum to be determined by RailCorp. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact RailCorp's Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principle Certifying Authority must witness written proof of this insurance in conjunction with RailCorp's written advice to the Applicant on the level of insurance required.
- (139) Prior to the issuing of an Occupation Certificate the Applicant is to submit the as-built drawings to RailCorp and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into RailCorp property or easement.
- (140) The Principle Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.

#### **SCHEDULE 4**

#### **INTEGRATED DEVELOPMENT - GENERAL TERMS OF APPROVAL**

The Terms of Approval for construction dewatering as advised by the NSW Office of Water are as follows:

##### **General**

- (141) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
- (142) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
- (143) Construction methods and material used in and for construction shall not cause pollution of the groundwater.

**Prior to excavation**

- (144) Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken and a report provided to the NSW Office of Water. A schedule and indicative plans of the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.
- (145) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the calculation method shall be included in the report.
- (146) A copy of a valid development consent for the project shall be provided to the NSW Office of Water.
- (147) Groundwater quality testing shall be conducted and a report supplied to the NSW Office of Water. Samples must be taken prior to the commencement of pumping, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
- (148) The method of disposal of pumped water shall be nominated (i.e. street drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (tailwater) must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
- (149) Contaminated groundwater shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water (tailwater) that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.

**During excavation**

- (150) Piping or other structures used in the management of pumped groundwater (tailwater) shall not create a flooding hazard. Control of pumped groundwater (tailwater) is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- (151) Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.

- (152) Pumped groundwater (tailwater) shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater (tailwater) shall be complied with.
- (153) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulphate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- (154) The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.
- (155) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety precautions.

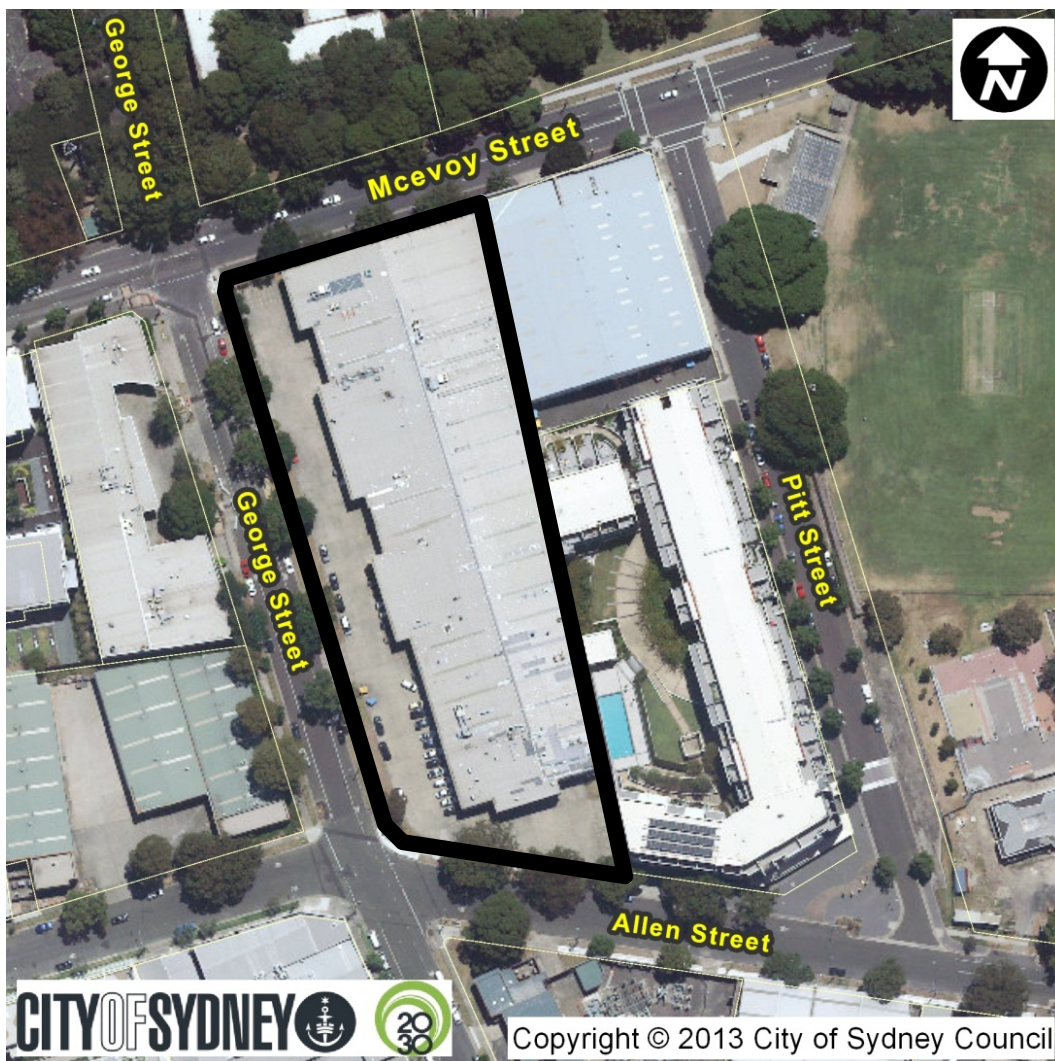
**Following excavation**

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

## BACKGROUND

### Site

1. The site is legally identified as Lot 20 DP 707769 and has a street address of No. 40 - 46 McEvoy Street, Waterloo (“the site”). The site is irregular in shape and has three street frontages of 61.1 metres to McEvoy Street (North), 128.1 metres to George Street (West) and 52 metres to Allen Street (South). The site occupies the western half of the street block, is 9759sqm in area, has a slight cross fall of 2 metres from the higher north eastern corner to the lower south western corner.
2. The site is currently occupied by a two storey building used for light industrial and warehousing purposes, at grade parking and seven trees. The public domain adjacent to the site contains concrete and asphalt footpaths, grass verges, sixteen street trees and three wide driveway crossings.
3. The site is identified as containing contaminated soil, groundwater levels between 3m and 4.5m below existing ground level and is burdened by two drainage easements benefiting Sydney Water, which traverse the site in an east-west direction towards the southern end of the site.
4. **Figures 1 - 7** below illustrate the site location and existing development.



**Figure 1:** Aerial image of subject site and surrounding area.



**Figure 2:** Aerial image of subject site and surrounding area, generally looking south.



**Figure 3:** The Site, as viewed from corner of McEvoy Street and George Street.





**Figure 4:** The Site, as viewed along George Street in a southerly direction.



**Figure 5:** The Site, as viewed from corner of George Street and Allen Street.



**Figure 6:** The Site, as viewed along Allen Street in an easterly direction.



**Figure 7:** The Site, as viewed along Allen Street in a westerly direction.

### Surrounding Development

5. Adjoining the site to the east are two allotments. The allotment on the corner of McEvoy Street and Pitt Street is occupied by a single storey warehouse used for retail purposes (34-38 McEvoy Street). The allotment on the corner of Allen Street and Pitt Street is occupied by a 4 and 6 storey mixed use development known as Green Square Oasis (“**GSO complex**”) which has a primary frontage to Pitt Street (2666 Pitt Street).
6. Opposite McEvoy Street to the north of the site is a large multi-unit social housing complex owned by the New South Wales Land and Housing Corporation.
7. Opposite George Street to the west of the site are two allotments occupied by 1 and 2 storey buildings used for light industrial purposes. Council is currently undertaking major civil works along the western side of George Street as part of the City’s Cycleway Project.
8. Diagonally opposite the site, to the south west is a large allotment where construction of a 4 and 6 storey mixed use development is currently being carried out (356/368 George Street).
9. Opposite Allen Street to the south of the site is a single storey brick building and electricity substation operated by Ausgrid.
10. The broader area around the site is characterised by a mix of warehouses and buildings used for light industrial and commercial purposes, residential flat buildings and public recreation areas.
11. **Figures 8 - 13** below illustrate the development that surrounds the site.



**Figure 8:** Existing warehouse and retail businesses at 34-38 McEvoy Street, located to the east of the site.



**Figure 9:** Mixed use GSO complex addressing Pitt Street, located to the east of the site.



**Figure 10:** Western wall of the southern Allen Street wing of the GSO complex as viewed from Allen Street across the site.



**Figure 11:** Commercial building on the corner of George St. and McEvoy St. opposite the site to the west.



**Figure 12:** Warehouse and construction site (356-368 George Street) at the corner of George Street and Allen Street opposite the site to the south west.



Figure 13: Ausgrid substation on Allen Street, opposite the site to the south.

### History of Applications Relevant To This Site

12. The following development applications and competitive design process is considered relevant to the proposed development:

#### The Site

(a) **D/2012/1727– 40-46 McEvoy Street**

On 28 March 2013, Council issued consent for the demolition of all existing buildings and materials and temporary fencing and landscaping to the site. Demolition works have commenced on the site.

(b) **CMP/2013/1 – 40-46 McEvoy Street**

In April 2013, a Competitive Design Alternative process commenced where five invited Architects designed schemes for the redevelopment of the site. The selected winner of the process was Tony Caro Architecture and Figures 14 - 15 illustrate the winning scheme ("**Selected Design**").



Figure 14: Site Plan of Selected Design - Tony Caro Architecture.





**Figure 15:** Photomontage of Selected Design as viewed from corner of McEvoy Street and George Street.

**(c) D/2013/1925 – 40-46 McEvoy Street**

On 10 December 2013, an integrated development application for preparatory site excavation up to 4.6m deep for a future basement level of a potential redevelopment scheme for the site was lodged with Council. This application is under assessment at the time of preparing this report. It is noted that the subject application also seeks consent for site excavation for the basement level.

**Vicinity of the Site**

**(d) D/2011/1198, as amended – 356-368 George Street (diagonally opposite the site)**

On 23 July 2013, Council issued consent for the construction of a 4 and 6 storey mixed use development on the site diagonally opposite the subject site to the south west. The development included residential units arranged within four blocks, commercial/retail fronting George and Allen Streets and basement car parking. **Figure 16** illustrates the approved scheme.



**Figure 16:** Photomontage of the approved development at 356-368 George Street (diagonally opposite the site) as viewed from corner of George Street and Allen Street.

### Application History and Amendments

13. Council requested additional technical and design detail information be submitted as a result of the preliminary assessment of the subject application. On 15 November 2013, the applicant submitted additional technical information and amended drawings in response to Council's correspondence. The main amendments to the design include:
  - (a) introducing a new lift for the basement level to the recreation pavilion;
  - (b) light and ventilation slots provided to most corridors;
  - (c) deletion of 1 unit on Level 2 of Building A;
  - (d) provision of 14 motor cycle spaces and end of trip facilities in the basement;
  - (e) provision of fencing and gating at entries between buildings;
  - (f) provision of a 2.4m high eastern boundary wall; and
  - (g) provision of individual street access and a 1.8m high fence to ground level apartments.

### PROPOSAL

14. The development application seeks consent for:

- (a) Bulk excavation to a maximum depth of 4.3 metres for a basement level accommodating 177 car spaces, garbage holding and collection area, storage, bicycle parking and plant/servicing areas, accessed off George Street;
  - (b) Construction of three, 6 storey buildings (A, B and C), comprising of a total of 232 residential apartments (20929.8sqm), a child care centre (394.9sqm) and a food and drink premises (143sqm), in the following configuration:
    - (i) Building A - 100 residential apartments
    - (ii) Building B - 92 residential apartments
    - (iii) Building C -
      - a. Ground level 58 place child care centre with outdoor play area
      - b. Indicative small ground level café
      - c. 40 residential apartments;
  - (c) Single storey recreation pavilion containing a swimming pool, spa and gym located between Building A and Building B;
  - (d) Communal open space including seating, pathways and planting;
  - (e) Removal of trees within the site and in the road reserve; and
  - (f) Public domain works including removal of three driveway crossings, a new driveway crossing and new street trees and footpath.
15. The application was also accompanied by a public benefit offer, which offers land dedication (1288sqm) and embellishment of 3 setbacks and a cash contribution to Green Square Town Centre.
16. The subject application seeks consent for the floorspace for an indicative café. While the following assessment addresses the relevant permissibility and locational considerations of the premises, a separate development application is required for the future fit out and operational use of the premises.
17. Selected drawing, perspective and photomontages of the proposed development are provided in **Figures 17 - 21** below and a full set of plans and elevations are provided in **Attachment A**.

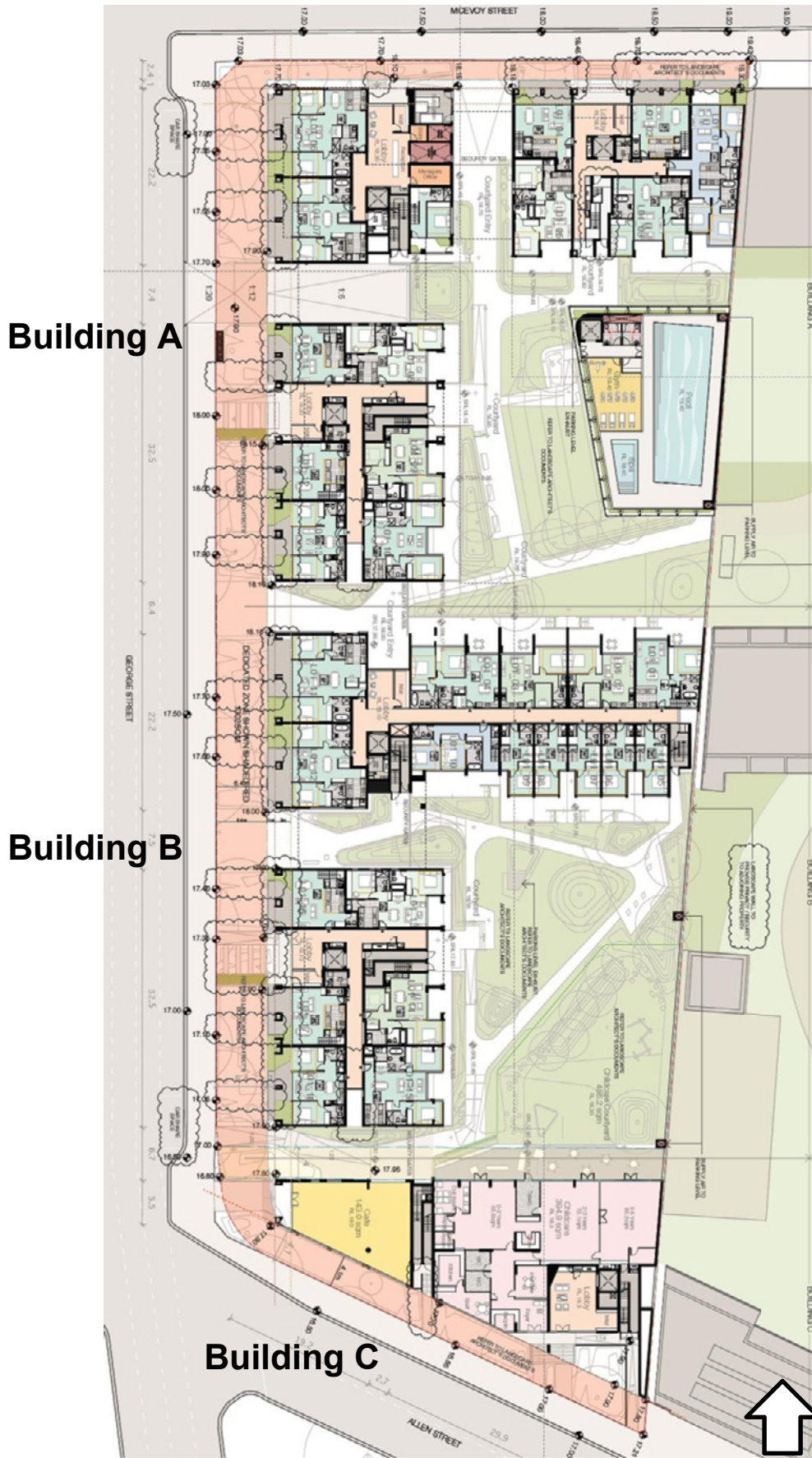


Figure 17: Proposed Ground Level Plan.

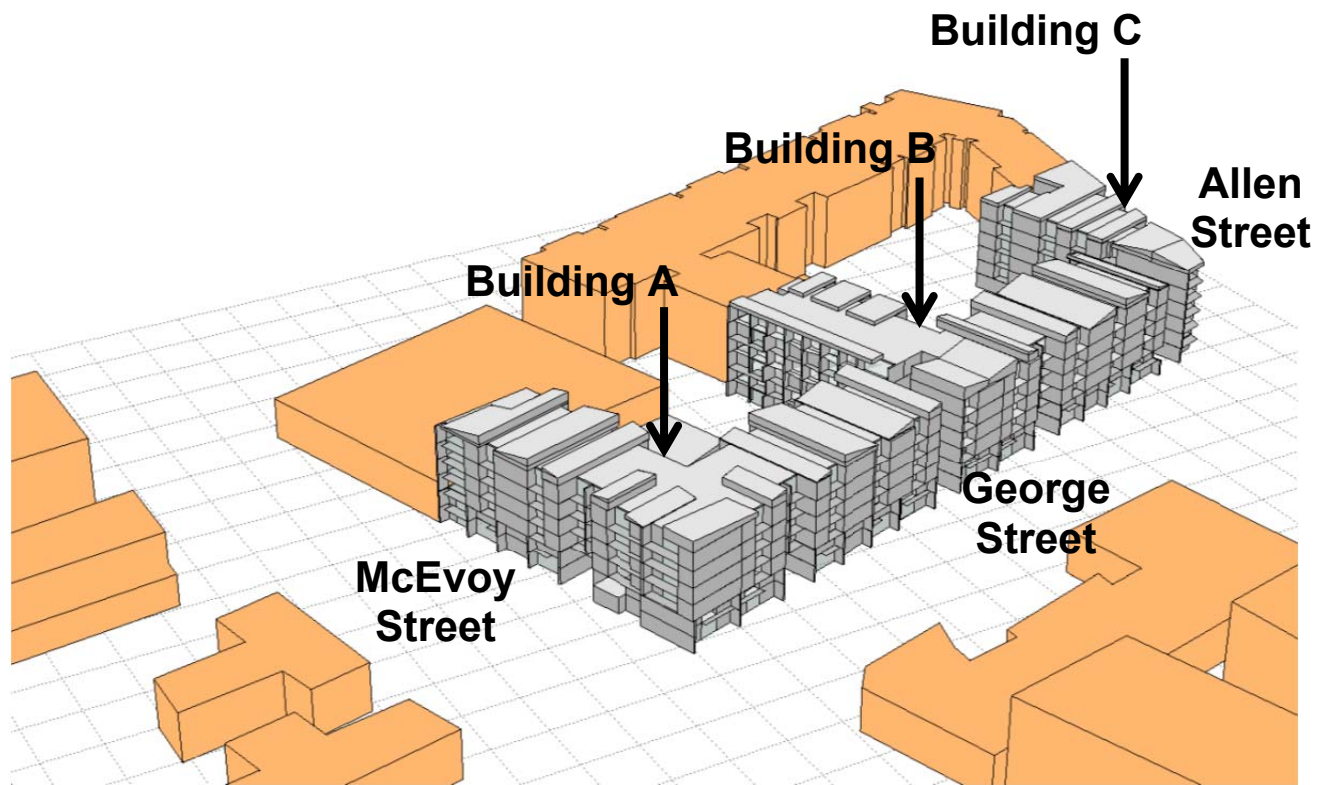


Figure 18: High angle perspective of 3D massing model showing proposed buildings A, B and C and the massing of existing surrounding development.



Figure 19: Photomontage of the proposal, as viewed from the corner of McEvoy Street and George Street.



**Figure 20:** Photomontage of the proposal, as viewed from the corner of George Street and Allen Street.



**Figure 21:** Photomontage of the proposal, as viewed from George Street.

**ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS**

18. The application has been assessed under Section 79C of the *Environmental Planning and Assessment Act 1979* (“**EP&A Act**”), including consideration of the following matters:

(a) **Integrated Development - Section 91 EP&A Act**

The bulk excavation for the proposed basement car park involves interception of groundwater level which is between 3m and 4.5m below existing ground level. To undertake this activity an Aquifer Interference Approval is required from NSW Office of Water and classifying the development as Integrated Development under section 91 of the EP&A Act. The application was referred to the NSW Office of Water and General Terms of Approval (“GTA”) were issued and are incorporated into Schedule 4 of the recommendation.

(b) **Environmental Planning Instruments and DCPs**

**State Environmental Planning Policy No 55—Remediation of Land (“SEPP 55”)**

19. The aim of SEPP 55 is to reduce the risk of harm to human health or any other aspect of the environment arising from contaminated land through remediation. The land has been previously used for industrial purposes and the application proposes more sensitive land uses, being for residential and child care centre purposes.
20. A Stage 1 Environmental Site Assessment (“**ESA**”) was submitted with the application. Council requested further investigation be undertaken as limited soil and groundwater sampling was undertaken and incorrect soil assessment criteria used.
21. A draft Stage 2 ESA was submitted which advises that, *‘the site is suitable for the proposed multi-level residential development, particularly as all fill materials will be excavated and removed from the site as part of the site earthworks for the basement car parking level.’* Council maintained that further investigation was necessary and requested a Remedial Action Plan (“**RAP**”) or a letter of Interim Advice from an accredited NSW EPA Site Auditor be submitted to address outstanding issues arising from the ESA.
22. A letter of Interim Advice from an accredited NSW EPA Site Auditor was submitted concluding that subject to further information and certain matters being satisfied, the site is capable of being made suitable for the proposed use. Council’s Health and Building Unit agrees that further information is required and recommends that a RAP should be prepared prior to determination of the application.
23. In the absence of no documented report outlining any remedial strategy for the site and Council’s obligations under SEPP 55 to be satisfied that the land can be remediated, it is recommended that the requirement for a RAP be the subject of a deferred commencement condition. This will enable Council and the Site Auditor to consider the RAP and ensure it is acceptable prior to the consent becoming operational.

**State Environmental Planning Policy No 64—Advertising and Signage**

24. The application does not propose detailed signage. It is recommended that a condition be included into the consent to ensure that signage does not form part of the development consent and new development application(s) is required to be submitted for signage (other than exempt or complying signs).

**State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (“SEPP 65”)**

25. SEPP 65 applies to the proposal as the development is a residential flat building.
26. The *Environmental Planning and Assessment Regulation 2000* (“**EP&A Regulation**”) contain specific requirements for information to be submitted when making an application for which SEPP 65 applies. A design verification statement from the building designer and the relevant documentation was submitted with the application.
27. SEPP 65 provides that in determining an application for a residential flat building that the consent authority takes into consideration a number of matters relating to design quality. Guidelines have been developed to aid in the assessment of design quality and are contained in the Residential Flat Design Code (“**RFDC**”). Each of the design quality principles and RFDC discussion are provided below:

(a) **Principle 1: Context**

The subject site is located in Waterloo Park neighbourhood in the Green Square Locality. The locality comprises of a number of industrial, commercial and residential uses and is in a period of transition to a desired character of primarily low to medium scale residential development. The locality statement highlights the importance of Waterloo Park as a community node, the need to undertake future public domain improvements and ensuring new development adopts an appropriate medium scale residential built form achieving suitable streetscape presentation, quality architectural design, good residential amenity and compatible materials.

The proposal is predominately residential and is consistent with the desired uses anticipated for the area. The development addresses the need for public domain upgrades by proposing to dedicate and embellish 1288sqm of land to widen the public domain and enhance the setting and appearance of the buildings. The proposed buildings generally comply with the built form controls and adopt a scale and expression that appropriately addresses the three street frontages and the adjoining sites.

(b) **Principle 2: Scale**

The development is 6 storeys high and is consistent with the scale of the GSO building adjacent to the site and the development currently being constructed at 356-368 George Street (diagonally opposite the site). The proposed buildings are of a higher scale that the existing 1 and 2 storey warehouses in the vicinity of the site.



The scale and visual massing is considered appropriate as the development complies with both the height development standard and height in storeys controls and is consistent with the scale of recently developed sites for residential uses. While the proposed buildings are of a higher scale than the existing warehouses in the vicinity of the site, this is considered appropriate given that the area is in a period of planned transition to higher density built form.

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

The building type is perimeter courtyard style that aligns to the three street frontages with a central east-west wing which divides the communal open space into two separated courtyards. The east-west wing corresponds to the east-west wing in the GSO complex to the east.

The built form presents as three buildings (A, B and C), each 6 storeys high, divided by 6m wide full height breaks along George Street. The two storey high recesses and multiple lobbies provide access and visual connections to landscape courtyards. The façades employ a varied composition of fenestration and an angled modern saw tooth roof profile which formed part of the winning architectural design. **Figure 22** illustrates these elements.



**Figure 22:** George Street elevation showing 6m wide breaks in the form, multiple entries, composition of fenestration and roof profile.

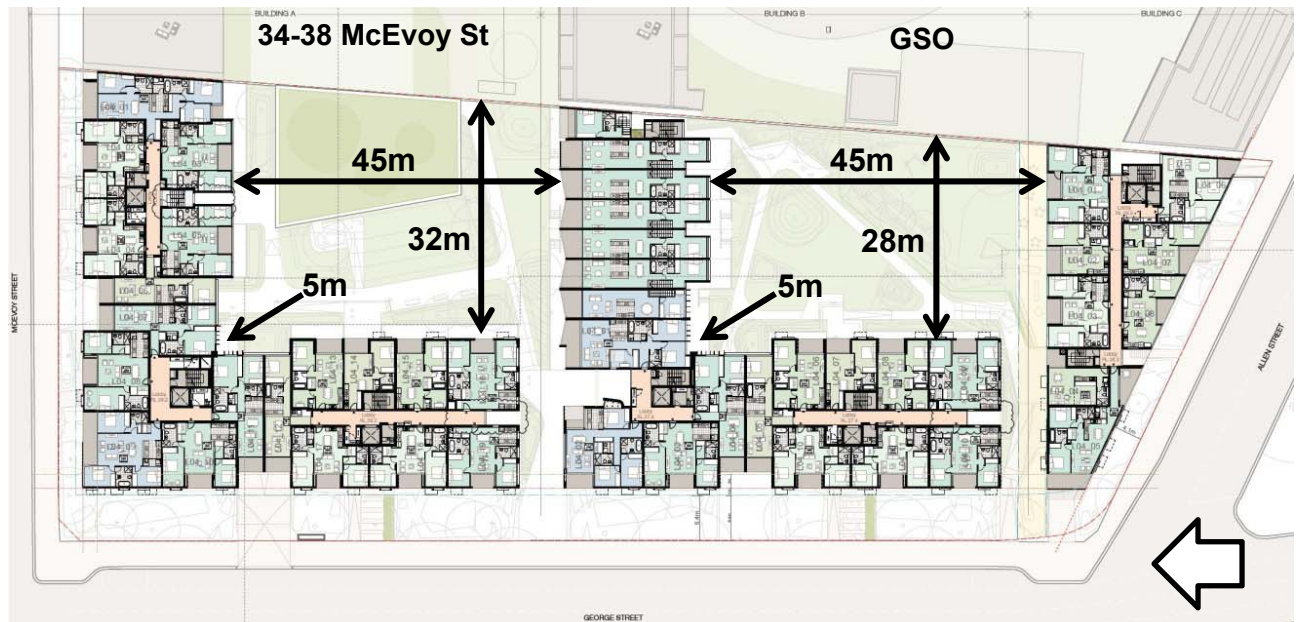
An excavated basement car park level extends across the site below the three buildings and provides parking, storage and servicing uses. The basement is wholly contained below ground level and not visible from the public domain. A detached building is located in the northern courtyard which contains a swimming pool, spa and gym.

A deep soil landscaped setback to each street frontage varying between 2.4m and 6.4m wide is provided and proposed to be dedicated as public domain. An additional 1m setback is provided to the McEvoy Street and George Street frontages to provide individual entries to ground floor apartments and enhance relationship with the public domain. The nil alignment to the café and child care centre along Allen Street is appropriate given that these are non-residential uses and the activation objectives to ensure these uses have increased visibility to and from the public domain.

Internally, the buildings are separated by 45m across the courtyards. Where there are apartments at corner locations the minimum distance provided between habitable rooms is 5m which is less than the 18m distances encouraged under the RFDC. The reduced distance is considered acceptable in this instance given that perimeter block edge built form inevitably creates corner locations and an acceptable level of privacy is afforded between the habitable rooms.

Distances in excess of 45m are afforded to the residential apartments in the GSO development which is considered an optimal relationship with that development. The proposed footprint and siting of the buildings allows a minimum 18m separation to adjoining 34-38 McEvoy Street and does not unreasonably preclude residential development on this site.

**Figure 23** illustrates the proposed internal building separation and distances to the boundaries of adjoining properties.



**Figure 23:** Proposed indicative mid-level floor plan showing building separation.

(d) **Principle 4: Density**

The building has been designed to maximise and slightly exceed the allowable density on the site. The density of 2.2:1 is appropriate in the context as the development is consistent with the objectives of the FSR development standard and complies with the draft amendment to SLEP 2012 to increase the permitted FSR to 2.2:1 on this site.

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

In addition to energy and water efficiency commitments required under SEPP BASIX, the Selected Design addresses sustainability through the implementation of use of low embodied energy materials (precast concrete), a robust construction system, efficient floor spans, provision of natural ventilation to most cores and corridors. To reduce the amount of ductwork and life cycle energy costs it is recommended that the design is modified to ensure all cores/corridors on all levels are naturally ventilated.

The principles of passive solar design have been satisfactorily addressed, noting that the number of north facing apartments has been maximised given the predominant western site orientation. Subsequently, glazing has been minimised to an extent along the western elevation and window hoods and awnings integrated into the façade. Deep soil vegetation and integrated water reuse systems will also contribute to achieving sustainability objectives.

(f) **Principle 6: Landscape**

The urban landscape will be enhanced as a result of the proposal. The inclusion of 2.4m to 6.4m wide deep soil dedicated setbacks, amounting to 1288sqm for landscaping enables existing trees to be retained and various new plantings along the street frontages. Tree removal is necessary to allow vehicular and pedestrian access to the development and is acceptable in this instance as the majority of the trees are to be retained and various new trees and plants are proposed. The quantity and range of species proposed will result in a desirable level of screening and visual enhancement of the streetscape.

The internal site landscaping is provided in the form of two large courtyards over the basement level which achieves the minimum levels of open space for the development. The communal areas does not contain deep soil area, however, sufficient soil depths of 800mm – 1m and associated structure is capable of being provided to support a range of vegetation. In addition to the courtyards is a recreation pavilion and separated outdoor play area for a future child care centre. The communal landscape areas are assessed as quality functional spaces for the recreational needs of the future residents.

(g) **Principle 7: Amenity**

When considering all relevant amenity principles, the level of internal amenity afforded to the apartments is assessed as appropriate.

The residential levels are provided 3.1m floor to floor heights to enable delivery of a 2.7m floor to ceiling height during construction and comply with the RFDC. The proposed apartment sizes comply with the minimums recommended and the layouts are reasonably efficient and functional.

Only 151 of 232 apartments (65%) receive a minimum of 2 hours of direct sunlight between 9am and 3pm on June 21 onto at least 1sqm of living room windows and a minimum 50% of each balcony. RFDC encourages a minimum of 70% of dwellings to achieve good levels of solar amenity. This departure from the minimum control is assessed as being acceptable in this circumstance given the predominant site orientation being skewed slightly west of true north (refer to detailed discussion in Issue section of this report).

Twenty-three (23) apartments have a single aspect and directly south facing, complying with the maximum 10% recommended in the RFDC.

143 of 232 apartments (62%) are naturally cross ventilated and comply with the minimums recommended in the RFDC. A range of dual aspect apartment types including, cross through, cross over and corner apartments are provided. The proposed maisonette apartments inherently facilitate natural ventilation and the remaining single aspect apartments have been limited in depth to between 7m and 10m to encourage natural ventilation.

The number of apartments accessible from a single core/corridor does not exceed 8 except for the apartments in the east-west wing of Building B, which contains 12 on level 1, and 13 on levels 3 and 5. This internal configuration is acceptable as the subject apartments are cross over apartments and offer a higher level of amenity to future residents.

The building separation between most habitable rooms in the development exceeds the minimum 18m RFDC requirement for 6 storey buildings. Where there are apartments at corner locations the minimum distance provided between habitable rooms is 5m. External vertical blade screening devices have been proposed to openings to minimise cross looking between these apartments. The reduced separation is considered acceptable in this instance given that the viewing angle between the rooms is oblique and screening devices have been integrated into the design.

Visual privacy has been addressed through building separation, apartment layout, offsetting of openings, screening devices, courtyard fencing and landscaping. Each apartment contains private open space and an outlook to either the communal courtyard or district views. Subject to suitable measures being integrated at building construction stage, the acoustic privacy within the apartments can achieve an acceptable level.

The proposal provides individual storage facilities within the basement of the development for each apartment. Some apartments also provide a study/utility area which also provides supplementary storage space for those apartments. It is recommended that a condition is incorporated into the consent to ensure that the utilities areas are designated for storage and study purposes and shall not be converted to separate habitable bedroom.

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

The proposed retail premises and residential lobbies and balconies will provide improved casual surveillance of the public domain. Details of security fencing and gating have been submitted to demonstrate how opportunity for illegitimate access into the courtyards and ground floor apartments is minimised. A masonry wall has also been proposed along the eastern boundary to prevent direct access between neighbouring properties.

The vehicular access is concentrated to a single cross over to reduce potential conflicts between vehicles and pedestrians and maximises opportunity for landscape and urban design elements. The basement design provides logical circulation and has the capacity to group together the child care spaces below Building C.

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

The proposal provides a mix of studio, one, two and three bedroom dwellings that can cater for a range of lifestyles, budgets and housing needs. The development suits the anticipated social mix for the neighbourhood noting that 35 of the apartments are capable of adaptation for access for all age groups and degrees of mobility.

(j) **Principle 10: Aesthetics**

The primary building material is precast concrete with a variety of applied finishes, including custom profiled precast surfaces, smooth and textured precast and applied masonry tiles in a variety of configurations, textures and colouration.

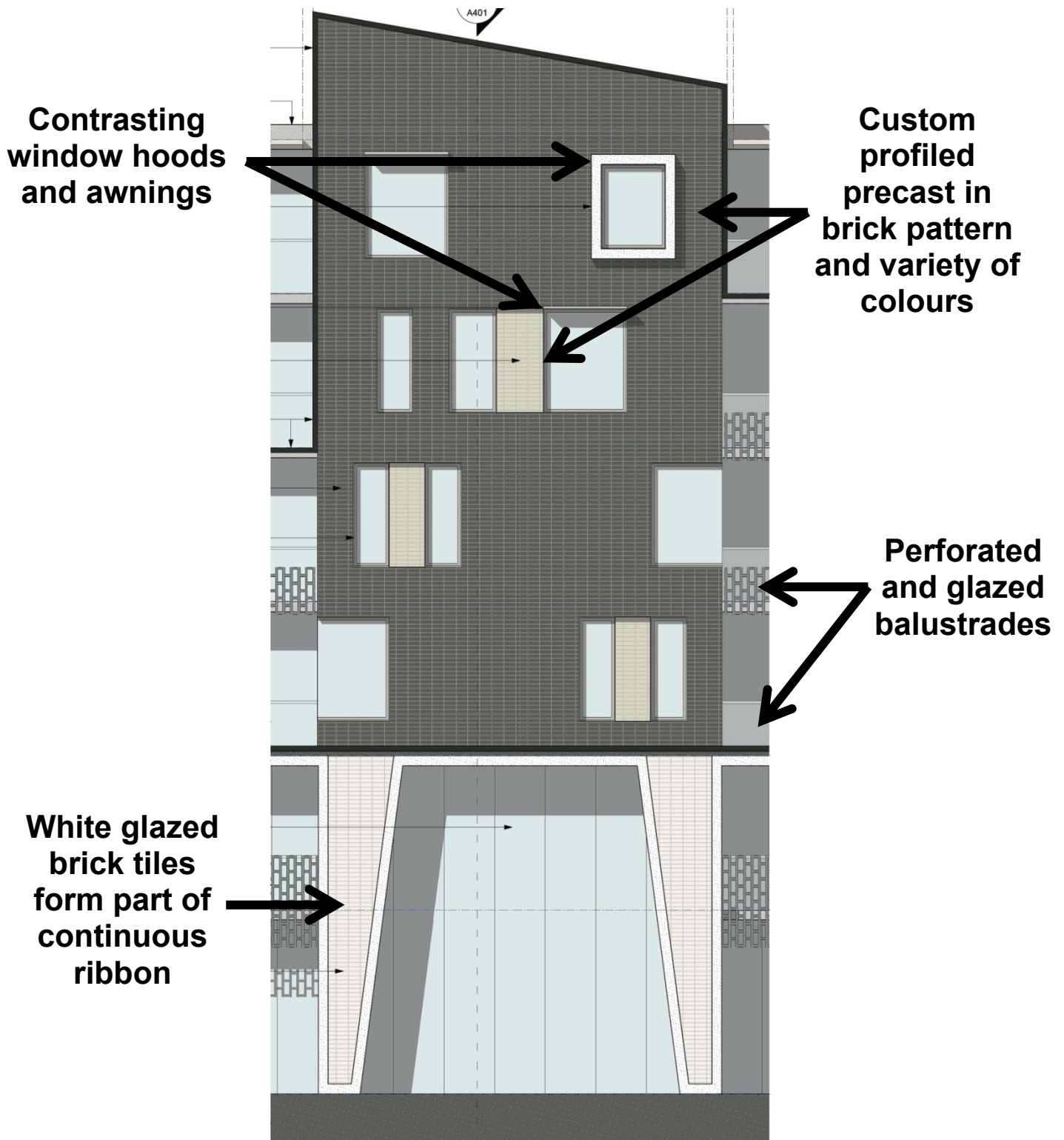
The precast concrete system is made up of three panels with different locations for punched openings. The angles are rotated 180 degrees to create a palette of 6 panels providing varied composition of the fenestration and differentiation along the facades.

The proposed roof profile is a modern interpretation of the historical saw tooth roofed industrial sheds in the locality. Profiled, standing seam metal cladding in a dark charcoal colour folds over the pitched roof profiles and returns down the wall on some facades to reinforce these elements.

The two story scale of the ground and first floor apartments are defined through a continuous masonry ribbon framing each apartment and white glazed brick tiles. The upper levels are precast concrete with brick patternation in various colourations.

A combination of perforated metal balustrades, part glazed, masonry and cladded are adopted along the street facades.

**Figure 24** illustrates details of the façade and the varied use of materials.



**Figure 24:** Detailed elevation showing the proposed façade elements, materials and finishes.

It is considered that the use of precast concrete in various finishes and applied patterns results in an overall aesthetic that appropriately responds to the character of the locality while establishing a strong presence in the streetscape.

28. The development is considered acceptable when assessed against the above stated principles and SEPP 65 generally, which are replicated in large part within Council's planning controls.

**State Environmental Planning Policy 70 Affordable Housing (Revised Schemes) ("SEPP 70")**

29. SEPP 70 relates to Section 94F of the EP&A Act and provides that where the consent authority is satisfied that the development meets certain criteria and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
30. Clause 7.13 of Sydney LEP 2012 authorises that an affordable housing contribution may be levied for development in land in Green Square.
31. The development satisfies the criteria because Green Square is undergoing renewal as a result of rezoning and infrastructure investment, in which the subject land has benefited from.
32. It is recommended that a condition imposing an affordable housing contribution to aid in the delivery of affordable housing in accordance with the principles in Schedule 2 of SEPP 70 is appropriate.

**State Environmental Planning Policy (Infrastructure) 2007 ("SEPPI")**

33. The application is subject to clause 45 of SEPPI as the development is likely to affect an electricity transmission or distribution network. The application was referred to Ausgrid who advised that an electricity substation will be required to be accommodated within the development. It is recommended that the standard Electricity Substation condition be incorporated into the consent.
34. The application is subject to clause 86 of SEPPI and requires concurrence as the development involves excavation within and adjacent to a rail corridor. The application was referred to RailCorp who requested further Geotechnical and Structural details be submitted. The information was submitted and concurrence granted by RailCorp subject to conditions on 10 December 2013.
35. The application is subject to clause 87 of SEPPI and requires the consent authority to consider the effect of rail noise or vibration on a building used for residential and child care centre purposes. An Acoustic Report was submitted which undertook a rail tunnel vibration assessment and concludes that the measured vibration from the rail tunnel below the site complies with the relevant daytime and night-time criteria for the residential development.
36. The application is subject to clause 101 of SEPPI as the site has a frontage to a classified road (McEvoy Street). Certain matters relating to access, emissions and noise are required to be considered. Council is satisfied that the safety, efficiency and ongoing operation of McEvoy Street will not be adversely affected for the following reasons:
  - (a) the vehicular access is suitably located to be a sufficient distance from the McEvoy and George Street intersection to minimise impacts on the road network;

- (b) subject to appropriate conditions, it is unlikely that dust emissions during construction will affect the road network;
  - (c) the generated volumes of traffic will not unreasonably impact on the local road network, noting that it is projected to be less than the existing traffic generated on the site; and
  - (d) an Acoustic Report was submitted and recommends structural design measures to achieve the relevant indoor noise criterion. It is recommended that the recommendations of the acoustic report form part of the consent conditions.
37. The application is subject to clause 104 of SEPP1 as the development constitutes Traffic Generating Development involving greater than 75 residential dwellings and accessed from George Street which connects within 90 metres of the classified road. The application was referred to the RMS and no objections were raised subject to certain considerations being undertaken by Council.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (“SEPP BASIX”)**

38. The proposed development is BASIX affected development and a BASIX Certificate (No. 491166M dated 6 August 2013) was submitted in accordance with requirements in SEPP BASIX and the EP&A Regulation 2000. The BASIX commitments are achievable subject to recommended consent conditions.

**State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land) (“SEPP 32”)**

39. 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.
40. The proposal is consistent with the aims and objectives of SEPP 32 in that the development increases the housing stock and provides a mix of studios, 1, 2 and 3 bedroom apartments to meet the demand generated by the urban renewal within Green Square.

**Sydney Local Environmental Plan 2012 (“SLEP 2012”)**

41. The site is located within the R1 General Residential zone. The proposed development is characterised as ‘residential flat buildings’, ‘child care centre’ and ‘food and drink premises’, all of which are permissible with consent.
42. The relevant zoning objectives seek to establish a predominately residential zone that provides a variety of housing types and densities. The development is considered to achieve the zone objectives in that the development provides a mix of studio, 1, 2 and 3 bedroom apartments with acceptable amenity to cater for the future residential population envisaged for Green Square.
43. The relevant matters to be considered under SLEP 2012 for the proposed development are outlined below.



PROVISION	COMPLIES	COMMENT
<b>Part 4 Principal Development Standards</b>		
4.3 Height of Buildings	Yes	<p>A maximum building height of 22 metres is permitted.</p> <p>The maximum building height is 21.7 metres to the top of the lift over run and complies with the development standard.</p>
4.4 Floor Space Ratio 6.12 Additional floor space outside Central Sydney 6.14 Community infrastructure floor space at Green Square 6.21 Design excellence 4.6 Exceptions to development standards	No	<p>There are three separate sections of SLEP 2012, which combined, establish the floor space ratio (“<b>FSR</b>”) development standard for this site. Combined, the FSR development standard for this site is 2.15:1.</p> <p>The application proposes a gross floor area (“<b>GFA</b>”) of 21468sqm which equates to an FSR of 2.2:1 and does not comply with the combined FSR standard for this site.</p> <p>The proposal exceeds the 2.15:1 standard by 0.05:1 or 486sqm and the applicant is relying on the provisions of Clause 4.6 of SLEP 2012 to seek an exception to the FSR development standard.</p> <p>The exception to the FSR development standard is assessed to be acceptable in this circumstance as it is consistent with the draft FSR development standard for the site and the proposal achieves the relevant objectives.</p> <p>Refer to discussion in Issues section later in this report.</p>
<b>Part 5 Miscellaneous Provisions</b>		
5.9 Preservation of trees or vegetation	No	<p>The site and adjoining road reserve contains 23 trees, of which 16 trees are proposed to be removed as per the Arborist’s recommendation. However landscape plans were submitted that identify that only 7 trees are proposed for removal (T5, T6, T7, T12, T15, T19 and T21).</p> <p>Council’s Tree Management Unit has advised that 5 of the trees are supported for removal, however, removal of T7 and T12 is not supported.</p> <p>This assessment finds that removal of T7 and T12 is acceptable in this circumstance as their removal enables access to the development.</p> <p>Refer to discussion in Issues section later in this report.</p>

PROVISION	COMPLIES	COMMENT
5.10 Heritage conservation	Yes	The site is not a heritage item or located within a heritage conservation area.
<b>Part 6 Local Provisions—Height and Floor Space</b>		
6.21 Design Excellence	Yes	<p>The size of the site is such that a site specific development control plan is required to be prepared under clause 7.20 of SLEP. This requirement, in turn, triggers the need for a competitive design process to be undertaken under clause 6.21 of SLEP.</p> <p>Under this provision, the winning design of a competitive design process, subject to Council being satisfied that the building exhibits design excellence, an amount of floor space that exceeds the amount permitted may be granted consent.</p> <p>The subject design is the winner of a competitive design process and seeks 10% additional FSR.</p> <p>The assessment of the subject application finds that the development meets the objectives of this provision and performs when tested against the matters to be considered under this provision.</p> <p>Refer to discussion in Issues section later in this report.</p>
<b>Part 7 Local Provisions—General</b>		
7.1 – 7.9 Car parking ancillary to other development	Yes/No	<p><b>Total</b></p> <p>A maximum of 187 car spaces are permitted to service the residential, child care centre and retail components of the development. A total of 177 are proposed and complies with the maximum standard.</p> <p>It is noted that a single service space is also proposed (taking the total to 178 spaces), however, under the applicable definitions these spaces are not included when calculating the maximum development standard for parking.</p>

PROVISION	COMPLIES	COMMENT																		
		<p><b>Allocations</b></p> <table border="1"> <thead> <tr> <th>Use</th> <th>Permitted</th> <th>Proposed</th> </tr> </thead> <tbody> <tr> <td>Residential Apartments</td> <td>164</td> <td>165</td> </tr> <tr> <td>Visitors</td> <td>17</td> <td>9</td> </tr> <tr> <td>Retail</td> <td>2</td> <td>1</td> </tr> <tr> <td>Child Care Centre</td> <td>4</td> <td>2</td> </tr> <tr> <td><b>Total</b></td> <td><b>187</b></td> <td><b>177</b></td> </tr> </tbody> </table> <p>The number of parking spaces allocated for the Residential Apartments exceeds the amount permitted under the maximum development standard. It is recommended that a condition be incorporated into the consent to ensure that the maximum parking allocations across the site are complied with.</p>	Use	Permitted	Proposed	Residential Apartments	164	165	Visitors	17	9	Retail	2	1	Child Care Centre	4	2	<b>Total</b>	<b>187</b>	<b>177</b>
Use	Permitted	Proposed																		
Residential Apartments	164	165																		
Visitors	17	9																		
Retail	2	1																		
Child Care Centre	4	2																		
<b>Total</b>	<b>187</b>	<b>177</b>																		
7.13 Affordable housing	Yes	The site is located in Green Square and subject to an affordable housing contribution, which has been included as a consent condition.																		
7.14 Acid Sulphate Soils	Yes	The site is located within a Class 5 Acid Sulphate Soil (“ <b>ASS</b> ”) zone and is approximately 200m from a Class 3 zone. Considering that the land is not located in low lying coastal areas where ASS were typically formed further investigation is not considered necessary.																		
7.15 Flood planning	Yes	A site specific flood analysis was prepared which identifies the 1 in 100 year levels and PMF levels. The design levels are consistent with Council’s Flood Planning Level requirements.																		
7.16 - 7.17 Airspace operations Development in areas subject to airport noise	Yes	The land is not identified as being in an area sensitive to aircraft noise and the building does not penetrate aircraft operation space.																		

PROVISION	COMPLIES	COMMENT
7.19 Demolition must not result in long term adverse visual impact	Yes	Demolition of all structures has been previously approved under a separate application.
7.20 Development requiring preparation of a development control plan	No	The site area for the development is more than 5000sqm and triggers the requirement for a site specific development control plan to be prepared.  Sufficient justification as to why preparation of a site specific DCP is unnecessary in this circumstance has been provided and it is recommended that the DCP requirement be waived in this instance.  Refer to discussion in Issues section later in this report.
7.22 Use of existing non-residential buildings in Zone R1 General Residential	Yes	The development does not involve use of an existing non-residential building for the purposes of a food and drink premises or shop.
7.23 Large retail development near Green Square Town Centre	Yes	The development does not propose a shop or market in excess of 1000sqm.

### **Planning Proposal for amendment to Sydney Local Environmental Plan 2012 - Design Excellence Incentive**

44. On 20 June 2013 and 24 June 2013, respectively, the Central Sydney Planning Committee and Council respectively carried motions for a Planning Proposal to amend the design excellence incentive clause 6.21 of SLEP 2012. Clause 6.21 of SLEP 2012 establishes an incentive to undertake a competitive design process, up to an additional 10% of the building height or floor space shown in the height of buildings or floor-space ratio map.
45. The proposed amendment will allow the floor space incentive to also include up to 10% of any additional floor space that may be awarded for providing accommodation floor space in central Sydney, or community floor space in Green Square. Under the current clause, accommodation and community floor space is excluded from the calculation of the design excellence floor space incentive.
46. The Planning Proposal was publicly exhibited for the minimum statutory period in October 2013 and submissions made during exhibition are currently being considered by Council.

47. Applying the draft amendment to the subject application changes the manner in which the maximum FSR permitted on the site is calculated. Under the draft amendment, the 10% design excellence incentive floor space is calculated based on the combined total of 1.5:1 map floor space and 0.5:1 community floor space totalling, 2.2:1 FSR permitted. Under the current wording of clause 6.21, the total FSR permitted is 2.15:1.
48. The proposal complies with the draft amendment to the design excellence incentive floor space clause 6.21 of SLEP 2012.

**Planning Proposal for amendment to Sydney Local Environmental Plan 2012 – Various Sites in Waterloo**

49. On 17 October 2013 and 21 October 2013, respectively, the Central Sydney Planning Committee and Council respectively carried motions for a Planning Proposal to amend Sydney Local Environmental Plan 2012 controls for various sites in the Waterloo precinct. The proposed amendments include the rezoning of some land in the locality, including the subject site from R1 General Residential to B4 Mixed Use.
50. At the time of preparing this report the Planning Proposal had yet to be publicly exhibited, therefore, consideration of the draft rezoning is not mandatory when assessing the current application. In any event, the proposed residential flat buildings, child care centre and retail premises would be permissible with consent and achieve the objectives of the proposed B4 Mixed Use zone.

**Sydney DCP 2012 (“SDCP 2012”)**

51. The relevant matters to be considered under SDCP 2012 for the proposed development are outlined below.

**2. Locality Statements – Green Square (2.5.11 Waterloo Park)**

The subject site is located in Waterloo Park neighbourhood in the Green Square Locality. The desired character of Waterloo Park is primarily low to medium scale residential development. The locality statement highlights the importance of Waterloo Park as a community node and the need to undertake future public domain improvements and ensuring new development adopts an appropriate medium scale residential built form achieving suitable streetscape presentation, quality architectural design, good residential amenity and use of compatible materials.

The proposal is predominately residential and is consistent with the desired uses envisaged for the area. The development addresses the need for public domain upgrades by proposing to dedicate and embellish 1288sqm of land to widen the public domain and enhance the setting and appearance of the buildings. The proposed buildings comply with the built form controls and adopt a scale and expression that appropriately addresses the three street frontages and the adjoining sites.

For these reasons, the development is considered to be consistent with the desired future character principles for the locality.

3. General Provisions		
Development Control	Complies	Comment
3.1 Public Domain Elements	Yes	<p><b>Streets, lanes and footpaths</b></p> <p>The proposal will result in an improved public domain outcome adjacent to the site. The public domain will be increased from 3.5m wide to 6m wide along McEvoy Street, 10m wide along George Street and 8m wide along Allen Street. It is proposed to embellish the new public domain with a variety of street trees and lower lying vegetation which will improve the visual streetscape environment.</p> <p>Three wide driveway crossings are proposed to be removed and replaced with a single driveway and footpaths upgraded in accordance with Council standards to improve the pedestrian amenity.</p>
	Yes	<p><b>Pedestrian and bike network</b></p> <p>Council's City Projects team is currently upgrading sections of McEvoy Street, George Street and Allen Street as part of the Cycleway Project. A separate on road cycleway will be located along George Street and Allen Street and George Street will be converted to a one way street. These works are consistent with the locations identified in the <i>Cycle Strategy and Action Plan 2007-2017</i> and will be highly accessible to the future incoming population of the proposed development.</p>
	No	<p><b>Public art</b></p> <p>No public art is proposed as part of the subject application, nor was it a requirement of the competitive design brief. Given that there is no requirement for publically accessible areas in the development, a detailed Public Art Strategy and provision of public art is not considered necessary.</p>
	Yes	<p><b>Sites greater than 5,000sqm</b></p> <p>The development provides a range of house types, including single storey apartments, garden apartments and maisonette apartments. Specifically, 12% or 28 of the apartments are maisonette style and complies with the minimum 5% control.</p>

3. General Provisions		
Development Control	Complies	Comment
3.2 Defining the Public Domain	Yes	<p><b>Improving the public domain</b></p> <p>Sun access and views to the public domain will not be adversely affected as a result of the development.</p>
	Yes	<p><b>Addressing the street and public domain</b></p> <p>The residential dwellings at ground level are slightly above footpath level and have individual entries from George Street and McEvoy Street. Acceptable privacy and security to each ground floor apartment is maintained through appropriate fencing and landscaping.</p> <p>The majority of the development addresses the street and the buildings have been designed to maximise the number of entries at ground level. Building A provides three lobbies, Building B two lobbies and Building C has a single lobby. In addition to the lobbies are four wide courtyard entries that provide a visual connection to the landscaped courtyards within the development creating opportunity for direct surveillance of the street.</p> <p>The proposed materials and finishes will not result in an unreasonable level of solar glare when viewed from the public domain.</p> <p>The materials and finishes at ground and first floor are white glazed brick tiles (brick snaps) and are considered a high quality finish.</p> <p>Overall the development is considered to result in a desirable level of street activation and a positive relationship with the public domain.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The control provides detail and guidance where a development is the subject of a competitive design process and specifically awarding additional floor space and height. A competitive design process was undertaken in accordance with the <i>City of Sydney Competitive Design Policy</i> and using the <i>Model Competitive Processes Brief</i> on this site.</p> <p>Refer to detailed discussion in Issues section later in this report.</p>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Complies</b>	<b>Comment</b>
3.4 Hierarchy of Centres, City South	Yes	The site is within the Green Square Town Centre Primary Trade Area and proposes 143sqm retail floor area. This amount of retail space will not have a negative impact on the viability and economic role of the Green Square Town Centre.
3.5 Urban Ecology	Capable	<p><b>Urban Vegetation</b></p> <p>A landscape concept plan was submitted showing areas of planting large enough to support some biodiversity and some substantial tree planting. The concept also includes vegetated areas above the basement level, calling for additional structural and maintenance measures. It is recommended that detailed landscape plans are required to be submitted and approved prior to issue of a construction certificate.</p>
	No	<p><b>Tree Management</b></p> <p>Landscape plans were submitted that identify that 7 trees are proposed for removal (T5, T6, T7, T12, T15, T19 and T21).</p> <p>Council's Tree Management Unit has advised that 5 of the trees are supported for removal, however, removal of T7 and T12 is not supported.</p> <p>This assessment finds that removal of T7 and T12 is acceptable in this circumstance as their removal enables access to the development.</p> <p>Refer to discussion in Issues section later in this report.</p>
3.6 Ecologically Sustainable Development	Yes	<p>In addition to energy and water efficiency commitments required under SEPP BASIX, Council encourages all applicants to implement the principles of ecologically sustainable development (ESD) in the proposed development.</p> <p>The Selected Design Architect addresses sustainability through the implementation of use of low embodied energy materials (precast concrete), a robust construction system and efficient floor spans.</p> <p>A specific method actively encouraged by Council to reduce the amount of ductwork and life cycle energy costs is to provide natural ventilation to all cores/corridors. This is only provided to some cores/corridors in the subject development and it is recommended that the design is modified to ensure all cores/corridors on all levels are naturally ventilated.</p>



<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Complies</b>	<b>Comment</b>
3.7 Water and Flood Management	Yes	<p><b>Site specific flood study</b></p> <p>A site specific flood analysis was prepared which identifies the 1 in 100 year levels and PMF levels. The design levels are consistent with Council's Flood Planning Level requirements.</p>
	Capable	<p><b>Drainage and stormwater management</b></p> <p>A drainage and stormwater concept plan was submitted with the application showing on site detention and a series of pipes and pits within the site or land to be dedicated. The concept plan was reviewed by Council's Public Domain Unit who advised that the plan as submitted was not satisfactory and further consultation with Sydney Water and Council was required prior to approval.</p> <p>The applicant is obligated to obtain a Section 73 Certificate from Sydney Water and it is recommended that the details of the proposed stormwater disposal and drainage from the development in accordance with Council's standard requirements be submitted and approved by Council prior to the issue of a construction certificate.</p>
	Capable	<p><b>Stormwater quality</b></p> <p>It is recommended that details demonstrating how the development achieves the post-development pollutant load standards identified in control 3.7.3 in <i>Sydney DCP 2012</i> are to be submitted and approved by the Director City Planning, Development and Transport prior to a Construction Certificate being issued.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>The proposal does not involve residential land or strata subdivision.</p> <p>The land to be dedicated for public purposes is to occur through land subdivision and the details are outlined in the Planning Agreement. It is not necessary to repeat the dedication requirement by imposing a further condition requiring the same dedication in the consent.</p>
3.9 Heritage	Yes	<p>The site is not a heritage item or located within a heritage conservation area.</p>

3. General Provisions		
Development Control	Complies	Comment
3.10 Significant Architectural Building Types	Yes	The existing warehouse building is not identified as a Significant Architectural Building Type and is approved to be demolished under development consent, D/2012/1727.
3.11 Transport and Parking	Yes	<p><b>Managing transport demand</b></p> <p>A Traffic Impact Assessment was submitted with the application which concludes that the generated volumes of traffic will not unreasonably impact on the local road network.</p>
	Yes	<p><b>Car share scheme parking spaces</b></p> <p>The control recommends a minimum of 2 parking spaces for uses as part of a car share scheme. The applicant seeks consent for 2 spaces on George Street adjacent to the site.</p> <p>The control does not prescribe where the car share spaces are to be located rather it implies that they could be located on private land (i.e. basement) or externally on a public road adjacent to the site.</p> <p>Council generally encourages provision of the spaces within the private parking areas of developments, however, provision of on-street car share spaces in this circumstance could be considered acceptable given the 241 lineal metre street frontage to the site. The applicant is responsible for preparing a separate application to provide two on street car share spaces to the Local Pedestrian, Cycling and Traffic Calming Committee for consideration.</p>
	Yes	<p><b>Bike parking and associated facilities</b></p> <p>A total of 232 bicycle parking spaces for the residents are proposed as part of the individual storage cages in the basement. An additional 34 bicycle racks are provided on ground level for visitors and retail customers. End of trip facilities are provided in the basement for staff of the child care centre and café.</p>

3. General Provisions		
Development Control	Complies	Comment
	Capable	<p><b>Vehicle Parking</b></p> <p>A total of 177 car parking spaces are proposed and as a total, complies with the parking rates in the SLEP 2012.</p> <p>The number of parking spaces allocated for the residential apartments is 165 and exceeds the amount permitted under the maximum development standard by a single space. It is recommended that a condition be incorporated into the consent to ensure that the surplus space is allocated as a child care centre staff space.</p>
	No	<p><b>Service vehicle parking</b></p> <p>Generally, 4 service spaces would be required for a development of this nature, however, only 1 is provided adjacent to the garbage collection room. This space is large enough to accommodate at least 2 service vehicles when not being used for rubbish collection and therefore additional service spaces are not considered necessary.</p>
	No	<p><b>Passenger pick up and set down areas</b></p> <p>Schedule 7 of SDCP 2012 currently requires 12 pickup and set down spaces and 1 long term visitor car parking space to service the proposed child care centre.</p> <p>It is proposed to signpost an unidentified number of parking spaces on the George Street frontage to facilitate set down / pick up of children for the child care centre. This arrangement is not supported.</p> <p>Refer to discussion in Issues section later in this report.</p>
	Yes	<p><b>Motorbike parking</b></p> <p>A total of 14 motorcycle spaces are provided in the basement and complies with the minimum control of 4 spaces.</p>
	Yes	<p><b>Accessible parking</b></p> <p>In accordance with Council's controls, 35 accessible parking spaces are provided for the 35 adaptable units. The parking spaces are to be assigned to these apartments and reflected in any strata subdivision of the development.</p>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Complies</b>	<b>Comment</b>
	Yes	<p><b>Vehicle access for developments greater than 1000sqm GFA</b></p> <p>The vehicular access to the site is via a single (two-way) 7m wide driveway, located 28m from the McEvoy Street and George Street intersection. To minimise impacts on pedestrian safety and amenity it is recommended that the vehicle crossover is a maximum of 6m wide.</p>
	Yes	<p><b>Tandem, stacked and mechanical parking areas</b></p> <p>The plans show four pairs of tandem spaces (i.e. 8 spaces). It is recommended that each pair is to be allocated to one unit.</p>
	Yes	<p><b>Design and location of waste collection points and loading Areas</b></p> <p>Waste is proposed to be collected within the basement from a central garbage collection room and the manoeuvring area for Council's standard garbage truck appears to be acceptable.</p>
	Yes	<p><b>Parking area design</b></p> <p>The proposed car parking area is capable for being well lit and sufficiently visible and safe. The basement is proposed to be mechanically ventilated and cannot be practically naturally ventilated and achieve the positive relationship with the public domain and communal areas.</p>
3.12 Accessible Design	Yes	<p><b>General</b></p> <p>Equitable access to the building is provided from the allotment boundary at the main points of entry and from the accessible car parking spaces to the apartments.</p> <p>Access for pedestrians and vehicles is clearly separated with a single vehicle entry and a number of level or ramped entries at ground level to the landscaped courtyards or building lobbies.</p>

3. General Provisions		
Development Control	Complies	Comment
	Yes	<p><b>Adaptable dwelling mix</b></p> <p>The development proposes a total of 35 adaptable apartments (15%), of which 22 are 1 bedroom dwellings in building A and B and 13 are 2 bedroom dwellings in building A and C. It is considered that the adaptable apartments are sufficiently spread amongst unit sizes and throughout the development.</p>
3.13 Social and Environmental Responsibilities	Yes	<p><b>Promote safety through design of buildings</b></p> <p>A Crime Risk Assessment was submitted with the application which addresses generic safety considerations. The building design is considered to sufficiently address the relevant considerations for the following reasons:</p> <ul style="list-style-type: none"> <li>• The active spaces and windows of habitable rooms within buildings are located along the McEvoy and George Street frontages to maximise casual surveillance of streets</li> <li>• The lobbies and wide courtyard entries are clearly discernible and amount to a large lineal distance of the street frontage that allows direct surveillance of the public domain and streets. Open palisade style gating and fencing is provided to the wide courtyard entries to maintain security to the private areas.</li> <li>• The ground level apartments that address the communal courtyards offer passive surveillance of these spaces.</li> <li>• Of the 6 lobbies/cores, only one is not directly visible from the public domain, and despite this, the wide partly landscaped entry way indicates that it is an entry point into the development.</li> <li>• The ground level apartments that have individual main entries directly from the street have a clearly defined transitional space between public and private areas through the provision of a 1.8m high predominately open palisade style fence along the boundary.</li> <li>• A 2.4m high brick boundary wall is proposed along the eastern boundary to prevent access to the adjoining properties.</li> </ul>

3. General Provisions		
Development Control	Complies	Comment
3.14 Waste	Yes	<p><b>Waste management plans</b></p> <p>The waste management of on the site can be provided in accordance with the <i>City of Sydney Policy for Waste Minimisation in New Developments 2005</i> subject to recommended conditions.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Complies	Comment
4.2.1 Building height	Yes	<p><b>Height in storeys and street frontage height in storeys</b></p> <p>The maximum height in storeys permitted is 6 storeys. The development proposes 6 storeys and complies with the control.</p> <p>No street frontage height control exists for the site, therefore, assessment is based on the street frontage height of adjacent buildings or buildings in the vicinity of the site. The proposed 6 storey street frontage height is consistent with the GSO building which has a 6 storey street frontage height addressing Allen Street.</p> <p><b>Floor to ceiling heights for commercial and retail buildings</b></p> <p>The control requires a 3.6m floor to ceiling height for the retail premises on the ground floor. The proposed café has a floor to floor height of 4.2m which enables delivery of a 3.6m floor to ceiling height during construction.</p>
4.2.2 Building setbacks	No	<p>A 6.4m setback control applies to George Street and Allen Street and a 2.4m setback applies to McEvoy Street. The buildings comply within the control with the exception of the Allen Street setback which is 4.1m, where 6.4m is required.</p> <p>Building setbacks for this site are also provided in the Green Square part of SDCP 2012 (Section 5). Considering the controls in Section 5 take precedence over those in Section 4, please refer to discussion under 5.2.10 of SDCP 2012 and Issues section later in this report.</p>

<b>4. Development Types</b>		
<b>4.2 Residential Flat, Commercial and Mixed Use Developments</b>		
<b>Development Control</b>	<b>Complies</b>	<b>Comment</b>
4.2.3 Amenity	No	<p><b>Internal solar access</b></p> <p>The RFDC and SDCP 2012 require 70% of dwellings in a development to achieve a minimum of 2 hours of direct sunlight to living areas between 9am and 3pm on June 21.</p> <p>151 of 232 apartments (65%) receive a minimum of 2 hours of direct sunlight between 9am and 3pm on June 21 onto at least 1sqm of living room windows and a minimum 50% of each balcony.</p> <p>The proposal does not comply with the control, however, there are considered site constraints that prevent compliance with the control in this instance.</p> <p>Refer to discussion in Issues section later in this report.</p>
	Yes	<p><b>Overshadowing to adjoining properties</b></p> <p>The proposal will cause overshadowing beginning at 1.30pm to three north facing apartments and part of the communal open space in the adjoining GSO complex. The extent of overshadowing is such that it does not reduce the solar access to the existing apartments and communal open space to below 2 hours direct sunlight between 9am and 3pm 21 June.</p>
	Yes	<p><b>Lightwells</b></p> <p>It is not proposed to rely on lightwells for daylight to the apartments.</p>
	No (Capable)	<p><b>Internal common areas</b></p> <p>The common corridors have a minimum width of 1.8m – 2m. The internal common areas, lift lobbies and majority of corridors have access to daylight and an outlook. A number of the corridors in Building A do not have access to daylight and an outlook.</p> <p>It is recommended that the design is modified in the following manner to provide daylight access and an outlook to all corridors:</p> <ul style="list-style-type: none"> <li>• Insert a 1.2m wide slot with opening to the corridor through unit 5, on levels 3, 4, 5 and 6 within the north eastern part of Building A; and</li> <li>• Insert a 1.2m wide slot with opening to the corridor between units 9 and 10, on level levels 3, 4, 5 and 6 within the north western corner of Building A.</li> </ul>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Complies	Comment
	Yes	<p><b>Design features to manage solar access</b></p> <p>The development proposes fixed shading devices (window hoods and awnings) above habitable room windows which do not substantially restrict access to natural daylight or outlook.</p> <p>Glazing is integrated into all elevations and selected habitable room windows are protected by fixed shading devices. Further information regarding the proposed devices to the susceptible openings on the western elevation was submitted indicating that where sun control devices are absent they are not required to meet the thermal comfort requirements under SEPP BASIX.</p> <p>The living areas are recessed into the building and protected by the upper floor balcony. Extensive double storey high glazing is proposed to the street elevations which are partially protected from mid-summer sunlight by the glazing line being recessed into the building and placement of proposed street trees.</p>
	Yes	<p><b>Landscaping</b></p> <p>A landscape concept plan was submitted showing areas of planting large enough to support some biodiversity and some substantial tree planting. Landscaping is proposed within the deep soil areas to the three street frontages and within the communal open space located above the basement.</p> <p>Council's Green Roof and Walls Specialist has advised that subject to further detail the soil depths and species of plants are appropriate and recommends standard structural, drainage and maintenance conditions are included in the consent.</p> <p>It is recommended that detailed landscape plans are required to be submitted and approved prior to issue of a construction certificate.</p>
	Yes	<p><b>Deep Soil</b></p> <p>The proposed deep soil area equates to 1248sqm or 13% of the site, is consolidated along the street frontages and complies with the minimum 10% control.</p>



<b>4. Development Types</b>		
<b>4.2 Residential Flat, Commercial and Mixed Use Developments</b>		
<b>Development Control</b>	<b>Complies</b>	<b>Comment</b>
	Yes/No	<p><b>Private open space and balconies</b></p> <p>Each dwelling has a balcony or courtyard directly accessible from the living area which exceeds the minimum 75% control. The majority of private open space is orientated to the north, east or west with limited oriented directly south.</p> <p>Each balcony complies with 2m minimum dimension and the majority are between 8sqm and 10sqm. While there are balconies under 10sqm, the proposal is supportable as they are dimensionally appropriate to facilitate recreational uses and 100% of units have a balcony/courtyard.</p> <p>The majority of the ground level courtyards comply with the minimum 25sqm area, however a number have a minimum dimension of 2m – 3m where the control requires 4m. This non-compliance is considered acceptable in this circumstance given that the areas still facilitate private recreational use of the space and the sizeable communal open space area is directly accessible from these apartments.</p>
	Yes/No	<p><b>Common open space</b></p> <p>The common open space is in the form of two separate landscaped courtyards divided by Building B, i.e. north court yard and south courtyard.</p> <p>The total area of common open space is 2463sqm or 25.2% and complies with the minimum 25% control. It is noted that the calculation of common open space excludes prescribed areas (i.e. driveways), the indoor recreation pavilion and the fenced outdoor play area associated with the child care centre.</p> <p>At least 30% of the common open space area receives a minimum 2 hours of direct sunlight between 9am and 3pm on 21 June and complies with the control.</p> <p>The common open space contains greater than 50% area of unpaved soft landscaping, paths, mound features and varied seating options.</p> <p>Direct access from all residential lobbies to the courtyards is not provided. This arrangement is not supported.</p> <p>Refer to discussion in Issues section later in this report.</p>

<b>4. Development Types</b>		
<b>4.2 Residential Flat, Commercial and Mixed Use Developments</b>		
<b>Development Control</b>	<b>Complies</b>	<b>Comment</b>
	Yes	<p><b>Ventilation</b></p> <p>The RFDC recommends 60% of dwellings in a development should be naturally cross ventilated. 143 of 232 apartments (62%) are naturally cross ventilated.</p> <p>A range of dual aspect apartment types including, cross through, cross over and corner apartments are provided. The proposed maisonette apartments inherently facilitate natural ventilation and the remaining single aspect apartments have been limited in depth to between 7m and 10m to encourage natural ventilation.</p>
	Yes	<p><b>Outlook</b></p> <p>Each apartment will benefit from district outlooks or an outlook over the communal open space.</p> <p>The proposed buildings are unlikely to affect significant views to the City skyline from surrounding residences.</p>
	Yes	<p><b>Acoustic privacy</b></p> <p>An Acoustic Assessment was submitted with the application which assesses the external noise impact, rail tunnel vibration and impact of the childcare centre on the future residential occupants.</p> <p>Acoustic measures including glazing construction specifications for the building facade have been recommended to comply with the internal noise criteria identified in the SDCP 2012 control.</p> <p>The report indicates that compliance with the internal noise criteria in the childcare centre is achievable. A Plan of Management and revision of the Acoustic Report would be necessary to provide further detail and demonstrate compliance as part of a future development application for the childcare centre.</p> <p><b>Construction Noise</b></p> <p>Given there are sensitive receivers in proximity to the site and it is likely that noise disturbances will occur during excavation and construction stages, it is recommended that a Construction Noise and Vibration Management Plan is submitted and approved prior to a Construction Certificate being issued. It is recommended that the Plan include noise measurements to determine the effect on residential receivers and detail the stages of development along with the equipment to be used.</p>

4. Development Types																	
4.2 Residential Flat, Commercial and Mixed Use Developments																	
Development Control	Complies	Comment															
	No	<p><b>Flexible housing and dwelling mix</b></p> <p>The development proposes a dwelling mix of:</p> <table border="1"> <thead> <tr> <th>Type</th> <th>Control</th> <th>Proposed</th> </tr> </thead> <tbody> <tr> <td>Studios</td> <td>5-10%</td> <td>2% (5)</td> </tr> <tr> <td>1 bedroom</td> <td>10-30%</td> <td>27% (63)</td> </tr> <tr> <td>2 bedrooms</td> <td>40-75%</td> <td>62% (144)</td> </tr> <tr> <td>3 bedrooms</td> <td>10-100%</td> <td>9% (20)</td> </tr> </tbody> </table> <p>The number of 3 bedrooms is slightly non-complaint with the control that recommends a minimum of 10%. It is considered that the non-compliance is acceptable in this instance given that it is minor and the development provides a variety of dwelling types including single storey, corner, cross through and cross over, garden/courtyard and two storey apartments to cater for a diverse population.</p> <p>The apartments are sufficiently designed to allow potential future adaptation.</p> <p>It is noted that a number of one bedroom apartments have a second room (study), with a door and are large enough to contain a bed (apartment L01_14 actually shows a bed in the “study”). It is recommended that a condition is imposed to ensure that the designs of these apartments are modified to remove the doors and require rooms to be a contiguous part of the surrounding space.</p>	Type	Control	Proposed	Studios	5-10%	2% (5)	1 bedroom	10-30%	27% (63)	2 bedrooms	40-75%	62% (144)	3 bedrooms	10-100%	9% (20)
Type	Control	Proposed															
Studios	5-10%	2% (5)															
1 bedroom	10-30%	27% (63)															
2 bedrooms	40-75%	62% (144)															
3 bedrooms	10-100%	9% (20)															

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Complies	Comment
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The control recommends that any building along the George Street frontage be broken into two or more buildings with different architectural treatments and provide visual interest through fine grain articulation.</p> <p>The built form along George Street is divided into two 62m long buildings by two 6m wide full height corridors that provide ventilation and visual connections between the street and courtyards</p> <p>The proposal is assessed as achieving an acceptable level of architectural diversity and fine grain articulation though suitable massing, composition of building elements and fenestration and the varied use of materials and finishes.</p> <p>Further discussion relating to the architectural character is discussed in the SEPP 65 section and Issues section in this report.</p>
4.2.5.4 Types of development	Yes	<p><b>Courtyard buildings and perimeter street block buildings</b></p> <p>The full height 6m wide building breaks are supplemented by two storey high recesses/entrances to the McEvoy Street and George Street frontages, which encourage visual permeability and a visual connection to the courtyard space behind the buildings.</p>
	Yes/No	<p><b>Residential uses on the ground floor</b></p> <p>The ground floor dwellings that address the street frontages adopt a 3m setback from the new site boundary to the glass line. Each dwelling has a 2m deep deck and private garden area.</p> <p>Each dwelling is elevated between 100mm and 700mm above adjacent footpath level and is provided an individual entry from the street.</p>

<b>4. Development Types</b>		
<b>4.2 Residential Flat, Commercial and Mixed Use Developments</b>		
<b>Development Control</b>	<b>Complies</b>	<b>Comment</b>
	Yes/No	<p>Floor to ceiling high glazed sliding doors are proposed to the bedrooms and living areas that address the street. For security and privacy reasons, a 1.8m high open palisade style fence is proposed along the front boundary. Generally a maximum height of 1.4m is recommended for fences, however, 1.8m is considered acceptable given that the deck is the primary private open space to these apartments and the predominately open nature of the palisade style fence still allows passive surveillance of the public domain. It is recommended further details of the fencing is be submitted and approved by Council prior to issue of a construction certificate.</p> <p>The first floor balconies over the ground floor apartments have been setback 1m to maximise the amount of light reaching the ground floor living areas.</p>
4.2.6 Waste minimisation	Capable	<p>Waste is proposed to be collected within the basement from a central garbage collection room. A waste and recycling chute is provided within a garbage store room on each floor adjacent to each core.</p> <p>The development is capable of providing waste management in accordance with <i>City of Sydney Policy for Waste Minimisation in New Developments 2005</i> subject to recommended conditions requiring separated commercial and residential storage areas and bulky items room.</p>
4.2.7 Heating and Cooling Infrastructure	Yes	There is capacity in the basement to enable infrastructure upgrades and heating and cooling infrastructure.
4.2.8 Letterboxes	Yes	The development proposes letterboxes within the residential lobbies and can be provided direct unhindered access from the street frontages.
<b>4.4 Other Development Types and Uses – 4.4.4 Child care centres</b>		
4.4.4.2 Allocation of child care places	Capable	The application proposes a 58 place child care centre on the ground floor of Building C, accessed from Allen Street. The capacity complies with the maximum allowable of 90 spaces. It is recommended that the minimum allocation of 33% or 19 places are allocated to under 2 year olds.

<b>4. Development Types</b>		
<b>4.2 Residential Flat, Commercial and Mixed Use Developments</b>		
<b>Development Control</b>	<b>Complies</b>	<b>Comment</b>
4.4.4.3 Location	Yes	The proposed ground floor location, with a frontage to a local road satisfies the preferred locational control requirements.
4.4.4.4 Design of play areas	Capable	Indoor and outdoor play areas that meet the relevant size and amenity controls are proposed. Subject to further detail being submitted and approved by Council prior to issue of a construction certificate, the centre is capable of meeting the specifications of the control.
4.4.4.5 Control of noise impacts to child care centres	Yes	An acoustic assessment was submitted with the application recommending noise attenuation measures at construction stage to achieve the specified internal noise criteria to ensure potential noise impacts from the child care centre are minimised to acceptable levels.  Further to acoustic conditions being imposed in the consent, it is recommended that an operational Plan of Management is also submitted and approved by Council.
4.4.4.6 Parking and pedestrian safety	Yes	Vehicles can enter and exit the mixed use development in a forward direction. It is recommended that the car parking spaces allocated to the child care centre are located and grouped together under Building C.
4.4.4.7 Safety and security		Public entry to a child care centre is limited to one secure point from Allen Street which is glazed and enables natural surveillance. It is recommended that an operational Plan of Management and Emergency Evacuation Plan is submitted and approved by Council prior to any construction certificate for Building C.

<b>5. Specific areas – Green Square</b>		
<b>Development Control</b>	<b>Complies</b>	<b>Comment</b>
5.2.1 Green Square Urban Strategy 5.2.2 Objectives for Green Square	Yes	The proposal is considered to satisfy the relevant objectives and is consistent with the planning strategy envisaged for the area in that it contributes to the housing stock and is a building type and form appropriate in the streetscape.

5. Specific areas – Green Square		
Development Control	Complies	Comment
5.2.3 Community infrastructure	Yes	<p>The application seeks consent for the maximum GFA permitted under clause 6.12 and clause 6.14 of SLEP 2012 which can only be achieved where a development provides community infrastructure to the satisfaction of the consent authority.</p> <p>The application was accompanied by a public benefit offer which has been reviewed by Council and it is considered that there are sufficient reasons for consent to be granted for the maximum gross floor area achievable under clause 6.12 and clause 6.14 of SLEP 2012.</p> <p>Refer to discussion in Issues section later in this report.</p>
5.2.4 Local Infrastructure	Yes	The site is not identified as requiring the provision of a new street.
5.2.5 Pedestrian and bike networks	Yes	The streets surrounding the site are identified as part of the bike network in the <i>City of Sydney Cycleway Strategy 2007-2017</i> . A separated on-road cycleway is currently being constructed on the western side of George Street and southern side of Allen Street.
5.2.6 Public Open Space	Yes	The site is not identified as requiring the provision of a public open space, noting that Waterloo Park is 60m walking distance from the site.
5.2.7 Stormwater management and waterways	No	<p><b>Water channels and setbacks</b></p> <p>The site is identified as requiring a water channel open space link setback. A 10m landscaped setback, measured from the edge of the existing stormwater channel is to be provided along each side of the existing underground and open stormwater channels. The DCP map shows a channel running along Allen Street with a 10m setback either side of the channel line.</p> <p>Allen Street is a sealed bitumen public street with Sydney Water drainage infrastructure below, running parallel to the site boundary. The proposed buildings are setback 10m from the channel line, however, landscaping to the entire setback is unfeasible given that part of the setback is a functioning public road.</p> <p>Subject to recommended conditions, the Sydney Water drainage infrastructure is to be protected in accordance with advice received by Sydney Water.</p>

5. Specific areas – Green Square		
Development Control	Complies	Comment
	Capable	<p><b>Water sensitive urban design principles</b></p> <p>On-site detention of stormwater is integrated into the development to ensure post-development peak flows do not exceed pre-development peak flows.</p>
	Yes	<p><b>Flood risk management</b></p> <p>A site specific flood analysis was prepared which identifies the 1 in 100 year levels and PMF levels. The design levels are consistent with Council's Flood Planning Level requirements.</p>
5.2.8 Highly Visible Sites	Yes	The site is not identified as a Highly Visible Site.
5.2.9 Building Design	Yes	<p>The development performs against the controls in this section for the following reasons:</p> <ul style="list-style-type: none"> <li>• The buildings are aligned to the street, consistent with the control, to define and frame the street edge and provide clear delineation between the public and private domain.</li> <li>• It is unlikely that the buildings will affect significant views to the City skyline from surrounding residences.</li> <li>• The development includes the provision of new street tree plantings and landscaping along footpaths to enhance the quality of the streetscape and maximise pedestrian amenity</li> <li>• The building facades incorporate a variety of applied finishes including smooth and textured precast concrete, brick patterned precast concrete (in various colourations) and white glazed tiles.</li> <li>• Six building entrances have been provided from the street to the residential interiors and are clearly defined by differentiation in the surface materiality and double storey glazing.</li> <li>• In addition to the 6 building entrances, four 2 storey scale courtyard entries are provided allowing direct access from the communal private areas to the street, or vice versa.</li> <li>• The vehicular entry is contained to a single, two way driveway which is separated from the residential lobby entries to minimise pedestrian and vehicle conflict.</li> </ul>

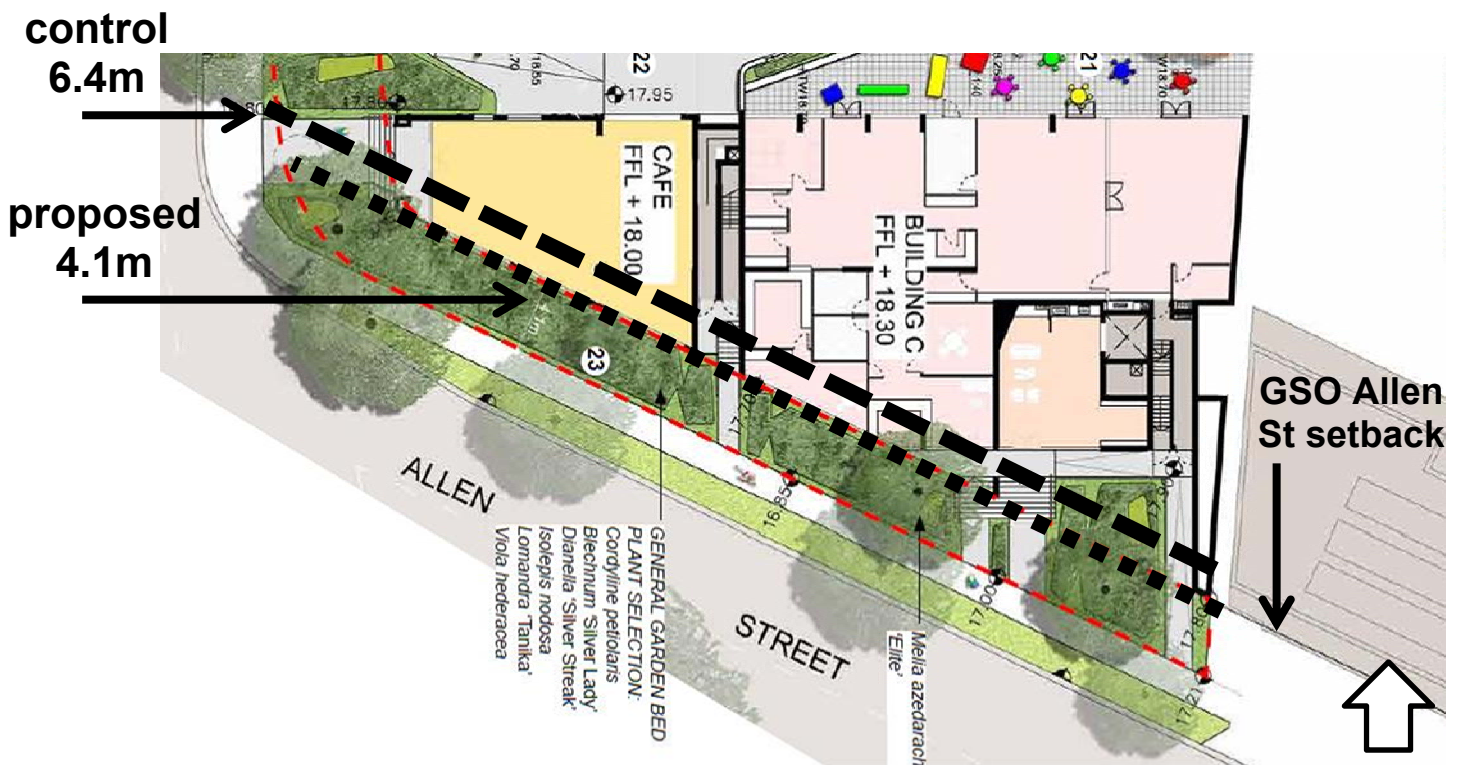


5. Specific areas – Green Square		
Development Control	Complies	Comment
5.2.10 Setbacks	No	<p><b>Dedicated Setbacks</b></p> <p>The control requires dedicated front setbacks of 6.4m along George Street and Allen Street and 2.4m along McEvoy Street for the purposes of public domain improvement (landscaping).</p> <p>The buildings comply within the control with the exception of the Allen Street setback which is 4.1m.</p> <p>Refer to discussion in the Issues section later in this report.</p>
	Yes	<p><b>Building Setbacks</b></p> <p>The proposed buildings are setback 1m from the new site boundaries (post dedication) to provide a supplementary landscape setback and enhanced amenity to ground level apartments addressing the street.</p>
5.2.11 Carparks under the public domain	Yes	No part of the basement car park is located below the land to be dedicated as public domain.
5.2.12 Above ground and adaptable car parking spaces	Yes	The application does not propose above ground car parking.

## ISSUES

### Allen Street Setback

52. SDCP 2012 requires dedicated front setbacks of 6.4m along George Street and Allen Street and 2.4m along McEvoy Street for the purposes of public domain improvement (landscaping). The buildings comply within the control with the exception of the Allen Street setback which provides a setback of 4.1m, where 6.4m is required.
53. **Figure 25** illustrates the proposed 4.1m setback, 6.4m control setback and landscape concept for the Allen Street setback.



**Figure 25:** Landscape concept plan showing proposed Allen Street setback (4.1m) compared setback control (6.4m) and GSO setback.

54. The objectives of the building setback controls contained in sections 4 and 5 of SDCP 2012 seek to ensure that development is generally consistent with existing, adjacent building setback patterns of the street, introduces landscaped front setbacks to supplement the public open space, enhance pedestrian amenity, privacy and the setting and appearance of buildings.
55. The proposed building setback to Allen Street is consistent with the adjacent building setback pattern established by the GSO building to the east (refer to **Figure 25** above).
56. Privacy to the Allen Street frontage is less important as the café and child care centre are located at ground level. Lower vegetation is proposed within this setback to allow these non-residential uses to be more visible which is desirable from a streetscape activation perspective. It is considered that the upper level apartments will be afforded a reasonable level of privacy when viewed upwardly from the footpath along Allen Street.
57. Pedestrian amenity will be improved through upgraded footpaths, a number of access points into the development and an improved vegetated environment.
58. From a visual perspective the proposed deep soil landscaping along with the established canopy of the existing mature street trees will enhance the setting of the proposed building when viewed in the streetscape context.
59. The proposed 4.1m setback is considered acceptable in this circumstance as the building setback provides an appropriate relationship with the public domain and adjoining properties consistent with the control objectives and desired future character for the Waterloo Park locality.

**Solar Access**

60. The RFDC and SDCP 2012 require 70% of dwellings in a development to achieve a minimum of 2 hours of direct sunlight to living areas between 9am and 3pm on June 21.
61. 151 of 232 apartments (65%) receive a minimum of 2 hours of direct sunlight between 9am and 3pm on June 21 onto at least 1sqm of living room windows and a minimum 50% of each balcony.
62. The applicant has formally requested a variation to the 70% control and raises the key issue in preventing compliance with the minimum control, is that the George Street boundary alignment is slightly west of true north. Subsequently, any building with residential apartments that align to George Street will not receive solar access to their living rooms until just after 1pm.
63. To achieve compliance, the applicant provides that intrusive and adverse alterations to the building forms would be necessary, compromising the architectural integrity of the selected design.
64. **Figure 26** illustrates an indicative diagram of the building alignment necessary to ensure all west facing apartments receive the minimum 2 hours of solar access to the living room windows.



**Figure 26:** Mid-winter 1pm solar access diagram with indicative building alignment (dashed) rotated away from George Street boundary.

65. The RFDC recognises that there may be scenarios where site constraints and orientation prohibit the achievement of the 70% control. It is considered that there are sufficient reasons for a minor departure from the control for the following reasons:
- (a) SDCP 2012 contains a number of controls and objectives that specify that buildings must align to the street to define the street edge and have an optimal relationship with the public domain. The proposed buildings achieve these objectives and amendments to realign the buildings to the alignment as indicated in **Figure 26** above, would be totally inconsistent with these controls. On balance, the street alignment controls and objectives are afforded greater weight over the 5% departure from the solar access control.
  - (b) The balconies to the apartments addressing George Street will begin to receive solar access from 1pm giving the opportunity occupants to stand or sit in the sun for 2 hours in mid-winter.

- (c) Despite the solar access non-compliance, the west facing apartments will be afforded desirable level of daylight amenity in the afternoon.
  - (d) Between 9am and 1pm in mid-winter, residents have the opportunity access direct sun in the communal courtyards.
  - (e) Daylight access to the top floor apartments is supplemented by the use of skylights.
  - (f) The western elevation contains the majority of two-storey and ground floor apartments which facilitate daylight access and overall provide a higher level of amenity.
  - (g) The upper level single aspect apartments on the western elevation are generally limited in depth to 7m.
  - (h) Single aspect south facing apartments have been limited to less than 10% of all dwellings.
  - (i) Subject to recommended conditions, all communal corridors have access to daylight, improving amenity to these circulation spaces.
  - (j) The development satisfactorily addresses energy efficiency through the application of BASIX and use of various measures to maximise sustainability objectives.
66. It is considered that there is sufficient site constraints including the predominant site orientation that prohibit the achievement of the standard in this instance and the minor departure be supported for the abovementioned reasons.

#### **Access to Common Open Space**

67. The common open space is in the form of two separate landscaped courtyards divided by the east-west wing of Building B (referred to as north courtyard and south courtyard).
68. Direct access from the ground floor lobbies of all buildings to their respective communal open space is not provided. The affect is residents wanting to use the open space are required to take a circuitous route outside of the development and re-access the development from the street.
69. **Figure 27** illustrates the proposed circuitous routes from the residential lobbies to the courtyards.

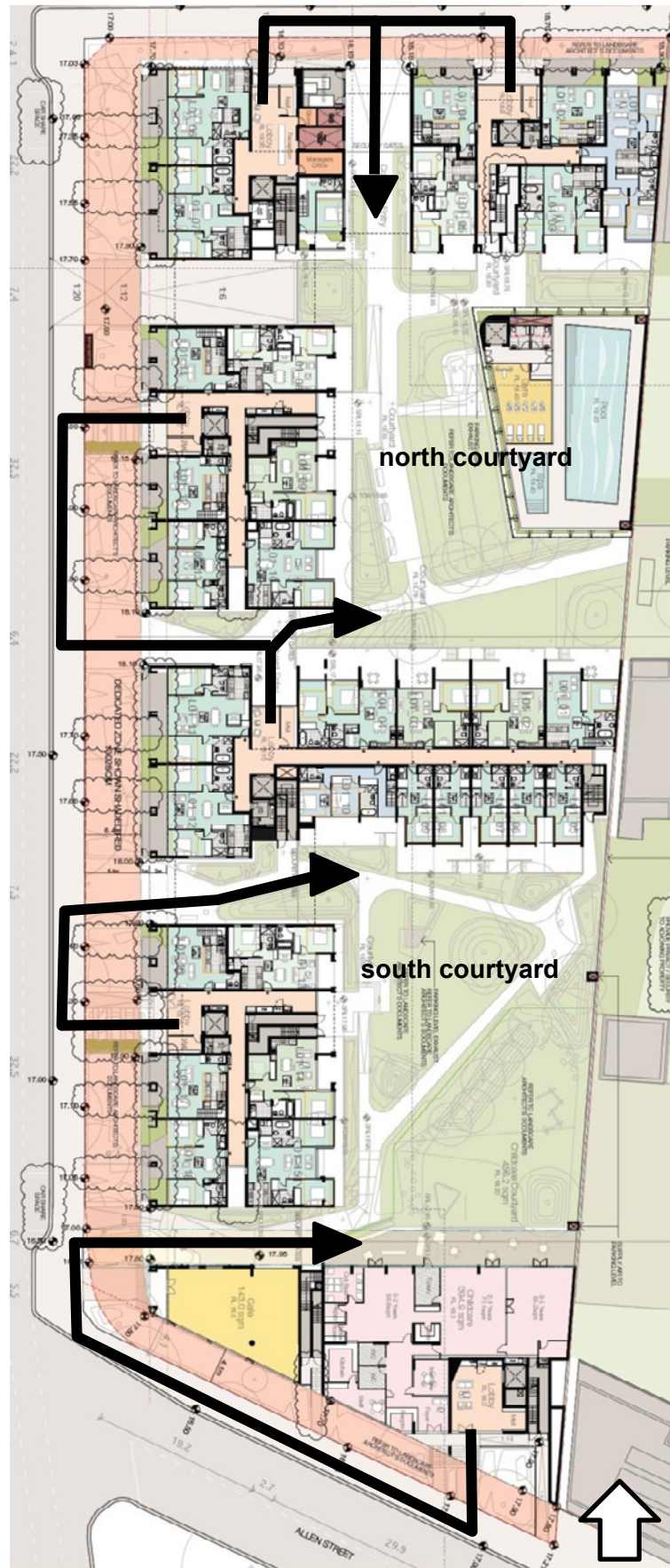


Figure 27: Ground floor plan showing proposed routes residents would need to take to access their respective communal courtyards.

70. It was requested that the applicant address the issue by providing direct routes that did not require exiting the development and re-entering from the street. The design was amended to provide a lift from the basement level directly into the recreation pavilion, allowing residents to take the lift to the basement, walk through the basement and take the lift up into the recreation pavilion.
71. This approach addresses the issue of providing weatherproof access to the pavilion, however, does not address the issue of residents, particularly in Building C, from being able to access their respective communal courtyards without need to exit the site.
72. Easy, direct and equitable access from each residential building to the common open space within a development is considered essential to achieve the design excellence standards in SLEP 2012, the design quality principles in SEPP 65 and overall objectives of SDCP 2012.
73. As such, it is recommended that the following design modifications are made to ensure direct access to the common open space is provided to future residents:
  - (a) Building A – provide doors from lobbies directly into courtyard (north), the lobby in the north western corner of Building A requires relocation of the manager's room;
  - (b) Building B – provide a door from the lobby directly into courtyard (south); and
  - (c) Building C – relocate lift core and lobby south to where kitchen in child care centre is currently located and provide corridor to directly access courtyard (south). This change to the design that effects layout of all levels of Building C, however, these changes are not considered significant that would adversely alter the form and expression of the building.
74. **Figure 28** illustrates the effect of the design modification conditions on the development.

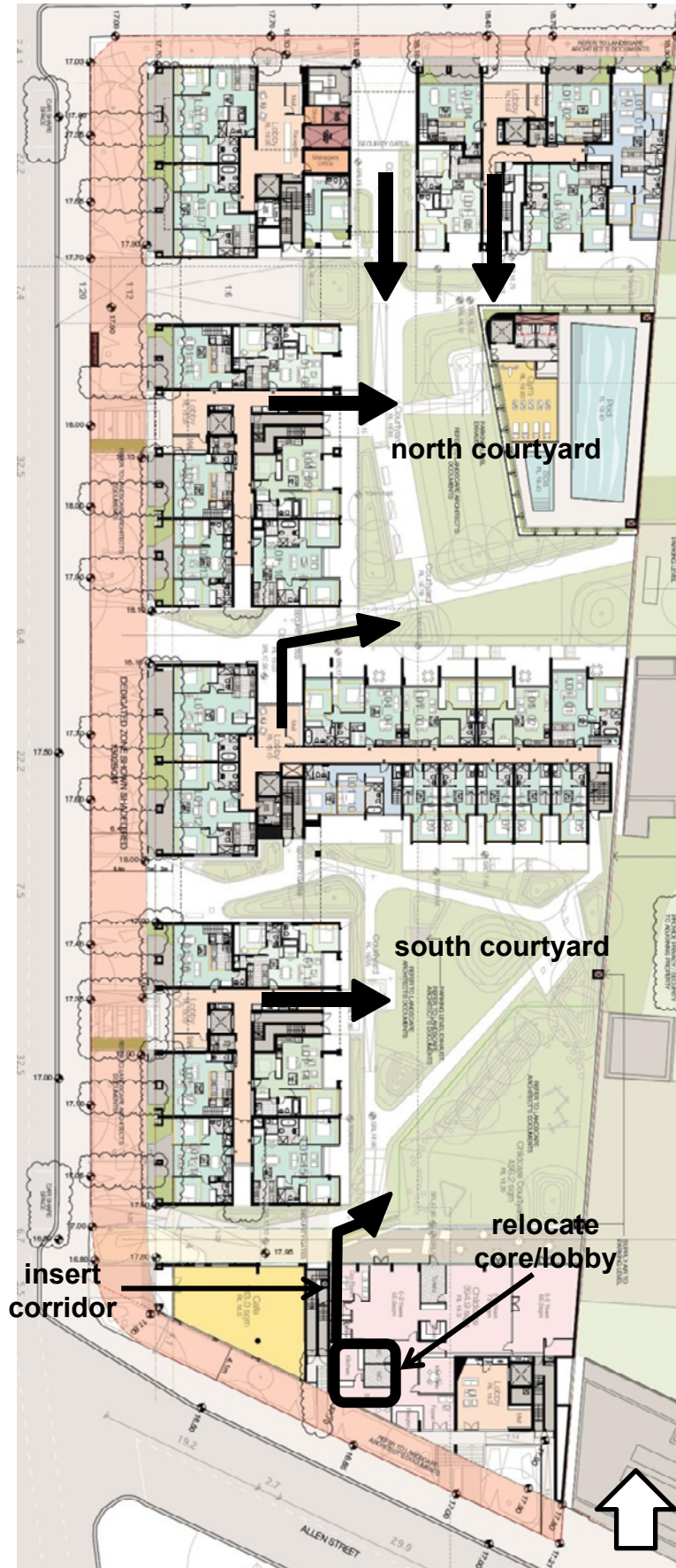


Figure 28: Ground floor plan showing direct access to communal courtyards as recommended through design modification conditions.



**Preservation of trees**

75. The site and adjoining road reserve contains 23 trees, of which 16 trees are proposed to be removed as per the Applicants Arborist's recommendation. However, landscape plans were submitted that identify that only 7 trees are proposed for removal, being T5, T6, T7, T12, T15, T19 and T21. Council is only considering the landscape plan (removal of 7 trees), not the Arborist report (16 trees) in this instance.
76. Council's Tree Management Unit has advised that 5 of the trees are supported for removal, however, removal of T7 and T12, which are assessed as healthy trees are not supported for removal. Council's Tree Management Unit have recommended that the design is modified to allow retention of T7 and T12.
77. Tree 7 is a Scribbly Gum located within the private land in the south western corner of the site. It is proposed to remove this tree to allow for construction of a new pedestrian access ramp to the café. Tree 12 is a Cottonwood street tree located along George Street towards the McEvoy Street intersection. It is proposed to remove this tree to facilitate construction of the new driveway on George Street. **Figures 29** illustrates the location of Tree 7 and Tree 12.



Figure 29: Landscape concept plan showing location of T7 and T12.

78. In order to retain the trees design amendments are required to ensure that there are no excavations within the respective Tree Protection Zones, 3.7 metres and 2.9 metres.
79. The recommended design modifications to retain the trees have significant implications for the design of the buildings. Shifting the driveway southwards away from T12 would affect the lift core of Building A and subsequently affects the layout and function of the apartments and representation to the street. Shifting the pathway a minimum 3.7m setback from Tree 7 would result in no access provided between Building B and Building C or to the south courtyard.
80. When considering whether significant design amendments are warranted in this instance, it is recommended that the proposal is tested against the objectives of the relevant controls contained in SDCP 2012.
81. Overall, SLEP 2012 and SDCP 2012 seeks to ensure the protection of trees within and around development sites, maximise the quality and quantity of healthy tree canopy coverage and locate driveway crossovers to minimise impact on existing street trees and to maximise opportunities for new street trees.
82. It is considered that significant design changes are not warranted and the removal of T7 and T12 is acceptable in this circumstance as the proposal performs against the relevant objectives in that:
  - (a) the provision of a single driveway to a development with a 241m street frontage inherently minimises impacts on existing street trees and maximises opportunity for new street trees;
  - (b) the remaining 12 street trees are to be retained and protected and supplemented with additional street trees consistent with Council's Street Tree masterplan; and
  - (c) substantial levels of new planting and trees are proposed within the setbacks to be dedicated.

#### **Child Care Centre - Passenger pick up and set down areas**

83. Schedule 7 of SDCP 2012 requires 12 pickup and set down spaces and 1 long term visitor car parking space in the development to service the proposed child care centre.
84. At its meeting held on 24 June 2013, Council resolved to place amendments to SDCP 2012, known as the draft Sydney Development Control Plan 2012 (Amendment No. 2) ("**draft SDCP 2012**") on public exhibition. The draft SDCP 2012 was publically exhibited for a minimum 28 days in August 2013.
85. Specifically, the draft SDCP 2012 proposes to amend the rate for passenger pick up and set down areas for child care centres. Under the draft SDCP 2012, the proposed child care center would generate need for 7 pick up and set down spaces.
86. The draft SDCP 2012 has not been formally adopted by Council, therefore, consideration of its contents are not mandatory when considering current applications. In this instance, it is appropriate to consider the contents of the draft SDCP 2012 and consider provision of 7 pick up and set down spaces.

87. The subject application proposes to locate the required pickup and set down spaces on George Street. Council's Transport Unit has advised that this on-street arrangement is not supported and provision of the spaces within the development should be provided.
88. From a purely practical and convenience perspective, a pick up and drop off area on the street for a limited period in the peak hours may have merit. However, this will likely have implications for parking and traffic arrangements on the street which would require further consultation and consideration by the Local Pedestrian, Cycling and Traffic Calming Committee. The applicant is responsible for preparing a separate application to the Local Pedestrian, Cycling and Traffic Calming Committee for consideration.
89. Developments of this nature should be able to provide the required pickup and set down spaces within the allotment, and for this reason, it is recommended that a minimum of 7 spaces are provided, of which a minimum of 4 are located within the basement. This approach provides flexibility, in that, if 3 on-street spaces are not considered appropriate, those spaces will need to be accommodated within the basement.

#### **Community Infrastructure - Public Benefit Offer**

90. The application seeks consent for the maximum amount of GFA permitted under clause 6.12 and clause 6.14 of SLEP 2012 which can only be achieved where a development provides community infrastructure to the satisfaction of the consent authority.
91. The application was accompanied by a public benefit offer for land dedication, embellishment of the dedicated land and a monetary contribution. The total package value is calculated on the basis of the additional floorspace amount and the adopted residential rate.
92. Council reviewed the offer and is satisfied that it is consistent with the examples of community infrastructure identified in the control, in that it comprises of:
  - (a) the dedication of 1288sqm portion of land to the public, comprising of:
    - (i) 2.4 metre wide strip of land along the McEvoy Street frontage;
    - (ii) 6.4 metre wide strip of land along the George Street frontage; and
    - (iii) 4.1 metre wide strip of land along the Allen Street frontage;
  - (b) the landscape embellishment of the land to be dedicated; and
  - (c) payment of a monetary contribution of \$1,736,845.00 to be allocated to the provision of infrastructure in or about the area known as Green Square Town Centre, which can include works relating to new/modified roads, stormwater management systems, public open space and public art.
93. **Figure 30** illustrates the dedicated setbacks to be embellished as part of the terms of the planning agreement.



Figure 30: Site plan showing the setbacks to be dedicated and embellished.

94. A draft Planning Agreement was prepared to secure the public benefit in connection with the Development Application for the site. The planning agreement was publically advertised for 28 days between 16 January 2014 and 14 February 2014. At the time of preparing this report no submissions had been received.
95. It is considered that there are sufficient reasons for consent to be granted for the maximum GFA achievable under clause 6.12 and clause 6.14 of SLEP 2012.

### **Competitive Design Process, Design Improvements and Design Excellence**

96. The size of the site is such that a site specific development control plan is required to be prepared under clause 7.20 of SLEP 2012. This requirement, in turn, triggers the need for a competitive design process to be undertaken under clause 6.21 of SLEP 2012.
97. A competitive design process was undertaken in April 2013 and the Tony Caro Architecture design (the subject of this application) was the winner of the competitive design process. In accordance with Clause 6.21(7) of *SLEP 2012*, the consent authority may grant up to 10% additional floor space where design excellence is achieved through a competitive design process.
98. The application seeks consent for 10% additional FSR. The full 10% is permitted to be awarded under control 3.3.5 of SDCP 2012, as the entire site was the subject of the competitive design process.
99. In selecting Tony Caro Architecture as the preferred proposal, the Competitive Design Process Judging Panel recommended that the following should be explored:
  - (a) further consideration of options for the turned down main roof elements as walling as an option compared to metal cladding, or high quality metal roof/walling as an alternate;
  - (b) resolving appropriate privacy treatments to units in corner locations of the proposed buildings; and
  - (a) providing a childcare centre and possible small retail space below the building to the southern or northern end of the site.
100. The design was amended in response to the Panel's recommendations by introducing vertical blade screening devices to the windows of apartments in corner locations and integrating a child care centre and café to the southern end of the site. Details of the metal cladding to the turned down main roof elements were submitted. A standing seam colourbond cladding system in dark grey is proposed as a secondary walling finish mainly to the walls that face perpendicular to the street alignment.
101. Upon review of the detailed application, Council's Urban Designer and the Design Advisory Panel initially recommended further consideration be given to a number of aspects of the design including direct access to the communal open space, provision of natural light and ventilation to all cores and corridors, sun protection devices to correspond to window orientation and the possibility for further differentiation between the three buildings and additional deep soil.

102. Further information was submitted to address, in part, the issues raised. This assessment recommends that further design modifications are made to provide direct access to the communal open space and natural light and ventilation to all cores and corridors.
103. Overall the assessment finds that the form and external appearance of the buildings and amount of deep soil is consistent with the Selected Design and suite of SDCP 2012 controls and objectives that apply to the land. For these reasons further design changes are not considered warranted.
104. In considering whether development exhibits design excellence, the consent authority must have regard and be satisfied that the development achieves certain criteria. Each criterion is addressed below:

(a) **A high standard of architectural design, materials and detailing appropriate to the building type and location**

The development is considered to represent a well resolved architectural design with a clear concept relating to the use of precast panels to create a robust yet differentiated facade. The use of various applied finishes, reflecting brick patternation draws on the materiality once used heavily in the locality and introduces a fine grain to the facades. The roof form is a modern interpretation of industrial saw tooth style roofing and introduces a fold down metal clad finish which acts as a supplementary material to the precast and applied tiles. The palette of colours and tones are deep and rich, however, appropriately contrasted by lighter tones and the use of white glazed brick tiles at ground and first floor.

(b) **A form and external appearance of the proposed development will improve the quality and amenity of the public domain**

The bulk, massing and modulation of the buildings are suitable for the street block, ensuring that the form presents as three buildings with meaningful breaks and recesses in the façade. The buildings adopt deep soil setbacks supplementing the public domain, allow for a wide verge of tree planting and vegetation to enhance the appearance and setting of the buildings.

(c) **Does the proposed development detrimentally impact on view corridors**

The proposal is unlikely to detrimentally impacts on view corridors to significant city skyline views.

(d) **Does the proposed development address site suitability, use, constraints, environmental impacts, ESD, pedestrian, cycle, vehicular and service access and circulation, public domain improvements, and interface, landscape design**

As addressed elsewhere in this assessment, the proposal satisfactorily addresses each of these matters in accordance with the relevant SDCP 2012 and RFDC controls.

105. The assessment of the subject application finds that the development meets the design excellence objectives and, as such, it is recommended that in accordance with Clause 6.21(7) of SLEP 2012, the consent authority award 10% additional floor space to the development.

**Floor Space Ratio - Exception to Development Standard**

106. There are three separate sections of SLEP 2012, which combined, establish the floor space ratio ("**FSR**") development standard for this site.
107. Clause 4.4 of SLEP 2012 provides that the maximum FSR on the subject land is 1:5 ("**base FSR**").
108. Clauses 6.12 and 6.14 of SLEP 2012 provide that an additional amount of FSR in the order of 0.5:1 is available on this site where a development provides community infrastructure to the satisfaction of the consent authority ("**community infrastructure FSR**"). A public benefit offer for land dedication and cash contribution to local infrastructure project/s was submitted with the application.
109. Clause 6.21 of SLEP 2012 provides up to an additional 10% of the base FSR where the design is the winner of a competitive design process and the consent authority is satisfied that the building exhibits design excellence ("**design excellence FSR**"). The subject application is the winning scheme of a competitive design process.
110. The FSR development standard for this site is 2.15:1.
111. The application proposes a GFA of 21468sqm which equates to an FSR of 2.2:1 and does not comply with the combined FSR standard for this site.
112. The proposal exceeds the 2.15:1 standard by 0.05:1 or 486sqm and is a 2.3% variation from the development standard.
113. The applicant is relying on the provisions of clause 4.6 of SLEP 2012 to seek an exception to the FSR development standard by 0.05:1.
114. 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 as the concurrence of the Director-General of the NSW Department of Planning and Infrastructure can be assumed where Clause 4.6 is adopted as per Department of Planning Circular PS 08-003 dated 9 May 2008.
115. In order to demonstrate whether strict numeric compliance is unreasonable or unnecessary in this instance, the proposed exception to the FSR development standard has been considered against the objectives and provisions of Clause 4.6 in the following table:



<b>Clause 4.6 Requirement</b>	<b>Assessment</b>
<p><b>4.6(4)(a)(i)</b></p> <p>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 contravention of the FSR development standard on the following basis:</p> <ul style="list-style-type: none"> <li>• The degree of non-compliance is minimal at only 2.3% above the maximum. This is negligible and is well below that recognised 10% rule.</li> <li>• The proposed development is based entirely on the winning competition scheme, including the proposed gross floor area and floor space ratio. This scheme was endorsed by Council in the Design Alternatives Report.</li> <li>• The proposal complies with the LEP (in metres) and DCP (in storeys) height controls.</li> <li>• The development displays minimal bulk and scale characteristics. The visual bulk is greatly reduced by the fine grain character of the buildings and the broken roof profile.</li> <li>• The additional 482sqm gross floor area is not noticeable and, spread over the development, will not be noticeable when compared to a compliant scheme. The proposal achieves design excellence having been the winner of a competitive design process.</li> <li>• The winning scheme, including its gross floor area, was based on the Council endorsed design competition brief</li> <li>• The proposal will result in in no adverse impacts such as unreasonable overlooking and overshadowing.</li> <li>• The proposal is entirely consistent with the objectives of the land use zone and the FSR development standard, which re addressed below.</li> <li>• There are other parts of the City (Lachlan Precinct) that calculate the design bonus gross floor area on the base plus the community infrastructure bonus.</li> </ul> <p>The applicant's written rationale satisfactorily addresses the objectives associated with contravening the development standard and is considered to be well founded.</p>

Clause 4.6 Requirement	Assessment
<p><b>4.6(4)(a)(ii)</b></p> <p>Council must be satisfied that the proposed development is consistent with the objectives of the development standard and the objectives for development within the zone</p>	<p>The proposed development is consistent with the objectives for FSR provided under Clause 4.4 of SLEP 2012 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The development provides an additional 232 apartments contributing to the anticipated housing needs envisaged for the Green Square Urban Renewal Area.</li> <li>• The 2.3% departure from the standard is not considered to result in any discernible density that would unreasonably affect the built form, pressure on infrastructure or local road networks.</li> <li>• The development is capable of relying on existing and planned local infrastructure and specifically contributes to the dedication of and improvement of the public domain and infrastructure in Green Square Town Centre.</li> <li>• The development reflects the desired built form character of the locality which is in a period of transition from a low scale mix of light industrial and residential development to a higher density residential character.</li> <li>• The distribution of GFA across the site has been designed to mirror the built form in the GSO complex to maximise building separation and maintain good levels of internal amenity.</li> </ul> <p>The proposed development is consistent with the objectives for design excellence FSR provided under Clause 6.21 of SLEP 2012 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposed design has been the subject of a competitive design process and is assessed as being an example of high standard architectural, urban and landscape design.</li> <li>• The draft amendment to SLEP 2012, which are a relevant matter for consideration, proposes to reword the clause to allow the 10% design excellence FSR to be calculated based on the base FSR and community infrastructure FSR combined, effectively allowing a FSR of 2.2:1 on this site.</li> </ul> <p>Note: No objectives are contained in clauses 6.12 and 6.14 of SLEP 2012.</p> <p>The development is consistent with the objectives of the General Residential zone, as outlined earlier in this report.</p>

116. 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, there are sufficient planning grounds to justify the departure from the FSR development standard and it is recommended that a Clause 4.6 exception be granted.

**Request to waive preparation of a site specific development control plan**

117. Pursuant to clause 7.20 of SLEP 2012, development consent must not be granted to development on the subject site (as it is greater than 5000sqm) unless a site specific development control plan ("**site specific DCP**") has been prepared.
118. Clause 7.20(3) provides that a site specific DCP is not required to be prepared if the consent authority is satisfied that such a plan would be unreasonable or unnecessary in the circumstances.
119. The applicant has submitted that Council has exercised its ability to exempt the site from requiring the preparation of a development control plan when it endorsed the Competitive Design Process brief and Design Alternatives Report which concluded that the winning scheme exhibited design excellence and a detailed DA be prepared. As such, the applicant requests that the site specific DCP requirement be waived.
120. The applicant's basic justification for waiving the DCP requirement is not sufficient to support a waiver, however, Council does consider that there are reasons as to why a site specific DCP would be unreasonable or unnecessary in these circumstances, which are outlined below:
- (a) SLEP 2012 was gazetted on 14 December 2012 which contains the core built form controls (FSR and building height). SDCP 2012 was formally adopted on 14 December 2012 which contains detailed design, environmental, infrastructure controls and locality statements. As these controls have been recently developed and adopted and relate to the site, an additional DCP that would reflect much of what is in these documents is considered unnecessary in this instance.
  - (b) The redevelopment of the site has been the subject of a Competitive Design Process, where five architects developed schemes for the site. The terms of the brief included that the schemes were to comply with SLEP 2012 and SDCP 2012. In preparing those schemes, the foremost considerations go to siting parameters, appropriate location for massing and modulation of buildings, provision of open space, site access, public domain interface and integrated landscape design. The outcome is a scheme that addresses the fundamental considerations that would be reflected in a DCP, as such, preparing a separate DCP is considered unnecessary.
121. For the abovementioned reasons, the preparation of a site specific DCP in this circumstance is considered unnecessary and recommend that the consent authority waive this requirement pursuant to clause 7.20(3) of SLEP 2012.

**Other Impacts of the Development**

122. The proposed development is capable of complying with the BCA.
123. 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**

124. 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**

125. The application was referred to Council's Urban Designer, Building Services Unit, Environmental Health Unit, Public Domain Unit, Specialist Surveyor, Transport and Access Unit, Tree Management Unit, Waste Management Unit, Childcare Services, Green Roofs and Walls Landscaping Unit and Safe City.
126. The conditions recommended by other sections of Council are considered reasonable and have been included in the proposed conditions, except the conditions recommended to retain Trees 7 and 12, which have been excluded for reasons outlined earlier in this report.

**EXTERNAL REFERRALS****NSW Office of Water**

127. The application was referred to the NSW Office of Water for assessment of the bulk excavation and requirement for an aquifer interference approval. General Terms of Approval (GTAs) were issued on 15 October 2013 and incorporated into Schedule 4 of the draft consent conditions.

**RailCorp**

128. Concurrence was granted by RailCorp on 10 December 2013, subject to conditions which have been incorporated into Schedule 3 of the draft consent conditions.

**Roads and Maritime Services**

129. The application was referred to the RMS as the development constitutes Traffic Generating Development and no objections were raised to the proposal, subject to standard considerations being undertaken by Council.

**Ausgrid**

130. The application was referred to Ausgrid who advised that the proposal is acceptable subject to the standard Electricity Substation condition be incorporated into the consent.

**Sydney Water**

131. The application was referred to Sydney Water as two drainage easements benefiting Sydney Water traverse the site in an east-west direction towards the southern end of the site. Advice received from Sydney Water indicates in principle approval of a "bridge" over the easement and establishing minimum clearances to its infrastructure. It is recommended that conditions are incorporated into the consent to ensure that no permanent structure is located within 1m from the external face of any stormwater pipe and require a Section 73 certificate to be obtained from Sydney Water.

**Notification and Advertising**

132. The application constitutes integrated development and, as such, the application was notified and advertised for 30 days between 15 August 2013 and 15 September 2013 in accordance with the provisions of the EP&A Regulation. As a result of this advertising period, eight (8) submissions were received, the content of which is detailed below.

(a) ***The 6 storey high buildings do not match surrounding buildings.***

**Response** – The proposal complies with the 22m building height development standard and 6 storey height in storeys control. The GSO buildings are 6 storeys high and comparable to the proposal where they abut at the eastern boundary. The single storey industrial warehouses adjacent to the site have a 6 storey high control applying to the site. The approved development at 356-378 George Street (diagonally opposite the site) is between 4 storeys and 6 storeys.

(b) ***The eastern end of proposed Building C is wider than the western end of the GSO building and will compromise the solar and visual amenity to existing units and the courtyard.***

**Response** – The proposal will cause overshadowing beginning at 1.30pm to three north facing apartments and part of the communal open space in the adjoining GSO complex. The extent of overshadowing is such that it does not reduce the solar access to the existing apartments and communal open space to below 2 hours direct sunlight between 9am and 3pm on 21 June. The wider portion of Building C, visible from the courtyard of the GSO building, is 8m wide and proposed as smooth precast finished in a light natural colour. This is considered to result in an acceptable visual impact when viewed from the courtyard and apartments in the GSO complex.

(c) ***A six story building would remove all views in a westerly direction from apartments in the GSO complex.***

**Response** – The proposed buildings will partly obstruct district views towards Botany Road from the upper level apartments in the GSO complex. Generally, views that are not significant city line views are not protected where the development complies with the relevant built form controls. The proposal is a complying built form and arranged in a manner to maximise separation between development. It is not an unreasonable expectation to have an outlook over a development of this nature considering the land zoning and supporting controls.

(d) ***An additional 177 cars will cause greater congestion.***

**Response** – A Traffic Impact Assessment was submitted with the application which concludes that the generated volumes of traffic will not unreasonably impact on the local road network.

- (e) ***What measures will be taken to minimise dust and noise during construction.***

**Response** – It is recommended conditions are imposed in the consent to require all dust control measures outlined in Section 8 of Construction & Environmental Management Plan, prepared by Green Square Consortium Pty Ltd, revision A, 22 August 2013 are adopted during the construction phase to minimise effect of dust.

It is also recommended that a site-specific noise management plan covering the excavation and construction noise be submitted to Council's Health and Building department for comment and written approval prior to Construction Certificate.

- (f) ***The new units will be looking into the west and north causing privacy impacts to the residents in the GSO complex.***

**Response** – The proposed dwellings are separated from the existing residential dwellings in the GSO complex by a minimum 45m, however, most are separated by 60m. The RFDC encourages a minimum of 18m separation to ensure adequate visual privacy, indicating that the proposed relationship between dwellings is optimal. The proposed courtyard level is a storey below the existing courtyard in the GSO complex, minimising any privacy impacts between the properties.

- (g) ***The proposed childcare centre will cause noise impacts and impact on local parking.***

**Response** – An Acoustic Report was submitted with the application which assesses external noise impact from the childcare centre. The report indicates that compliance with the noise criteria in the childcare centre is achievable. A Plan of Management and revision of the Acoustic Report would be necessary to provide further detail and demonstrate compliance as part of a future development application for the childcare centre.

The development is capable of providing the minimum 10 car parking spaces generated by the childcare centre, in the basement. Any proposal to locate parking on the street would be subject to further consideration and consultation by Council's Local Pedestrian, Cycling and Traffic Calming Committee.

- (h) ***The increase in population will cause an impact on local schools.***

**Response** – In order to address growing demand for childcare places in the Sydney region, the applicant was encouraged to provide a childcare centre into the development. A 58 place childcare centre is proposed as part of the subject application.

- (i) ***On the western boundary of the GSO building is an easement for drainage and egress. It is requested that the easement is in no way impeded, compromised and encroached upon during construction and suitable secure fencing, hoarding or the like should be provided by the developer to ensure this.***

**Response** – Standard conditions restricting encroachment and requiring the site to be secured by fencing/hoarding approved by Council form part of the consent conditions.

- (j) ***It is requested that the security systems and monitoring devices installed in the GSO complex are neither compromised, moved or disabled at any stage during demolition, construction or occupation of the development.***

**Response** – The development consent does not approve entry or moving of any device on the adjoining land.

- (k) ***No details of a common boundary fence(s) has been submitted.***

**Response** – Amended plans were submitted proposing a 2.4m high masonry wall (measured from the level of the adjoining land) along the common eastern boundary. It is recommended that a condition is imposed in the consent reflecting these specifications.

- (l) ***No plans have been provided detailing summer sun shadowing and times beyond 3pm.***

**Response** – The controls only require demonstration of solar access between 9am and 3pm on June 21 as this reflects the day of the year with the least sunlight hours (worst case scenario). Hours post 3pm are not taken into account as the strength of the sun begins to lessen, however, daylight continues post 3pm in mid-winter until sun set.

- (m) ***The southern building in the GSO complex has fixed glass tile windows on the western elevation and Building C will impact on the light to apartments on Ground, Level 1 and Level 3.***

**Response** – The fixed frosted glass windows are to three apartments where either a bathroom or internal stairway is located. Solar access to these areas is not protected under SDCP 2012 controls.

- (n) ***Consideration should be given to possible compensation arrangements that could be provided for "Loss of Rent" as Tenants may ask for a reduction in rent or move out, as a direct result and/or effect of the building works, for the period of the Construction term.***

**Response** – Arrangements of this nature are not within the ability and powers of Council. A civil agreement could be investigated between landowners to this effect.

- (o) ***The adjoining properties at 34-38 McEvoy Street and the GSO complex seek to ensure that there is no disruption to the structural condition of the buildings during the demolition and construction phases. It is requested that Dilapidation Report is carried out by an independent (third party) and cover the full construction program. It is also requested that the neighbours are notified and given the opportunity to review and approve stabilisation work programs and construction design drawings.***

**Response** – Previous development consent D/2012/1727 approved demolition of the existing warehouse and requires a dilapidation report is carried out prior to and upon completion of demolition. As this DA is for the excavation and construction of the buildings (no demolition), it is recommended that a dilapidation report is carried out upon completion of the excavation works and upon completion of the development. Council needs to be satisfied that the report is prepared by an appropriately qualified structural engineer and does not have the ability to enforce a separate process for engagement of a third party to undertake the report or require separate approval from a neighbour.

It is recommended that the dilapidation condition require the formal notification to all adjoining property owners, clearly advising what the process entails and the process for making a claim regarding property damage. 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.

- (p) ***Any notices, reports and/or distributed information sheets required by consent conditions should be forwarded to the neighbouring property owners.***

**Response** – This request is not within Council's powers through a consent condition. Access to information of this nature would need to be applied for through the established processes for accessing information under the relevant legislation.

- (q) ***To ensure there is no disruption to the adjoining business operation it is requested that vibration monitors with audible alarm if vibrations exceed a vibration velocity of 5mm/sec be installed and monitored on adjoining external wall.***

**Response** – It is recommended that the site-specific noise management plan covering the excavation and construction noise also cover vibration, and address measures to minimise impacts on neighbouring structures.

- (r) ***The air supply vents to the parking level are close to the eastern boundary and may cause visual and acoustic impacts.***

**Response** – The air supply vents are within the confines of the recreation pavilion and are not considered to result in any unreasonable visual or acoustic privacy impacts.

- (s) ***A nil setback to the common boundary with 34-38 McEvoy Street is proposed, it is requested that the development is shifted 1.5m from the common boundary to reduce potential for structural impacts and provide a deep soil landscape buffer between the two properties.***

**Response** – No setback control applies to common side boundaries, except the building separation distances between habitable rooms recommended in the RFDC. Considering that ample separation can be provided between the proposed and future dwellings on the adjoining property and more than required deep soil is proposed a setback to the boundary is not considered warranted. Basement excavation can occur on a boundary without structurally affecting adjoining property subject to recommended conditions.



- (t) ***The window openings to unit L101 and units above have windows within close proximity to the boundary and that redesign or fire rating of these windows would be required.***

**Response** – The project architect has advised that there are suitable alternative solutions under the BCA to ensure appropriate fire separation.

- (u) ***It is requested that Council consider the cranes requirements such that the cranes do not impact on daily lifestyle or amenity of adjoining residents during the construction phases.***

**Response** – Any use of a crane that operates on, over or above the public way requires a Crane Permit Application to be submitted and approved by Council. Such an application requires supporting documentation including a radius plan, Traffic/Pedestrian Control Plan, copy of Public Liability Insurance Certificate and a safe work method statement and/or Material Data Safety Sheets. This information can be accessed through the established processes for accessing information under the relevant legislation.

It is understood that by law, a live load (carrying of materials) cannot occur over an adjoining property, only from the public way into the site. There is the possibility (depending on the size of the crane) that the empty boom or counter weight could swing over adjoining property during night time hours and the operation must comply with the relevant WorkCover requirements.

## **PUBLIC INTEREST**

133. 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**

### **Affordable Housing Contributions**

134. The development is subject to the affordable housing contribution under clause 7.13 of SLEP 2012. The contribution is calculated based on:

- (a) \$136.87 per square metre of the total residential floor area (25,202sqm), plus  
(b) \$45.61 per square metre of the total non-residential floor area (692sqm)

135. The contribution equates to **\$3,480,959.74** which is payable to the NSW Department of Planning and Infrastructure prior to issue of a Construction Certificate

### **Section 94 Contributions**

136. The development is subject to development contributions under City of Sydney Development Contributions Plan 2006. The contribution is calculated based on the development's net increase in the resident and workforce population.

137. The residential population is proposed to increase by 232 dwellings and the employee population from the retail premises and child care centre is proposed to increase by 16 employees. A credit is available for the 153 existing workers under part 2.515 of the plan.

138. Based on the net increase in resident and net decrease in worker population, a contribution of **\$3,972,509.85**, which is payable to the Council prior to issue of the Construction Certificate, is applicable to the development.

### RELEVANT LEGISLATION

139. The *Environmental Planning and Assessment Act 1979* and the *Water Management Act 2000*.

### CONCLUSION

140. The proposed development is generally consistent with the core development standards and zone objectives contained in SLEP 2012. The development will provide ground level retail space and a childcare centre and contributes 232 residential apartments to the housing stock required for the incoming population anticipated for the Green Square locality.
141. The building design has been the subject of a competitive design process and represents a well resolved architectural design that adopts an appropriate form, scale and expression to the three street frontages and surrounding land. The design provides generous setbacks for landscaping to improve and enhance the public domain and proposes large communal areas for private recreation.
142. The development performs against the relevant built form controls in SDCP 2012 and design principles in SEPP 65. A good level of internal amenity is afforded to future residents and is maintained to adjoining residential apartments.
143. The proposal seeks to maximise and slightly exceed the permitted floor space on the land by undergoing a competitive design process and providing community infrastructure. The minor exception to the FSR development standard is assessed to be acceptable in this circumstance as the proposed FSR is consistent with the draft FSR development standard for the site.
144. The development demonstrates that the design excellence objectives are achieved and an additional 10% of floor space can be awarded by the consent authority in this instance.
145. The application was accompanied by a public benefit offer for land dedication, embellishment and a monetary contribution to be allocated toward infrastructure within Green Square Town Centre. A draft Planning Agreement has been prepared to secure the provision of the community infrastructure. The terms of the planning agreement have been publically exhibited between 16 January 2014 and 14 February 2014, and at the time of preparing this report no submissions had been received.
146. The requirement for a site specific DCP has been assessed as unnecessary in this circumstance given that there are recently adopted built form standards and controls for the site and the considered site planning undertaken during the site specific competitive design process.

### GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Amy Allen, Senior Planner)