

**ITEM 4. DEVELOPMENT APPLICATION: 355 BOTANY ROAD ZETLAND****FILE NO: D/2013/1423****DEVELOPMENT APPLICATION NO: D/2013/1423****SUMMARY****Date of Submission:** 19 September 2013**Applicant:** Green Square Consortium Pty Ltd**Architect:** Mirvac Design**Developer:** Mirvac**Owner:** UrbanGrowth NSW**Cost of Works:** \$91,834,178

**Proposal Summary:** The proposal comprises the construction of a 10 storey mixed use development including basement car parking for 138 vehicles, ground floor retail space including a supermarket and 174 residential units within the podium levels and two towers.

Whilst the site is known as 355 Botany Road, Zetland the proposal is at the north-eastern corner of that property and is one of three development parcels within the property.

The proposal complies with the building envelopes established by the planning controls. The proposed building height is compliant with the maximum building height control. The maximum floor space ratio (FSR) is applied across several sites within the same ownership and will be assessed cumulatively.

The proposal has been amended to address concerns from Council Officers relating to natural cross ventilation within the apartments, materials and finishes along the north-eastern laneway and the provision of useable common open space.

**Proposal Summary:**  
(continued)

The DA was initially notified for 30 days from 1 October 2013 to 1 November 2013. Seven submissions were received, with concerns raised including building height, overshadowing, overlooking and insufficient car parking. The DA was renotified for 14 days from 4 March 2014 to 19 March 2014. Two further submissions were received, with concerns raised regarding no provision of public open space on the site and a misunderstanding that vehicle access would be from the existing residential streets to the north-east. Council Officers are satisfied that the concerns identified have been addressed or are capable of being addressed through conditions of consent.

**Summary Recommendation:**

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

**Development Controls:**

- (i) Sydney Local Environmental Plan (Green Square Town Centre 2013 (Gazetted 13 September 2013)
- (ii) Green Square Town Centre Development Control Plan 2012 (in force on 24 April 2012, as amended)
- (iii) Green Square Affordable Housing Development Control Plan (in force on 10 September 2002)
- (iv) State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (Gazetted 26 July 2002, as amended)
- (v) State Environmental Planning Policy No. 55 – Remediation (Gazetted 28 August 1998, as amended)
- (vi) State Environmental Planning Policy (Infrastructure) 2007
- (vii) State Environmental Planning Policy (BASIX) 2004 (Gazetted 25 June 2004, as amended)

**Attachments:**

A - Selected Drawings

**RECOMMENDATION**

It is resolved that consent be granted to Development Application No. D/2013/1423, subject to the following conditions:

**SCHEDULE 1A****Approved Development/Design Modifications/Covenants and Contributions/Use and Operation**

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

**(1) APPROVED DEVELOPMENT**

- (a) Development must be in accordance with Development Application No. D/2013/1423 dated 19 September 2013 and the following drawings:

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA16_01 Location and Site Plan Rev B	Mirvac Design	28.02.14
DA16_02 Site Analysis Plan Rev B	Mirvac Design	28.02.14
DA16_03 Level 1 Context Plan Rev B	Mirvac Design	28.02.14
DA16_04 Level 2 Context Plan Rev B	Mirvac Design	28.02.14
DA16_05 Basement 2 Floor Plan Rev B	Mirvac Design	28.02.14
DA16_06 Basement 1 Floor Plan Rev B	Mirvac Design	28.02.14
DA16_07 Ground Floor Plan Rev B	Mirvac Design	28.02.14
DA16_08 Mezzanine Level Rev B	Mirvac Design	28.02.14
DA16_09 Level 2 Floor Plan Rev B	Mirvac Design	28.02.14

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA16_10 Level 3 Floor Plan Rev B	Mirvac Design	28.02.14
DA16_11 Level 4 Floor Plan Rev B	Mirvac Design	28.02.14
DA16_12 Level 5 Floor Plan Rev B	Mirvac Design	28.02.14
DA16_13 Level 6 Floor Plan Rev B	Mirvac Design	28.02.14
DA16_14 Level 7 Floor Plan Rev B	Mirvac Design	28.02.14
DA16_15 Level 8 Floor Plan Rev B	Mirvac Design	28.02.14
DA16_16 Level 9 Floor Plan Rev	Mirvac Design	28.02.14
DA16_17 Level 10 Floor Plan Rev	Mirvac Design	28.02.14
DA16_18 Roof Plan Rev B	Mirvac Design	28.02.14
DA16_20 Elevation – North Rev B	Mirvac Design	28.02.14
DA16_21 Elevation – South Rev B	Mirvac Design	28.02.14
DA16_22 Elevation – East/West Rev	Mirvac Design	28.02.14
DA16_25 Section A Rev B	Mirvac Design	28.02.14
DA16_26 Section B Rev B	Mirvac Design	28.02.14
DA16_40 Façade Elevations Sheet 1 Rev B	Mirvac Design	28.02.14

Drawing Number	Architect	Date
DA16_41 Façade Elevations Sheet 2 Rev B	Mirvac Design	28.02.14
DA16_42 Façade Elevations Sheet 3 Rev B	Mirvac Design	28.02.14
DA16_43 External Finishes Board Rev B	Mirvac Design	28.02.14
DA16_45 Adaptable Apartments Rev B	Mirvac Design	28.02.14
DA16_46 Adaptable Apartments Rev B	Mirvac Design	28.02.14
DA16_47 Adaptable Apartments Rev B	Mirvac Design	28.02.14

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) VOLUNTARY PLANNING AGREEMENT**

The development must be carried out in accordance with all of the obligations referenced within the Voluntary Planning Agreement referenced *Planning Agreement: Green Square Town Centre – LML Development* executed on 20 August 2013 and entered into by Green Square Consortium Pty Ltd and Landcom.

**(3) DESIGN MODIFICATIONS**

The design of the building must be modified as follows:

- (a) The north-eastern elevation is to incorporate a revised facade treatment across the entire elevation consistent with achieving design excellence which softens the appearance of the development from the existing residential neighbourhood to the north-east. Glass and facade colours, patterns and finishes, balcony planters, climbing systems, green walls and the like are to be developed and incorporated;

- (b) Improvements to the cross ventilation of apartments are to be incorporated through ventilation chimneys and other means;
- (c) Ground floor awnings are to be continuous along the street frontage and coordinated with the City's Green Square Infrastructure design for street trees and street lighting;
- (d) Ground floor awnings along Barker Street shall be extended to cover the bike parking entry;
- (e) Security gates are to be included at the residential lobbies which are capable of remaining open during the day and locked during the night. The design of the gates is to be as lightweight and open as possible;
- (f) A second metal roller door to the loading dock is not approved and notations for this shall be deleted from the detailed West Elevation;
- (g) The separate toilets and end-of-trip showers associated with the bike parking on the ground floor shall be combined;
- (h) One bulky goods waste storeroom shall be included within the basement levels per residential tower; and
- (i) A loading bay suitable for use by couriers, vans, wagons and cars shall be included in the eastern half of the basement levels for use by the eastern tower residents. The space shall have minimum dimensions of 2.6m x 5.4m and a minimum head clearance of 2.5m and be close to the car park entry. The space may be included in, or additional to, the maximum car parking provision set out in Condition 26.

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

#### **(4) PORTMAN LANE FRONTAGE**

The design concept lodged for the Portman Lane frontage (Drawing DA16\_48) is not approved. A revised Portman Lane treatment is required to be approved by the Director City Planning, Development and Transport prior to a Construction Certificate being issued.

#### **(5) LANDSCAPING OF THE SITE**

- (a) A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by the 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 site including existing trees (if applicable);
  - (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
  - (iii) Location, numbers and type of plant species;

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

**(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 Mirvac Design dated 28 February 2014.

**(7) SUBDIVISION – SEPARATE DA REQUIRED**

Any proposal to subdivide the site including subdivision to separate in Title the components and uses of the building will require separate applications to Council to obtain development consent and subsequent issue of the Subdivision Certificate under Part 4A of the *Environmental Planning and Assessment Act 1979*.

**(8) STRATA SUBDIVISION – SEPARATE DA OR CDC REQUIRED**

Any proposal to Strata subdivide the building, or part thereof, will require separate applications to obtain development consent or a Complying Development Certificate and subsequent issue of the Subdivision Certificate by Council or an accredited Strata certifier under the Strata Schemes (Freehold Development) Act 1993.

**(9) SIGNAGE STRATEGY**

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

**(10) BUILDING HEIGHT**

- (a) The height of the building must not exceed RL 55.55 (AHD) to the top of the building and RL 51.85 (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.

**(11) FLOOR SPACE RATIO**

The following applies to Floor Space Ratio:

- (a) The Gross Floor Area of the business component is 2,288.42sqm, for the residential component is 15,294.99sqm, and the total Gross Floor Area is 17,583.41sq m.
- (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 (Green Square Town Centre) 2013, applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.

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

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the building must be used as permanent residential accommodation only and not for the purpose of a hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with the *Sydney Local Environmental Plan 2012*.
- (b) 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.
- (c) The total number of adults residing in one unit shall not exceed twice the number of approved bedrooms.
- (d) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (e) 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.
- (f) Car parking spaces may only be used for parking of vehicles related to residents of the unit with which the space is associated. No storage should take place for commercial businesses in car parking spaces.

## **(13) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL**

The following conditions apply to car parking:

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



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

In accordance with Clause 6.5 of *Sydney Local Environmental Plan (Green Square Town Centre) 2013*, 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 \$2,680,209 based on the in lieu monetary contribution rate for non-residential development at \$50.05 per square metre of total non-residential floor area 2,357.07sqm, and for residential development at \$150.20 per square metre of total residential floor area 17,058.84sqm. 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 2014 to 28 February 2015, the amount of the contribution will be indexed in accordance with the formula set out below.

Notes:

(a) Applicants have two payment options:

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

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

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

(b) Applicants are made aware that the contribution amount quoted in this condition may not be final and that a correct indexed affordable housing contribution amount can be obtained from the relevant Form A, B or C at time of payment.

- (c) Forms A, B or C for payment of the affordable housing contribution can only be obtained from the City of Sydney, 456 Kent Street, Sydney. Quote the development application number and the relevant Council officer will provide the applicant with an indexed contribution amount which must be paid at the Department of Planning. To arrange payment, contact the Housing Policy Team, NSW Department of Planning on Ph: 9228 6111 or Fax: 9228 6455 to arrange a time for payment.
- (d) The contribution will be indexed on the basis of the Established House Price Index for Sydney as published by the Australian Bureau of Statistics.
- (e) Contributions at Time of Payment =  $C \times \text{HPI}_2 / \text{HPI}_1$ , where:
  - (i) C is the original contribution amount as shown above;
  - (ii)  $\text{HPI}_2$  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)  $\text{HPI}_1$  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 2014 to 28 February 2015.

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 (\$)).

#### **(15) ROADS AND MARITIME SERVICES CONDITIONS**

- (a) The layout of the proposed car parking areas, loading docks and access driveway associated with development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1 – 2004.
- (b) The developer shall be responsible for all public utility adjustments/relocation works, necessitated by the development and as required by the various public utility authorities and/or their agents.
- (c) All works / regulatory signposting associated with the proposed development shall be at no cost to the RMS.

#### **(16) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION**

Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the *Heritage Act 1977*.

Should any Aboriginal relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance of the area is to stop immediately and the Office of Environment and Heritage is to be informed in accordance with Section 91 of the *National Parks and Wildlife Act, 1974*.

**(17) SYDNEY AIRPORT CORPORATION APPROVAL**

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

**(18) DESIGN OF WASTE FACILITIES**

- (a) Clearance height for access by collection vehicles must be no less than 3.8m at any one point.
- (b) The maximum travel distance between the waste storage point and collection point for all waste and recycling receptacles shall be no more than 10 metres.
- (c) Unimpeded access shall be provided for waste collection vehicles between 6am and 6pm on collection days.

**(19) ALLOCATION FOR CAR WASH BAYS**

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

**(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) 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".

**(23) BICYCLE FACILITIES**

The female facilities room is to include a minimum of:

- (a) 1 shower with change area;
- (b) Toilet facilities; and
- (c) 8 personal lockers.

The male facilities room is to include a minimum of:

- (d) 1 shower with change area;
- (e) Toilet facilities; and
- (f) 8 personal lockers.

#### **(24) BICYCLE PARKING**

A minimum of 212 bicycle parking spaces are to be provided – 174 for residents, 10 for retail staff and 28 for visitors (retail and residential). A minimum of 28 visitor bicycle parking spaces shall be provided at the ground floor level or in the public domain immediately surrounding the site at the developer's cost. The Applicant is to liaise with the Council's Green Square Infrastructure team regarding the location and design of visitor bike parking within the public domain.

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.

The staff bicycle parking area is to be accessible to staff only.

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

A maximum of 138 off-street car parking spaces must be provided, including a maximum of 127 for residents, a maximum of 9 for retail staff and a minimum of 2 car share spaces.

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.

**(26) CAR SHARE SPACES**

- (a) A minimum of 2 car parking spaces for the exclusive use of car share scheme vehicles are to be provided. A revised basement plan showing these spaces must be approved prior to a Construction Certificate being issued.
- (b) The spaces must be retained as common property of the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time.
- (c) The spaces must be made available to car share operators without a fee or charge.
- (d) The spaces must be sign posted for use only by car share vehicles and be well lit.
- (e) The spaces must be publicly available at all times.
- (f) The car share spaces are to be available at the same time that the development is first occupied by retail or residential uses.

**(27) 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.

**(28) 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.

**(29) INTERCOM FOR VISITORS**

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

**(30) LOADING WITHIN SITE**

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

**(31) 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.

**(32) 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.

**(33) MOTORCYCLES**

An area equivalent to a minimum of 2 car spaces must be provided for motorcycles.

**(34) 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.

**(35) 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.

**(36) 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.

**(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) 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.

**(39) 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.

**(40) 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.

**(41) VEHICLE ACCESS**

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

**SCHEDULE 1B****Prior to Construction Certification/Commencement of Work/Health and Building**

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

**(42) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA**

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

**(43) 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).

**(44) NOTIFICATION OF EXCAVATION WORKS**

The Principal Certifying Authority and Council must be given a minimum of 48 hours notice that excavation, shoring or underpinning works are about to commence.

**(45) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS**

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

- (a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (b) The notice is to be durable and weatherproof and is to be displayed throughout the construction period;
- (c) A copy of the first page of the development approval, building approval (including any modifications to those approvals) and any civic works approvals is to be posted alongside the notice in weatherproof casing;
- (d) The approved hours of work, the Principal Certifying Authority including contact address and certification details, the name of the site manager, the responsible managing company, its address and 24 hour contact phone number for any enquiries, including construction/noise complaint, are to be displayed on the site notice; and



- (e) The notice(s) is to be mounted at eye level on the perimeter hoardings and is also to state that unauthorised entry to the site is not permitted.

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

All new street trees planted adjacent to the site must be protected at all times during 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.

**(47) CONSTRUCTION LIASION COMMITTEE**

- (a) Prior to the commencement of any work, a Construction Liaison Committee is to be established by the developer to ensure that demolition and construction related impacts (including construction noise and vibration, loading, issues associated with construction workers and vehicles, traffic issues and management of the construction site) can be dealt with expeditiously and co-operatively.
- (b) The Committee is to be comprised of interested parties representing potentially affected properties adjacent to and surrounding the site and any interested group. A nominated representative of the Council may be an observer from time to time.
- (c) The Committee shall meet prior to the commencement of works on the site and prior to the submission of the final Construction Management Plan to Council to address initial areas of concern, and then at monthly intervals or as considered appropriate by the Committee throughout the construction process.
- (d) Prior to the commencement of work, the Site Manager is to provide the members of the Committee and Council with 24 hour contact details (including location of site offices and a 24 hour phone number) to ensure that any matters which arise during the construction process are addressed immediately. The Site Manager shall be available during normal business hours to provide information to the public about activities on site and to bring any complaints to the attention of the Applicant.
- (e) A register of all complaints shall be kept by the Applicant throughout the duration of the project and shall be made available to Council Officers on request.
- (f) The Committee meetings are to be recorded/minuted and such records/minutes are to be provided to Council within 14 days of the meeting.

- (g) The first Committee meeting should establish Terms of Reference, including purpose, size and membership, quorum, meeting frequency and duration, procedures for meetings, recording/distribution of comments and outcomes and the like.
- (h) The initial call for resident/worker nominations to be sent to the adjacent and adjoining property owners and tenants must be submitted to and approved by the Director City Planning, Development and Transport prior to sending.
- (i) The Site Manager is to inform each Committee meeting about the construction program, progress reports and impending work.

**(48) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

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

**(49) SWEPT PATH ANALYSIS**

The Applicant must submit a swept path analysis to the Principal Certifying Authority prior to the issue of a Construction Certificate showing how the largest vehicle will enter and exit the site within the designated roadway.

The swept paths are to be based on the most recent drawings from the Green Square Essential Infrastructure Package.

**(50) 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.

**(51) ASSOCIATED ROADWAY COSTS**

All costs associated with the construction of any new road works following any disturbance to the Green Square Essential Infrastructure public domain works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new works must be designed and constructed in accordance with the City's "Development Specification for Civil Works Design and Construction".

**(52) FOOTPATH DAMAGE BANK GUARANTEE**

A Footpath Damage Bank Guarantee calculated on the basis of 180 lineal metres of the concrete paver 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.

**(53) 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.
- (d) Where the Public Domain works are being delivered by the City of Sydney, the City's approved alignment levels are to be adopted and included in the submission. Adjustment to the approved alignment levels is not permitted except where approved by the Director City Planning, Development and Transport.

**(54) PUBLIC DOMAIN PLAN**

Three copies of a detailed Public Domain Plan for the Portman Lane frontage 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.

**(55) 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.

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

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

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

The form of the recording is to be as follows:

- (a) A PDF format report containing all images at a scale that clearly demonstrates the existing site conditions;
- (b) Each image is to be labelled to identify the elements depicted, the direction that the image is viewed towards, and include the name of the relevant street frontage;
- (c) Each image is to be numbered and cross referenced to a site location plan;
- (d) A summary report, prepared by a suitable qualified professional, must be submitted in conjunction with the images detailing the project description, identifying any apparent existing defects, detailing the date and authorship of the photographic record, the method of documentation and limitations of the photographic record; and

- (e) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

#### **(57) 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.

#### **(58) 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).

**(59) ESSENTIAL INFRASTRUCTURE COORDINATION**

Where Public Domain frontages and other essential infrastructure required to service the development are to be delivered by the City of Sydney, those works are to co-ordinated with the City's Green Square Team to ensure that they will be delivered prior to the first Occupation Certificate for the building.

Prior to a Construction Certificate being issued for any new building work excluding approved preparatory demolition or shoring work, confirmation of the design of all works by the City is to be submitted in conjunction with the submission of the Public Domain Plan, Alignment Levels and Stormwater conditions.

All costs associated with the construction of any temporary Essential Infrastructure works including kerb and gutter, road pavement, drainage system, footway, tree planting, landscaping and utilities shall be borne by the developer.

**(60) LAND REMEDIATION**

- (a) The site is to be remediated and validated in accordance with the Overarching Remediation Action Plan (RAP) – Green Square Town Centre, prepared by ENVIRON Australia Pty Ltd, October 2013, Project Number AS121555, Audit Number BN473.
- (b) Any variations to the proposed Remediation Action Plan shall be approved in writing by a NSW EPA Accredited Site Auditor and Council prior to the commencement of such work.
- (c) Prior to the exportation of waste (including fill or soil) from the site the material should be classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and NSW EPA Environmental Guidelines Assessment, Classification and Management of Non-Liquid Wastes. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporter if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste, advice should be sought from the EPA.

**(61) SITE AUDIT STATEMENT**

- (a) Prior to the execution of works associated with the built form of the development (excluding building work directly related to remediation) a Section A Site Audit Statement from a NSW EPA Accredited Site Auditor is to be submitted to Council's Health and Building Unit clearly indicating that the site is suitable for the proposed use. Conditions on the Site Audit Statement shall form part of the consent.

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

**(62) 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, NSW Work Cover Authority pursuant to the provisions of the following

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

**(63) 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.

**(64) CONTAMINATED WASTE**

The generation, storage, transport, treatment or disposal of industrial, hazardous or Group A liquid waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997 and the NSW Department of Environment and Climate Change and Water (DECCW) waste tracking requirements.

The generation, storage, transport, treatment or disposal of industrial, hazardous or Group A liquid waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997 and the NSW Department of Environment Climate Change and Water (DECCW) waste tracking requirements. For further information contact DECCW on 131 555.

**(65) 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) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal work area should be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.
- (e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance.
- (f) 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.
- (g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).
- (h) No asbestos laden skips or bins are to be left in any public place without the approval of Council.
- (i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:



- (i) contact person for the site;
- (ii) telephone and facsimile numbers and email address; and
- (iii) site activities and time frames.

**(66) 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.

**(67) 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.

**(68) COVERING OF LOADS**

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

**(69) 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 August 2013, shall form part of this consent.

**(70) 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.

**(71) 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 exceedances 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. 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.

## **(72) 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) 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) 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.
  - (iii) 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

- (iv) 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.

#### **Commercial premises**

- (c) 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 commercial premises provided that:
  - (i) The LAeq,15minute noise level and the LA90,15minute noise level shall both be measured with all external doors and windows of the commercial premises closed.
  - (ii) The LA90,15minute noise level shall be measured in the absence of noise emitted from the use but with the ventilation equipment (including air-conditioning equipment) normally servicing the commercial premises operating.
  - (iii) The use of the premises shall be controlled so that any emitted noise is at a level so as not to create an "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any affected residence.
  - (iv) In this clause, the term "noise level emitted from the use" means the contributing noise level from the use in isolation to any other ambient noise and account must therefore be taken of the LAeq,15minute when the use is not in operation.
  - (v) In circumstances where this development application refers to a modification or addition to an existing use, the background noise level referred to in this clause pertains to the LA90, 15-minute noise level measured in the absence of all noise from the site.

#### **(73) 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 1:00pm– 4:30pm Mondays to Friday;
  - (ii) 9:00am – 1:00pm on Saturdays; and
  - (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.

#### **(74) COMPLIANCE WITH ACOUSTIC REPORT**

All recommendations contained in the Acoustic Report – Green Square Town Centre Redevelopment Project Site 16 A & 16 B, prepared by Acoustic Logic, Project Number 20130607.1/0821A/R1/TT, Revision 1, 2/09/13 must be implemented during construction and use of the premises, including the following:

- (a) 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 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.

#### **(75) 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.

#### **(76) 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*.

**(77) NOISE – MECHANICAL PLANT AND EQUIPMENT**

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

- (a) Transmission of “*offensive noise*” as defined in the *Protection of the Environment Operations Act 1997* to any affected receiver;
- (b) A sound pressure level at the boundary of any affected receiver that exceeds the background (L<sub>A90, 15minutes</sub>) noise level by more than 5dB. The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard AS1055.

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

**(78) 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 and proposed loading dock 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.

**(79) 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.

**(80) 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:
- (d) 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.
- (e) 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.

**(81) 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.

**(82) WASTE AND RECYCLING COLLECTION, DELIVERIES & LOADING DOCK AREA**

- (a) The collection of waste, recycling and or deliveries (to include use of loading dock) 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.

**(83) RE-USE OF ROOF RAINWATER**

- (a) Use
  - (i) Rainwater is only to be collected from roof catchments and its use is restricted to toilet flushing, washing cars, garden use and for washing machines only.
- (b) Installation requirements
  - (i) All plumbing work is to be carried out by a licensed plumber and must be carried out in accordance with AS/NZS 3500. A permit in accordance with the NSW Code of Practice - Plumbing and Drainage 2006 (as amended) is to be obtained from Sydney Water for the work to be carried out.
  - (ii) Rainwater tanks shall be designed to include, but not be limited to the following:
    - a. Shall be fitted with a first flush device.
    - b. Openings being suitably sealed to prevent access by children and being fitted with a fine mesh screens in order to prevent penetration of contaminants and insects such as mosquitoes.
    - c. All gutters, downpipes and associated supply pipe work must be free draining to prevent ponding of rainwater and made of suitable non corrodible materials.
    - d. Shall have an overflow device fitted to the rainwater tank which directs to the existing stormwater drainage system, and shall have a suitable drainage system fitted that facilitates flushing and cleaning.
    - e. Shall have all taps and outlets marked "non potable - not for drinking" on a permanent sign and all pipes are to be coloured 'green' in accordance with AS 1345 / AS 2700.
    - f. A suitable back up water supply using potable water must be provided to ensure that essential services such as toilet flushing are not contradicted where there is inadequate rainfall to meet demand or the rainwater harvesting system fails.
    - g. Where a rainwater tank is to be directly cross connected with the Sydney Water supply, an appropriate testable device shall be provided at the meter location on the potable water supply to prevent backflow of rainwater. This device must meet the requirements of Sydney Water.





**(85) 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.

**(86) TREES APPROVED FOR REMOVAL**

- (a) All trees detailed in the Arborist Report prepared by 'Tristan Bradshaw' dated 20.8.2013 are approved for removal following the issue of a Construction Certificate or prior to preparatory earthworks and excavation, whichever occurs first.
- (b) All trees approved for removal shall remain in situ for as long as possible and shall not be removed until the Construction Certificate has been issued or preparatory earthworks and excavation are to about to commence.

**(87) ADAPTABLE HOUSING**

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

- (a) confirming that the required number of residential units are able to be adapted for people with a disability in accordance with the Green Square Town Centre Development Control Plan 2012; and
- (b) demonstrating (in a checklist) compliance with Australian Standard AS4299

is to be submitted to the Certifying Authority.

**(88) CONNECTION TO NON-POTABLE RECYCLED WASTE NETWORK**

Prior to the issue of a Construction Certificate and in accordance with the Voluntary Planning Agreement between Council and Green Square Consortium Pty Ltd, the applicant shall submit a plan for the approval by the Council that provides for a connection to the non-potable recycled water network in the street.

**(89) EROSION AND SEDIMENT CONTROL - BETWEEN 250 AND 2,500SQM**

Prior to the commencement of demolition/excavation/construction work, an Erosion and Sediment Control Plan (ESCP) must be submitted to and be approved by the Principal Certifying Authority. The ESCP must:

- (a) Conform to the specifications and standards contained in Managing Urban Stormwater: Soils and Construction (Landcom, 2004); the Guidelines for Erosion and Sediment Control on Building Sites (City of Sydney, 2004); and the NSW Protection of the Environment Operations Act 1997.

- (b) Include a drawing(s) that clearly shows:
  - (i) location of site boundaries and adjoining roads;
  - (ii) approximate grades and indications of direction(s) of fall;
  - (iii) approximate location of trees and other vegetation, showing items for removal or retention;
  - (iv) location of site access, proposed roads and other impervious areas;
  - (v) existing and proposed drainage patterns with stormwater discharge points; and
  - (vi) north point and scale.
- (c) Specify how soil conservation measures will be conducted on site including:
  - (i) timing of works;
  - (ii) locations of lands where a protective ground cover will, as far as is practicable, be maintained;
  - (iii) access protection measures;
  - (iv) nature and extent of earthworks, including the amount of any cut and fill;
  - (v) where applicable, the diversion of runoff from upslope lands around the disturbed areas;
  - (vi) location of all soil and other material stockpiles including topsoil storage, protection and reuse methodology;
  - (vii) procedures by which stormwater is to be collected and treated prior to discharge including details of any proposed pollution control device(s);
  - (viii) frequency and nature of any maintenance program; and
  - (ix) other site-specific soil or water conservation structures.

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

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

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

- (a) Prior to a Construction Certificate being issued, the following documents must be submitted to the Certifying Authority (CA) and a copy to Council (if Council is not the CA):
  - (i) Dilapidation Report of adjoining buildings/structures.
  - (ii) Evidence that public utility services have been investigated.
- (b) If adjoining a Public Way:
  - (i) Evidence of a \$10 million dollar public liability insurance policy specifically indemnifying the City of Sydney, valid for at least the duration of the project. The original document must be submitted to Council.
  - (ii) Bank guarantee in accordance with the Council's fees and charges. The original document must be submitted to Council.
- (c) Prior to commencement of work:
  - (i) The location of utility services must be fully surveyed and the requirements of the relevant public utility authority complied with; and
  - (ii) The following documents must be submitted to and approved by the Principal Certifying Authority (PCA) and a copy to Council (if Council is not the PCA):
    - a. Structural drawings and certification as prescribed elsewhere in this consent.
    - b. Geotechnical report and certification as prescribed elsewhere in this consent.
- (d) Prior to issue of Occupation Certificate, the Principal Certifying Authority must receive written and photographic confirmation that the restoration of the public way has been complete in accordance with the following:
  - (i) All ground anchors must be de-stressed and isolated from the building prior to completion of the project.
  - (ii) The temporary structure, including foundation blocks, anchors and piers must be removed above and below the public way, prior to completion of project, down to a depth of 2m.
  - (iii) All timber must be removed.
  - (iv) All voids must be backfilled with stabilised sand (14 parts sand to 1 part cement).
  - (v) All costs for any reinstatement of the public way made necessary because of an unstable, damaged or uneven surface to the public way must be borne by the owner of the land approved for works under this consent.

- (e) The Bank Guarantee may be released after the Principal Certifying Authority submits certification to Council that all the works described in (d) above have been completed and that there is no remaining instability, damage or unevenness to the public domain as a result of the development. This certification is to include relevant photographs and must be to the satisfaction of the Council's Director City Planning, Development and Transport.

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

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

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

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

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

**(92) BARRICADE PERMIT**

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

**(93) 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.

**(94) 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.

**(95) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION**

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

## UPON COMPLETION OF EXCAVATION/DEMOLITION

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

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

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

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

- (a) The Waste Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste Management Plan is to be submitted to and approved by Council prior to a Construction Certificate being issued. The plan must comply with the Council's Policy for Waste Minimisation in New Developments 2005. All requirements of the approved Waste Management Plan must be implemented during construction of the development.
- (c) The building must incorporate designated areas or separate garbage rooms constructed in accordance with Council's Policy for Waste Minimisation in New Developments 2005, to facilitate the separation of commercial waste and recycling from residential waste and recycling.

## UPON COMPLETION OF THE DEVELOPMENT

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

**SCHEDULE 1C****During Construction/Prior to Occupation/Completion****(97) 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.

**(98) PUBLIC ROAD DEDICATION**

Prior to the issue of an Occupation Certificate for the development all roads providing frontage to the development site, being part of Tweed Place, Ebsworth Street and Barker Street, are to be dedicated as Public Road.

**(99) 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.

**(100) GREEN TRAVEL PLAN**

A Green Travel Plan must be submitted to and approved by Council prior to the Occupation Certificate for the site/use being issued.

The Green Travel Plan is to address all users of the site – including residents, retail staff and retail customers.

Note: It is recommended that the Applicant contact a member of the Transport and Access Unit to discuss the Green Travel Plan with Council prior to its submission.

**(101) LOADING DOCK MANAGEMENT PLAN**

A Loading Dock Management Plan is to be submitted to Council and approved prior to an Occupation Certificate being issued.

The Plan should identify how the loading dock will be managed and used by all retail tenants, not just the supermarket. The Plan must include, but is not limited to, management of deliveries to ensure there is no requirement for any service vehicles to wait on public streets to enter the site.

Once approved, this management plan will need to be provided to all tenants and external users of the loading area.

**(102) 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.

**(103) 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.

**(104) BASIX**

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

**(105) HOURS OF WORK AND NOISE – OUTSIDE CBD**

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

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".

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

**(106) 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.

**(107) SHOP NUMBERING**

Shops not having a direct street frontage, such as individual food businesses within a food court must have their shop number clearly displayed and visible at all times on the shop front.

**(108) 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.

**(109) CONNECTION TO SEWERS OF SYDNEY WATER CORPORATION**

Waste water 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.



**(110) NOTICE TO PRINCIPLE CERTIFYING AUTHORITY REGARDING RECYCLED WATER CONNECTION**

A Compliance Certificate issued by Green Square Water shall be provided to the Principle Certifying Authority prior to the issue of any Occupation Certificate.

**(111) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

**(112) 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.

**(113) 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.

**(114) VEHICLE CLEANSING**

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

**(115) 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.

#### **(116) 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.

#### **(117) 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.**

## **SCHEDULE 3**

### **Terms of Approval**

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

#### General

1. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
2. The design and construction of the 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.
3. Construction methods and material used in and for construction shall not cause pollution of the groundwater.

#### Prior to excavation

4. Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken and a report provided to the NSW Office of Water. A schedule and indicative plans of the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.
5. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the calculation method shall be included in the report.
6. A copy of a valid development consent for the project shall be provided to the NSW Office of Water.

7. Groundwater quality testing shall be conducted and a report supplied to the NSW Office of Water. Samples must be taken prior to the commencement of pumping, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
8. The method of disposal of pumped water shall be nominated (i.e. street drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (tailwater) must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
9. Contaminated groundwater shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water (tailwater) that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### During excavation

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

Following excavation

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

## BACKGROUND

### The Site and Surrounding Development

1. The site comprises 355 Botany Road, Zetland and lies towards the north-eastern corner of the Green Square Town Centre. It has an area of approximately 14,220sq.m and a rectangular shape. It has frontage to Botany Road in the south-west and Portman Lane in the north-east.
2. Whilst the site is known as 355 Botany Road, Zetland the proposal is only at the north-eastern corner of that property and will be bounded on all four sides by existing and future roads. In particular, the primary frontage of the development will be to a portion of Ebsworth Street, a major retail 'high street' for the town centre due to be constructed in 2014/15.
3. The site is currently vacant and was previously used for the South Sydney Council Depot and Incinerator which contained a large rubbish pit excavated into the ground and a 20 storey high incinerator stack.
4. Due to the topography of the site, there is a level difference of approximately 3m (which is the equivalent of one storey) between the north-eastern edge and the south-west edge of the site.
5. Surrounding land uses are residential and industrial.
6. The site is not a heritage item and not within a heritage conservation area. However, the site is immediately south-west of the Portman Street Heritage Conservation Area under the Sydney Local Environmental Plan 2012. The Conservation Area contains one and two storey terrace dwellings.
7. The surrounds of the site are set to undergo a radical transformation over the next 10-20 years as the development of the Green Square Town Centre takes shape. The town centre covers an area of 13.74 hectares in some of Sydney's oldest industrial districts. The town centre comprises 15 allotments, including several large lots owned by State and local public authorities. These 15 allotments have been earmarked for 19 development sites within the applicable planning controls. The subject site is identified as 'Development Sites 16A and 16B'.
8. Development Sites 16A and 16B have a combined area of approximately 4,032sq.m.
9. A site visit was carried out on 25 November 2013.
10. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of site and surrounding area



Figure 2: Aerial perspective of site relative to Green Square Town Centre boundaries



**Figure 3:** Looking north-west from Portman Lane across site



**Figure 4:** Looking east from Botany Road towards site





**Figure 5:** Looking north-west along Portman Lane

11. Council's vision for the Green Square Town Centre is for a centre that provides employment, services and dwellings for the Green Square redevelopment area (278 hectares) and the southern areas of the City of Sydney Local Government Area. It will do so by providing retail, office, residential, leisure, medical, cultural and civic functions. In particular, it is forecast that the town centre will house 6,500 future residents and will be *the* main retail and commercial centre between the CBD and the airport.

## PROPOSAL

12. The proposal comprises the construction of a mixed use development containing 6 retail tenancies and 174 apartments. The retail tenancies include a 1,492sq.m supermarket. The form of the proposal is 2 x 8 storey buildings which sit above a 2 storey podium and 2 basement car parking levels. The buildings are joined from the ground level to level 3, and then split to form two towers at level 4. The scale of the development is 10 storeys.
13. Plans, elevations and photomontages of the proposal are provided in **Attachment A**. The following extracted plans, elevations and photomontages are provided.



**Figure 6:** Photomontage looking from future Ebsworth Street to the south-east



**Figure 7:** Photomontage looking from Ebsworth Street to the north-east



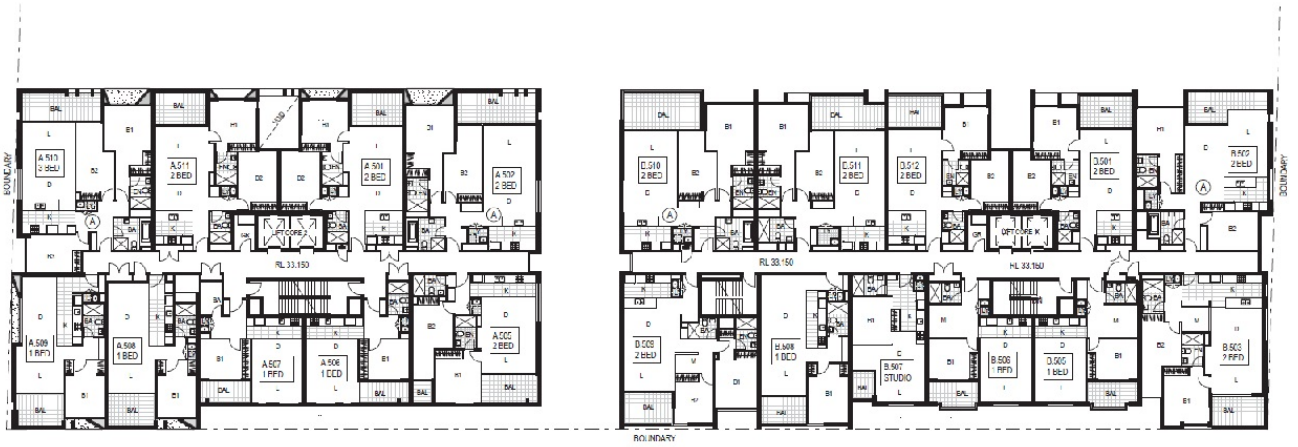


Figure 10: Typical Tower Floor Plan



Figure 11: South-west (Ebsworth Street) Elevation



Figure 12: South-east (Barker Street) Elevation



**Figure 13:** North-west (Tweed Place) Elevation



**Figure 14:** North-east (Portman Lane) Elevation

## HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

### 14. History relating to relevant planning controls:

- (a) The South Sydney Local Environmental Plan 1998 was amended in December 2006 to give effect to amended Green Square Town Centre zones and planning controls. The zoning and development controls guided planning and both public and private investment within the town centre for several years.
- (b) In December 2013, a new LEP was gazetted for Mirvac's landholdings within the Green Square Town Centre, as well as the Green Square Library and Plaza land. When the LEP was gazetted, the Green Square Town Centre planning controls became "un-deferred" for the site because of the execution of a Voluntary Planning Agreement (VPA) between the Applicant and Council. The VPA secures a range of public benefits as set out below.

15. History relating to Voluntary Planning Agreement (VPA):
- (a) On 20 August 2013, a VPA was executed between the Applicant, the landowner and Council. The VPA provides for the following actions by the Applicant:
    - (i) remediation of land, formation of levels and dedication of that land to Council for future public roads, public plaza and pedestrian colonnades;
    - (ii) works in kind for the construction of future roads, footpaths and public domain;
    - (iii) monetary contributions for infrastructure and services within the town centre;
    - (iv) future connection to Council's Green Infrastructure; and
    - (v) appointment of a Place Manager for 4 years, commencing 3 months prior to the occupation of the first residential dwelling.
16. History relating to other DAs in the Green Square Town Centre:
- (a) D/2012/1175 (approved by the Central Sydney Planning Committee (CSPC) on 8 March 2013) - Provision of essential infrastructure for the Green Square Town Centre, including demolition of minor structures and tree removal, construction of new roads and associated infrastructure, concept landscaping and streetscape design, provision of above and below ground services (including stormwater, sewer, water, electrical and telecommunications) and staged construction.
  - (b) D/2012/1056 (approved by the CSPC on 21 February 2013) – Stage 1 DA for the establishment of building envelopes for the former “John Newell Mazda” site at No's 301-303 Botany Road, Zetland. That site is north-west of the proposed development. The approved building envelopes range in height from 8, 10 and 18 storeys. A briefing was given to the CSPC in October 2013 regarding changes to the Stage 1 envelopes to improve solar access to the library and plaza. A Stage 2 DA and a concurrent amended Stage 1 DA will be lodged soon.
  - (c) D/2013/1406 (approved by Council on 9 December 2013) - Construction of 9 storey affordable housing development by CityWest Housing at 130 Portman Street, Zetland.
  - (d) The City is currently preparing a DA for the Green Square Library and Plaza, has finalised a concept design for the Drying Green open space and is holding a design competition for the new aquatic centre and park just south-east of the town centre.
  - (e) There is also a current DA for the “Hatbands” site at the south-western corner of the Green Square Town Centre for the demolition of existing buildings and construction of a predominantly residential development containing 308 apartments in 3 buildings. That DA is currently being assessed (D/2013/1947) and will be reported to a future meeting of the CSPC.

- (f) A series of DAs for new buildings are expected to be lodged in 2014 including the development sites immediately north-west of the proposal (Sites 5A and 5B) and immediately south-west of the proposal (Site 7).

17. History relating to subject DA:

- (a) A pre-DA meeting was held with the Applicant in July 2013.
- (b) The proposal, as originally lodged, was not satisfactory to Council's Planning, Urban Design, Landscape Architecture and Transport staff.
- (c) Council Officers wrote to the Applicant on 2 December 2013 advising three major assessment issues that warranted amendments to the proposal and a series of clarifications or minor amendments. The three major issues were:
  - (i) insufficient naturally cross ventilated apartments;
  - (ii) the proposed common open space was unusable in that it was planted out with trees and shrubs and inaccessible to residents. Useable common open space was desired; and
  - (iii) the proposed interface with Portman Lane and the existing Portman Street terraces was unsatisfactory. A long, continuous rendered rear wall did not respond well to the scale and character of the existing laneway development.
- (d) Council Officers met with the Applicant on two occasions to discuss the concerns raised.
- (e) The Applicant amended their proposal on 28 February 2014. In their response the Applicant:
  - (i) increased the width of the proposed 'slots' in the elevations of the towers to increase the extent of ventilation achievable within a number of apartments;
  - (ii) rearranged the landscaping design at the podium level facing towards Portman Lane so that the landscaping is capable of being used for communal open space. The proposed tree planting along Portman Lane was also amended in conjunction with the podium changes to mitigate privacy impacts on the Portman Lane terraces opposite; and
  - (iii) provided an amended design concept for the Portman Lane interface introducing facade modulation and a greater range of materials.
- (f) The Applicant's response to ventilation and the podium landscaping is satisfactory subject to the recommended conditions. Refer to Issues section. However, the interface with Portman Lane requires further refinement. The Applicant's concept plan provides some direction. A condition of consent has been recommended so that the Applicant and the City can work together to reach a laneway design that the City can endorse before a Construction Certificate is issued. The laneway interface also requires design coordination with the future operator of the supermarket and matters such as window locations will influence the interface.

- (g) It is acknowledged that there is a significant shift in building scale from the existing low density residential neighbourhood to the north-east and the Green Square Town Centre which was considered when the planning controls were adopted. The proposal is at the interface of that scale shift and will alter the immediate outlook from the rear of a number of the existing terraces.
- (h) In addition to the proposed landscaping at laneway level and podium level, the proposal should introduce a softer and greener facade treatment. A condition has been recommended so that the Applicant pursues improved facade finishes and/or planted facade elements up the entire elevation. The revised facade treatment is to be submitted to Council for endorsement prior to the relevant Construction Certificate being issued.

### **ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS**

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

### **State Environmental Planning Policy No 55 - Remediation of Land**

19. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
20. A Remediation Action Plan and Site Auditor advice was submitted with the development applicant. The City's Health Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.

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

21. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality. This includes 10 design quality principles within the Residential Flat Design Code (RFDC) as discussed below:
- (a) **Principle 1: Context**

The site is located within the Green Square Town Centre and within close proximity to Green Square railway station and bus routes along Botany Road. It is located approximately 4.5km to the south of the Sydney CBD. The proposal contributes to the vitality of the Green Square Town Centre and broader redevelopment area. It is within the Mixed Use zone and is in accordance with the objectives of the LEP and the GSTC DCP.



(b) **Principle 2: Scale**

The scale of the area is currently in transition from industrial and warehousing to a mixed use town centre. The scale of development anticipated within the town centre is consistent with the height and typology of this proposal. The GSTC DCP permits development of 2-10 storeys in height, which matches that of the proposed development.

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

The proposal has been subject to design advice from Council's internal design specialists and the building adheres to the design provisions of the LEP and DCP. The finishes, materials and appearance of the proposed buildings are of an appropriate high quality contemporary appearance. The proposal responds to the surrounding urban renewal context, achieves a suitable form and scale and is consistent with the GSTC DCP.

(d) **Principle 4: Density**

The proposal is comfortably within the building envelopes established for the site. This density of development is consistent with the desired future character envisaged within the Green Square Town Centre and the broader redevelopment area. The floor space ratio (FSR) standard for the site is applicable across a larger area and will be calculated cumulatively.

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

The proposal incorporates sustainability features which include units achieving natural ventilation and solar access in mid-winter, solar shading devices preventing excessive heat capture during summer months and water efficient fixtures. The proposal has been accompanied by a BASIX Certificate indicating that suitably sustainability outcomes would be achieved.

(f) **Principle 6: Landscape**

The landscape design has incorporated indigenous planting and has been designed to complement the use of the podium for communal open space. The communal open space has been designed to encourage a range of semi-active and passive uses.

(g) **Principle 7: Amenity**

The proposal meets each of the rules of thumb in the RFDC as follows:

(i) **Unit Size**

The proposed unit sizes are within the range of required sizes for each apartment type under the RFDC. The proposal present a good range of apartment sizes and number of bedrooms to cater for a wide range of occupants.

(ii) Cross Ventilation

The proposal achieves 61% of units across the development having acceptable natural ventilation, which has been supported by way of a natural ventilation study. Notwithstanding, the proposal achieves 32% of units across the development having natural cross ventilation by way of either dual aspect through layouts or corner layouts, in accordance with the minimum of 60% required by the RFDC rule of thumb. Refer to Issues section.

(iii) Apartment Depth and Width

The proposed single aspect apartments within the development are no greater than 8 metres in depth in accordance with the RFDC. The proposed apartments generally have a depth of no greater than 18 metres as suggested under the RFDC.

(iv) Private Open Space

The Rules of Thumb suggest a minimum private open space area of 8m<sup>2</sup> for studios/one bedroom apartments, 11m<sup>2</sup> for two bedroom apartments and 24m<sup>2</sup> for three bedroom apartments, with a minimum balcony depth of 2 metres. All apartments within the buildings feature useable private outdoor balconies or courtyards. The podium apartments have more generous courtyards.

The proposal includes approximately 945m<sup>2</sup> of communal open space at podium level to the rear of the proposed building. The site is within easy walking distance of future plaza and parkland space within the Green Square Plaza, the Drying Green, Green Square Aquatic Centre and other nearby open spaces. The provision of open space is considered to be acceptable.

(v) Storage

The Rules of Thumb suggest a lockable storage area of 6m<sup>3</sup> for studio/one bedroom apartments, 8m<sup>3</sup> for two bedroom apartments and 10m<sup>3</sup> for three bedroom apartments. The proposal provides for approximately 50% of this amount within the apartments. Storage cages and cycle storage provided in the basement provide the residual storage area requirements.

(vi) Solar Access

The rules of thumb suggest that living rooms and private open space achieve sunlight for three hours between 9am and 3pm in midwinter for at least 70% of units, with a minimum two hours being acceptable within dense urban areas. The solar studies and accompanying reports indicate that 54% of units within the development achieve solar access for two hours in midwinter. Refer to Issues section.

(vii) Floor-to-Ceiling Heights

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

## (viii) Visual and Acoustic Privacy

The Rules of Thumb suggest a minimum separation of 12 metres between habitable rooms and balconies for buildings up to four storeys, 18 metres for buildings of five to eight storeys and 24 metres for buildings of nine storeys and above.

The proposed buildings are located a minimum distance of 21m away from the rear boundary of residential properties opposite the site on Portman Street. The SEPP 65 requirement would be 12m at the closest point.

The proposed buildings are a minimum distance of 6 metres apart at their closest point. The proposal has however been designed to eliminate any instances of direct overlooking between the two towers through offsetting windows and use of privacy screening to windows on these elevations. The proposal would not otherwise result in any instances of overlooking between habitable rooms and balconies and is considered acceptable with regard to visual and acoustic privacy.

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

The proposal includes active uses on the street level and encourages passive surveillance onto the street and communal open space at the podium level. Council's crime prevention officers have raised no objections to the proposal.

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

The proposed dwelling mix is detailed within the table below and is considered to be acceptable:

	No.	Mix	GSTC DCP:
<b>Studio</b>	10	6%	5-10%
<b>1-bedroom:</b>	53	30%	10-30%
<b>2-bedroom:</b>	94	54%	40-75%
<b>3-bedroom:</b>	17	10%	10-30%

The proposal is acceptable with regard to the GSTC DCP and also provides a total of 20% of the apartments as adaptable units.

(j) **Principle 10: Aesthetics**

The proposal features a contemporary design which comprises clearly delineated base and upper elements. A variety of materials are used, and the façade articulation and variable setbacks indicate an appropriate building expression in keeping with the building envelopes sought by the planning controls.

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

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

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

Clause 101

24. The application is subject to Clause 101 of the SEPP as the site has frontage to Botany Road, which is a classified road. The application is considered to satisfy Clause 101 of the Infrastructure SEPP subject to conditions of consent, as it does not provide access to the site from the classified road and acoustic conditions have been included within the recommended conditions of consent.

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

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

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

27. 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.
28. The proposed development of the site is consistent with the aims and objectives of SEPP.

**Sydney LEP (Green Square Town Centre) 2013**

29. The site is located within the B4 Mixed Use zone. The proposed use is defined as a mixed use development containing retail premises and residential flat buildings and is permissible.
30. The relevant matters to be considered under Sydney LEP (GSTC) 2013 for the proposed development are outlined below.

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.3 Height of Buildings	Yes	A maximum height of RL 56.5m AHD is permitted. A height of RL55.5m is proposed.

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.4 Floor Space Ratio	N/A	A maximum FSR of 2.56:1 is permitted across all of 355 Botany Road, Zetland and is to be applied to 3 development sites. FSR compliance is to be measured cumulatively. However, the proposal complies with the building envelopes established for the site.
5.9 Preservation of trees or vegetation	Yes	Development consent is being sought for the removal of existing trees on site. Council's Tree Management Unit does not object to the tree removal.
5.10 Heritage conservation	Yes	The subject site is located adjacent to a heritage conservation area. Council's Heritage Specialists have reviewed the heritage impacts of the development and find the proposal acceptable.
<b>Part 6 - Local Provisions</b>		
6.2 Flood planning	Yes	The site is identified by Council as being flood prone. However, the flood levels are minimal and Council's Drainage Engineers are satisfied with the proposal.
6.5 Affordable housing	Yes	An affordable housing contribution is recommended within the conditions of consent.
6.6 Active street frontages	Yes	The future Ebsworth Street frontage is identified as an active street frontage. The development has active frontage to Ebsworth Street and also has retail uses wrapping the Tweed Place and Barker Street corners.
6.8 Car parking ancillary to other development	Yes	A maximum of 173 car parking spaces are permitted, excluding the proposed supermarket which would generate another 25-30 spaces.  138 car parking spaces are proposed which is well within the maximum permitted.

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
6.9 Design Excellence	Yes	The development has high architectural and urban landscape design merit. The recommended conditions of consent include the requirement to refine the Portman Lane frontage of the development to ensure design exhibits design excellence.  A design competition is not required.

### **Green Square Town Centre Development Control Plan 2012**

31. The relevant matters to be considered under Green Square Town Centre (GSTC) Development Control Plan 2012 for the proposed development are outlined below:

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
1.4 Objectives	Yes	The DCP objectives include the creation of a model example of sustainable urban renewal, creation of high quality public domain and the integration of buildings within their context. The proposal satisfies the intent of the objectives.
2 Desired Future Character	Yes	The proposal contributes toward the objectives of achieving a major urban centre and providing a range of housing within the GSTC.
3.3 Street Network	Yes	The proposal will assist in ensuring that a street hierarchy is established by locating retail tenancies along the future high street (Ebsworth Street) and vehicle and pedestrian connections from the minor cross streets (Tweed Place and Barker Street).
3.4 Flooding & Stormwater Management	Yes	Council's Flooding Engineer has determined that the proposal is satisfactory in relation to flooding.

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.1 Location of Desired Activities	Yes	The DCP identifies the site's desired activities at ground floor being retail, first floor being retail or residential and upper levels being residential. The proposal complies with these desires.
4.3 Active frontages	Yes	The DCP identifies the south-western edge of the site, along Ebsworth Street, as an active frontage. The proposed retail tenancies are located along this frontage and provide potential for cafes, restaurants and small shops, as well as entry to the proposed supermarket.
5.2 Development affecting a heritage item	Yes	The site is adjacent to the Portman Street Heritage Conservation Area. The proposal is not anticipated to have any adverse impacts on the conservation area generally and is in keeping with the planning controls for the site.
6.1 Competitive Design Process	Yes	As the proposal is less than 16 storeys in height and does not relate to area of more than 7,000sq.m, a design competition was not required.
6.2 Design & Architectural Diversity	Yes	The DCP requires that longer buildings be broken into distinctive sections of no more than 25 metres in length. The proposal is broken into two separate buildings and the facades are suitably differentiated into distinct building components, meeting this intent.
6.3 Building Layout	Yes	The proposed building envelopes are provided in accordance with the development sites map for Sites 16A and 16B. A gap is provided between the two towers, there is a street wall and the upper levels are setback from the principal frontage as per the DCP.
6.4 Height in storeys & street frontage	Yes	The DCP provides for a maximum of 2 storeys for the rear portion of the site (north-eastern side) and 10 storeys for the front portion of the site (south-western side). The proposed building heights meet this requirement. The proposal meets the height in storeys and street frontage controls.

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
6.5 Building alignments & setbacks	Yes	The DCP requires a street wall along Ebsworth Street for 8 storeys, then a secondary setback of 3m above 8 storeys. The proposal complies with the setback provisions.  3m chamfers are provided on building corners.
6.6 Roof form	Yes	The proposed plant projects above the principal roof height. The DCP requires plant to be setback 3 metres from the extent of the floor below. The proposal complies with this requirement.
6.8 Flexible Housing & Dwelling Mix	Yes	The proposed unit mix is compliant with the DCP provisions as discussed previously at SEPP 65.
6.9 Adaptable Dwelling Mix	Yes	The proposal provides 20% adaptable dwellings as required by the DCP.
6.10 Amenity	No	The proposal does not provide at least 70% of apartments with at least 2 hours solar access between 9am and 3pm in midwinter. Refer to Issues section.  The proposed units do not exceed 8 metres in depth from the nearest operable window and provide acceptable natural ventilation, as discussed previously under SEPP 65.  The proposal provides for appropriate levels of privacy to the units as discussed under SEPP 65 previously. An acoustic report has been submitted and determined to be acceptable by Council's Environmental Health Officer. Appropriate conditions with regard to acoustic attenuation have been recommended.
6.11 Accessible Design	Yes	The proposal complies with accessible design provisions by way of condition.
6.12 Safety & design	Yes	The proposal provides informal and passive surveillance opportunities onto the street and laneway at the rear.



<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
6.13 Landscaping & open space	Yes	<p>The applicant has submitted landscape plans with the application. Deep soil landscaping comprises 9% of the site area, exceeding the minimum 6.25% required by the DCP.</p> <p>The proposed communal open space is a mix of unpaved soft landscaping and paved alcoves and achieves the minimum dimensions as required for deep soil areas.</p>
8.1 Ecologically sustainable development	Yes	The applicant has submitted a BASIX Certificate outlining sustainability measures to be incorporated into the proposal.
8.2 Energy	Yes	An appropriate condition has been recommended with regard to the development of a suitable lighting scheme.
8.3 Materials	Yes	The proposed materials are considered to be suitably durable and adaptable in accordance with this Part.
8.4 Waste	Yes	There is a suitable area for the storage and collection of waste at ground level. A Waste Management Plan is required and will be submitted as required by condition. An area for bulky waste for each residential tower is required by condition of consent.
8.5 Water	Yes	The proposal will connect to the recycled water scheme operating throughout the GSTC. Conditions of consent have been recommended in this regard. WSUD measures will be incorporated into the stormwater design.
8.6 Biodiversity	Yes	The proposal comprises a suitable mixture of indigenous shrub, tree and groundcover species within the landscape plans.
8.7 Tree management	Yes	Council's Tree Management Unit is satisfied with the removal of trees associated with the application.

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
9 Social Sustainability	Yes	<p>The applicant has addressed the social impact criteria as set out by the DCP. The following key points are noted:</p> <ul style="list-style-type: none"> <li>• The proposal makes a contribution to affordable housing within the GSTC.</li> <li>• The 174 apartments will provide access to employment opportunities within the town centre and nearby employment hubs.</li> <li>• The unit mix has been proposed to meet a wide range of demand and satisfies the DCP.</li> <li>• The visual and amenity impacts of the proposed design are considered to be acceptable and the proposal would offer significant passive surveillance opportunities</li> </ul>
10.1 Managing Transport Demand	Yes	The applicant has submitted a Traffic Report as required by this Part.
10.3 Vehicle parking	Yes	The proposal complies with the parking requirements for the site.
10.4 Vehicle access & footpaths	Yes	A single access point is provided to the basement via Barker Street, in accordance with the preferred location identified by the DCP. Access to the loading dock and waste area is off Tweed Place in accordance with the DCP.

## ISSUES

### Natural Cross Ventilation

32. The SEPP 65 Rules of Thumb require natural cross ventilation to be achieved within 60% of proposed units.
33. Measured strictly under the SEPP 65 Rules of Thumb, the proposal would result in 64 out of 174 units (37%) achieving natural cross ventilation.

34. The Applicant has submitted an engineering assessment measuring natural ventilation on a qualitative basis relative to the vertical position of each apartment and varying predominant wind patterns and atmospheric pressures at each level and each aspect of the building. Adopting the engineered assessment, the proposal incorporates 106 out of 174 apartments (61%) naturally ventilated apartments.
35. Key to the issue of naturally cross ventilated apartments is the design of the building cores which generate 7-10 (but generally 9) apartments per floor in the northern tower and 9-11 apartments per floor in the southern tower. Many apartments are single aspect and therefore limit the available cross ventilation from corners or through-apartment layout.
36. The design of the building cores is driven by the proposed supermarket at the ground floor and the desire to have the supermarket tenancy free as possible from lift cores, fire stairs and other intrusions. The Applicant has submitted information supporting the supermarket location within this site and outlining how the supermarket footprint would not work on other sites they are going to develop in the Green Square Town Centre.
37. Increasing the number of dual aspect apartments would result in additional building cores being installed through the supermarket tenancy.
38. Decreasing the overall number of apartments off a building core by increasing the unit area or the separation distance between the towers would be undesirable because the apartments meet the minimum recommended internal areas and unit mix requirements and fewer, but larger, apartments would be difficult to support. The proposal also achieves efficiencies with regard to fire stairs on a site with such a long length.
39. According to the Applicant, 61% of apartments are capable of receiving some extent of natural ventilation equivalent to the ventilation requirements by SEPP 65. Whilst this calculation and engineered approach is not an argument accepted by Council Officers, it is acknowledged that the proposed supermarket limits traditional multi-core solutions. A condition has been recommended to improve cross ventilation via other techniques.

### **Solar Access**

40. The SEPP 65 Rules of Thumb and Part 6.10.2 of the Green Square Town Centre DCP require that 2 hours of direct solar access is maintained for at least 70% of proposed apartment living room windows and the floor slab of private open space between 9am and 3pm on 21 June.
41. The shadowing study submitted with the application indicates that a total of 91 out of 174 apartments (52%) would achieve solar access for 2 hours in midwinter to the living room windows and a total of 94 out of 174 apartments (54%) would receive solar access for 2 hours to the private open space.
42. Some 77 out of 174 apartments (44%) have their living room windows facing towards the south-west due to the orientation of the land and the orientation of the street network and building envelopes within the planning controls. Overcoming this orientation would be to encourage dual aspect apartments of excessive depth or rotating the orientation of the development 18 degrees, both of which are not feasible.

43. The solar access of the proposal is considered acceptable having regard to the orientation of the development and the building envelope encouraged by the Council's planning controls.

#### **Building Separation – Privacy and Noise**

44. The residential towers are separated by 6m in the centre of the development. To comply with the separation distance requirement under SEPP 65 the gap would be between 12m and 24m depending on the level of the building.
45. There are no privacy or noise issues associated with the proposed separation distance and the gap is considered acceptable. In this regard, privacy treatment has been addressed by offsetting adjacent windows and incorporating privacy screening (louvre screens) on the facade of the building. Noise transfer is considered to be no greater than any general residential setting.

#### **Access**

46. Access for disabled persons can be provided to the development. An accessibility report has been submitted with the application and an appropriate condition has been recommended.

#### **Other Impacts of the Development**

47. The proposed development is capable of complying with the BCA.
48. 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**

49. 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.

#### **VOLUNTARY PLANNING AGREEMENT**

50. A VPA was executed by Council, Green Square Consortia Pty Ltd (of which Mirvac are a partner) and Landcom on 20 August 2013.
51. The provisions of the executed VPA have been taken into consideration in the assessment of the application. The VPA provisions do not have any direct effect on the development, other than by providing a development parcel following the dedication of land and with the requirement to identify future connection points for green infrastructure and services.

#### **INTERNAL REFERRALS**

52. The conditions of other sections of Council have been included in the proposed conditions. The application was discussed with the following units, who advised that the proposal is acceptable subject to conditions except where as discussed throughout this report:

- (a) Heritage Specialists;
- (b) Urban Design Specialists;
- (c) Landscape Architecture;
- (d) Building Services Unit;
- (e) Environmental Health;
- (f) Public Domain;
- (g) Safe City;
- (h) Specialist Surveyor;
- (i) Transport and Access;
- (j) Tree Management; and
- (k) Waste Management.

## **EXTERNAL REFERRALS**

### **Quantity Surveyor**

53. The DA was referred to an external Quantity Surveyor (QS) to review the Applicant's estimated cost of development. Council's QS determined that the Applicant's estimated cost of development is fair and reasonable.

### **Authorities**

54. Ausgrid were notified of the proposed development and advised that an electricity substation would be required on site. An appropriate condition has been recommended.
55. Roads and Maritime Services were notified of the proposed development and advised that road widening had already been secured along Botany Road and that certain conditions should be imposed on any consent. The RMS conditions have been incorporated within the recommended conditions.

### **Notification, Advertising and Delegation (Submissions Received)**

56. The application constitutes integrated development and as such the application was notified and advertised for 30 days from 1 October 2013 to 1 November 2013 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this, seven submissions were received.
57. The application was renotified for a period of 14 days from 4 March 2014 to 19 March 2014 following the receipt of amended plans. As a result of this renotification, two further submissions were received.
58. A summary of the grounds for objection, together with comments from Council Officers, is below:

- (a) Car Parking: The provisions for parking are inadequate. The provision of 138 car parking spaces is not in the interests of residents, retailers or the wider community. The proposal does not provide any on-site visitor parking for the retail or residential uses.

**Response** – The proposal complies with the maximum car parking provision for the site.

- (b) Bulk and Scale: The towers are too tall. The height and location of the buildings will be very imposing and is in contrast with the character of Portman Lane. It would be better if the buildings were further away and smaller. The proposal is imposing on the low rise, tree lined, heritage conservation area. The proposed outlook will be concrete walls and windows.

**Response** – The proposal complies with the established building envelopes in terms of bulk and scale. The presentation of the development to Portman Lane is acceptable, except for the ground floor facade which requires further refinement in satisfaction of the recommended conditions of consent.

- (c) Privacy: Privacy impacts from people being able to look into the backyards and houses of the Portman Street terraces.

**Response** – The proposal includes solid balcony upstands at the lower residential levels which transition to fully glazed upstands at the top of the buildings. In this way, more direct views across/down to the Portman Street are shielded by solid elements, while indirect views out of upper apartments does not require treatment.

The podium design, which includes communal open space, has tree and shrub planting which has been coordinated to provide screening to the Portman Street terraces.

The separation of the buildings from the Portman Street properties is well in excess of the minimum separation distance recommended under SEPP 65.

- (d) Overshadowing: The proposal will likely impact the natural light received in the mid-late afternoon. Houses will become cold and damp.

**Response** – The proposal does not overshadow any of the Portman Street terraces in the midwinter period between 9am and 3pm. After 3pm there is some impact. However, this impact is the worst case scenario in mid-winter and all other times of the year the terraces will receive less overshadowing after 3pm.

- (e) Pedestrian Access: The DA has pedestrian access onto Portman Lane. Opening up access from the unit block to the lane will increase the chances of theft and vandalism.

**Response** – The proposed does not provide pedestrian access onto Portman Lane. There are fire stairs which discharge onto Portman Lane in the event of an emergency.

- (f) Aesthetics: The overall look of the building channels a tall, character-less block.

**Response** – The aesthetics of the proposal are considered acceptable.

- (g) Construction Impacts: Since demolition of the former buildings there has been movement in floorboards and skirting boards and come cracking in architraves.

**Response** – The recommended conditions include a requirement to carry out dilapidation surveys of affected Portman Street terraces prior to, and after, excavation works on the site.

- (h) Traffic Impact: Traffic will be very imposing and parking will become more of an issue. Vehicles will access the site through Portman Street, Navins Lane and Merton Street and disturb the existing residential neighbourhood.

**Response** – The development's traffic and parking impacts should be isolated to the internal streets of the Green Square Town Centre. No vehicle access is provided through the established residential suburb to the north-east.

- (i) Public Open Space: The proposal should provide public open space that can be used by existing residents near the site.

**Response** – The proposal provides useable private open space for residents of the development. The proposal is on private land and Council does not require public open space within this site. The developer is dedicating other land to Council for the provision of future public open space. When fully developed, the Green Square Town Centre will provide a range of public space and open space within the future Plaza, Drying Green, Matron Ruby Park and community facilities within the Library and former South Sydney Hospital site. Outdoor dining opportunities will be a key attraction of the town centre and will provide significant public amenity. The proposed Green Square Aquatic Centre and Gunyama Park will be a short walk from the town centre.

## **PUBLIC INTEREST**

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

## **FINANCIAL IMPLICATIONS/S94 CONTRIBUTION**

### **Section 94 and Affordable Housing Contributions**

60. The development is not subject to Section 94 Contributions by virtue of the provisions within the executed Voluntary Planning Agreement which, among other things, sets out the monetary contributions to be paid for services and facilities in the Green Square Town Centre.
61. The development is subject to an Affordable Housing Contribution. The Affordable Housing Contribution is levied under Clause 6.5 of the Sydney Local Environmental Plan (Green Square Town Centre) 2013. A monetary contribution of \$2,680,209 is payable based on the residential and non-residential floorspace of the proposal.

## **RELEVANT LEGISLATION**

62. The Environmental Planning and Assessment Act 1979.

**CONCLUSION**

63. The proposal is generally consistent with the objectives, standards and guidelines of the relevant planning controls including the Green Square Town Centre DCP, the Green Square LEP and SEPP 65.
64. The proposed development is considered to be appropriate within its setting and is generally compliant with the relevant planning controls. It marks a significant investment in private residential development within the Green Square Town Centre on a site which is highly accessible to existing and planned employment, services and community facilities.
65. The proposed supermarket at the ground floor level will be an important anchoring retail offer on the future “high street” of the town centre. The presence of the supermarket and its larger retail footprint does present some challenges for the internal layout of the residential units above in terms of strictly achieving SEPP 65 Rules of Thumb for natural cross ventilation. However, on balance, the way in which the Applicant has engineered natural ventilation is considered acceptable in conjunction with securing the supermarket use.
66. The proposal has been subject to a thorough design process and discussions with Council Officers and, with the imposition of the recommended conditions of consent, will achieve design excellence.
67. The application is recommended for approval subject to conditions.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Russell Hand, Senior Planner)