

**ITEM 9. DEVELOPMENT APPLICATION: 956-960 BOURKE STREET
ZETLAND****FILE NO: D/2014/642****DEVELOPMENT APPLICATION NO: D/2014/642****SUMMARY**

Date of Submission:	9 May 2014 Amended plans were received on 14 October 2014, 10 November 2014 and 14 November 2014
Applicant:	Mirvac Green Square Pty Ltd
Architect:	FJMT
Developer:	Mirvac
Owner:	UrbanGrowth NSW
Cost of Works:	\$142,674,989
Proposal Summary:	<p>Mixed use development containing 747sq.m of retail space at ground floor and 288 apartments in one 10 storey building and one 28 storey building. The proposal includes excavation of 3 basement levels designed to provide 180 car parking spaces and 370 bike parking spaces. Vehicle access is proposed from the future Tweed Place. Two pedestrian links from Portman Lane are proposed - one to Ebsworth Street and one to Bourke Street. Tree removal, new landscaping and public domain works are also proposed.</p> <p>The proposed building height is compliant with the maximum LEP building height control. The maximum LEP floor space ratio (FSR) is applied across two development sites within the same ownership and will be assessed cumulatively. The proposal complies with the building envelopes established by the DCP with the exception of a non-compliance associated with the elliptical form of Building 5B where it protrudes 1.5m beyond the square-shaped envelope established for the site in one area. The non-compliance does not result in any unacceptable impacts.</p> <p>The proposal has been amended to address concerns from Council Officers and the Design Advisory Panel relating to natural cross ventilation and solar access within the apartments, materials and finishes along the north-eastern elevation and treatment of the ground plane along the proposed through-site links.</p>

**Proposal Summary:
(continued)**

The DA was notified for 30 days from 21 May 2014 to 21 June 2014. Eighteen submissions were received, with concerns raised including building height, overshadowing, overlooking and insufficient car parking. Council Officers are satisfied that the concerns identified have been considered in the formation of the planning controls governing the building envelopes, 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/2014/642, 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/2014/642 dated 9 May 2014 and the following drawings:

Drawing Number	Architect	Date
DA 005 Basement 3 and 2 Plan	FJMT	14.11.14
DA 006 Basement 1 and Ground Plan	FJMT	14.11.14
DA 007 5A Levels 1-6 Floor Plans	FJMT	14.11.14
DA 008 5A Levels 7- 27 Floor Plans	FJMT	14.11.14
DA 009 5A and 5B Roof and Plant Plans	FJMT	14.11.14
DA 010 5B Levels 1-4 Floor Plans	FJMT	14.11.14
DA 011 5B Levels 5-9 Floor Plans	FJMT	14.11.14
DA 012 Elevation – 5A North	FJMT	11.04.14
DA 013 – Elevation – 5A South	FJMT	11.04.14
DA 014 Elevation - 5A and 5B East	FJMT	14.11.14
DA 015 Elevation - 5A and 5B West	FJMT	14.11.14
DA 016 Elevation - 5B North and South	FJMT	14.11.14
DA 017 Detail Façade Elevations – Sheet 01	FJMT	17.04.14
DA 018 Detail Façade Elevations – Sheet 02	FJMT	17.04.14
DA 019 Detail Façade Elevations – Sheet 03	FJMT	17.04.14

Drawing Number	Architect	Date
DA 020 5A Cross Section	FJMT	11.04.14
DA 021 5B Cross Section	FJMT	14.10.14
DA 022 GFA Area Plans – Sheet 1	FJMT	14.11.14
DA 025 Adaptable Apartment Plans – Sheet 1	FJMT	11.04.14
DA 026 Adaptable Apartment Plans – Sheet 2	FJMT	11.04.14
DA 027 Adaptable Apartment Plans – Sheet 3	FJMT	11.04.14
DA 033 Landscape Ground Floor Plan	FJMT	14.11.14
DA 034 Landscape Sections and Elevations	FJMT	14.11.14
DA 035 Landscape Building 5B Terrace	FJMT	14.11.14

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) DESIGN MODIFICATIONS

The design of the development must be modified as follows:

- (a) Skylights to the Level 27 apartments in Building 5A are to be incorporated into the development, as identified in the *Development Application Clarifications Report* prepared by FJMT dated 10 November 2014. DA drawings are to be updated and provided;
- (b) Solid upstands or patterned glazing is to be incorporated to balconies in Building 5B at the lower three levels above the podium, gradually becoming more transparent as the balconies traverse up the elevation; and
- (c) The basement break-through panel and surrounds for its future access to “Site 5C” at the north-eastern corner of the site are to remain common property and are not to be occupied by uses capable of strata or land subdivision, including storage cages that are divisible.

The modifications are to be submitted to and approved by Council’s Director City Planning, Development and Transport prior to the issue of a Construction Certificate.

(3) PORTMAN LANE FRONTAGE

The design lodged for the Portman Lane frontage (Drawings DA 016, DA 33, DA 34 and DA 35) 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. The Portman Lane architecture and landscaping is to relate to the lanescape and tie into the design for Site 16 to the south.

(4) 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.

(5) BOURKE STREET FOOTWAY UPGRADE

The Bourke Street frontage of the site, from Ebsworth Street to Portman Street, shall be upgraded in consultation with the City's Green Square Infrastructure Unit. The upgrade works are to include paving to the City's specification, cycleway marking, kerb replacement, drainage works, service requirements, adjustments to service pits and manholes, street lighting, street trees and traffic control and signposting. Details are to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

(6) DESIGN QUALITY EXCELLENCE

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

(7) 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.

(8) 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 (DA 032), and specifications prepared by FJMT.

(9) BUILDING HEIGHT

- (a) The height of the buildings must not exceed the following:
- (i) Building 5A - RL 114.00 (AHD) to the top of the building and RL 111.00 (AHD) to the parapet of the building;
 - (ii) Building 5B - RL 54.45 (AHD) to the top of the building and RL 52.75 (AHD) to the parapet of the building.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the heights of the buildings accords with (a) above, to the satisfaction of the Principal Certifying Authority.

(10) FLOOR SPACE RATIO - ALL OTHER AREAS

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the business use must not exceed 0.11:1; for the residential use must not exceed 3.82:1 calculated in accordance with Sydney Local Environmental Plan (Green Square Town Centre) 2013. For the purposes of the calculation of FSR, the Gross Floor Area of the business component is 763.2sqm, for the residential component is 25,390.8sqm, and the total Gross Floor Area is 26,154sqm.

- (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.

(11) STRATA SUBDIVISION – DEVELOPMENT CONSENT

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

(12) LAND SUBDIVISION – SEPARATE DA REQUIRED

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

(13) LAND SUBDIVISION – ACCESS TO “SITE 5C”

Any proposal for land subdivision involving the creation of separate parcel(s) for Building 5A and 5B will require the creation of a right of carriageway for “Site 5C” from the Tweed Place driveway to the basement break-through panel.

(14) USE OF COMMERCIAL TENANCY - SEPARATE DA REQUIRED

A separate development application for the fitout and use of commercial/retail tenancies must be submitted to and approved by Council prior to that fitout or use commencing, except where the fitout and use is exempt or complying development under an environmental planning instrument or development control plan.

(15) SIGNAGE STRATEGY

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

(16) 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 the issue of a Construction Certificate for Stage 2.

(17) CONSTRUCTION LIAISON 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.

(18) 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 (Green Square Town Centre – Stage 2) 2013.
- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from “residential accommodation” as defined in Sydney Local Environmental Plan (Green Square town Centre – Stage 2) 2013. The covenant is to be registered on title prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.
- (c) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (d) 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.

(19) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL

The following conditions apply to car parking:

- (a) The on-site car parking spaces are not to be used other than resident of the subject building for parking of vehicles related to residence in the unit with which the space is associated. No storage should take place for commercial businesses in car parking spaces.
- (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.

(20) 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 – Stage 2) 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 \$5,314,913.95 based on the in lieu monetary contribution rate for non-residential development at \$50.05 per square metre of total non-residential floor area 791sqm, and for residential development at \$150.20 per square metre of total residential floor area 35,122sqm. 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 GSPT@cityofsydney.nsw.gov.au 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 GSPT@cityofsydney.nsw.gov.au 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 = $C \times \text{HPI2} / \text{HPI1}$, where:
- (i) C is the original contribution amount as shown above;

- (ii) HPI2 is the Established House Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the time of the payment; and
- (iii) (iii) HPI1 is the Established House Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics that applied at the date of the consent [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 (\$)).

(21) DESIGN OF WASTE FACILITIES

- (a) Clearance height for access by collection vehicles must be no less than 3.6m 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 6.00am and 6.00pm on collection days.
- (d) A storage area for discarded bulky items must be provided per block of residential units.

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.

(22) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

The proposed work must comply with the Building Code of Australia (BCA) relevant to the appropriate building classification.

(23) 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).

(24) 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.

(25) RMS REQUIREMENTS - CONSTRUCTION TRAFFIC MANAGEMENT PLAN

A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, cumulative traffic impacts, access arrangements, parking effects/management, managing pedestrian movements and traffic control shall be submitted to Council and Roads and Maritime Services for approval prior to the issue of any Construction Certificate.

(26) RMS REQUIREMENTS - SITE EXCAVATION

For general site excavation associated with the development, the Applicant is to comply with the requirements of the Technical Direction (GTD 2013/001_Excavation Adjacent to Roads and Maritime Infrastructure. This will require the Applicant to submit detailed design drawings and geotechnical reports to the RMS for assessment. The Applicant is to meet the full cost of this assessment by RMS.

(27) RMS REQUIREMENTS - DRAINAGE

Should there be any changes to Roads and Maritime drainage system, detailed design plans and hydraulic calculations of the stormwater drainage system are to be submitted to RMS for approval prior to commencement of any works.

Details should be forwarded to:

The Sydney Asset Management
Roads and Maritime Services
PO BOX 973 Parramatta CBD 2124

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

(28) RMS REQUIREMENTS – CONSTRUCTION TRAFFIC

All construction vehicles are to be wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Bourke Street.

(29) RMS REQUIREMENTS – TRAFFIC NOISE

The proposed development must be designed such that road traffic noise from Bourke Street is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102(3) of State Environmental Planning Policy (Infrastructure) 2007.

(30) RMS REQUIREMENTS – COST OF SIGNPOSTING

All works / regulatory signposting associated with the development shall be at no cost to the Roads and Maritime.

(31) CONNECTION TO NON-POTABLE RECYCLED WATER 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 application 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.

(32) ARCHAEOLOGICAL MANAGEMENT

The Archaeological Management strategies specified by AHMS in Section 6.2 of Archaeological Management Plan, Green Square Town centre for Green Square Consortium dated August 2013 are to be followed during the project.

(33) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION

- (a) Should any historical relics be unexpectedly discovered on the site during excavation, 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*.
- (b) Should any Aboriginal relics be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and the Department of Environment and Climate Change is to be informed in accordance with Section 91 of the *National Parks and Wildlife Act, 1974*.

(34) FOOTPATH DAMAGE BANK GUARANTEE

A Footpath Damage Bank Guarantee calculated on the basis of 125 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.

(35) 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 & Transport.

(36) PUBLIC DOMAIN PLAN

Three copies of a detailed Public Domain Plan for the Portman Lane, Navins Lane and Bourke Street frontages 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.

(37) 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.

(38) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN

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

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

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

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

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

(39) 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.

(40) 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).

(41) ESSENTIAL INFRASTRUCTURE CO-ORDINATION

Where Public Domain frontages and other essential infrastructure required to service this 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 issue of 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.

(42) NO ENCROACHMENT INTO THE PUBLIC DOMAIN

All doors (including when open), access stairs and ramps related to the development shall be setout such that no part (including tactile indicators and handrails) shall encroach onto the footpath or other parts of the public domain.

(43) 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.

(44) 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 units in any future strata subdivision of the building.

(45) 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".

(46) BICYCLE PARKING AND END OF TRIP FACILITIES

The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Principle Certifying Authority confirming prior to the Construction Certificate being issued.

(47) CAR PARKING SPACES AND DIMENSIONS

A maximum of 180 off-street car parking spaces must be provided – 168 for residents, 8 for retail staff and 4 for car share.

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.

(48) 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.

(49) 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.

(50) 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.

(51) MOTORCYCLES

An area equivalent to a minimum of four car spaces (or 15 motorcycle spaces) must be provided for motorcycles.

(52) 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.

(53) 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 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.

(54) SERVICE VEHICLE SIZE LIMIT

The size of vehicles servicing the property must be a maximum length of 9.8m.

(55) 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.

(56) SIGNS AT EGRESS

The following signs must be provided and maintained within the site at the point(s) of vehicular 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, or shared zone.

(57) STACKED PARKING EMPLOYEES OR TENANTS ONLY

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

(58) 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.

(59) 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.

(60) SMALL CAR PARKING SPACES AND DIMENSIONS

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

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

(61) 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 granted.

[Note: It is recommended the applicant contact a member of the Transport and Access Unit, to discuss the Green Travel Plan with Council, prior to its submission]

(62) 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 to be 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.

(63) ACCESSIBLE PARKING SPACES

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

(64) CAR SHARE SPACES

- (a) A minimum of 4 car parking spaces for the exclusive use of car share scheme vehicles are to be provided.
- (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 well lit.
- (e) The car share spaces are to be available at the same time that the car park commences operation.

(65) LOADING MANAGEMENT PLAN

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

The Plan is to identify how the loading dock will be managed and used by all tenants (retail, commercial and residential) to enable the efficient servicing of the development.

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

(66) DRIVEWAY WIDTHS AND SPLAYS

A minimum 1 metre splay on the north east corner of the car park entry is to be incorporated into the design of the car park access to open up sightlines for vehicles exiting the site.

(67) 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.

(68) 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.

(69) 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.

(70) 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.

(71) 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.

(72) 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.

(73) 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.

(74) 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.

(75) 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.

(76) 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.

(77) 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.

(78) 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.

(79) 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.

(80) 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.

(81) 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.

(82) 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.

(83) COMPLIANCE WITH ACOUSTIC REPORT

All recommendations contained in the Acoustic Assessment – Green Square Town Centre Site 5AB, prepared by Acoustic Logic dated 7 April 2014 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.

(84) 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.

(85) 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*.

(86) 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_{A90, 15minutes}) 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.

(87) 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.

(88) 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.

(89) 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.

(90) 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.

(91) WASTE AND RECYCLING COLLECTION, DELIVERIES AND 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.

(92) 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.

- h. Water pumps are to be located so as not causing an “*offensive noise*” as defined by the *Protection of the Environment Operations Act 1997* to any affected receiver.
- (c) Proximity to other services
 - (i) That all rainwater pipes must be separated from any parallel drinking water service. Above ground pipes must be 100mm away and below ground 300mm away from any drinking water pipe
- (d) Marking and labelling
 - (i) Above ground distribution pipes shall be continuously marked ‘RAINWATER’ in accordance with AS1345. Alternatively, adhesive pipe markers clearly labelled ‘RAINWATER’ made in accordance with AS 1345 can be used.
 - (ii) Below ground distribution pipes shall be continuously marked ‘RAINWATER’ in accordance with AS1345. Alternatively, identification tape/pipe sleeve continuously marked ‘RAINWATER’ made in accordance with AS 2648 can be used.
 - (iii) All rainwater tank outlets, taps, valves and tank apertures shall be identified as ‘RAINWATER’ with a sign complying with AS1319 or a green coloured indicator with the letters ‘RW’. Alternatively a permanent sign at the front of the premises and visible to all visitors may be displayed advertising rainwater use.
- (e) Maintenance
 - (i) All rainwater tanks installed are to be maintained by the owner in accordance with these provisions, the NSW Health Department Circular no 2002/1 “Use of rainwater tanks where a reticulated potable supply is available” and any other local water utility requirements.
 - (ii) The rainwater collection system shall be constantly maintained in accordance to the manufacturer’s instructions and in line with any approved maintenance plan so as to prevent risk of pathogenic microbial contamination including *legionella* and organisms from wildlife including birds.

(93) CAR PARK VENTILATION

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

(94) 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.

(95) 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.

(96) TREES THAT MUST BE RETAINED

Approval is NOT granted for the removal of trees located within Site 5C. These existing trees located at the corner of Bourke and Portman Streets be retained and protected throughout the development. Reference should be made to the Arboricultural Impact Assessment Report prepared by Urban Forestry Australia, dated April 2014 for tree locations.

(97) TREES APPROVED FOR REMOVAL

The existing trees detailed in Table 1 may be removed during the demolition works on the subject site. Reference should be made to the Arboricultural Impact Assessment Report prepared by Urban Forestry Australia, dated April 2014 for tree numbering and locations.

Tree No:	Botanical Name/Common Name	Location
1 - 6	<i>Casuarina glauca</i> Swamp She Oak	Portman Lane boundary
7	<i>Syagrus romanzoffianum</i> Cocos palm	Bourke Street Boundary
8	<i>Casuarina glauca</i> Swamp She Oak	Bourke Street Boundary
9	<i>Cupressus sempervirens</i> Mediterranean Cypress	Bourke Street Boundary
10	<i>Casuarina cunninghamiana</i> River She Oak	Bourke Street Boundary
11	<i>Cupressus sempervirens</i> Mediterranean Cypress	Bourke Street Boundary
12	<i>Casuarina cunninghamiana</i> River She Oak	Bourke Street Boundary
13	<i>Cupressus sempervirens</i> Mediterranean Cypress	Bourke Street Boundary
14 - 19	<i>Casuarina cunninghamiana</i> River She Oak	Bourke Street Boundary
20	<i>Populus nigra</i> 'Italica" Lombardy Poplar	Bourke Street Boundary
21, 22	<i>Fraxinus griffithii</i> Evergreen Ash	Bourke Street Tree
23 - 25	<i>Casuarina cunninghamiana</i> River She Oak	Navins Lane Boundary
26 - 28	<i>Casuarina glauca</i> Swamp She Oak	Navins Lane Boundary

(98) TREE PROTECTION ZONES – NEIGHBOURING TREES

- (a) Before the commencement of works, a Tree Protection Zone/s (TPZ) must be established across the site from the Portman Lane boundary to the Bourke Street boundary isolating Site 5C from construction impacts.
- (b) Tree protection must be installed and maintained in accordance with the Australian Standard 4970 Protection of Trees on Development Sites.
- (c) Each TPZ must be:
 - (i) Enclosed with a 1.8m high fully supported chainmesh protective fencing. The fencing shall be secure and fastened to prevent movement. The fencing shall have a lockable opening for access. Woody roots shall not be damaged during the establishment or maintenance of the fencing;

- (ii) Kept free of weed and grass for the duration of works;
 - (iii) Mulch installed / maintained to a depth of 75mm for the duration of works
 - (iv) Have two signs identifying the name and contact details of the site Arborist attached facing outwards in a visible position. All signs must remain in place until works are completed on site
- (d) The following works shall be excluded from within any TPZ:
- (i) Soil cut or fill including excavation and trenching
 - (ii) Soil cultivation, disturbance or compaction
 - (iii) Stockpiling storage or mixing of materials
 - (iv) The parking, storing, washing and repairing of tools, equipment and machinery
 - (v) The disposal of liquids and refuelling
 - (vi) The disposal of building materials
 - (vii) The siting of offices or sheds
 - (viii) Any action leading to the impact on tree health or structure.
- (e) All work undertaken within or above the TPZ must be:
- (i) Supervised by a qualified Consultant Arborist, who holds the Diploma in Horticulture (Arboriculture), Level 5 under the Australian Qualification Framework;
 - (ii) Undertaken in accordance with all directions given by the Site Arborist and/or Council
- (f) Any root/s greater than 50mm in diameter must be pruned by a qualified Arborist with a minimum AQF level 3

(99) ADVANCED TREE PLANTING

An advanced tree planting method and maintenance plan prepared by a qualified landscape architect or landscape designer must be submitted to and approved by Council prior to a Construction Certificate being issued. The plan must include:

- (a) The design must provide a minimum 20% canopy cover across the site, provided by trees that will reach a minimum height of four to eight metres.
- (b) Trees must be grown to NATSPEC Guidelines for Specifying Trees to ensure quality trees and more successful establishment

- (c) Trees must be planted by a qualified Horticulturalist or Arborist of Level 2 under the Australian Qualifications Framework (AQF).
- (d) The replacement planting/s must be planted in such a manner as to promote good health during the establishment period, and must be maintained, as far as practicable to ensure tree growth into maturity.
- (e) Any newly planted tree that fails to establish within 2 years of the initial planting date must be replaced with a tree of comparable qualities.

(100) PHYSICAL MODELS

- (a) Prior to a Construction Certificate being issued, an accurate 1:500 scale model of the approved development must be submitted to Council for the City Model in Town Hall House; and
- (b) Prior to a final Occupation Certificate being issued, an accurate 1:500 scale mode of the development as constructed must be submitted to Council for the City Model in Town Hall House

Note:

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

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

- (a) Prior to a Construction Certificate being issued, an accurate 1:1 electronic CAD model of the detailed construction stage drawings for that stage must be submitted to Council for the electronic Visualisation City Model.
- (b) The data required to be submitted within the surveyed location must include and identify:
 - (i) building design above and below ground in accordance with the development consent;
 - (ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;

- (iii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

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

- (c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements> Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.
- (d) Prior to an Occupation Certificate being issued, a second and updated "as built" 1:1 electronic model, in accordance with the above requirements, of the completed development must be submitted to Council for the electronic City Model.

SCHEDULE 1C

During Construction/Prior to Occupation/Completion

(102) 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.

(103) 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.

(104) 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 an Occupation Certificate, the Principal Certifying Authority must receive written and photographic confirmation that the restoration of the public way has been complete in accordance with the following:
 - (i) All ground anchors must be de-stressed and isolated from the building prior to completion of the project.
 - (ii) The temporary structure, including foundation blocks, anchors and piers must be removed above and below the public way, prior to completion of project, down to a depth of 2m.
 - (iii) All timber must be removed.
 - (iv) All voids must be backfilled with stabilised sand (14 parts sand to 1 part cement).
 - (v) All costs for any reinstatement of the public way made necessary because of an unstable, damaged or uneven surface to the public way must be borne by the owner of the land approved for works under this consent.

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

(105) 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.

(106) 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.

(107) 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.

(108) 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.

(109) 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*.

(110) 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.

(111) 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.

(112) BASIX

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

(113) 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.
- (f) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

(114) 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.

(115) 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.

(116) 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.

(117) 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.

(118) 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.

(119) 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.

(120) 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.

(121) SYDNEY WATER CERTIFICATE

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council or the Principal Certifying Authority prior to an Occupation Certificate or subdivision/strata certificate being issued.

(122) NOTICE TO PCA REGARDING RECYCLED WATER CONNECTION

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

(123) ENCROACHMENTS – NEIGHBOURING PROPERTIES

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

(124) ENCROACHMENTS – PUBLIC WAY

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

(125) 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.

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 NSW Office of Water are as follows:

General

1. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
2. The design and construction of the 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. Sufficient drainage will be provided beneath and around the outside of the watertight structure to ensure that groundwater is able to drain around the structure and does not cause an impediment to natural groundwater flow which would lead to an increase in hydraulic gradient across the footprint of the basement greater than double the natural hydraulic gradient.
4. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

Prior to excavation

5. Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken. These measurements should be included in a report provided to the NSW Office of Water in support of the dewatering licence application, along with a schedule and indicative level predictions for the 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.
6. 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 parameters (e.g. permeability predicted by slug-testing, pump-testing or other means) and calculation method shall be included in the report submitted to the NSW Office of Water in support of the dewatering licence.
7. A copy of valid development consent for the project shall be provided in the report to the NSW Office of Water.
8. The method of disposal of pumped water shall be nominated (i.e. reinjection, 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 (sometimes called "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 (i.e. above appropriate NEPM 2013 thresholds) 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 that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

10. Engineering measures designed to transfer groundwater around the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
11. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
12. Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Weekly 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.
13. Pumped groundwater 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 shall be complied with.
14. 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 sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
15. 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.
16. 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 procedures.

Following excavation

17. Should pumping volumes or groundwater quality significantly differ from the predictions supporting the DA and licence applications, detailed monitoring records must be provided to the NSW Office of Water, 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 956-960 Bourke Street, Zetland at the north-eastern corner of the Green Square Town Centre. It has an area of approximately 6,643sq.m. It has frontage to Bourke Street in the north-west, Portman Street in the north-east and Navins Lane/Portman Lane to the east.
2. Whilst the site is known as 956-960 Bourke Street, Zetland the proposal does not include the north-eastern portion of that property fronting Portman Street, Navins Lane and a portion of the Bourke Street frontage. Refer **Figure 1**. The north-eastern portion of the site will be developed separately and retains an allowable building envelope containing approximately 1,600sq.m of gross floor area and a 4 storey height limit subject to a 45% building height plane originating from the laneway. The north-eastern portion has development consent for the construction of a sales and display centre for the marketing of Mirvac's projects in the town centre. Future long-term land use is yet to be established.
3. Upon the completion of the City's roadworks at the northern end of the town centre, the land to be developed will have frontage to future Ebsworth Street to the south-west and future Tweed Place to the south-east. 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.

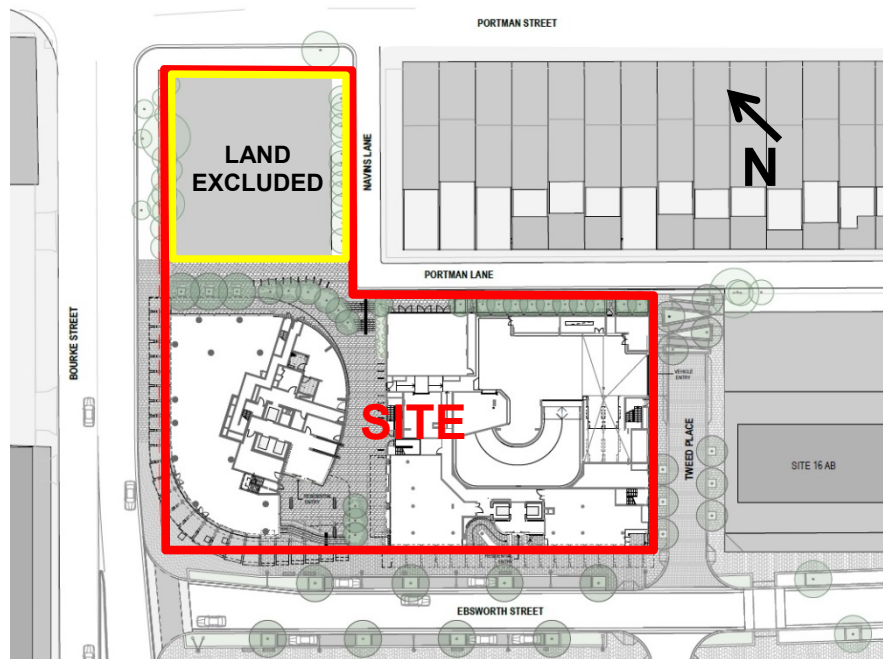


Figure 1: Context plan showing land to be developed

4. 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.
5. 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.

6. Surrounding land uses are residential and industrial.
7. 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.
8. 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 5A and 5B'.
9. Site visits were carried out on 15 May 2014, 18 July 2014 and 10 October 2014.
10. Photos of the site and surrounds are provided below:



Figure 2: Aerial image of site and surrounding area



Figure 3: Aerial perspective of site relative to Green Square Town Centre boundaries



Figure 4: Looking south-west from Portman Lane across site



Figure 5: Looking south from Bourke Street towards site



Figure 6: Looking north-east along Bourke Street



Figure 7: Looking south-east along Portman Lane

11. Since the early 1990's the vision for the Green Square Town Centre has been 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 across two buildings, Building 5A and Building 5B. Each building sits atop a shared three storey basement car park with access from Tweed Place at the south-eastern end of the site.
13. Vehicle access is not proposed from Portman Lane or Navins Lane and is not permitted in the City's planning controls.

14. Building 5A contains a 28 storey tower in an elongated elliptical form. Building 5A has 224 apartments and ground floor retail tenancies. The base of the building comprises a curved podium that has a street wall height of 4 and 8 storeys along Bourke Street and a street wall height of 8 storeys along Ebsworth Street.
15. Building 5B contains a lower rise 10 storey building with 64 apartments. The scale of the approved development to the south-east is also 10 storeys. The building has a street wall of 8 storeys. The upper two levels are setback from the dominant building edge.
16. Between Buildings 5A and 5B is a pedestrian through site link from Ebsworth Street to the corner of Portman Lane/Navins Lane. The through-site link is required within the City's planning controls. It has a gradual incline until a staircase and accessible ramp at the north-eastern end, it has tree planting at the south-western end to mitigate horizontal wind impacts and it provides pedestrian access to each building, access to a large internal bicycle parking room, customer access to retail tenancies along the link and through-access to and from the residential catchment to the north.
17. Between Bourke Street and Portman Lane is a proposed pedestrian through-site that was not envisaged within the City's planning controls but which is nevertheless a positive contribution to the permeability of the local street network and capable of active frontages for Buildings 5A and future development of the north-east portion of the site.
18. Along the eastern edge of the development, fronting Portman Lane where there are 10 terrace dwellings opposite the site, the design of Building 5B has a planning requirement for a maximum two storey podium with a 2.75m deep soil edge at laneway level. The proposed podium form is less than two storeys and the development incorporates the required deep soil landscaping. Additionally, it provides for a green trellis wall to soften the appearance of the podium wall and soft landscaping on top of the podium.
19. Plans, elevations and photomontages of the proposal are provided in **Attachment A**. The following extracted photomontages, plans and elevations are provided:



Figure 8: Photomontage looking from future Ebsworth Street



Figure 9: Photomontage looking from Bourke Street



Figure 10: Photomontage of proposed Ebsworth Street through-site link



Figure 11: Ebsworth Street Elevation

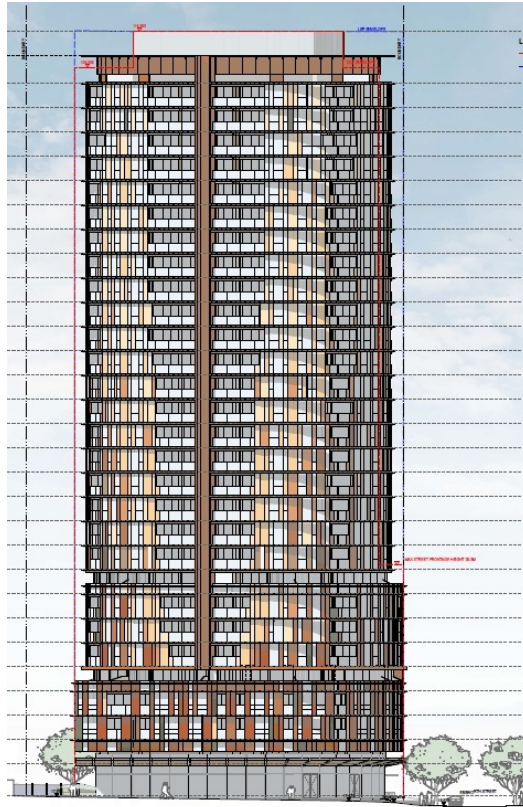


Figure 12: Bourke Street Elevation

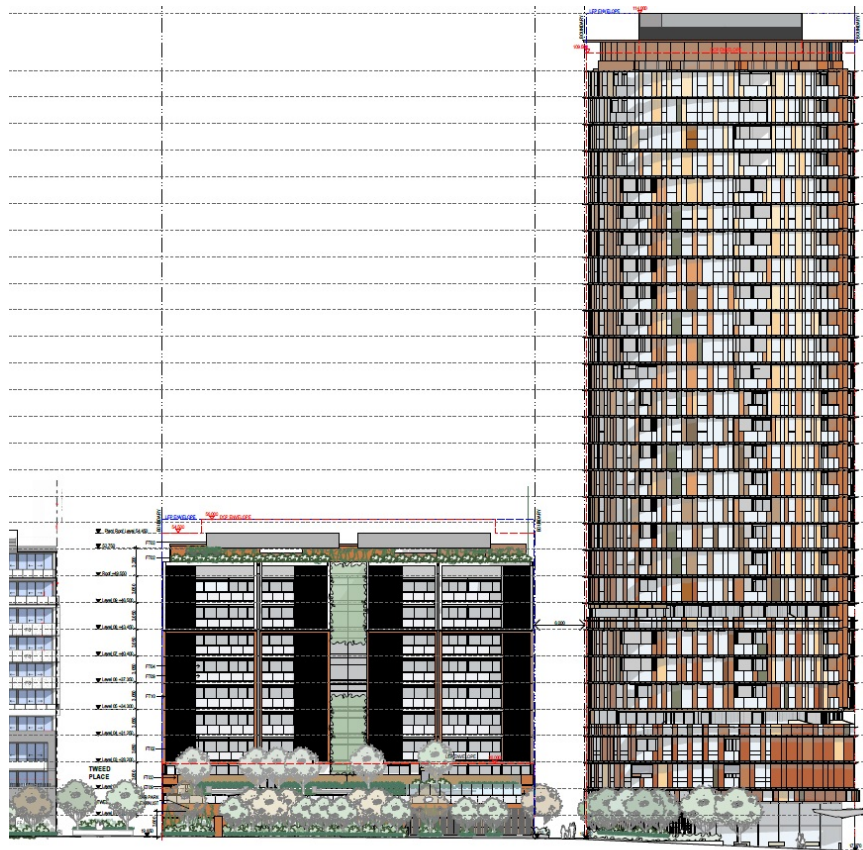


Figure 13: Portman Lane and through-site link elevation

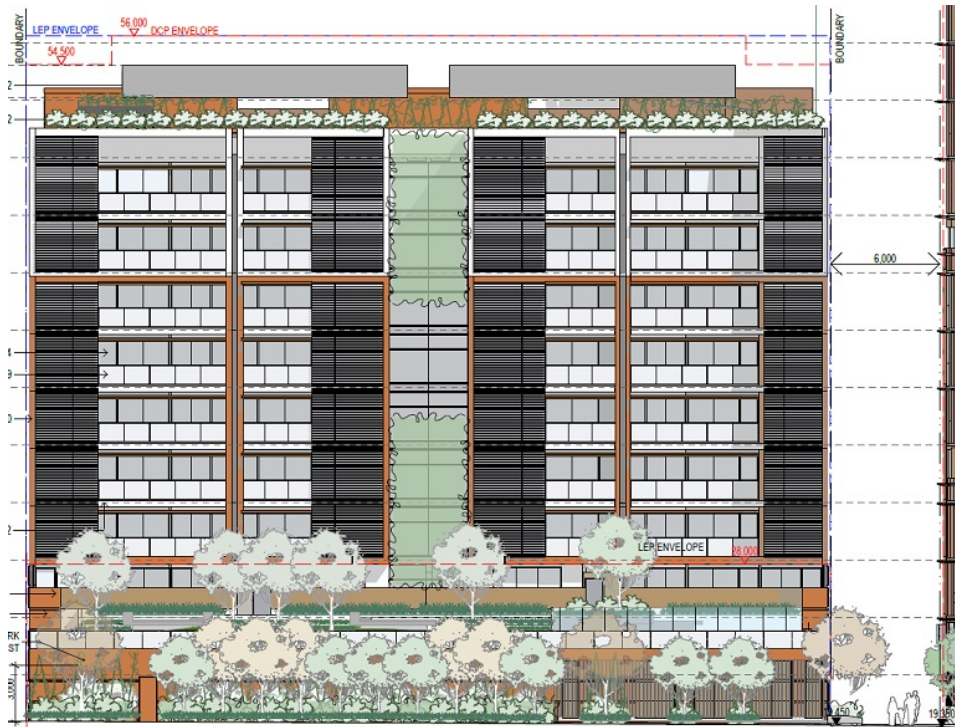


Figure 14: Portman Lane Elevation

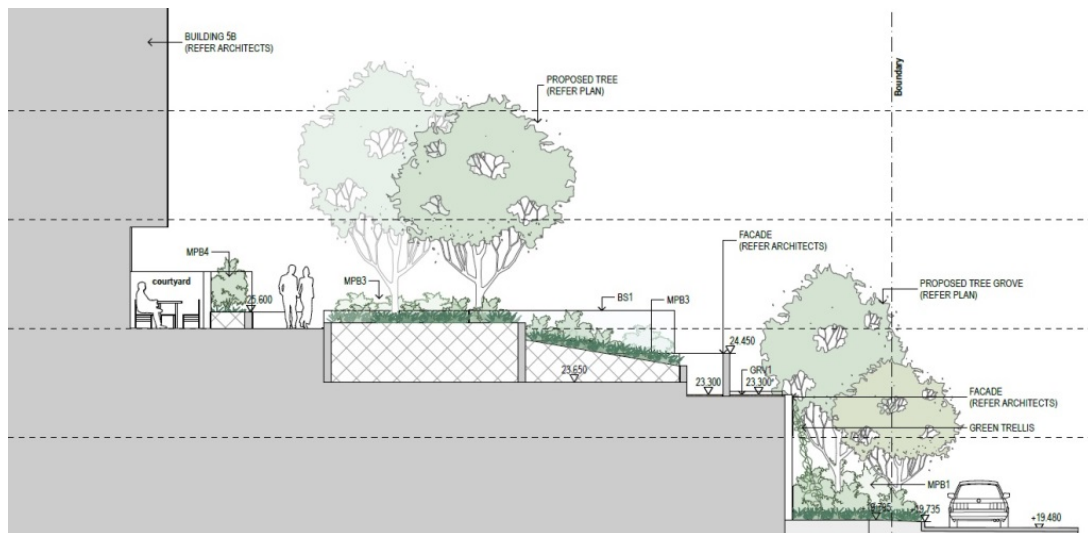


Figure 15: Portman Lane Section

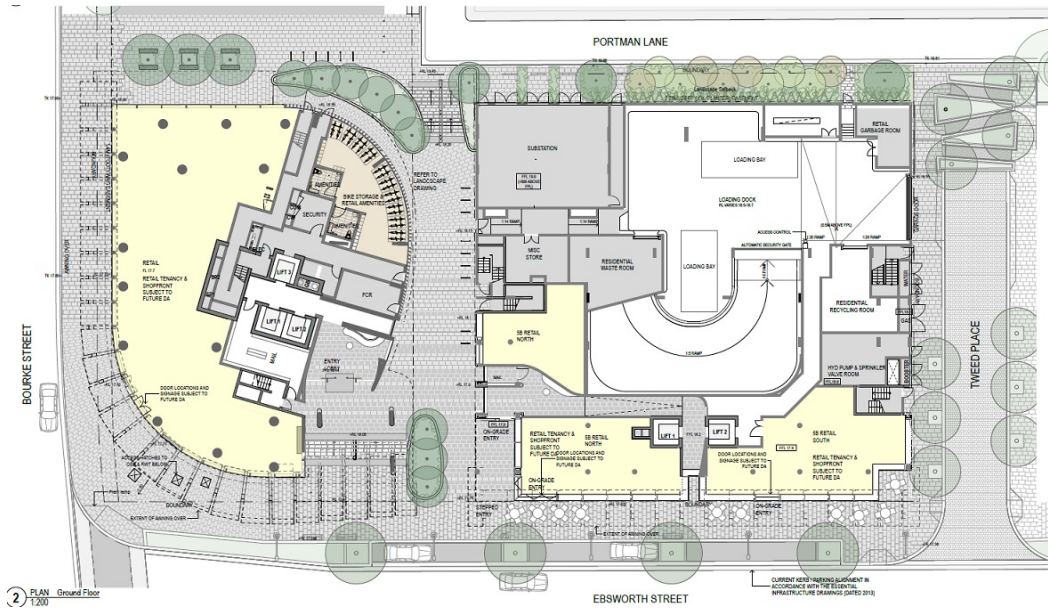


Figure 16: Ground Floor Plan

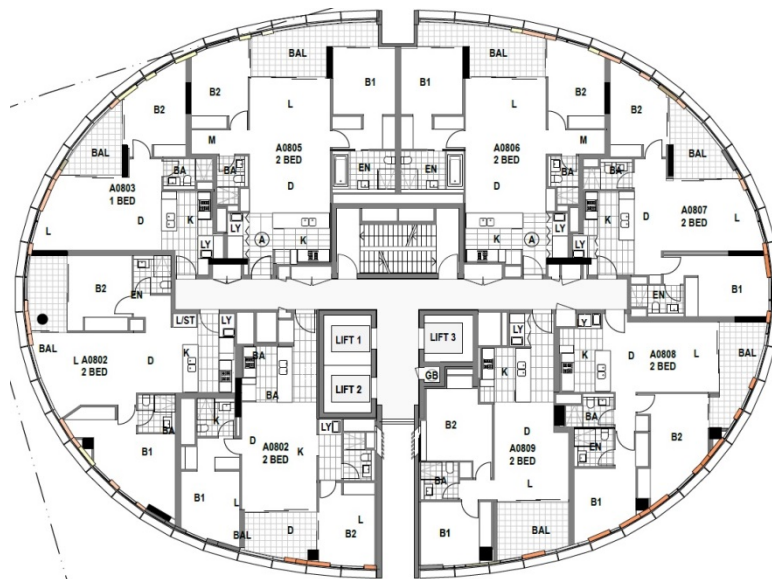


Figure 17: Typical Tower Floor Plan – Building 5A



Figure 18: Typical Floor Plan – Building 5B

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

20. 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.
- (b) In December 2013, a new LEP was gazetted for UrbanGrowth'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" because of the execution of a Voluntary Planning Agreement (VPA) between the UrbanGrowth, the Applicant and Council. The VPA secures a range of public benefits as set out below.

21. 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 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.

22. History relating to other DAs in the Green Square Town Centre:

- (a) D/2012/1175 (approved by the Central Sydney Planning Committee (the 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 and staged construction. Stage 1 of the works is underway and this includes the construction of Ebsworth Street and Tweed Place.
- (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 south-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. An amendment to the Stage 1 building envelopes is currently being assessed. A Stage 2 DA will be lodged soon and will be reported to CSPC following assessment.

- (c) D/2013/1423 (approved by the CSPC on 3 April 2014) construction of a 10 storey mixed use development at 355 Botany Road, Zetland. That site is immediately south-east of 956-960 Bourke Street, Zetland. Both sites have frontage to the future Tweed Place and both contain vehicle access, site services and retail frontage along Tweed Place. Work is expected to commence in early 2015.
 - (d) 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. Works have recently commenced on site.
 - (e) D/2013/1947 (approved by the CSPC on 30 October 2014) construction of a predominantly residential development containing 308 apartments in 3 buildings at 511-515 Botany Road, Zetland at the south-western corner of the Town Centre.
 - (f) External planning consultants are currently assessing two separate DAs for the Green Square library and plaza and a child care centre within the former South Sydney Hospital site. Those DAs will be referred to the Planning Committee for determination in early 2015.
 - (g) The City has finalised a concept design for the open space called "The Drying Green" south-east of the plaza, has lodged a DA for new community facilities and parkland in the South Sydney Hospital site and has just announced the winner of a design competition for the new aquatic centre and park just south-east of the town centre.
23. Design Competition:
- (a) The Green Square Town Centre Local Environmental Plan requires a competitive design process for Sites 5A and 5B. The Applicant submitted a Design Excellence Strategy electing to hold a design competition on a "design alternatives" basis under the City's Competitive Design Policy. The design competition was run in late 2013.
 - (b) Five architects were invited to submit entries to the design competition: FJMT, Silvester Fuller, John Wardle, Woods Bagot and Elenberg Frazer. Photomontages of each entry are below:



Figure 19a: FJMT entry



Figure 19b: Woods Bagot entry



Figure 19c: John Wardle entry

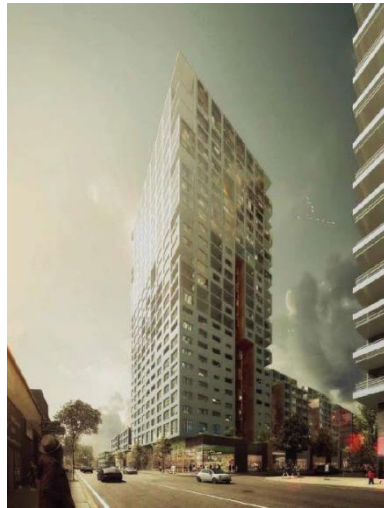


Figure 19d: Silvester Fuller entry



Figure 19e: Elenberg Frazer entry

(c) The competition jury awarded FJMT as the winning entry. The Jury selected the FJMT scheme unanimously as the preferred concept to take to design development and through to DA process. The Jury Report provides the following basis for the selection of FJMT:

- *The scheme was selected as having the best design primarily due to the following reasons:*
- *Overall an excellent design concept that was developed to the design brief and achieve the required residential floor space;*
- *The proposed demonstrates a well-considered design response in terms of the form and massing of the Site 5A tower and Site 5B low rise building;*
- *Considered and well developed massing strategy for each of the buildings to create a landmark building on the corner of Bourke Street and the future Ebsworth Street;*

- *Would position Green Square Town Centre as an emerging centre and would make a positive contribution to the new skyline through the elegant form of the Site 5A tower when viewed from certain vantage points;*
- *The building on Site 5A east and Site 5B represent a compliant scheme with the LEP/DCP envelope and planning controls. Site 5A tower (west) represents an improvement to the DCP envelope, being a shorter elongated elliptical form, when compared to the square footprint of the DCP. Improvements in terms of solar access and proximity to the Portman Street residences were demonstrated by FJMT...;*
- *A good understanding of the historical context of the site assisted to inform the facade design and selection of colours and materials to be used;*
- *Outlooks and views are optimised for the Site 5A tower with the elongated form and the north/south axis of the central corridor/vertical slot;*
- *Of all the different schemes the urban design rationale for the form and massing and street frontage heights and setbacks of the FJMT scheme was the most resolved and best considered; and*
- *The eastern alignment of the Site 5A tower being is required to be setback a minimum of 1.5m from the Ebsworth Street boundary to achieve the intent of a secondary setback above the 8 storey street frontage height.*

24. History relating to the subject DA:

- (a) The proposal, as originally lodged in May 2014, was not satisfactory to Council Officers. Council Officers wrote to the Applicant advising two major assessment issues that warranted amendments to the proposal and a series of clarifications or minor amendments. The two major issues were:
- (i) Unsatisfactory internal residential amenity due to low level SEPP 65 compliance for solar access (51% of apartments) and natural cross ventilation (42% of apartments);
 - (ii) Unsatisfactory resolution associated with the through-site links in terms of its proportions and design. The Applicant was requested to rationalise features and landscaping within the through-site links, continue the City's footpath paving into the links, increase the extent of retail frontage within the north-south link and re-plan the Building 5B lobby to have access from the north-south link.
- (b) At its meeting in June 2014, the City's Design Advisory Panel (DAP) held a similar view as Council Officers in terms of the solar access, natural cross ventilation and through-site link issues. The DAP additionally felt that Building 5A in particular should be capable of achieving, and exceeding, SEPP 65 compliance because it has sunlight which is unobstructed by buildings to the north and options for orientation. Further to the Council Officer issues identified above, the DAP also had concerns regarding:

- (i) the access into, and size of, the Building 5B lobby space in that the lobby was accessed from a ramp from street level and the lobby itself was very small;
 - (ii) the Portman Lane treatment around the base of Building 5B which DAP recommended should be softened to contribute to the streetscape quality and pedestrian experience; and
 - (iii) the use of curtain wall colour back glazing with little sun shading as the primary facade element for a residential tower.
- (c) Council Officers met with the Applicant to discuss the concerns raised in July and August 2014.
- (d) The Applicant amended their proposal on 14 October 2014. In their response the Applicant:
- (i) replanned the internal layout of Building 5A to increase the number of apartments capable of gaining natural cross ventilation. They did so by reducing the number of poorly performing apartments at the south-eastern side of the ellipse. The amount of apartments capable of achieving natural ventilation without a thermal modelling approach was increased to 64%. Solar access to the apartments was not affected by the changes, in that there was no increase;
 - (ii) introduced an additional 'slot' within the north-east elevation of Building 5B to increase the extent of cross ventilation achievable;
 - (iii) refined the north-south through-site link design by widening the entry at the Ebsworth Street end, introducing greater retail activation and clarifying the materials and finishes so that the spaces tie into the adjacent footpaths and read as a continuation of the northern laneways;
 - (iv) replanned the lobby entry into Building 5B so that it is accessed from the north-south through-site link rather than via a pedestrian ramp from Ebsworth Street. However, the Applicant provided justification for not introducing a second building core as requested by Council Officers on the basis that a second core and associated multiple sets of fire stairs would have a negative impact on retail frontage along Ebsworth Street; and
 - (v) introduced communal open space on the roof level of Building 5B in place of previously nominated decorative gravel material.

As a result of the amended plans, the primary positive outcomes were an increase in natural cross ventilation to apartments and design development of the through-site links. Amendments made to increase the amount of common open space and redesign of pedestrian access into Building 5B are also acknowledged and supported.

- (e) Advice was sought from the DAP on the amended plans in October 2014. The DAP supported the improvements that had been made, particularly in relation to the ground plane and public domain resolution. However, the DAP recommended that further resolution was necessary on:

- (i) solar access to apartments. In this regard, the DAP requested no comprise on SEPP 65 requirements and recommended (a) that 3 hours solar access should be the applicable standard rather than the ordinary 2 hours solar access, and (b) that 65% (64% actually) natural ventilation is not regarded as achieving “design excellence”;
 - (ii) the quality of the Portman Lane frontage in terms of hard edge provided by the proposed 10 storey tower form and the masonry wall associated with the podium along the laneway level; and
 - (iii) verification of the performance of the proposed glass facade system.
- (f) Council Officers wrote to the Applicant requesting further improvements in relation to solar access to apartments and softening the north-eastern elevation of Building 5B. The issue of the performance of the glass facade system has been adequately satisfied by the engineering advice obtained by the Applicant from Cundall consulting. The proposal is capable of exceeding cooling requirements under State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. In relation to natural ventilation, the proposal incorporates 64% of apartments with natural ventilation, and otherwise provides 84% of apartments with ventilation through natural and thermal modelling (engineered) approaches.
- (g) The Applicant amended their proposal in response to DAP commentary and Council Officer issues on 10 November 2014 and 14 November 2014. In their response the Applicant:
- (i) replanned the internal layout of Building 5A and introduced skylights to the top floor apartments to increase the number of apartments capable of gaining compliant solar access. The net result for Building 5A is that 69% of apartments receive solar access for 2 hours or more to their living rooms and 73% receive solar access for 2 hours or more to their balconies. Combined with Building 5B, solar access is 65% to living rooms and 68% to balconies. Natural ventilation has been maintained to 64% of the total apartments;
 - (ii) clarified the intent for the Portman Lane wall materials and landscaping approach; and
 - (iii) provided a softening of the Building 5B north-eastern elevation above the podium level by introducing a green trellis planter in the centre of elevation from the podium level to the roof level, incorporating additional colourful shading louvers above each balcony (which also reduce views from apartments down to the Portman Street terraces) and altering the colours of the facade to produce a white toned “top” to the massing of the elevation.
- (h) The proposed SEPP 65 non-compliances in relation to solar access and natural ventilation, as well as relatively minor DCP non-compliances, are discussed in the Issues section of this report.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

25. 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

26. 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.

27. 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

28. 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 must 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 Bourke Street and 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 former industrial and warehousing uses 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 proposal complies with the GSTC LEP maximum building height limits. The Green Square DCP permits development of 10 storeys for Building 5B and 28 storeys for Building 5A, 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. The recommended conditions of consent will enhance the north-eastern elevation of Building 5B where this elevation is highly visible to the neighbouring properties.

(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 than the proposed development parcel 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 suitable 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 and roof for communal open space. The communal open space within Building 5B has been designed to encourage a range of semi-active and passive uses. The landscape approach to the Portman Lane frontage is subject to detailed design resolution via the recommended conditions of consent.

(g) **Principle 7: Amenity**

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

- **Unit Size**

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

- **Cross Ventilation**

The proposal achieves 65% of units across the development having acceptable natural ventilation, which is an approach based on adopting the “rules of thumb” for natural cross ventilation within the RFDC and the use of “slots” to break down the building footprint and provide some natural ventilation. Notwithstanding, the proposal results in a non-compliance 44% 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 rules of thumb. Refer to Issues section in relation to this non-compliance.

- **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.

- Private Open Space

The Rules of Thumb suggest a minimum private open space area of 8m² for studios/one bedroom apartments, 11m² for two bedroom apartments and 24m² 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 communal open space at podium level to the rear of Building 5B and at roof level of Building 5B. The roof level open space was introduced to the development at the request of Council Officers.

The site is also within easy walking distance of future plaza and parkland space within the Green Square Plaza, the Drying Green, Green Square Aquatic Centre, Gunyama Park and other nearby open spaces. The provision of common open space is considered to be acceptable.

- Storage

The Rules of Thumb suggest a lockable storage area of 6m³ for studio/one bedroom apartments, 8m³ for two bedroom apartments and 10m³ 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.

- 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 65% of all units within the development achieve solar access for two hours to living rooms and 68% of all units achieve solar access for two hours to balconies. Building 5A achieves 69% to living rooms and 73% to balconies. However, Building 5B, the lower performing of the two due to the single core design and therefore single aspect apartments, achieves 50% for living rooms and 50% for balconies. Refer to Issues section in relation to this non-compliance.

- 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.

- Visual and Acoustic Privacy

The Rules of Thumb suggest a minimum separation of 12 metres between habitable rooms and adjacent habitable rooms 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 building separation complies with the RFDC. Although Buildings 5A and 5B are separated by 6m, the separation relates to habitable to non-habitable rooms. The proposal has been designed to eliminate instances of direct overlooking between the two towers through offsetting windows and use of privacy screening to windows on these elevations. The proposal 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:
Studio	6	2%	5-10%
1-bedroom:	62	22%	10-30%
2-bedroom:	188	65%	40-75%
3-bedroom:	32	11%	10-30%

The low number of studio apartments is a result of a high proportion of 2 bedroom apartments in both buildings. In increasing natural ventilation and solar access to Building 5A, the Applicant has replaced poorly performing studio apartments with larger apartments. The changes produce a net result of general compliance with SEPP 65 for sunlight and natural ventilation. Increasing the number of studio apartments would likely reduce SEPP 65 compliance.

The proposal is considered acceptable with regard to the GSTC DCP.

The proposal 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 setbacks indicate an appropriate building expression in keeping with the building envelopes sought by the planning controls.

29. 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

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

Clause 86

31. The application is not subject to Clause 86, *excavation in, above or adjacent to rail corridors*, because the excavation is not within 25m of the existing rail tunnel. RailCorp provided Council Officers with a detailed survey map of the tunnel location and 25m buffer zone and the development is just outside the 25m threshold. As such, RailCorp concurrence is not necessary.

Clauses 101 and 102

32. The application is subject to Clauses 101 and 102 of the SEPP as the site has frontage to Bourke Street, 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.

Clause 104

33. The application, as originally lodged, was subject to Clause 104 due to having more than 300 apartments. However, the number of apartments has since been reduced to 288 to address solar access and natural ventilation requirements. Nevertheless, comments were sought from Roads and Maritime Services and their generic requirements associated with development applications are included in the recommended conditions of consent.

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

34. A BASIX Certificate has been submitted with the development application.
35. 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)

36. 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.
37. The proposed development of the site is consistent with the aims and objectives of SEPP.

Sydney LEP (Green Square Town Centre) 2013

38. 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.
39. The relevant matters to be considered under Sydney LEP (GSTC) 2013 for the proposed development are outlined below.

Compliance Table		
Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	<p>A maximum height of RL 114m AHD is permitted in relation to Building 5A. A height of RL 114 is provided. This relates to the plant rooms which are set back from the edges of the ellipse. The parapet of the tower is set at RL 111.</p> <p>The maximum height for Building 5B is RL 56 for the tower element and RL 28 for the podium element. A height of RL 54.45 is proposed for the tower element and a height of RL 24.1 is proposed for the podium element.</p>
4.4 Floor Space Ratio	N/A	<p>A maximum FSR of 4.15:1 is permitted across all of 956-960 Bourke Street, Zetland and is to be applied to 2 development sites. FSR compliance is to be measured cumulatively. However, the proposal complies with the building envelopes established for the site. The proposal has an FSR of approximately 3.93:1, leaving around 1,600sq.m of floorspace to be developed on the balance of the site (Site 5C).</p>
5.9 Preservation of trees or vegetation	Yes	<p>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.</p>
5.10 Heritage conservation	Yes	<p>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.</p>
Part 6 - Local Provisions		
6.2 Flood planning	Yes	<p>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. The ground floor retail and lobby levels are above the flooding planning levels.</p>

Compliance Table		
Development Control	Compliance	Comment
6.3 Airspace Operations	Yes	The proposed development penetrates the Limitation or Operations Surface contours for the Sydney Kingsford Smith Airport. However, the Applicant has obtained approval from the Federal Department of Infrastructure and Regional Development for the penetration.
6.5 Affordable housing	Yes	An affordable housing contribution is recommended within the conditions of consent.
6.6 Active street frontages	Yes	The Bourke Street frontage and the future Ebsworth Street frontage are identified as active street frontages. The development has active frontage to both streets and also has retail uses wrapping the Tweed Place corner and along the Ebsworth Street through-site link.
6.8 Car parking ancillary to other development	Yes	A maximum of 267 car parking spaces are permitted. 180 car parking spaces are proposed which is well within the maximum permitted.
6.9 Design Excellence	Yes	The development has high architectural and landscape design merit. The recommended conditions of consent include the requirement to refine the Portman Lane frontage of the development to ensure the base of the podium adjacent to the lower density terraces to the north exhibits design excellence. The Applicant completed a competitive design process to select the project architect. The competition jury deemed FJMT's entry as the design capable of most easily achieving design excellence. The proposal, as amended, continues to exhibit design excellence.
6.10 Essential Services	Yes	Utility, drainage and road services are available to the site and are being delivered by the City in its rollout of essential infrastructure for the GSTC.

Green Square Town Centre Development Control Plan 2012

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

Development Control	Compliance	Comment
Section 1 – Introduction		
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.
Section 2 – Desired future character		
2.1 Desired Future Character – Locality Statement and Principles.	Yes	The proposal contributes toward the objectives of achieving a major urban centre and providing a range of housing within the GSTC.
Section 3 – Local infrastructure		
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 street (Tweed Place).
3.4 Flooding & Stormwater Management	Yes	Council's Flooding Engineer has determined that the proposal is satisfactory in relation to flooding.
Section 4 – Land use		
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 Bourke Street and Ebsworth Street as required active frontages. The proposed retail tenancies are located along these frontages and provide potential for cafes, restaurants and small shops. The proposal also includes retail frontage to Tweed Place, although it is not required in the LEP or DCP, and contains retail tenancies along the Ebsworth Street through-site link.

Development Control	Compliance	Comment
Section 5 – Heritage		
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.
Section 6 – Building Layout, form and design		
6.1 Competitive Design Process	Yes	A competitive design process was undertaken and FJMT were selected as the winning entrant.
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	No	<p>The proposed building envelope for Building 5B is provided in accordance with the development sites map.</p> <p>However, the proposed building envelope for Building 5A is not as per the square shape of the DCP. Refer Issues section below.</p> <p>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.</p>

Development Control	Compliance	Comment
6.4 Height in storeys & street frontage	Yes	<p>The proposal meets the height in storeys and street frontage controls as follows:</p> <p><u>Building 5A</u> The DCP provides for a maximum of 28 storeys for Building 5A. The proposed building meets this height restriction.</p> <p><u>Building 5B</u> The DCP provides for a maximum of 2 storeys for the rear portion of Building 5B (north-eastern side) and 10 storeys for the front portion of Building 5B (south-western side). The proposed building heights meet these requirements.</p> <p>A sun access plane control applies to the north-eastern portion of the site along Navins Lane. However, as set out in the introduction to this report, the proposed development does not include the north-eastern portion of the site.</p>
6.5 Building alignments & setbacks	No	<p>The DCP requires a street wall along Ebsworth Street for 8 storeys, then a secondary setback of 3m above 8 storeys. The proposal provides a 1.5m setback and is therefore non-compliant. Refer to Issues section below.</p> <p>The DCP requires buildings immediately along Portman Lane to be setback so that they do not break a 45 degree building height plane measured 1.6m above the lane level. The proposal complies with this requirement.</p> <p>A 1.4m setback at ground and first floor is required along Bourke Street for footpath widening. The proposal complies.</p> <p>A 2.75m deep soil setback is required along Portman Lane. The proposal complies.</p>

Development Control	Compliance	Comment
		A 3m by 3m chamfer is required at the corner of Ebsworth Street and Tweed Place. The proposal complies. The corner of Bourke Street and Ebsworth Street has a curved radius and does not need a chamfered corner.
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. A decorative 'ring' around the top of the building has been provided to conceal the plant from views.
6.8 Flexible Housing & Dwelling Mix	Yes	The proposed unit mix is generally 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	<p>The proposal does not provide 70% of apartments with at least 2 hours solar access between 9am and 3pm in midwinter. Refer to Issues section.</p> <p>The proposal does not provide at least 60% of the apartments with natural cross ventilation measured in accordance with the Rules of Thumb under SEPP 65. Refer to Issues section.</p> <p>The proposed units comply with the recommended depth from the nearest operable window.</p> <p>The proposal provides for appropriate levels of privacy to the units as discussed under SEPP 65 previously.</p> <p>An acoustic report has been submitted and determined to be acceptable. Appropriate conditions with regard to acoustic attenuation have been recommended.</p>

Development Control	Compliance	Comment
6.10 Amenity (continued)		In relation to overshadowing of adjoining properties, the DCP requirements are to maintain at least 2 hours solar access in midwinter between 9am and 3pm to 50% of the required private open space per dwelling (i.e. 8sq.m) and to 1sqm of living room window(s). The proposed development complies with this requirement. Building 5B does not produce any shadow on the adjacent terraces before 3pm. The ellipse shape of Building 5A produces a thin shadow on the adjacent terraces in the late afternoon, but does not impact solar access in the morning and after midday. It is noted that the square shaped building envelope within the City's planning controls, had the competition jury chosen one of the square shaped design competition entries, would have produced much greater overshadowing on the adjoining properties.
6.11 Accessible Design	Yes	The proposal complies with accessible design provisions. A condition of consent is recommended to ensure that the design is fully accessible into the Construction Certificate phase.
6.12 Safety & design	Yes	The proposal provides informal and passive surveillance opportunities onto the street and laneway at the rear.
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>
Section 7 – Signage and advertising		
7.1 Signage Strategy	Yes	The recommended conditions contain a requirement for a signage strategy so that an integrated approach is adopted for shop and building name signage.

Development Control	Compliance	Comment
Section 8 – Environmental Management		
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 section of the DCP.
8.4 Waste	Yes	There is a suitable area for the storage and collection of waste at ground level. A Waste Management Plan will be submitted as required by condition. An area for bulky waste for each residential tower is required.
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 through the City's standard stormwater details condition.
8.6 Biodiversity	Yes	The proposal comprises a suitable mixture of indigenous shrub, tree and groundcover species.
8.7 Tree management	Yes	Council's Tree Management Unit is satisfied with the removal of trees associated with the application.

Development Control	Compliance	Comment
Section 9 – Social Sustainability		
9.1 General provisions	Yes	The applicant has addressed the social impact criteria as set out by the DCP. The following key points are noted: <ul style="list-style-type: none"> • The proposal makes a contribution to affordable housing within the GSTC. • The 288 apartments will provide access to employment opportunities within the town centre and nearby employment hubs. • The unit mix has been proposed to meet a wide range of demand and generally satisfies the DCP. • The visual and amenity impacts of the proposed design are considered to be acceptable and the proposal would offer significant passive surveillance opportunities
Section 10 – Transport and parking		
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 for residents, retailers, waste vehicles and loading/unloading is provided to the ground floor and basement from Tweed Place, in accordance with the preferred location identified by the DCP.

ISSUES

Building Layout

41. The elliptical tower form for Building 5A is not in accordance with the square building layout identified in Section 6.3 of the DCP. The elliptical form was chosen by the competition jury as having a significantly slimmer profile than the square envelope, a landmark quality and a point of distinction. The elliptical shape has less overshadowing impact on the adjoining properties due to the elimination of corners in the envelope. The shape results in a greater separation distance between the tower and adjoining properties. The non-compliance is considered acceptable.

Secondary Street Wall Setback for Building 5A

42. The DCP requires a 3m secondary setback above 8 storeys along Ebsworth Street to create a street wall defined by a podium and tower form.
43. FJMT's design competition entry proposed a strong street wall presence for Building 5A with no secondary setback. However, the competition jury recommended at least a 1.5m setback to provide a transition from the podium to the tower. The final design competition scheme incorporated the 1.5m setback. The non-compliance with the setback control does not have any significant adverse impacts on overshadowing (the shadows are cast onto the street below). It contributes to a strong sense of corner at Bourke Street and will display a transition in the hierarchy of street wall from Building 5A to Building 5B and onto Buildings 16A and 16A further along. The non-compliance is considered acceptable.

Natural Cross Ventilation

44. The SEPP 65 Rules of Thumb require natural cross ventilation to be achieved within 60% of proposed units.
45. When originally lodged in May 2014, the development had 42% of apartments having natural cross ventilation as per the Rules of Thumb. The Applicant was requested to review the internal planning within Building 5A to increase the extent of apartments achieving compliant outcomes. The Applicant was requested to break down the massing of Building 5B by incorporating a second lift core to create greater corner apartments and through-apartments. The internal planning of Building 5A was reviewed and an additional ventilation 'slot' was incorporated into Building 5B.
46. As amended, measured strictly under the SEPP 65 Rules of Thumb, the proposal would result in 99 out of 224 units (44%) in Building 5A and 34 out of 64 units (53%) in Building 5B being capable of achieving natural cross ventilation.
47. The Applicant has incorporated 'slots' into the facades of the buildings to generate some natural ventilation. The slots engineer natural ventilation. Whilst this is not strictly in accordance with the SEPP 65 Rules of Thumb for naturally cross ventilation apartments, the approach is nevertheless acceptable to Council Officers. It is noted in this regard that the proposal complies with the building envelope set out for the site in the planning controls and that Council and the CSPC have supported an engineering approach to ventilation in the past.
48. When the slots are added to the design, 123 out of 224 (55%) units in Building 5A receive natural ventilation and 60 out of 64 (94%) in Building 5B receive natural ventilation.
49. Overall, 183 out of 288 (64%) of apartments achieve natural ventilation through conventional means and slots.

50. The Applicant has also 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 (otherwise known as a “thermal modelling” approach), the Applicant argues that 243 out of 288 apartments (84%) are ventilated apartments. Council Officers do not accept the view that thermal modelling can achieve the equivalent level of ventilation as a naturally cross ventilated apartment. The engineering assessment has not been counted by Council Officers in the compliance assessment of the application.
51. As the concept of natural ventilation through the use of building slots has been considered favourably in the past and as the slots in this case elevate ventilation performance above 60%, the proposed overall outcome is considered acceptable.
52. Kitchen areas within the proposed apartments will have access to natural ventilation in excess of the SEPP 65 Rules of Thumb for 25% of kitchen areas.

Solar Access

53. The SEPP 65 Rules of Thumb and Part 6.10.2 of the 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.
54. When originally lodged in May 2014, the proposal achieved 51% of apartments having solar access to living rooms and private open space (where 70% is recommended).
55. The Applicant was requested to review the internal planning within Building 5A to increase the extent of apartments achieving compliant solar access. The Applicant was requested to break down the massing of Building 5B by incorporating a second lift core to create greater corner apartments and through-apartments.
56. The Applicant reviewed the internal planning of Building 5A to increase the number of apartments capable of achieving solar access. However, the Applicant contends that Building 5B should not be segregated into two cores.
57. The solar studies and accompanying reports lodged with the DA indicate that 65% of all units within the development achieve solar access for 2 hours to living rooms and 68% of all units achieve solar access for 2 hours to balconies. Building 5A achieves 69% to living rooms and 73% to balconies. However, Building 5B, the lower performing of the two due to the single core design and therefore single aspect apartments, achieves 50% for living rooms and 50% for balconies.
58. The proposed non-compliance associated with Building 5A – where 69% receive sunlight to living rooms where 70% is required – is minor and acceptable. The balconies will comply.

59. On balance, Council Officers support the proposed internal planning of Building 5B despite the limited gain made in relation to natural ventilation and no gain made in relation to solar access. The proposed internal planning provides one lift core and frees up the ground floor for desirable retail frontage having regard to the future role of Ebsworth Street as a major shopping high street. The Applicant investigated several options for dual core layout and the single core option resulted in the greatest active retail frontage. A dual core option would produce two sets of fire stairs per core and pedestrian ramps due to flooding along Ebsworth Street, and therefore result in significant loss of activated frontage. **Refer to Figures 20 and 21.**

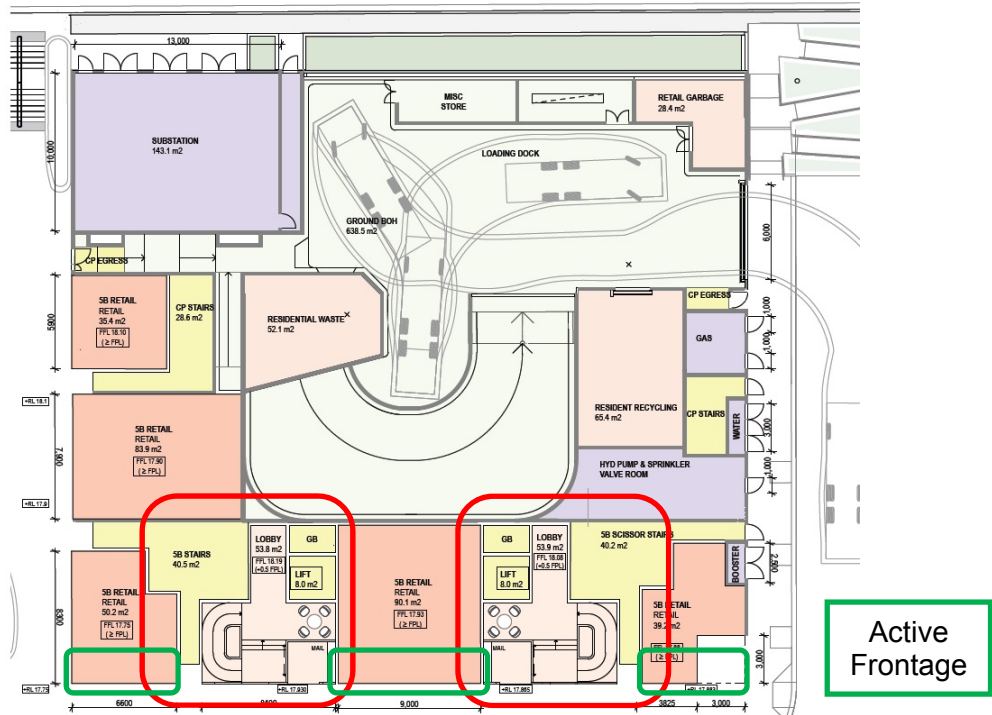


Figure 20: Building 5B - Dual core option investigated by Applicant. Inactive frontage indicated in red.

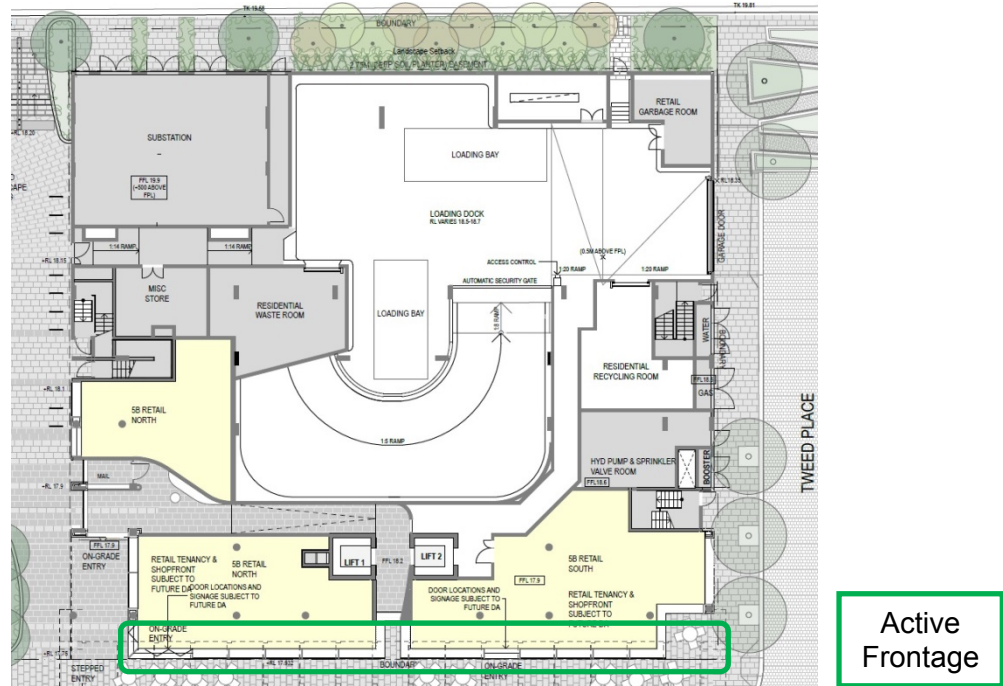


Figure 21: Building 5B – Proposed ground floor with single core design. No inactive frontage along Portman Street. Pedestrian access has been moved to the through-site link.

- 60. 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.

Portman Lane Interface

- 61. Since the lodgement of the DA in May 2014 (refer **Figure 22**), the tower elevation of Building 5B has improved with green planting, revised materials and breaking down of the height via lighter tones at the top 2 storeys (refer **Figure 23**) and now has a greater contextual relationship with Building 5A and the adjoining approved development to the south-east (refer **Figure 24**).

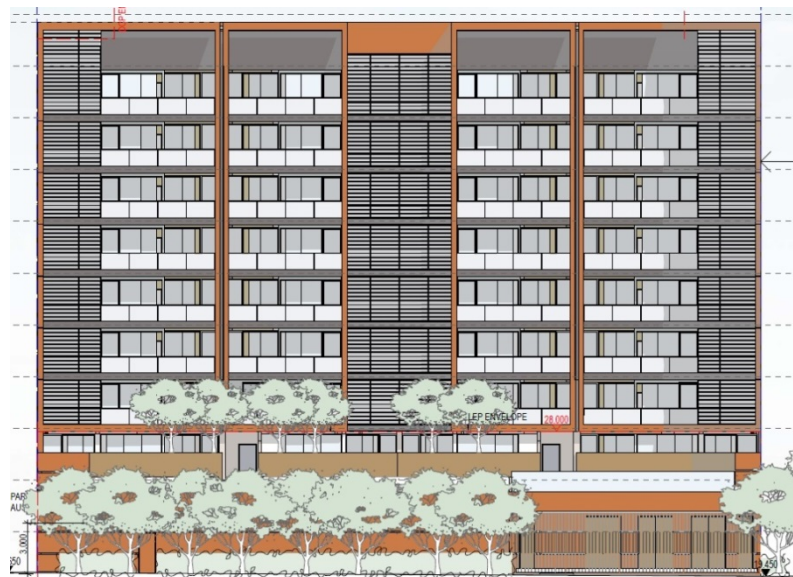


Figure 22: Building 5B - original Portman Lane Elevation

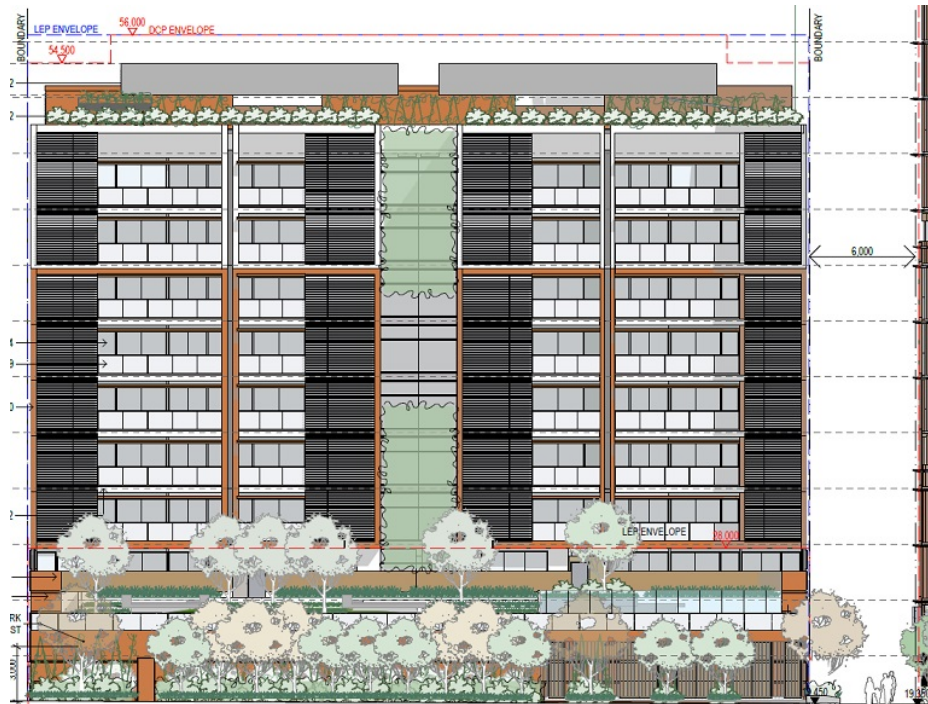


Figure 23: Building 5B - amended Portman Lane Elevation



Figure 24: Portman Lane Elevation of Buildings 16A and 16B to the south-east, subject to conditions in the process of being satisfied for the podium wall and laneway landscaping.

62. However, 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. 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.

63. The podium facing Portman Lane, at the base of Building 5B, requires further refinement in association with the design for the adjoining development site. In this regard, a condition of consent was placed on the determination of D/2013/1423 relating to 355 Botany Road, Zetland to the south-east. The podium design and landscape design for 355 Botany Road and 956-960 Bourke Street proposals are similar in scale and design issues. Both sites are being developed by Mirvac. The condition of consent relating to 355 Botany Road requires detailed plans of the Portman Lane podium design and landscaping to soften the appearance of the development from the laneway. To date, Mirvac have not satisfied the condition of consent, but have held preliminary meetings with Council Officers to discuss conceptual approaches which Officers generally support subject to the details.
64. A condition of consent has been recommended in this case so that the Applicant and the City can work together, and in association with the detailed design of the podium base to 355 Botany Road to reach a laneway design that the City can endorse before a Construction Certificate is issued. The Applicant's conceptual approach with the current DA is a valuable starting point. It proposes textured walls, introduction of a glazed balustrade to the podium edge, horizontal banding with shadow play and vertical garden trellis along the wall (all visible in **Figure 23**).
65. It is recommended that the detailed design of the laneway wall finish and landscaping is to be resolved and submitted to Council for endorsement, alongside the approach to the podium for 355 Botany Road, prior to the issue of a Construction Certificate. In this way, Council Officers can ensure a high degree of design excellence associated with both the landscaping and the architecture and consistency along the Portman Lane Interface.

Overshadowing

66. The DCP requirements are to maintain at least 2 hours solar access in midwinter between 9am and 3pm to 50% of the required amount of private open space for the affected dwelling (i.e. 8sq.m) and to 1sqm of living room windows. The proposed development complies with these requirements.
67. Refer to **Figures 25-27** below for shadow diagrams.
68. Building 5B does not produce any shadow on the adjacent terraces before 3pm.
69. The ellipse shape of Building 5A produces a thin shadow on the adjacent terraces in the late afternoon, but does not impact solar access in the morning and after midday. The terraces will continue to have compliant solar access. It is noted that the square shaped building envelope within the City's planning controls, had the competition jury chosen one of the square shaped design competition entries, would have produced much greater overshadowing on the adjoining properties.



Figure 25: Shadow Diagram 9am midwinter

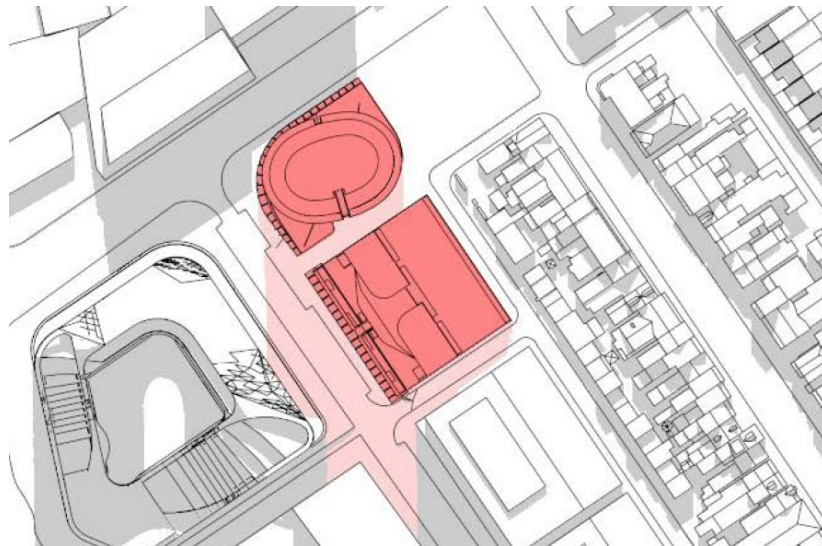


Figure 26: Shadow Diagram 12noon midwinter

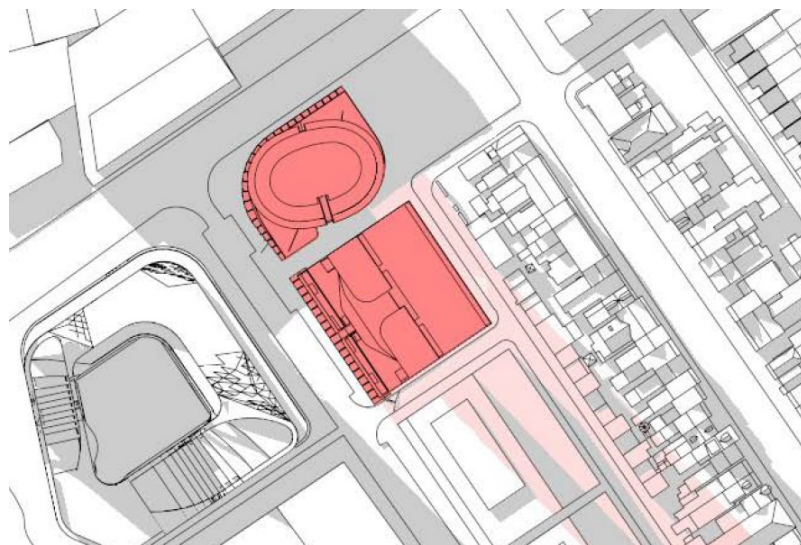


Figure 27: Shadow Diagram 3pm midwinter

Access

70. 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

71. The proposed development is capable of complying with the BCA.
72. 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

73. 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

74. A VPA was executed by Council, Green Square Consortia Pty Ltd (of which Mirvac are a partner) and Landcom on 20 August 2013.
75. 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

76. 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

77. 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

78. Ausgrid were notified of the proposed development and advised that an electricity substation would be required on site. An appropriate condition has been recommended.
79. 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.
80. As an Integrated Development Application, the NSW Office of Water issued the City with General Terms of Approval (GTAs) for a dewatering licence during construction. The GTAs have been incorporated into the recommended conditions.
81. RailCorp were consulted in relation the position of the proposed development and specifically the proposed extent of excavation relative to the authorities 25m zone of influence from the existing Southern Rail Line. The proposed development is not within the zone of influence and therefore RailCorp concurrence for the DA is not necessary.

EXTERNAL REFERRALS

Notification, Advertising and Delegation (Submissions Received)

82. The application constitutes integrated development and as such the application was notified and advertised for 30 days in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this 18 submissions were received.
83. A summary of the grounds for objection, together with comments from Council Officers, is below:
- (a) **Bulk, Scale and Height**: The proposed tower is enormous. The tower is in the backyard of the heritage area. The tower will look out of place. I oppose such an outrageous proposal to build a 28-storey skyscraper right next to existing single and two-storey terraces in a designated heritage conservation area. The tower will be the tallest of all the tall buildings in the Town Centre, yet will be the closest of any to existing single and two storey terraces.

Response – The proposal is consistent with the building envelopes established for the site in the review and formation of the Town Centre planning controls in 2011 and 2012. The slimmer shape of the 5A tower has a considerably smaller footprint than the envelope in the City's planning controls. Council Officers have carried out an assessment of the impacts and design excellence of the proposed development and find the proposal acceptable.

- (b) **Non-compliance with DCP:** The proposal does not comply with Section 4.3 of the DCP because it does not ensure acceptable height transition to adjoining areas and a heritage conservation area. Twenty-eight storeys down to two-storeys is not an acceptable height transition. The proposal does not comply with the flawed provisions of Sections 6.4 and 6.5 of the DCP. Section 6.4 requires a 45 degree sun access plane for Site 5A. The developer has ignored the sun access plane. Section 6.5 requires a 45 degree building height plane for Site 5B. The height plane should apply to the Building 5B tower and not just the podium.

Response – The development, except for a 1.5m protrusion due to the elliptical shape of the tower, complies with the building envelopes established for the site in 2011-2012. The transitions between new development and adjacent development were considered in the formation of the planning controls two-to-three years ago. It is acknowledged that the transition from a tall tower to low-density terraces is sharp. However, from a development assessment perspective the impacts of the tower, in terms of overshadowing and privacy, are acceptable and, from an architectural perspective, the development achieves design excellence.

The proposal does not call up Section 6.4 and Figure 6.10 of the DCP (refer Figure 28). Section 6.4 and Figure 6.10 of the DCP applies to the land shown in Figure 29 below. That land will be developed separately. The inapplicability of the provisions is evident in the fact that the building envelope shown in Figure 6.10 of the DCP is the envelope (in terms of maximum height of RL 36.5 and maximum 4 storeys, as specified in the figure) for the land situated along Portman Street which, upon development, would cast significant shadows on the adjoining terraces if the height were not controlled.

The fact that Building 5A complies with the DCP in terms of maintaining solar access to the adjacent terraces is also evidence that a sun access plane control is unnecessary.

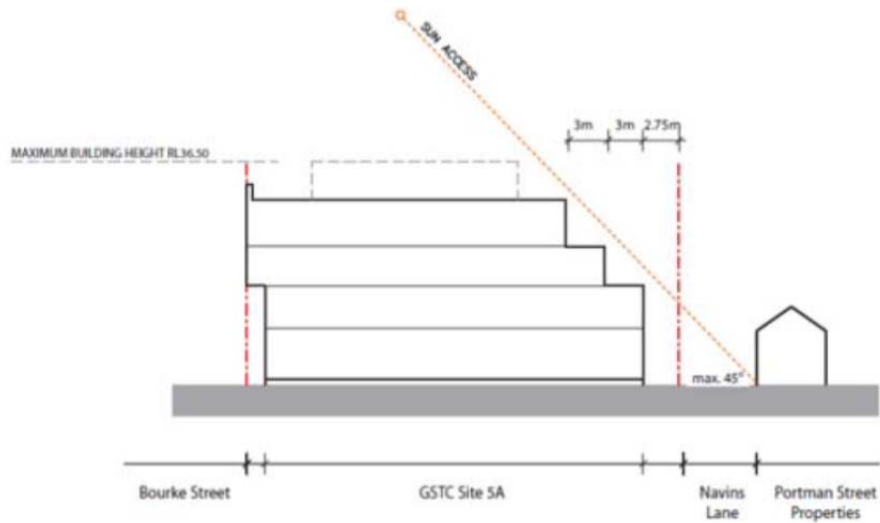


Figure 28: Figure 6.10 in DCP – Sun Access Plane for Site 5A north

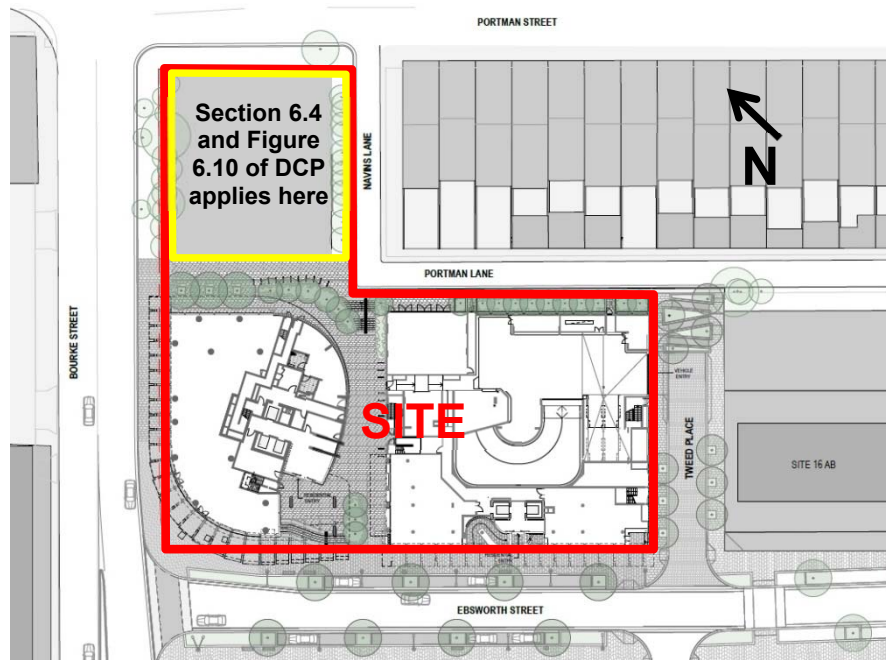


Figure 29: Area where Figure 6.10 applies

In relation to Section 6.5 of the DCP, a building height plane is applicable to development along Portman Lane. The building height plane is a 45 degree plane measured 1.6m above the lane level at the site boundary (refer Figure 30 below).

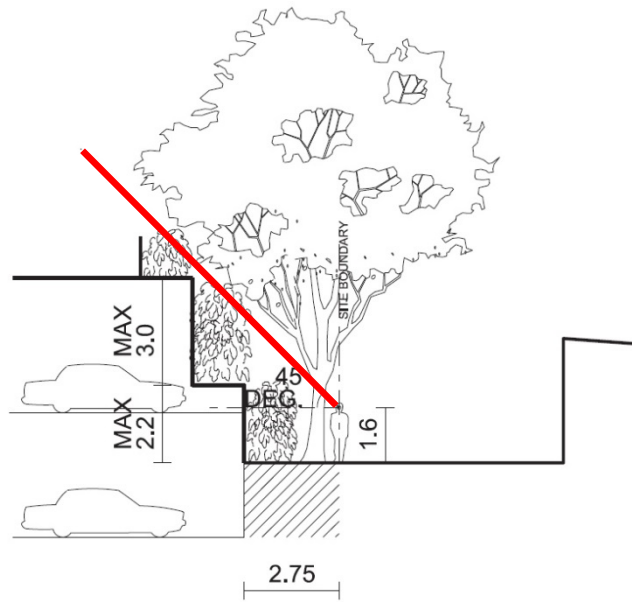


Figure 30: Figure 3.20 from DCP showing building height plane applicable to podium development along Portman Lane

The building height plane control above applies to the podium of Building 5B and does not apply to the tower. The proposed development complies with the height plane control.

The objectors argue that the height planes in Sections 6.4 and 6.5 of the DCP should generally apply to the development, producing a development what the objectors regard as “fair” with hybrid sun access plane control and building height plane control. Refer **Figure 31** below.

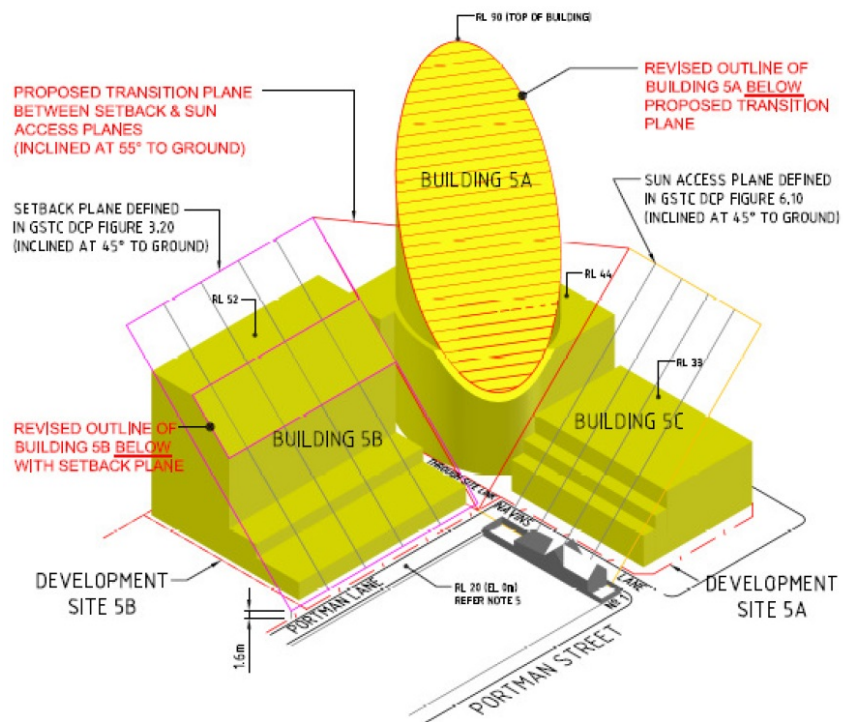


Figure 31: Building envelopes adopting objector’s contentions regarding DCP controls

Council Officers note the objector's interpretation and recommendations in relation to the DCP controls. However, the DCP provisions have been interpreted correctly and the development complies with Sections 6.4 and 6.5 of the DCP. As such, the proposed development envelopes comply and are considered acceptable.

- (c) **Overshadowing:** The proposal will have significant overshadowing. There should be a shadow diagram for 6pm in summer.

Response – Overshadowing impact has been discussed in the Issues section. In relation to overshadowing impacts depending on the time of day and season, the City's control period for overshadowing (being the worst case scenario) is between 9am and 3pm in midwinter (21 June). Shadow diagrams for late afternoon or evening in summer are not required.

- (d) **Car Parking:** The provisions for parking are inadequate. The proposal does not provide any on-site visitor parking for the retail or residential uses. The proposal will put pressure on local street parking. The proposed parking should be increased to the maximum permitted.

Response – The proposal complies with the maximum car parking provision for the site. Providing less car parking than the maximum provisions of the LEP supports sustainable public transport, cycling and walking to/from and within the Town Centre. On-street parking within the Town Centre is to be available to visitors and customers of shops. Existing parking on local streets to the north and south of the Town Centre is time-limited (generally 2P parking) and patrolled.

- (e) **Privacy:** Existing terraces along Portman Street will lose privacy. How will the privacy of the courtyards be protected?

Response – The building envelope for Building 5A is separated from the Portman Street dwellings further than the square shaped building envelope within the City's planning controls. The Building 5A internal planning orients bedrooms toward the existing Portman Street terraces rather than living rooms. Where living rooms would otherwise be capable of looking into the Portman Street properties, solid fin walls have been incorporated to limit the viewing angle. The recommended conditions of consent include a requirement in relation to the north-eastern elevation of Building 5B for solid balcony upstands or patterned balcony glazing at the lower levels, gradually becoming more transparent up to the top of the façade. The intention is to reduce near horizontal overlooking from the lower apartments into the terraces close by, then gradually allow for horizontal skyline views out from the development at higher levels.

- (f) **Electricity Substation:** I am concerned about the placement of the electrical substation and its proximity to the houses on Portman Lane.

Response – It was not clear from the objection whether their concerns lie in relation to potential risks of explosion, noise impacts or other. However, the presence of a substation along Portman Lane is subject to strict noise criteria and the explosion risk is quantified and managed in the detailed design phase.

- (g) **Exhibition Process:** An average citizen cannot comprehend the many documents submitted for this massive proposal. It was a challenge to come to terms with all the impacts of the proposal. The extent of documents is unfair.

Response – The DA drawings and reports are technical but necessary for the City's full and proper assessment of the application. The Statement of Environmental Effects for the DA provided a summary of the development and discussion on the impacts of the proposal.

- (h) **Support for Town Centre:** The Green Square development is generally acceptable. Progress in the area will be beneficial to the community.

Response – Noted.

PUBLIC INTEREST

84. 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

85. 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.
86. 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 is payable based on the residential and non-residential floorspace of the proposal.

RELEVANT LEGISLATION

87. The Environmental Planning and Assessment Act 1979.

CONCLUSION

88. The proposal is generally consistent with the objectives, standards and guidelines of the relevant planning controls including the Green Square Town Centre LEP, the Green Square Town Centre DCP and SEPP 65.
89. The proposed development is considered to be appropriate within its setting and is generally compliant with the relevant planning controls. It makes a significant contribution to 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.

90. The proposal has been subject to a competitive design process and rigorous assessment process and, with the imposition of the recommended conditions of consent, will achieve design excellence.
91. The application is recommended for approval subject to conditions.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Russell Hand, Senior Planner)