

**ITEM 5. SECTION 96(2) APPLICATION: UNIT 35-35B/1A COULSON STREET ERSKINEVILLE**

FILE NO: D/2012/1823/A

DEVELOPMENT APPLICATION NO: D/2012/1823/A

**SUMMARY**

Draft CSPC Report S96 D-2012-1823-A.docx

9 July 2014

**Applicant:** Erskine FCP Pty Ltd**Architect:** dKO**Developer:** Fridcorp**Owner:** Erskine FCP Pty Ltd**Cost of Works:** \$75,490,297**Proposal Summary:**

The Central Sydney Planning Committee (the CSPC) approved a Stage 1 development application for the site at its meeting on 13 March 2014. The Stage 1 application approved site layout, street network and building envelopes for 3 residential apartment buildings between 3 storeys and 6 storeys with a maximum building height of 22m, a residential gross floor area of approximately 13,982m<sup>2</sup> and 2 levels of basement car parking. Works include the demolition of all structures on site and site remediation.

The proposal seeks approval for modifications to the Stage 1 consent including changes to building breaks/openings, deletion of 1 level of basement car parking, minor amendment to the Level 6 setback and changes to the ground level to comply with flooding controls.

A Stage 2 application has been submitted for the detailed design of the proposal. The Stage 2 application is consistent with the modifications proposed as part of this Section 96 application, and is recommended for approval. The application will be considered by the CSPC at its meeting on 4 December 2014.

One submission was received as a result of the notification of the application. The submission related to the overdevelopment of Erskineville.

**Summary Recommendation:** The Section 96 application is recommended for approval, subject to conditions.

**Development Controls:**

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

**Attachments:** A - Architectural Plans

**RECOMMENDATION**

It is resolved that consent be granted to Section 96(2) Application No. D/2012/1823/A, with the following conditions of development consent No. D/2012/1823 being amended as set out below, with amendments shown in ***bold italics*** (additions) and ~~striketrough~~ (deletions):

**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/2012/1823 dated 27 November 2012 and the following drawings prepared by DKO Architecture:

| <b>Drawing Number</b>        | <b>Drawing Name</b>                                | <b>Date</b>                     |
|------------------------------|--|---------------------------------|
| SK200                        | Stage 1 DA Envelope Plan                           | 11 February 2014                |
| SK200a                       | Stage 1 DA Envelope Sections                       | 11 February 2014                |
| <b><i>10731/S96/2001</i></b> | <b><i>Revised Stage 1 DA Envelopes</i></b>         | <b><i>26 September 2014</i></b> |
| <b><i>10731/S96/2002</i></b> | <b><i>Revised Stage 1 DA Envelope Sections</i></b> | <b><i>26 September 2014</i></b> |

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.

***Amendment A***

**(2) NO SUBDIVISION**

No subdivision of land has been granted with this development consent.

**(3) DETAILS TO BE PROVIDED WITH FUTURE DEVELOPMENT APPLICATION**

The future Stage 2 Development Applications must address compliance with:

- (a) Stage 1 building envelopes;
- (b) SEPP 65 - Design Quality of Residential Flat Development, and the provisions of the Residential Flat Design Code; and
- (c) Subdivision of land.

**(4) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE MANAGEMENT PLAN**

All works conducted on site which form part of this development must be carried out in accordance with the submitted Demolition, Excavation and Construction Management Plan prepared by Acoustic Logic Ref 20130150.1 dated 11 June 2013.

**(5) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

A Construction Traffic Management Plan must be submitted to and approved by the Director City Planning, Development and Transport prior to any works commencing.

**(6) 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:
  - 8:00am -12:00pm and 1:00 pm - 4:30pm Mondays to Friday
  - 9am - 1pm on Saturdays
  - 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.

**(7) 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".

**(8) 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.

**(9) DEWATERING**

As dewatering of the site is required, approval will be required from the Department of Planning and Infrastructure under the provisions of Part V of the Water Act, 1912 for a bore licence which may be subject to conditions.

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

**(9A) VOLUNTARY PLANNING AGREEMENT**

- (a) The Voluntary Planning Agreement, as detailed in the letter of offer submitted by the Applicant, shall be prepared by Council and placed on public exhibition and shall be executed and submitted to Council prior to the determination of any Stage 2 Development Application for the detailed design for the site.
- (b) The guarantee must be provided to Council in accordance with the Voluntary Planning Agreement.
- (c) The Voluntary Planning Agreement, as executed, must be registered on the Title of the Land.

**SCHEDULE 1B****PRIOR TO CONSTRUCTION CERTIFICATE/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.

**(10) 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 whichever 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.

**(11) CONTAMINATION**

- (a) The exportation of waste (including fill or soil) from the site must be in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the Department of Environment Climate Change and Water (DECC) Environmental Guidelines Assessment, Classification and Management of Non-Liquid Wastes.
- (b) Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Principal Certifying Authority.

**(12) REMEDIATION**

- (a) The site is to be remediated and validated in accordance with the report prepared by Environmental Investigations Ref N E1795.1 AB dated 2 October 2013 and the letter of Interim Advice ref EN04234 prepared by Dr Ian C Swane dated 4 October 2013.
- (b) Prior to the execution of works associated with the built form of the development (excluding building work directly related to remediation) a Site Audit Statement is to be submitted to Council clearly indicating that the site is suitable for the proposed use. Conditions on the Site Audit Statement shall form part of the consent.
- (c) Any variations to the proposed remediation Action Plan shall be approved in writing by the Accredited Site Auditor and Council prior to the commencement of such work.

**(13) CLASSIFICATION OF WASTE**

Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW DECC Waste Classification Guidelines, Part1: Classifying Waste (April 2008). The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters 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.

**(14) COMMUNITY CONSULTATION**

- (a) The applicant must ensure that before any works are commenced, an appropriate level of community consultation has been carried out with surrounding noise sensitive receivers. This should include the submission of a suitable and readily contactable site contact should any complaints or other issues arise during construction hours. Complaint logs shall be kept outlining the details of any complaint received together with the investigative and corrective actions taken in response to that complaint. The logs must be made available to the City on request.
- (b) The applicant must provide a contact telephone number to the Managers of the City Rangers and the Manager of Health & Building for the Site Manager or other suitable person who will be readily contactable onsite at all times whilst any works are carried out, and who may be contacted should any complaints concerning offensive noise and vibration be received.

**(15) 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.

**(16) FOOTPATH DAMAGE BANK GUARANTEE**

A Footpath Damage Bank Guarantee calculated on the basis of 103.5 lineal metres of the Asphalt site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Footpath Damage Bank Guarantee must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

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

**(17) FLOOD LEVELS**

- (a) The design of the ground floor levels is to be equal to or above the 1 in 100 year flood level + 500mm freeboard.
- (b) The minimum habitable floor levels must be 9.3m AHD in the north-west of the site to 9.2m AHD in the south-east (1 in 100 flood event + 500mm freeboard).



- (c) The design of ground floor levels must also take account of any entry/s to the basement car park level (including driveway ramps, lift shaft openings, services risers, stairwells, and any other openings etc.). The levels required in these instances must satisfy the Probable Maximum Flood (PMF) level/s and must be designed accordingly. The minimum level for such entry points must be 10.0m AHD in the north-west of the site to 9.8m AHD in the south-east (PMF level).

#### **(18) 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.

#### **(19) PUBLIC DOMAIN PLAN**

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

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

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

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.

**(20) 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.

**(21) 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).

**(22) ROAD NETWORK AND GEOMETRIC ROAD DESIGN**

- (a) Detailed design and construction documentation for the proposed public road system shall include all necessary liaison with public utility authorities, the RTA, Council, the Sydney Traffic Committee and its nominated consultants in order to achieve design approvals and construction compliance.

- (b) The design and construction of all road works shall be undertaken in accordance with Council's Sydney Streets Technical Specifications (version 2:22.3.2013). Detailed plans and construction specifications for the works shall be prepared and certified as complying with Council's specifications prior to the issue of a Construction Certificate. The detailed plans and supporting documentation shall include as a minimum the following information:
- (i) General subdivision plan with contour details, clearly indicating the extent of work;
  - (ii) Typical road cross sections showing road and footway widths, pavement configuration, batter slopes, retaining walls (engineered) kerb and gutter types;
  - (iii) Plan and longitudinal section of the public road showing gutter invert, kerb and boundary alignments of the existing and proposed future public road network and all public utility services (existing and proposed);
  - (iv) Drainage plan and schedule of drainage elements with any special pit requirements;
  - (v) Drainage profiles and longitudinal sections with hydraulic grade lines for the design storm and other standard features such as flow rates, class, pipe grades, velocity;
  - (vi) Standard engineering and structural details plan;
  - (vii) Road cross sections and longitudinal sections to include pedestrian kerb ramps;
  - (viii) Road pavement design structure, kerb and gutter, drainage works, traffic and pedestrian signage, and any necessary minor works and matching adjustments;
  - (ix) Footpaths, pedestrian and bicycle facilities, street lights and street trees and other associated verge works;
  - (x) Adjustments/upgrades to utility services as required;
  - (xi) Intersection layout details including line marking, pavement marking and signposting;
  - (xii) Erosion and sedimentation control plans.
- (c) Note: All design documentation shall be completed in accordance with the relevant standards and specifications as adopted by Council from time to time. All engineering plans and calculations shall be checked, signed and certified by a suitably qualified practicing professional Engineer.

**(23) SYDNEY AIRPORT CORPORATION**

- (a) The height of the development must not exceed 38.8m above Australian Height Datum (AHD), inclusive of all lift over-runs, vents, chimneys, aerals, TV antennae, construction cranes etc.
- (a) Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24m) above the existing ground level (AEGH), a new approval must be sought in accordance with the Civil Aviation (Building Control) Regulations Statutory Rules 1988 No. 161.
- (b) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and, consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Any approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.

Information required by the Sydney Airport Corporation prior to any approval is to include:

- (i) The location of any temporary structure or equipment, i.e., construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
- (ii) The swing circle of any temporary structure/equipment used during construction;
- (iii) The maximum height relative to Australian Height Datum (AHD), of any temporary structure or equipment, i.e. construction cranes, intended to be used in the erection of the proposed structure/activity; and
- (iv) The period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.

Any application for approval containing the above information should be submitted to the corporation at least 35 days prior to the commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293.

**(24) 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.

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

The following conditions apply to the development:

- (a) Demolition and/or excavation must not commence until documentary evidence has been provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.
- (b) Without limiting the generality of paragraph (a), the Deed must provide for:
  - (i) A bank guarantee to be provided in the sum of \$1,850,000 dollars as security for the costs of such works provided that:
    - a. the maximum liability under the Deed must not exceed \$1,850,000 dollars; and
    - b. the Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.
  - (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events, namely:
    - a. demolition of the existing building has commenced but not been completed;
    - b. the existing building has been demolished; or
    - c. the site has been excavated; or
    - d. the erection of the structure has commenced;
  - (iii) that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the consent authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:
    - a. make the building safe and of an appearance acceptable to Council at ground level;
    - b. allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
    - c. for the hole to be covered to allow it to be landscaped and of an appearance acceptable to Council from any public vantage point; or
    - d. in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenable stage;

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

- (c) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:
  - (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (b) (iii) to take place on the site; and
  - (ii) in the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.
- (d) The Deed may, if the Director City Planning, Development and Transport is satisfied, provide for an adjustment of the guarantee amount during the course of construction to reflect that, as the development progresses, the likelihood and nature of the appropriate site rectification works may change. The stages of reduction will be:
  - (i) Stage 1 - Completion of the site excavation and all construction works necessary to complete all parts of the development to street level, including sealing of the slab at that level.
  - (ii) Stage 2 - Completion of all construction works necessary to complete the structure of the development to the roof level.
  - (iii) Stage 3 - Issue of the Final Occupation Certificate.
- (e) If a claim for an adjustment is made, the Deed must also provide that any such claim is to be supported by the following:
  - (i) Certification (from an accredited certifier) that the relevant stage is complete; and
  - (ii) Detailed schedule of completed works carried out in the relevant stage.
- (f) Quantity Surveyor's costing of the likely site rectification works required at each remaining stage.

**(26) 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.

## **(27) ROAD OPENING PERMIT**

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

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

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

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

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

- (ii) location and diagrammatic representation of all necessary erosion and sediment control systems or structures used to mitigate or prevent pollution to stormwater;
- (b) Location and engineering details with supporting design calculations for all necessary sediment basins, constructed wetlands, gross pollutant traps, trash racks or biofiltration swales (as relevant).

## **SCHEDULE 1C**

### **DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION**

#### **(29) 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.

#### **(30) 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.

### **(31) 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.

### **(32) HAZARDOUS AND INDUSTRIAL WASTE**

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

- (a) *Protection of the Environment Operations Act 1997.*
- (b) *Protection of the Environment Operations (Waste) Regulation 1996.*
- (c) *Waste Avoidance and Recovery Act 2001.*
- (d) *Work Health and Safety Act 2011.*
- (e) *New South Wales Construction Safety Act 1912 (Regulation 84A-J Construction Work Involving Asbestos or Asbestos Cement 1983).*
- (f) *Work Health and Safety Regulation 2011.*
- (g) *The Occupational Health & Safety (Asbestos Removal Work) Regulation 1996.*

### **(33) 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.

### **(34) LOADING AND UNLOADING DURING CONSTRUCTION**

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site.

- (b) 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.

**(35) 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.

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

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

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

**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 Department of Primary Industries – Office of Water, are as follows:

General

1. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
2. The design and construction of the 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 is part of the Ashmore Precinct urban renewal area located in Erskineville. The precinct is bounded by Ashmore Street to the north, Mitchell Road to the east, Coulson Street to the south and the Illawarra rail line to the west.
2. The Ashmore Precinct is a large, predominantly light industrial precinct that is presently undergoing re-development into a mixed use, commercial and residential precinct. Renewal of the precinct will assist in delivering the City's Sustainable Sydney 2030 vision and targets through the provision of new residential, commercial and retail development and public infrastructure such as open space, stormwater management and cycle lanes. Figure 1 below shows the Ashmore Precinct urban renewal area.



**Figure 1:** Ashmore Precinct urban renewal area

3. The development site has a legal description of Lot 5 DP 788543. The site is largely rectangular with an area of approximately 7,992m<sup>2</sup> with a street frontage to Macdonald Street to the south.
4. The site is currently occupied by a large brick and metal shed comprising two warehouses and associated offices. The shed is currently being used as a real estate marketing suite (as approved by D/2013/1466).

5. The site is not a heritage item and is not located within a heritage conservation area.
6. Immediately to the west and northwest of the site within the Ashmore Precinct is the recently approved 'Erko' development comprising residential flat buildings with a total of 318 dwellings. Construction on the Erko site has commenced.
7. Land immediately to the north and east of the site is occupied by warehouse buildings. A large industrial site, earmarked for residential development and owned by Goodman, is further east.
8. The Ashmore Precinct is bounded to the north, west and east by heritage conservation areas that house the established communities of Erskineville and Alexandria.
9. The Illawarra railway line is adjacent to the eastern boundary of the Ashmore Precinct. To the north are existing single and two storey terrace style housing. To the south of the Ashmore Precinct is a mix of residential (3-7 storeys in height) and industrial properties (single storey).



**Figure 2:** Aerial view of the site and surrounding Ashmore Precinct



Figure 3: View of the subject site from Eve Street looking north with Building D of the Erko development in background



Figure 4: View of the subject site from Eve Street looking northeast



Figure 5: View of the subject site from Macdonald Street looking northeast



Figure 6: View of the subject site from Macdonald Street looking northeast with the Erko development to the west of the site





**Figure 7:** View looking west down Macdonald Street near the future intersection of Zenith Street



**Figure 8:** View of the subject site looking west from the existing right of way (future Zenith Street) with Erko development in background



**Figure 9:** View of the subject site from the north eastern corner of the site looking down the existing right of way (future Zenith Street)



**Figure 10:** View of the subject site looking west along the existing ROW (future pedestrian through link) with the Erko development in the background



**Figure 11:** View looking west along Ashmore Street (north of subject site)



**Figure 12:** View looking north along Bridge Street with the Illawarra rail line to the east

**HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION****Stage 1 Development Application (D/2012/1823)**

10. At its meeting on 13 March 2014, the Central Sydney Planning Committee (CSPC) granted development consent for a Stage 1 concept proposal (site layout, street network and building envelopes) comprising 3 residential apartment buildings between 3 storeys and 6 storeys with a maximum building height of 22m, a residential gross floor area of approximately 13,982m<sup>2</sup> and 2 levels of basement car parking. Approved works included the demolition of all structures on site and site remediation.
11. The subject Section 96 application seeks to amend the approved Stage 1 development application.

**Real Estate Marketing Suite (D/2013/1466)**

12. On 30 October 2013, a development application was approved under delegation for the fitout and use of part of existing warehouse building as temporary marketing suite, display apartment and associated meeting area. Approved works also included a new facade at the Macdonald Street elevation, car parking for 23 vehicles and hoarding along the Macdonald Street frontage with associated real estate signage.
13. Works associated with the development application have been completed and a portion of the site is currently operating as a temporary marketing suite.

**Design Excellence Competition, April 2014**

14. Following approval of the Stage 1 development application, a design competition process was undertaken. The competition entries utilised the development standards and controls contained in the Sydney Local Environmental Plan 2012 (SLEP 2012) and the Sydney Development Control Plan 2012 (SDCP 2012). Woods Bagot, SJB and dKO architects participated in the competition. A design excellence jury, Council representatives and client representatives met on 8 April 2014 to review the submitted architectural schemes. The jury unanimously selected dKO Architecture as the winner (refer to image on the following page).

**Stage 2 Development Application (D/2014/912)**

15. On 27 June 2014 a Stage 2 development application was submitted for the construction of residential flat buildings between 3 and 8 storeys with a total of 197 apartments, 1 basement car parking level accommodating 142 car spaces and bicycle parking and associated landscaping.
16. D/2014/912 has been assessed concurrently with this Section 96(2) application. The planning assessment report prepared for D/2014/912 should be read concurrently with this report. The Stage 2 application is recommended for approval and will be considered by the CSPC at its meeting on the 4 December 2014.



**Figure 13:** Design excellence competition winning entry (as submitted with Stage 2 DA)

## PROPOSAL

17. The Section 96(2) application seeks to modify the Stage 1 approval to bring it in line with the winning design competition scheme. The proposed modifications comprise the following changes:
  - (a) building break/opening to Macdonald Street has been swapped from the west to the eastern side of the site;
  - (b) one opening to right of carriageway (RoC)/future pedestrian link along the northern boundary has been filled in;
  - (c) a single basement car parking level is proposed where two basements were approved;
  - (d) a minor setback change is proposed at Level 6 (Macdonald Street); and
  - (e) the ground level (Level 1) is consistently shown at RL 9.95 (to comply with the PMF).
18. Plans of the modifications are provided below and in Attachment A.

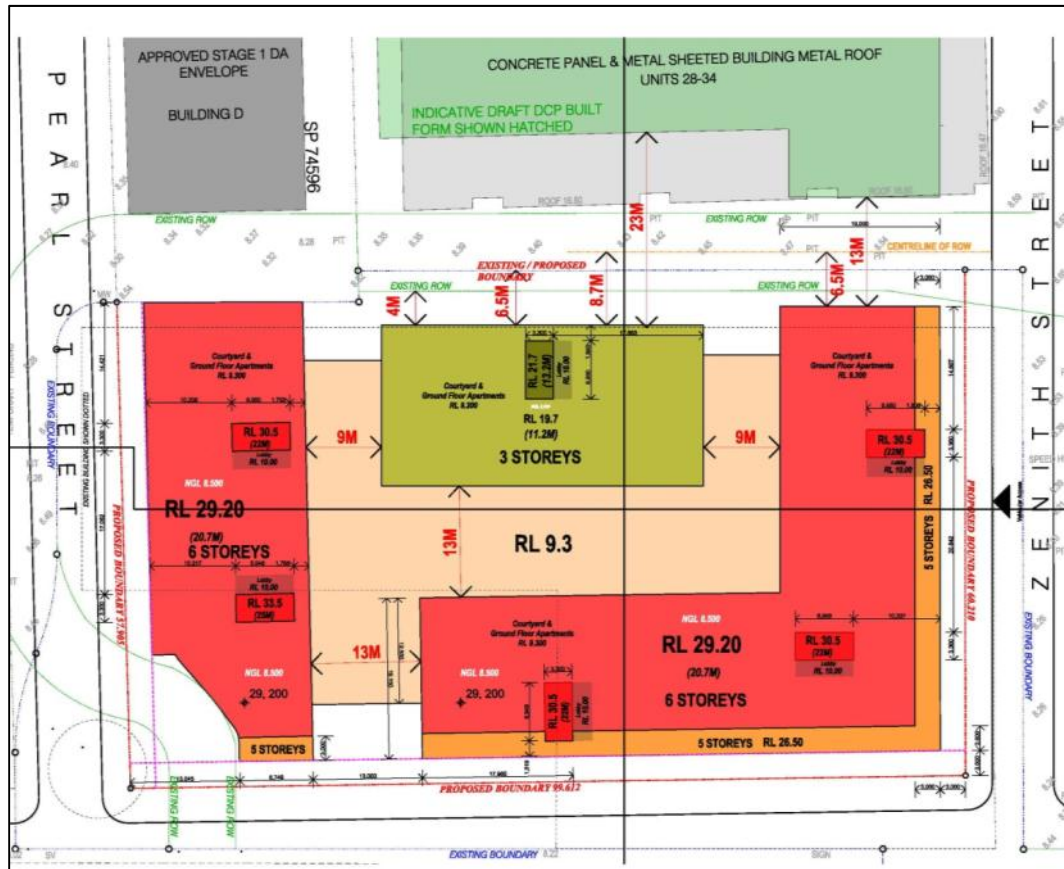


Figure 14: Approved Stage 1 DA building envelopes

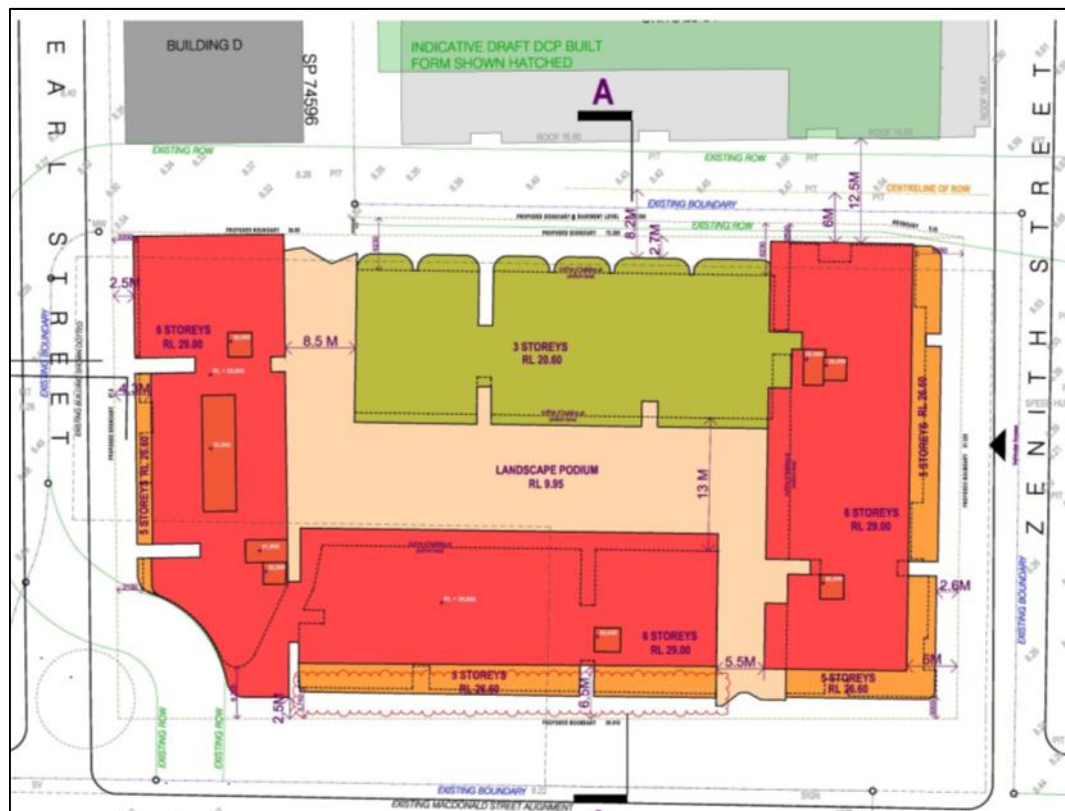


Figure 15: Revised Stage 1 DA building envelopes

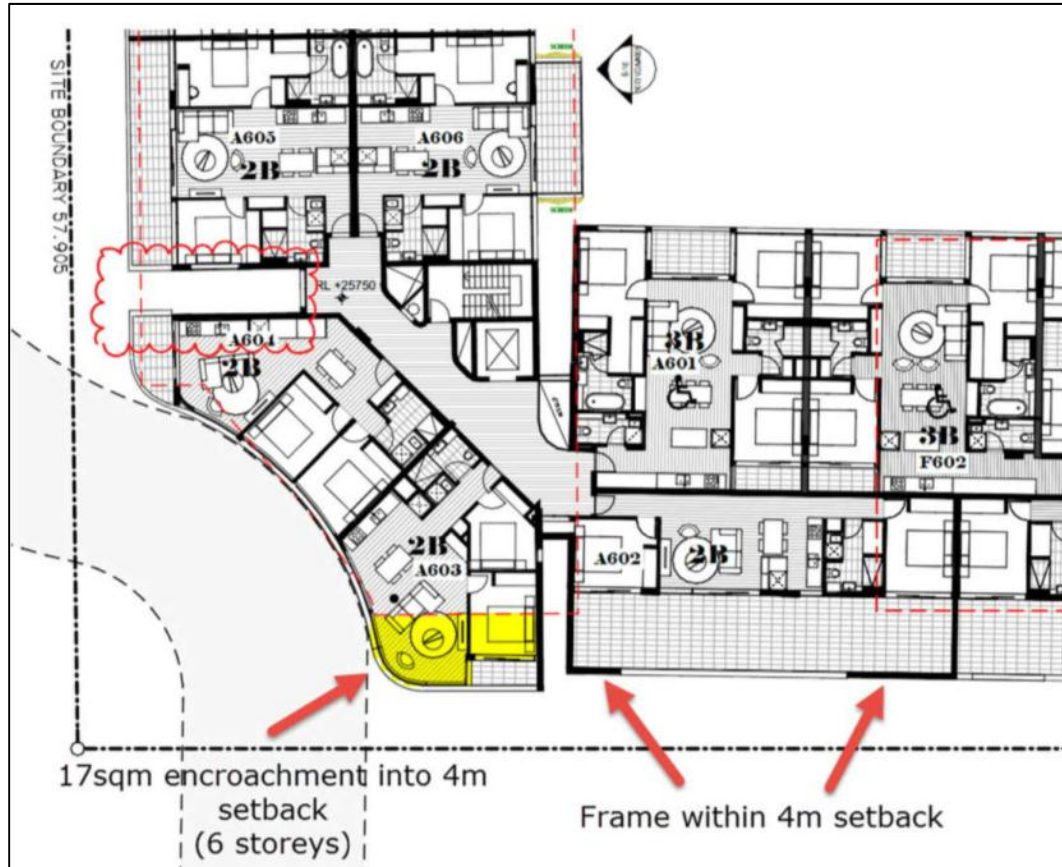


Figure 16: Level 6 plan indicating the extent of DCP encroachments

### ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

19. 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 65—Design Quality of Residential Flat Development

20. 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, including 10 design quality principles as follows:

- (a) **Principle 1:** Context
- (b) **Principle 2:** Scale
- (c) **Principle 3:** Built Form
- (d) **Principle 4:** Density
- (e) **Principle 5:** Resource, energy and water efficiency
- (f) **Principle 6:** Landscape

- (g) **Principle 7:** Amenity
  - (h) **Principle 8:** Safety and Security
  - (i) **Principle 9:** Social Dimensions
  - (j) **Principle 10:** Aesthetics
21. Due to the conceptual nature of a Stage 1 application, a detailed assessment against SEPP 65 and the Residential Flat Design Code can only be made when the future Stage 2 application is submitted.
22. Notwithstanding the above, an assessment is provided below where it is concluded that the proposed modifications to the building envelope are acceptable when considered against the design quality principles. These principles are replicated in a large part within Council's controls.
- (a) The modified envelopes are able to comply with the core height and FSR development standards under SLEP 2012. The modified setbacks and street frontage height controls are generally consistent with SDCP 2012 (Ashmore Neighbourhood) and are considered to be contextually appropriate and provide an acceptable built form within this locality.
  - (b) The modified envelopes provide for appropriate modulation and articulation of facades through the use of deep and wide building slots and sightlines into the central courtyard which also assist in reducing the scale of the proposal.
  - (c) The changes to the siting of the proposed buildings still provides for breaks between buildings, albeit in different locations.
  - (d) The modified envelope of the 3 storey northern building fronting the future pedestrian through-link provides an appropriate transition in scale from the adjoining 6 storey eastern building. This building envelope has been amended to include increased articulation and a detailed form that will assist with providing an appropriate sense of scale along the pedestrian link, in lieu of the existing building gap.
  - (e) The proposed modifications allow for the retention of the internal landscaped courtyard and landscaped setbacks. The increased envelope of the 3 storey northern building allows for additional area to be provided on the roof of this building for a landscaped common open space area, as detailed in the Stage 2 development application.
  - (f) Shadow diagrams submitted with the modification proposal show that the adjoining development to the south will receive in excess of 2 hours of sunlight to living spaces and balconies on the 21 June.
  - (g) Principles relating to amenity (including solar access and cross ventilation), energy efficiency, safety and security, social dimensions and aesthetics have been assessed as part of the Stage 2 detailed design development application. The proposal is considered to be acceptable with regard to these requirements.



## Sydney LEP 2012

23. The site is located within the B4 Mixed Use zone. The proposed use is defined as residential and is permissible.
24. The relevant matters to be considered under Sydney Local Environmental Plan 2012 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               | Maximum heights of 22m and 25m are permitted.<br>A height of 22.75m is proposed.   |
| 4.4 Floor Space Ratio                                 | Yes               | A base FSR of 1.75:1 is permitted with up to 10% (1.92:1) additional in accordance with Clause 6.21.<br>A FSR of 1.91:1 is proposed.   |
| Division 4 Design excellence                          | Yes               | This modification development application is for Stage 1 building envelopes only. Design detail is considered as part of the Stage 2 detailed design application.<br><br>The form of development proposed by the Stage 2 application is considered to satisfy the requirements of this provision (see separate report for D/2014/912). |
| <b>Part 7 Local provisions—general</b>                |                   |  |
| Division 1 Car parking ancillary to other development | Yes               | The approved Stage 1 application showed an indicative car park layout for 128 car spaces over 2 levels of basement parking.<br><br>The proposal seeks to delete 1 level of basement parking. As LEP parking controls specify maximum rates, the deletion of parking is supported.  |
| 7.17 Flood planning                                   | Yes               | The site is identified by Council as being flood prone.<br><br>This matter was considered as part of the original assessment and found to be compliant. The proposed modifications comply with Council policy.   |

**Sydney DCP 2012**

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

| <b>2. Locality Statements – Ashmore</b>  |
|--|
| The subject site is located in the Ashmore locality. The proposed modifications are considered to be in keeping with the approved Stage 1 development application and remain consistent with the desired future character of the area. |

| <b>3. General Provisions</b>                           |                   |   |
|--|-------------------|---|
| <b>Development Control</b>                             | <b>Compliance</b> | <b>Comment</b>  |
| 3.3 Design Excellence and Competitive Design Processes | Yes               | The proposed development has been subject to a design competition. This process permitted a bonus FSR of up to 10% over the site.<br><br>The Stage 2 development application assesses the allocation of bonus floor space (up to 10% is available). |

| <b>4. Development Types</b>  |                   |   |
|--|-------------------|---|
| <b>4.2 Residential Flat, Commercial and Mixed Use Developments</b> |                   |   |
| <b>Development Control</b>   | <b>Compliance</b> | <b>Comment</b>  |
| 4.2.4 Fine grain, architectural diversity and articulation         | Yes               | The proposal achieves fine grain diversity through the use of building breaks that provide sightlines into the central courtyard, deep landscaped slots in the facades, modulation, a varied pallet or materials, increased setbacks on Level 6 and individual entries to ground level apartments.<br><br>The changes to the siting of the proposed buildings still provides for breaks between buildings, albeit in different locations.<br><br>The modified proposal will still allow for an appropriate response in terms of architectural diversity and articulation. |

| 5. Specific Areas  |            |   |
|--|------------|---|
| 5.5 Ashmore Neighbourhood  |            |   |
| Development Control  | Compliance | Comment   |
| <b>5.5.2 Urban design principles</b>   |            |   |
| 5.5.2 Urban design principles - transition of building heights                     | Acceptable | The modification is compliant with setbacks, with the exception of the sixth storey, which encroaches into the 4m setback control that applies to that level.<br><br>Refer to Issues section.   |
| <b>5.5.8 Building layout, form and design</b>                                      |            |   |
| 5.5.8.1 Height of Buildings  | Acceptable | Predominantly compliant with the exception of a minor non-compliance for Level 6 fronting Macdonald Street.<br><br>Refer to Issues section.   |
| 5.5.8.4 Building form and design   | Acceptable | The sixth storey encroaches into the 4m setback control that applies to that level.<br><br>Refer to Issues section.   |
| 5.5.8.5 Typical ground floor condition for residential flat buildings (6 controls) | Acceptable | The proposal complies with the provision of this control with the exception of 5.5.8.5(6) that requires private open space be a maximum of 1m above street level.<br><br>Proposed modifications to meet the flood planning level requirements result in ground floor levels being required to be 1.5m above ground.<br><br>Refer to Issues section. |

## ISSUES

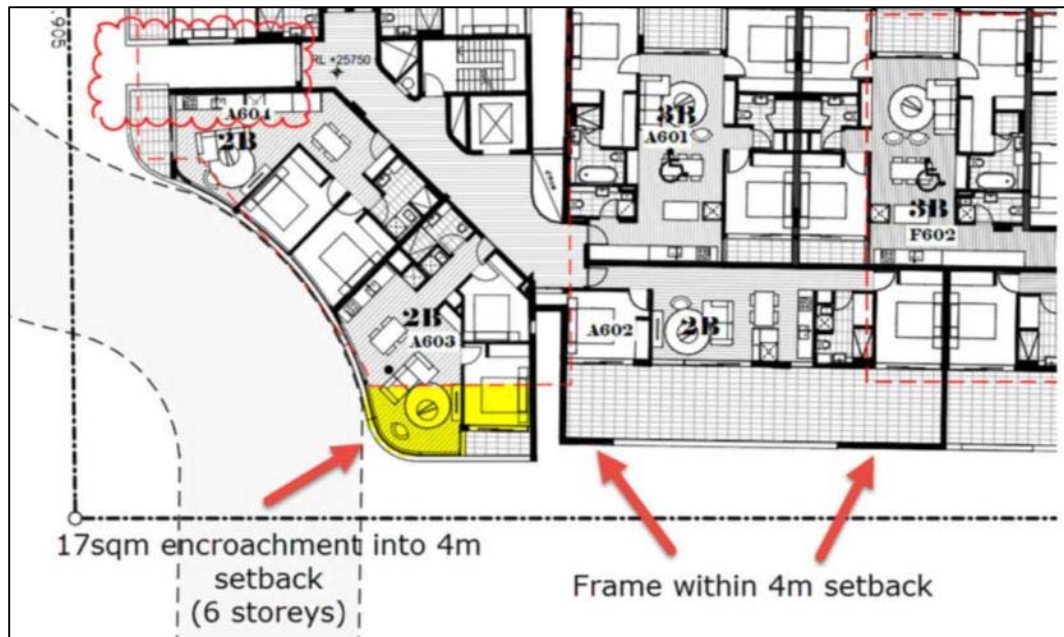
### Sixth floor building setback and height

26. The modifications seek to align the approved stage 1 DA with the Competitive Design Alternatives Process (design competition) winning design prepared by dKO architecture. The design of the winning scheme creates a non-compliance with the setback and height in storey provisions at the upper level of the building facing Macdonald Street.
27. The DCP requires buildings be setback 4m above the street frontage height. In this instance the street frontage height is 5 storeys. Consistent with the setback control, the height in storey control nominates 5 storeys as the height limit immediately fronting Macdonald Street and then 6 storeys from the 4m setback point onwards.

28. The extent of non-compliance with the setback and height in storey controls is illustrated in Figure 17 and Figure 18.



**Figure 17:** Extract of DCP height in stories plan showing 5/6 storey height transition



**Figure 18:** Extent of non-compliance with DCP controls

29. The impact of the non-compliance is considered to be minor in this instance. The winning design has sought to respond to the constraints posed by the existing right of carriageway that traverses the south western corner of the site, as well as creating a strong and distinctive corner treatment.
30. Shadow diagrams submitted with the proposal show that the adjoining development to the south will receive in excess of 2 hours of sunlight to living spaces and balconies on the 21 June. The impacts of the non-compliance in terms of overshadowing are minor.
31. It is considered that the architectural integrity of the winning scheme would be adversely affected if it was required to strictly comply with the setback control. The proposed modification to the approved envelope is considered to have merit and is supported.



**Figure 19:** Perspective image of building with DCP non-compliance highlighted

32. It should be noted that a final determination as to the acceptability of the detailed design of the building is required to be made as part of the assessment of the Stage 2 development application.

#### **Ground floor condition**

33. The proposed modifications include providing a ground floor level of RL 9.95 for residential units. This is an increase from the approved Stage 1 application levels of RL 9.30. This modification is required in order to comply with the nominated flood planning levels.
34. The DCP has regard for the need to comply with the flood planning levels determined for a site. In this instance the ground conditions only breach the controls as a consequence of complying with the flood planning levels. The degree of the non-compliance is only 500mm which has minimal impact.
35. It is noted that the increase in floor level does not impact the overall height of the proposal, or compliance with floor to ceiling heights.
36. The Stage 2 development application will consider the implications of the raised floor level on the public domain.

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

37. The proposed development is capable of complying with the BCA (Class 2 and 7a).
38. 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**

39. The premises are in an area transitioning from industrial uses to future commercial/residential uses. The proposal is of a nature in keeping with the overall function of the site, and is consistent with the desired future character of the overall Ashmore Precinct.

**EXTERNAL REFERRALS****Notification, Advertising and Delegation (Submission(s) Received)**

40. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified. As such, the application was notified for a period of 14 days between 18 July 2014 and 2 August 2014. As a result of this notification, one submission was received, as follows:

- (a) *Is there anyways we could stop this development from taking place it is already too crowded here in Erskineville.*

**Response** - The current modification application is seeking to modify an already approved proposal that was assessed against the relevant controls for the site. This and any future applications must be assessed against the adopted controls applying to the site.

**PUBLIC INTEREST**

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

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

42. The modifications do not affect the contributions levied under the Stage 1 approval.

**RELEVANT LEGISLATION**

43. The Environmental Planning and Assessment Act 1979.

**CONCLUSION**

44. The proposal for modification to the approved Stage 1 application is generally consistent with the objectives, standards and guidelines of the relevant planning controls including the Sydney LEP 2012 and the Sydney DCP 2012 (Ashmore Neighbourhood).
45. The development is the second site to be developed within the Ashmore urban renewal precinct. The building envelopes are being amended as a result of the outcomes of the design competition. The winning scheme exhibited the potential to deliver design excellence required by the LEP, albeit with a lightly different building location layout compared to the preferred configuration originally anticipated by the DCP.

46. The proposed modifications are generally consistent with Council's development standards and controls, which establish the desired future character of the Ashmore urban renewal precinct.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Natasha Ridler, Senior Planner)