

**ITEM 6. DEVELOPMENT APPLICATION: 40A AND 40B O'DEA AVENUE WATERLOO****FILE NO: D/2014/895****DEVELOPMENT APPLICATION NO: D/2014/895****SUMMARY**

**Date of Submission:** 24 June 2014, amended / additional plans received 22 October 2014, 17 November 2014, 15 December 2014, 13 January 2015, 26 February 2015, 2 March 2015 and 4 March 2015

**Applicant:** URBIS PTY LTD

**Architect:** COLLINS & TURNER + ENVIRONA STUDIO

**Developer:** JQZ SIX PTY LTD / O'DEA AVE DEVELOPMENT PTY LTD

**Owner:** Tenani Pty. Limited

**Cost of Works:** \$54,040,000

**Proposal Summary:** Construction of a mixed use development of 2 x 4 storey buildings and 1 x 20 storey tower comprising 172 residential apartments and 3 x retail premises and 1 x food and drink premises. Excavation for 3 levels of basement parking for 159 vehicles. Site remediation, landscaping, public domain and infrastructure works. The application involves construction of portions of Sam Sing Street, Archibald Avenue and Hatbox Place and subdivision for road dedication.

The application is classified as Integrated Development as the works require approval under the Water Management Act 2000.

The application was exhibited for a period of 30 days and no submissions were received from the public. The proposed mixed use development is located in the 10(e) Mixed Uses zone in the Lachlan Precinct where South Sydney LEP 1998 applies. This assessment finds that, notwithstanding that the individual development is predominantly residential, based on the existing land use mix as a floor space, the zone precinct will continue to be predominantly employment based in the short term.

**Proposal Summary:  
(continued)**

The South Sydney LEP 1998 requirement for a masterplan to be prepared for this site has been assessed as unnecessary in this instance given the adequacy of the recently adopted site specific built form controls for the site with which the proposal is generally consistent.

The site has been the subject of a Competitive Design Alternative process that took place in February 2014. Subject to some post-competition revisions, the scheme selected as the winner of that process is the subject of this DA.

The development performs against the relevant built form and amenity controls in the Lachlan DCP and SEPP 65. Where the proposal departs from controls, it is considered that urban design and amenity objectives have been achieved and addressed.

The application was accompanied by a public benefit offer for construction of portions of three roads, land dedication for public road purposes and the creation of a Right of Carriageway on the Title burdening the site for the purposes of a shared/integrated basement car parking facility with an adjoining property. A draft Planning Agreement has been prepared to secure the provision of the public benefit package and is expected to be placed on public exhibition in the near future.

The application can be determined by the Central Sydney Planning Committee (CSPC), subject to deferred commencement conditions requiring the execution and registration of the Planning Agreement and the extinguishment of existing Easements burdening the site.

**Summary Recommendation:**

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

- Development Controls:**
- (i) State Environmental Planning Policy No 55 – Remediation of Land
  - (ii) State Environmental Planning Policy 65 - Design Quality of Residential Flat Development
    - a. Draft SEPP65 exhibited on 23 September 2014
  - (iii) State Environmental Planning Policy 70 Affordable Housing (Revised Schemes)
  - (iv) State Environmental Planning Policy (Infrastructure) 2007
  - (v) State Environmental Planning Policy No 32— Urban Consolidation (Redevelopment of Urban Land)
  - (vi) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
  - (vii) South Sydney Local Environmental Plan 1998 (Gazetted 28 April 1998, as amended)
  - (viii) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
    - a. Lachlan Precinct Planning Proposal – amendment to Sydney Local Environmental Plan
  - (ix) South Sydney Development Control Plan 1997 – Urban Design (in force on 2 July 1997, as amended)
    - a. South Sydney DCP1997: Urban Design – Green Square Part G: Special precinct No.9 Green Square (in force on 19 December 2006)
    - b. South Sydney DCP 1997: Urban Design – Green Square Part G: Special precinct No. 9 Green Square (Lachlan Precinct) (in force on 16 April 2013)
  - (x) Development Control Plan No. 11 – Transport Guidelines for Development 1996 (Adopted 8 May 1996)
  - (xi) City of Sydney Notification of Planning and Development Applications Development Control Plan 2005 (date of commencement – 18 May 2005)

**Development Controls  
(continued):**

- (xii) City of Sydney Contaminated Land Development Control Plan 2004 (in force on 28 June 2004)
- (xiii) City of Sydney Access Development Control Plan 2004 (in force on 28 June 2004)
- (xiv) Development Control Plan – Green Square Affordable Housing (adopted 14 August 2002, in force 10 September 2002)
- (xv) Planning Proposal (draft amendment to Sydney LEP 2012) and draft amendment to Sydney Development Control Plan 2012 – Lachlan Precinct, Waterloo, Green Square

**Developer Contributions:**

- (xvi) City of Sydney Development Contributions Plan 2006

**Affordable Housing Contributions**

- (xvii) Green Square Affordable Housing Program (adopted 12 March 2012)

**Attachments:**

- A - Architectural drawings (plans and elevations)

**RECOMMENDATION**

It is resolved that:

- (A) the request to waive the masterplan requirement for the site be granted, given the resolution of the DCP planning controls which apply to the site and the unlikelihood that an improved building mass could be found;
- (B) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2014/895, subject to the following:

**PART A – DEFERRED COMMENCEMENT CONDITIONS****(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)**

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

**(1) PLANNING AGREEMENT**

- (a) That a Planning Agreement in accordance with the public benefit offer made by O'Dea Avenue Development Pty Ltd be executed and submitted to Council; and
- (b) The guarantee must be provided to Council in accordance with the Planning Agreement at the time of execution; and
- (c) The Planning Agreement, as executed, must be registered on the Title of the land in accordance with the Planning Agreement.

**(2) EXTINGUISHMENT OF EASEMENTS**

- (a) A separate application is to be made to Council to obtain approval for the extinguishment of the Easement for Drainage 3.05m wide currently burdening the site for which the City is the beneficiary (created by DP227371) and appropriate execution of the termination and release instrument for registration purposes.
  - (b) Evidence of formal extinguishment of the Easement for Drainage 3.05m wide created by DP227371 and the Easement to Drain Water 2.44m wide created by DP530422, currently burdening the site, is to be submitted to Council.
- (C) evidence that will sufficiently enable Council to be satisfied as to those matters identified in the deferred commencement conditions, as indicated above, must be submitted to Council within **24 months** of the date of this determination of this deferred commencement consent, failing which, this deferred commencement consent **will lapse** pursuant to section 95(6) of the Environmental Planning and Assessment Act 1979;
- (D) the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions as indicated above, have been satisfied; and

- (E) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

## PART B

### CONDITIONS OF CONSENT

#### (ONCE THE CONSENT IS IN OPERATION)

Upon written confirmation from Council that the deferred commencement conditions contained in Part A above have been satisfied, the consent will become operative from the date of that written confirmation, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

### SCHEDULE 1A

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

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

#### (1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2014/895 dated 24 June 2014 and the following drawings:

Drawing Number	Architect	Date
243_002 – Rev DA1 Site Plan	Collins and Turner + Environa Studio	11 June 2014
243_010 – Rev DA5 Basement Level 1 Plan	Collins and Turner + Environa Studio	25 February 2015
243_011 – Rev DA5 Basement Level 2 Plan	Collins and Turner + Environa Studio	25 February 2015
243_012 - Rev DA5 Basement Level 3 Plan	Collins and Turner + Environa Studio	25 February 2015
243_013 – Rev DA5 Level 1 Plan	Collins and Turner + Environa Studio	25 February 2015
243_014 – Rev DA5 Level 2 Plan	Collins and Turner + Environa Studio	25 February 2015
243_015 – Rev DA5 Level 3 Plan	Collins and Turner + Environa Studio	25 February 2015
243_016 – Rev DA5 Level 4 Plan	Collins and Turner + Environa Studio	25 February 2015
243_017 – Rev DA3 Level 5 Plan	Collins and Turner + Environa Studio	12 January 2015
243_018 – Rev DA3 Levels 6 – 13 Plan	Collins and Turner + Environa Studio	12 January 2015

Drawing Number	Architect	Date
243_019 – Rev DA3 Levels 14 - 19 Plan	Collins and Turner + Environa Studio	12 January 2015
243_020 – Rev DA3 Level 20 Plan	Collins and Turner + Environa Studio	12 January 2015
243_021 – Rev DA3 Roof Level Plan	Collins and Turner + Environa Studio	12 January 2015
243_200 – Rev DA5 West Elevation	Collins and Turner + Environa Studio	25 February 2015
243_201 – Rev DA5 East Elevation	Collins and Turner + Environa Studio	25 February 2015
243_202 – Rev DA5 North Elevation	Collins and Turner + Environa Studio	25 February 2015
243_203 – Rev DA5 South Elevation	Collins and Turner + Environa Studio	25 February 2015
243_204 – Rev DA5 Internal South Elevation	Collins and Turner + Environa Studio	25 February 2015
243_205 – Rev DA5 Internal North Elevation	Collins and Turner + Environa Studio	25 February 2015
243_300 – Rev DA5 East West Section	Collins and Turner + Environa Studio	25 February 2015
243_301 – Rev DA5 Detail section - Breezeway	Collins and Turner + Environa Studio	25 February 2015
243_302 – Rev DA3 Detail section – Cladding	Collins and Turner + Environa Studio	9 January 2015
243_303 – Rev DA5 Unit 1.06 & 1.07 Detail Plan & Section	Collins and Turner + Environa Studio	25 February 2015
243_304 – Rev DA5 Level 5 Bridge Detail Plan & Elevation	Collins and Turner + Environa Studio	25 February 2015
243_305 – Rev DA5 Detail Plan and West Elevation 1	Collins and Turner + Environa Studio	3 March 2015
243_306 – Rev DA5 Detail Plan and West Elevations 2	Collins and Turner + Environa Studio	3 March 2015
243_307 – Rev DA5 Detail Plan and North Elevation	Collins and Turner + Environa Studio	3 March 2015
243_308 – Rev DA5 Detail Plan and South Elevation	Collins and Turner + Environa Studio	3 March 2015
243_700 – Rev DA1 Adaptable Apartments 1 Bed	Collins and Turner + Environa Studio	5 June 2014
243_701 – Rev DA1 Adaptable Apartments 2 Bed	Collins and Turner + Environa Studio	5 June 2014

Drawing Number	Architect	Date
243_702 – Rev DA1 Adaptable Apartments 3 Bed	Collins and Turner + Environa Studio	5 June 2014
Proposed subdivision plan. Reference 1763- DRAFT	Surveying Solutions	6 March 2015

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) COMPLIANCE WITH SUBMITTED MATERIALS SAMPLE BOARD**

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials sample board, ref: 243\_801 – Rev DA2, prepared by Collins and Turner + Environa Studio except for the SCR-1 sample provided on the board.

**(3) EXTERNAL SCREENING / PANELLING**

A final sample and design details of the external screening / panelling to be used in the development (annotated on drawings as “SCR-1”), including details of returns and finishes around corners, is to be submitted to and approved by the Director City Planning, Development and Transport prior to the issue of a Construction Certificate.

**(4) SAM SING STREET TOWER BUILDING – WESTERN ELEVATION**

Additional passive solar treatment is to be introduced to the western façade of the Sam Sing Street tower to address heat impacts. Detailed drawings of this passive solar treatment, along with material samples, are to be submitted to and approved by the Director City Planning, Development and Transport prior to the issue of a Construction Certificate.

**(5) SECURITY SHUTTER / SCREEN FOR FOOD AND DRINK PREMISES**

Design and material details for the external security shutter for the food and drink premises on Archibald Avenue are to be submitted to and approved by the Director City Planning, Development and Transport prior to the issue of a Construction Certificate. In this regard, the security screen is to be well designed and of high quality materials, with a degree of openness so that it does not present a solid, blank appearance to the street.

**(6) GLAZED WIND BREAK – GROUND LEVEL (“LEVEL 1” PLAN)**

Consent is not granted for the installation of a glazed wind break at ground level (“Level 1” plan) on the corner of Archibald Avenue and Sam Sing Street.



**(7) FENCES AND GATES**

All fencing and gates enclosing the front garden areas of apartments along the Hatbox Avenue and Sam Sing Street frontages of the development are to be a maximum height of 1.4m above finished ground level.

**(8) PRIVACY TREATMENT – ARCHIBALD AVENUE BUILDING APARTMENT A1.06**

All ground floor windows of apartment A1.06 in the Archibald Avenue building are to incorporate appropriate privacy treatment and be fixed up to a height of 1.6m above finished floor level. Details of this privacy treatment (including method of fixing) are to be submitted to and approved by the Director City Planning, Development and Transport prior to the issue of a Construction Certificate.

**(9) 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 City Planning, Development and Transport.

**(10) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT**

The terms of the Planning Agreement entered into in accordance with Deferred Commencement Condition (1) are to be complied with.

**(11) FLOOR SPACE RATIO**

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the mixed use must not exceed 2.2059:1 calculated in accordance with *South Sydney DCP 1997: Urban Design – Green Square Part G: Special Precinct No. 9 Green Square (Lachlan Precinct)*. For the purposes of the calculation of FSR, the Gross Floor Area of the commercial component is 189sqm, for the residential component is 12,151sqm, and the total Gross Floor Area is 12,340sqm.

- (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 *South Sydney DCP 1997: Urban Design – Green Square Part G: Special Precinct No. 9 Green Square (Lachlan Precinct)*, applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.

#### **(12) BUILDING HEIGHT – ALL BUILDINGS**

- (a) The height of the Sam Sing Street tower must not exceed RL 90.35 (AHD) to the top of the building (lift core) and RL 89.25 (AHD) to the top of the shade structure covering the roof level gardens.
- (b) The height of the Archibald Avenue building must not exceed RL 41.23 (AHD) to the top of the architectural canopy over the lift core and RL 37.23 (AHD) to the finished floor level of the roof garden.
- (c) The height of the Hatbox Place building must not exceed RL 40.05 (AHD) to the top of the architectural canopy over the lift core and RL 36.56 (AHD) to the finished floor level of the roof garden.
- (d) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a), (b) and (c) above, to the satisfaction of the Principal Certifying Authority.

#### **(13) SIGNS - SEPARATE DA REQUIRED**

A separate development application for any proposed signs additional to those approved as part of this consent (other than exempt or complying signs under Council's exempt and complying DCPs) must be submitted to and approved by Council prior to the erection or display of any such signs.

#### **(14) USE OF COMMON AREAS AND FACILITIES**

- (a) The level 1 (ground level) central courtyard, roof top gardens on the eastern sides of the 4 storey Archibald Avenue and Hatbox Place buildings and roof top garden on the 20 storey tower must be available for the use all residents of the building, and must be designated as common property on any strata subdivision of the site, with no exclusive use rights.
- (b) Any roof top areas with communal access must ensure a 2 metre setback of usable area from the building edge to reduce overlooking. Drawings and details reflecting are to be submitted to and approved by the Director City Planning, Development and Transport prior to the issue of a Construction Certificate.

#### **(15) STORAGE FACILITIES**

In addition to kitchen cupboards and bedroom wardrobes, accessible storage facilities are to be provided for the residential apartments within the development at the following minimum rates:

- (a) Studio apartments: 6m<sup>3</sup>
- (b) One bedroom apartments: 6m<sup>3</sup>
- (c) Two bedroom apartments: 8m<sup>3</sup>
- (d) Three plus bedroom apartments: 10m<sup>3</sup>

At least 50% of this storage is to be provided within each apartment. Plans showing this storage provision are to be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.

#### **(16) STUDY AREAS**

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

#### **(17) 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.

#### **(18) ALLOCATION FOR VISITOR PARKING**

Visitor parking spaces must not at any time be allocated, sold or leased to an individual owner/occupier and must be strictly retained as common property by the Owners Corporation for use by building visitors.

All spaces must be clearly marked 'visitor' prior to the issue of an occupation certificate or the use commencing, whichever is earlier. All signs must be maintained in good order at all times.

#### **(19) ALLOCATION OF ACCESSIBLE CAR PARKING SPACES**

For residential development, accessible car parking spaces for people with mobility impairment are only to be allocated as visitor parking or to adaptable units. Where allocated to adaptable units, the unit(s) and car spaces must be assigned to the unit in any future strata subdivision of the building.

#### **(20) ALLOCATION OF PARKING**

- (a) The number of car parking spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

<b>Car Parking Type</b>	<b>Number</b>
Residential spaces	112
Accessible residential spaces	26
Residential visitor spaces	17
Accessible residential visitor spaces	1
Retail / Food and drink premises parking	2
Accessible retail / food and drink premises parking	1
<b>Subtotal</b>	<b>159</b>
Car wash bay	2
<b>Total</b>	<b>161</b>

(b) A commercial carpark must not be operated in the building.

### **(21) 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 "Sydney Streets Technical Specification" including amendments and "Sydney Streets Design Code".

### **(22) BICYCLE PARKING AND END OF TRIP FACILITIES**

(a) The minimum number of bicycle parking spaces and end of trip facilities to be provided for the development must comply with the table below.

<b>Bicycle Parking Type</b>	<b>Number</b>	<b>Requirements</b>
Residential	57	Spaces must be class 2 bicycle facilities
Residential visitor	17	Spaces must be Class 3 bicycle rails
Non-residential	3	Spaces must be Class 2 bicycle facilities

(b) 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 Principal Certifying Authority prior to the issue of a Construction Certificate.

### **(23) CHANGES TO KERB SIDE PARKING RESTRICTIONS**

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

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

All costs associated with the parking proposal will be borne by the developer.

Note: As parking in the LGA is at a premium, it is recommended that the applicant should approach the Area Traffic Engineer to discuss the proposal before making a submission.

**(24) 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.

**(25) INTERCOM FOR VISITORS**

Where a boom gate or barrier control is in place, the visitor spaces must be accessible to visitors by the location of an intercom (or card controller system) at the car park entry and at least 4m clear of the property boundary, wired to all units. The intercom must comply with *Australian Standard AS 1428.2-1992: Design for access and mobility - Enhance and additional requirements - Building and facilities Sections 22 and 23.*

**(26) ON SITE LOADING AREAS AND OPERATION**

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.

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.

**(27) PARKING DESIGN**

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 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 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.

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

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

**(29) PROHIBITION ON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME - APPLICATION OF CITY OF SYDNEY PARKING POLICY**

All owners, tenants and occupiers of this building are advised that it is the Policy of Council that they are not eligible to participate in any existing or proposed Council on-street resident parking schemes. The owner of the dwelling must advise all intending owners, tenants and occupiers of the dwelling of this prohibition in writing at the time of entering into a purchase / lease / occupancy agreement.

**(30) SIGNAGE TO INDICATE NON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME**

Signs reading "All owners, tenants and occupiers of this building are advised that they are not eligible to obtain an on-street resident parking permit from Council" must be permanently displayed and located in prominent places such as display apartments and on all directory boards or notice boards, where they can be easily observed and read by people entering the building. The signs must be erected prior to an occupation certificate being issued and must be maintained in good order at all times by the Owners of the building.

**(31) SECURITY GATES**

Where a car park is accessed by a security gate, that gate must be located at least 6 metres within the site from the street front property boundary.

**(32) SIGNS AT EGRESS**

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

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

**(33) MIRROR SYSTEM**

A system of mirrors must be installed along the entry ramp and within the basement loading area to ensure that adequate sightlines are maintained for vehicles attempting to enter or exit the site at the same time as a large vehicle. This system must be detailed in the application for a Construction Certificate.

**(34) 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.

**(35) RESTRICTION ON RESIDENTIAL DEVELOPMENT**

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portions of the buildings (over all levels) 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 *South Sydney Local Environmental Plan 1998*.
- (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 the accommodation portions of the buildings from permanent residential accommodation. 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.

**(36) NUMBER OF ADULTS PER ROOM**

- (a) No more than two adult people shall permanently occupy any bedroom and no bedroom shall contain more than two beds. This excludes children and children's beds, cots or bassinets.
- (b) The total number of adults residing in one unit shall not exceed twice the number of approved bedrooms.

**(37) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL, SERVICED APARTMENTS AND MIXED USE**

The following conditions apply to car parking:

- (a) The on-site car parking spaces, exclusive of service and visitor car spaces, are not to be used other than by an occupant, tenant or resident of the subject building.
- (b) Prior to an Occupation Certificate being issued, a documentary restrictive covenant, is to be registered on the Title of the development site pursuant to Section 88E of the *Conveyancing Act 1919*, to the effect of (a) above. The covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
- (c) Any future strata subdivision of the site is to include a restriction on User pursuant to section 39 of the *Strata Titles (Freehold Development) Act, 1973*, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate restrictive covenant pursuant to section 88B of the *Conveyancing Act 1919* burdening all car parking part - lots in the strata scheme.

**(38) ADDITIONAL REPORTING REQUIRED – BASELINE ENVIRONMENTAL NOISE LEVELS**

A suitably qualified acoustic consultant\* is to be engaged to undertake and provide a written report to Council on the following scope of work:

- (a) A minimum of seven days long-term unattended noise monitoring is to be conducted in complete accordance with the NSW EPA *Industrial Noise Policy (INP)*, being unaffected by extraneous noise and weather data to within the limits described by the Industrial Noise Policy. The following additional requirements are to be adhered to:
  - (i) The location of the noise monitor is to be photographed and documented for the record.
  - (ii) The monitoring location is to be representative of the quieter areas of the proposal, and encapsulate the shielding at ground levels from road traffic noise naturally afforded by the built environment of the area. Monitoring data is not to be affected by any construction noise. The monitoring location must be determined in consultation with Council's Area Planning Manager.
  - (iii) A suite of baseline environmental noise statistics are to be reported, inclusive  $RBL_{A90}$  (both broadband and equivalent 1/1 octave band spectra), Period LAeq and repeatable highest  $L_{Aeq 1 hr}$  levels.
  - (iv) The consultant is to undertake a series of attended measurements at varying elevations to account for the general elevated levels of road traffic noise and commercial noise in the area from medium distance sources. The consultant is to report on whether the unattended data is adequate to represent this impact with justification or undertake and report on further unattended monitoring as they see fit.
- (b) A minimum of seven days unattended noise monitoring is to be conducted in proximity to the front boundary to encapsulate road traffic noise emissions as they will be incident on the future building site. The data will be analysed and reported on and must comply with the requirements of (i), (iii), (iv) above in addition to the following:
  - (i) The following noise metrics will be reported on in accordance with the NSW Road Noise Policy and AS1055:
    - a.  $L_{Amax}$  day 15 hour and  $L_{Amax}$  Night 9 hour,
    - b.  $L_{Aeq}$  day 15 hour and  $L_{Aeq}$  Night 9 hour,
    - c. A suite of noise statistics.
    - d. The consultant will provide distance corrections of the noise impact to the relevant levels of the building façade accounting for distance attenuation and façade exposure.



Following the completion of the noise monitoring set out above, the written report is to be submitted to and approved by the Council's Area Planning Manager prior to the issue of Construction Certificate. This report is also to be approved by Council's Area Planning Manager prior to the satisfaction of condition 40 - "Compliance with the Acoustic Report".

\*Note: "Suitably qualified acoustic consultant" means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

**(39) ADDITIONAL REPORTING REQUIRED – ROAD & ENVIRONMENTAL NOISE, BUILDING FACADE IMPACT ASSESSMENT**

A suitably qualified acoustic consultant\* is to be engaged to undertake and provide a written report to Council on the following scope of work:

- (a) The worst case repeatable LAeq 1 hour noise levels and L<sub>AMax</sub> / L<sub>A1</sub> sleep disturbance levels and any other environmental noise impact as associated with the use or the surrounding environment are to be reviewed to the satisfaction of the consultant. Following this, the consultant is to document relevant noise impacts to adequately describe the noise impact across the facades of the building for noise performance planning purposes and for review in the written report.
- (b) The relevant design criteria in accordance with the use of the internal spaces will be reviewed and documented with regard the building façade, level, and space. The criteria will be determined in accordance with Section 5.5.6: *Acoustic & Visual Privacy* of the *South Sydney Development Control Plan 1997: Urban Design – Part G: Special Precinct No.9 Green Square (Lachlan Precinct)* and *CIs 101-102 of the State Environmental Planning Policy (Infrastructure) 2007*.

Note: For satisfaction of CI101 in a commercial space, the design requirement will be that the worst repeatable L<sub>Aeq (1hour)</sub> achieves compliance with the relevant satisfactory level in AS2107.

- (c) Noise performance reduction requirements of the composite façade construction are to be reviewed and determined from the levels outlined as per (a) and (b) above. This is to be documented in the written report.

Following the completion of the assessment set out above, the written report is to be submitted to and approved by the Council's Area Planning Manager prior to the issue of Construction Certificate. This report is also to be approved by Council's Area Planning Manager prior to the satisfaction of condition 40 - "Compliance with the Acoustic Report".

\*Note: "Suitably qualified acoustic consultant" means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

**(40) COMPLIANCE WITH THE ACOUSTIC REPORT**

- (a) Where not in conflict with the requirements given in part (b) of this condition, all performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report prepared by Acouras Consultancy, dated 11 June 2014, referenced; SYD 2014 – 1031 – R001D must be implemented as part of the detailed design assessment and implemented into the design drawings prior to the commencement of the use of the premises in accordance with the requirements of (b) and (c) below and to the satisfaction of the certifying authority. The requirements of part (b) of this condition are to override any conflict with the above report.
- (b) Prior to the issue of a Construction Certificate, the construction drawings and construction methodology must be assessed and certified by a suitably qualified acoustic consultant\* to be in accordance with the requirements set out below. Specifically, the consultant is to prepare a written Acoustic Certification Report with reference to drawings, to the satisfaction of the Principal Certifying Authority which addresses the following requirements:
- (i) Facade construction methodologies will be to a written noise performance specification approved by the Council's Area Planning Manager in accordance with condition 39 - "Additional Reporting Required – Road and Environmental Noise, Building Facade Impact Assessment".
- (ii) Environmental baseline noise levels approved by Council's Area Planning Manager in accordance with condition 38 - "Additional Reporting Required – Baseline Environmental Noise Levels" will be those used by the consultant for establishing planning noise performance metrics such that the general noise emissions from the building will be controlled to comply with condition 41 - "Noise – General". Furthermore, the consultant is to prepare a summary report of how the development will comply with condition 41 "Noise – General" for submission to and approval of Council's Area Planning Manager. This report must detail all identified noise sources assessed to ensure the development will comply with condition 41 - "Noise - General". The report must identify all noise emissions sources and correlating noise contributions to the nearby noise sensitive receivers (including receivers within the development itself), and an overall emissions level that is predicted to comply with condition 41 - "Noise - General".

Note: Entertainment noise is to be reported on separately in accordance with part (iii) below.

- (iii) Environment baseline noise levels approved by the Council's Area Planning Manager in accordance with condition 38 - "Additional Reporting Required – Baseline Environmental Noise Levels" condition will be those used by the consultant for establishing planning noise performance metrics for cumulative noise emissions from any future commercial premises associated with the development such that the cumulative entertainment noise emissions criteria from the development will be controlled to comply with condition 42 - "Noise - Entertainment". Furthermore:
- a. The consultant is to calculate and define the maximum allowable Entertainment Noise Emissions which may emerge from the collective facades of the entertainment premises such that the collective noise emissions will not exceed condition 42 - "Noise - Entertainment". This is to be submitted to and approved by Council's Area Planning Manager.
  - b. Any noise limits that are defined for individual commercial tenancies in the above report will constitute noise limits imposed by this consent. Any recommended noise treatments, in the report will constitute requirements imposed by this consent.
- (iv) Sound Isolation Ratings of floors are to achieve a minimum performance specification of  $L_{n,w} + C_i \leq 55$  where they separate habitable rooms of residential premises. Habitable room is taken to mean the definition given in the NCC. Otherwise, the NCC or any superior written requirement affected through this approval will prevail.
- (c) Prior to the issue of an Occupation Certificate, a suitable qualified acoustic consultant is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifying Authority that the development complies with the requirements set out in the Report and in (a) and (b) above.

\*Note: "Suitably qualified acoustic consultant" means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

#### **(41) NOISE - GENERAL**

- (a) The emission of noise associated with the use of the premises including the cumulative operation of any mechanical plant and equipment, air conditioning and vehicle movements on the property (excluding entertainment noise) shall comply with the following:

- (i) The  $L_{Aeq, 15 \text{ minute}}$  noise level emitted from the use must not exceed the project specific noise level for that receiver as determined in accordance with the *NSW EPA Industrial Noise Policy*. Noise must be measured in accordance with the Industrial Noise Policy and relevant requirements of Australian Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
  - (ii) Project specific noise levels shall be determined by establishing the existing environmental noise levels, in complete accordance with the assessment  $L_{A90, 15 \text{ minute}}$  / rating  $L_{A90, 15 \text{ minute}}$  process to be in accordance with the requirements for noise monitoring listed in the *NSW EPA Industrial Noise Policy* and relevant requirements of Australian Standard AS1055-1997 Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
  - (iii) Modifying factors in Table 4.1 of the *NSW EPA Industrial Noise Policy* are applicable.
- (b) A cumulative  $L_{Aeq, 15 \text{ minute}}$  noise level emitted from the use must not exceed the  $LA90, 15 \text{ minute}$  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 or noise sensitive commercial premises provided that:
- (i) Where the  $L_{A90, 15 \text{ minute}}$  noise level is below the threshold of hearing,  $T_f$  at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of  $T_f$  corresponding to that Octave Band Centre Frequency shall be used instead.
  - (ii) The  $L_{Aeq, 15 \text{ minute}}$  noise level and the  $LA90, 15 \text{ minute}$  noise level shall both be measured with all external doors and windows of the affected residence closed.
  - (iii) The relevant background noise level ( $LA90, 15 \text{ minute}$ ) is taken to mean the day, evening or night rating background noise level determined in complete accordance with the methodology outlined in the *NSW EPA Industrial Noise Policy* and Australian Standard AS1055.1997 Acoustics – Description and measurement of environmental noise.
  - (iv) Background noise shall be established in the absence of all noise emitted from the use but with the ventilation equipment normally servicing the affected residence operating. Background noise measurements are to be representative of the environmental noise levels at the affected location.
  - (v) Modifying factors in Table 4.1 of the *NSW EPA Industrial Noise Policy* are applicable. Internal Noise measurements are not to be corrected for duration.

**(42) NOISE - ENTERTAINMENT**

- (a) The  $L_{A10, 15 \text{ minute}}$  noise level emitted from the commercial uses on site must not exceed the background noise level ( $L_{A90, 15 \text{ minute}}$ ) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence.
- (b) The  $L_{A10, 15 \text{ minute}}$  noise level emitted from the use must not exceed the background noise level ( $L_{A90, 15 \text{ minute}}$ ) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, noise from the use when assessed as an  $L_{A10, 15 \text{ minute}}$  enters any residential use through an internal to internal transmission path is not to exceed the existing internal  $L_{A90, 15 \text{ minute}}$  (from external sources excluding the use) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed within a habitable room at any affected residential use between the hours of 7am and 12midnight. Where the  $L_{A10, 15 \text{ minute}}$  noise level is below the threshold of hearing,  $T_f$  at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of  $T_f$  corresponding to that Octave Band Centre Frequency shall be used instead.
- (d) Notwithstanding compliance with (a), (b) and (c) above, the noise from the use must not be audible within any habitable room in any residential use between the hours of 12.00 midnight and 7.00am.
- (e) The  $L_{A10, 15 \text{ minute}}$  noise level emitted from the use must not exceed the background noise level ( $L_{A90, 15 \text{ minute}}$ ) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises.

Note: The  $L_{A10, 15 \text{ minute}}$  noise level emitted from the use is as per the definition in the Australian Standard AS1055-1997 Acoustics – Description and measurement of environmental noise. The background noise level  $L_{A90, 15 \text{ minute}}$  is to be determined in the absence of noise emitted by the use and be representative of the noise sensitive receiver. It is to be determined from the assessment  $L_{A90}$  / rating  $L_{A90}$  methodology in complete accordance with the process listed in the NSW EPA Industrial Noise Policy and relevant requirements of AS1055.1997.

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

A site specific Demolition, Excavation and Construction Noise and Vibration Management Plan shall be submitted to and approved by the Area Planning Manager prior to issue of any Construction Certificate.

The Demolition, Excavation & Construction Noise and Vibration Management Plan must be prepared by a suitably qualified person who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants.

The Demolition, Excavation and Construction Noise and Vibration Management Plan must include but not be limited to the following:

- (a) Identification of noise sensitive receivers near to the site.
- (b) The proposed hours of all construction and work on the development including building / demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (e.g. loading and unloading of goods, transferring of tools etc), in connection with the proposed development.
- (c) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours / Noise Code of Practice 1992* for the typical construction hours of 7.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
- (d) A representative background noise measurement ( $L_{A90, 15 \text{ minute}}$ ) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (e) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (f) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.
- (g) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (h) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.

- (i) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

**(44) COMPLIANCE WITH DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN**

- (a) All works conducted on site which form part of this development must be carried out in accordance with the approved Demolition, Excavation and Construction Noise and Vibration Management Plan.
- (b) Where all such control measures have been implemented and the resultant noise and/ or vibration levels at any sensitive receiver still exceed the council's applicable criteria stated in the *City of Sydney Construction Hours / Noise Code of Practice 1992*, and the works are giving rise to substantiated complaints, then process for variation to the approval will be as follows:
  - (i) The contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building unit.
  - (ii) Approval to vary the authorised noise and vibration levels must be sought from, and then approved by, Council's Area Planning Manager to their satisfaction prior to activities being undertaken that exceed sanctioned emission levels.
  - (iii) This, and any variation to the above approved process will be in accordance with the terms and process given in condition 45 – Use Of Intrusive Appliances and Variation to Construction Approval.

**(45) USE OF INTRUSIVE APPLIANCES**

A report detailing the use of appliances which emit noise of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or 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", is to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

As a minimum, the report must specify:

- (a) The proposed hours and days of operation;
- (b) The tasks that the equipment will be used for;
- (c) Justify in writing why the intrusive appliance cannot be substituted for a lower impact apparatus;
- (d) Provide for how noise will be managed to comply with the above code, and if cannot, provide for how it will be managed to the lowest reasonable and feasible levels;

- (e) Indicate a timeframe for completion the associated task;
- (f) Provide details of respite periods which will occur to reduce exposure to intrusive noise at sensitive receiving locations; and
- (g) Such periods and operating conditions must be submitted to and approved by Council's Health and Building Unit and approved to the satisfaction of the Area Planning Manager on a temporary basis referencing permitted activities and limiting periods which the activity may occur. These parameters will form part of this consent, and the temporary approval may be revoked should substantiated complaints occur including breach of the terms given.

**(46) NO SPEAKERS OR MUSIC OUTSIDE – RESIDENTIAL RECREATIONAL SPACES**

Permanently installed speakers and/or noise amplification equipment for the playing of music must not be installed in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed so as to direct the playing of music towards the outdoor areas associated with the premises.

**(47) NOISE PLAN OF MANAGEMENT TO BE SUBMITTED AND APPROVED – RESIDENTIAL RECREATIONAL SPACES**

- (a) A suitably qualified acoustic consultant is to be engaged by the proponent who is to prepare a Noise - Plan of Management (NPOM) which is to be adopted by the STRATA and or Building Management.
- (b) A Noise Plan of Management checklist must be prepared to address all operational and management procedures to be employed, to ensure that the premises can operate without disturbance to the surrounding locality. The plan must address all outdoor recreational uses associated with the residential use/s and reflect methodologies to keep the good order and amenity of the neighbourhood.
- (c) The plan must include but not be restricted to; compliance with all other operational conditions of this consent; hours of operation; noise; security management; and handling complaints.
- (d) The plan must be submitted to and approved by the Area Planning Manager prior to a Construction Certificate being issued.

**(48) OUTDOOR RESIDENTIAL RECREATIONAL AREAS – LIMITATIONS OF USE**

The outdoor recreational areas not associated with commercial uses and which are not land freely open to the public, that is, are restricted access to residents of the building, are subject to the operational terms of this condition. These areas are:

- (a) To be for the private recreational use of residents of the building and their visitors;
- (b) Are not to be used for holding commercial functions unless lawfully approved; and



- (c) To not emit a noise level in excess of condition 42 - "Noise – Entertainment" at any time, and not to create an audible noise within a habitable room in any neighbouring residential site (not within the development itself) on any day after 10.00pm and before 7.00am.

**(49) HOURS OF OPERATION - MINOR DEVELOPMENT**

The hours of operation for the 3 x retail premises and 1 x food and drink premises at ground floor level ("Level 1" plan) within the Archibald Avenue building are restricted to between 7.00am to 7.00pm Monday to Saturday inclusive and 9.00am to 6.00pm on Sunday.

**(50) SECTION 94 SOUTHERN PRECINCT CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2006**

- (a) As a consequence of this development, Council has identified an additional demand for public amenities and facilities. Pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 (as amended), and City of Sydney Section 94 Contributions Development Contributions Plan 2006 the following monetary contributions towards the cost of providing facilities and amenities are required.

<u>Contribution Category</u>	<u>Amount</u>
Community Facilities	\$445,346.07
Public Domain	\$274,307.50
New Open Space	\$2,137,340.83
New Roads	\$542,824.28
Accessibility	\$22,514.14
Management	\$24,342.98
<b>Total</b>	<b>\$3,446,675.80</b>

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

$$\text{Contributions at Time of Payment} = C \times \text{CPI2} / \text{CPI1}$$

where:

C is the original contribution amount as shown above;

CPI2 is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of statistics at the time of payment; and

CPI1 is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the date of calculation being December 2014.

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

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

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

- (b) The Section 94 contributions payable in condition 50(a) above may be offset in accordance with the terms of the Planning Agreement required to satisfy Deferred Commencement Condition (1).

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

In accordance with Clause 27P of *South Sydney Local Environmental Plan 1998 (as amended)* and prior to a Construction Certificate being issued, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid at the office of the Department of Planning or a bank guarantee in favour of The Department of Planning to the value of the required contribution has been lodged. The contribution is **\$2,679,211.50** based on the in lieu monetary contribution rate for non-residential development at \$58.04 per square metre of total non-residential floor area (204sqm), and for residential development at \$174.19 per square metre of total residential floor area 15,313sqm. 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 2015 to 28 February 2016), 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](mailto: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) 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 2015 to 28 February 2016).

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 (\$)).

#### **(52) SHARED/INTEGRATED BASEMENT AND BREAKTHROUGH PANELS**

Provision shall be made for breakthrough panels in the basement into the adjoining site to the east (legally known as Lot 1 in DP 789787 with a street address of 44-48 O'Dea Avenue) to allow for a future shared/integrated basement between the two sites and the sharing of the subject development's vehicular access from Sam Sing Street.

As required through the Planning Agreement, a Right of Carriageway and associated Positive Covenant are to be created on Title over the part of the site used for vehicular access in favour of the adjoining site to the east (described above) to provide formal rights of access over the site.

**(53) PROTECTION OF AIRPORT AIRSPACE - MAXIMUM BUILDING HEIGHT**

The Sam Sing Street tower building must **not exceed** a maximum height of **90.35 metres AHD**, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.

**(54) PROTECTION OF AIRPORT AIRSPACE - OBSTACLE LIGHTING**

The building **must be obstacle lit** at night with medium intensity steady red lights. The obstacle lights are to be arranged so as to at least indicate the points or edges of the object to ensure the object can be observed in a 360 radius as per subsection 9.4.3 of the Manual of Standards Part 139 – Aerodromes.

**(55) PROTECTION OF AIRPORT AIRSPACE – APPROVAL FOR CRANES**

Separate approval **must be sought** under the Airports (Protection of Airspace) Regulations 1996 for any cranes required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

**(56) PROTECTION OF AIRPORT AIRSPACE – CERTIFICATION OF FINISHED BUILDING HEIGHT**

At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield design manager of the finished height of the building.

**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 Approvals Unit to discuss the requirements prior to submission of the application for construction certificate.

**(57) LAND REMEDIATION**

The site is to be remediated and validated in accordance with the Remedial Action Plan prepared by SMEC Testing Service (September 2014), titled “Revised Remedial Action Plan, Land at 40a and 40b O’Dea Avenue, Waterloo, New South Wales for JQZ”, Report No. 14/1295A and the Letter of Interim Advice prepared by James Davis of Enviroview Pty Ltd, NSW EPA Contaminated Land Site Auditor, dated 4 September 2014, reference no. IA 0301-1413\_01. All remediation work carried out shall be conducted in accordance with the guidelines in force under the *Contaminated Land Management Act 1997*.

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the Council's Area Planning Manager and the Principal Certifying Authority.

Any variations to the approved Remediation Action Plan shall be approved in writing by the Accredited Site Auditor and Council prior to the commencement of such work.

**(58) UNDERGROUND STORAGE TANK REMOVAL**

The removal of underground storage tanks shall be undertaken in accordance with NSW WorkCover requirements which includes writing to the Chief Inspector of Dangerous Goods and complying with any conditions imposed. The tank removal shall be conducted in accordance with the *Australian Institute of Petroleum's Code of Practice, The Removal and Disposal of Underground Petroleum Storage Tanks (AIP CP22-1994) and AS4976-2008 The removal and disposal of underground petroleum storage tanks*. In the event of conflict between the Code of Practice and NSW WorkCover requirements, the latter shall prevail.

**(59) SITE AUDIT STATEMENT**

Prior to any new above ground development (excluding works associated with consent D/2014/428/A including the demolition of the buildings, the removal of concrete slabs and hardstand areas and building work directly related to remediation) a Site Audit Statement (SAS) is to be obtained from a NSW EPA Accredited Site Auditor and submitted to Council's Area Planning Manager. The SAS must confirm that the site has been remediated in accordance with the approved Remediation Action Plan and clearly state that site is suitable for the proposed use. Conditions on the Site Audit Statement shall form part of the consent.

- (a) Where the SAS is subject to conditions that require ongoing review by the Auditor or Council, these should be reviewed and approved by Council before the SAS is issued. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a S96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.
- (b) An Occupation Certificate must not be issued by the PCA unless a Site Audit Statement has been submitted to the City in accordance with this condition.

**(60) CLASSIFICATION OF WASTE**

Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the *Environment Operations Act 1997* and the *NSW DECC Waste Classification Guidelines, Part1: Classifying Waste (July 2009)*. The classification of the material is essential to determine where the waste may be legally taken. The *Protection of the Environment Operations Act 1997* provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

**(61) STOCKPILES**

- (a) No stockpiles of soil or other materials shall be placed on footpaths or nature strips unless prior approval has been obtained from the City's Construction Regulation Unit.
- (b) All stockpiles of soil or other materials shall be placed away from drainage lines, gutters or stormwater pits or inlets.
- (c) All stockpiles of soil or other materials likely to generate dust or odours shall be covered.
- (d) All stockpiles of contaminated soil shall be stored in a secure area and be covered if remaining more than 24 hours

**(62) IMPORTED FILL MATERIALS**

All fill imported onto the site shall be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site shall also be compatible with the existing soil characteristic for site drainage purposes.

The City may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported onto the site should be validated by either one or both of the following methods during remediation works:

- (a) Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (1995) Sampling Design Guidelines.

**(63) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

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

**(64) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT**

- (a) Prior to the commencement of demolition and/or excavation work the following details must be submitted to and be approved by the Principal Certifying Authority:
- (i) Plans and elevations showing distances of the subject building from the location of adjoining and common/party walls, and (where applicable) the proposed method of façade retention.
  - (ii) A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the WorkCover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted).
  - (iii) An Excavation Work Method Statement prepared by an appropriately qualified person.
  - (iv) A Waste Management Plan for the demolition and or excavation of the proposed development.
- (b) Such statements must, where applicable, be in compliance with AS2601-2001 Demolition of Structures, the Work, Health and Safety Act 2011 and Regulation; Council's Policy for Waste Minimisation in New Developments 2005, the Waste Avoidance and Resource Recovery Act 2001, and all other relevant acts and regulations and must include provisions for:
- (i) A Materials Handling Statement for the removal of refuse from the site in accordance with the *Waste Avoidance and Resource Recovery Act 2001*.
  - (ii) The name and address of the company/contractor undertaking demolition/excavation works.
  - (iii) The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials.
  - (iv) The name and address of the transport contractor.
  - (v) The type and quantity of material to be removed from site.
  - (vi) Location and method of waste disposal and recycling.
  - (vii) Proposed truck routes, in accordance with this development consent.

- (viii) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site).
  - (ix) Measures to control noise emissions from the site.
  - (x) Measures to suppress odours.
  - (xi) Enclosing and making the site safe.
  - (xii) Induction training for on-site personnel.
  - (xiii) Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to WorkCover Authority.
  - (xiv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the WorkCover Authority.
  - (xv) Disconnection of utilities.
  - (xvi) Fire Fighting. (Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed).
  - (xvii) Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings).
  - (xviii) Waterproofing of any exposed surfaces of adjoining buildings.
  - (xix) Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the *Protection of the Environmental Operations Act 1997*).
  - (xx) Working hours, in accordance with this development consent.
  - (xxi) Any WorkCover Authority requirements.
- (c) The approved work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.



**(65) 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 adjoining 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.

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

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

- (a) The SWMP must identify and respond to all items for Erosion and Sediment Control Plans listed in the condition above, as well as:
- (i) existing site contours;
  - (ii) location and diagrammatic representation of all necessary erosion and sediment control systems or structures used to mitigate or prevent pollution to stormwater;
  - (iii) Location and engineering details with supporting design calculations for all necessary sediment basins, constructed wetlands, gross pollutant traps, trash racks or biofiltration swales (as relevant).

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

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

Attention is drawn to requirements with respect to the following:

- (a) Protection of openings – Part C3, window openings adjoining the eastern boundary;
- (b) Provision for escape (access and egress) – Part D1, Clause D1.4, travel distances from unit entrance doorways to exits at Levels 3 and 4;
- (c) Fire fighting equipment - Part E1, in particular the requirements of Clause E1.8;
- (d) Lift installation - Part E3, in particular the requirements of Clause E3.4; and
- (e) Sanitary and other facilities - Part F2, in particular the provision of facilities to the ground floor (“Level 1” plan) food and drink premises and retail premises.

Note: If compliance with the deemed-to-satisfy provisions of the BCA cannot be achieved an alternative solution in accordance with Part A0 of the BCA must be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied.

**(68) BASIX CERTIFICATE – DETAILS TO BE LODGED WITH A CC**

A copy of the required completed BASIX certificate accepted as part of this Development Consent with respect to the proposed residential building works, must be lodged with an application for a construction certificate and the items nominated as part of the subject BASIX certificate must be specified on the plans submitted with the construction certificate application.

IMPORTANT NOTE:

Any requirement detailed in the accompanying BASIX Certificate, **MUST** be included as a specific notation or inclusion **on any future Construction Certificate plans** and specification in accordance with Part 3 of Schedule 1 of the Environmental Planning and Assessment Regulation, 2000.

**(69) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES**

The building must be designed and constructed to provide access and facilities for people with a disability in accordance with the *Building Code of Australia*.

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council prior to a Construction Certificate being issued.

**(70) ACCESS FOR PERSONS WITH DISABILITIES - OFFICE / SHOP FITOUTS**

In accordance with the *Building Code of Australia* the proposed office / shop layout and design must comply with Australian Standard 1428.1: General requirements for access - New building works.

**(71) LANDSCAPING OF THE SITE**

- (a) The landscape plans (Ref: S14-0043 – Issue C) dated 5 June 2014 prepared by Clouston Associates submitted as part of the development application documentation have not been approved as part of this consent. The landscape plans need to be updated to reflect the approved architectural plans in terms of relevant detailing, particularly in relation to Reduced Levels (RLs).
- (b) Detailed landscape plans, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate for above ground building works. The plan must include:
  - (i) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;
  - (ii) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers;
  - (iii) Location, numbers, type and supply of plant species, with reference to NATSPEC (if applicable);
  - (iv) Details of planting procedure and maintenance;
  - (v) Details of drainage, waterproofing and watering systems.
- (c) 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.
- (d) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

**(72) GREEN ROOFS**

- (a) Detailed drawings of the green roofs (including all tower gardens, roof gardens and podium landscapes), drawn to scale by a qualified landscape architect or landscape designer, must be submitted to and approved by Council prior to the issue of a Construction Certificate. The drawings must include:
  - (i) A statement that includes details of proposed use of all green roofs, general accessibility as well as noise and privacy treatments;
  - (ii) Location of existing and proposed structures, services and hard landscaping, fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components;

- (iii) Final details of all play equipment, shade structures, outdoor tables/seating and any other structures to be erected on all roof gardens and how they will be securely fixed to the roofs;
  - (iv) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
  - (v) Details of the location, sizes and numbers of plants used, with reference to NATSPEC (if applicable) and with a preference for drought resistant local species;
  - (vi) Details of the soil media / substrate type and depth;
  - (vii) Details of installation methodology e.g. safety considerations for working at height, location of maintenance hooks (if applicable) transport of materials etc;
  - (viii) Details of the parts of the green roofs which are accessible and inaccessible. Where proposed to be inaccessible, green roofs are required to remain such during occupation of the property;
  - (ix) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer (if applicable).
- (b) Prior to the issue of a Construction Certificate, the following details need to be submitted and approved by the Principal Certifying Authority:
- (i) Evidence the green roofs have been assessed as part of the structural certification provided for the development.
  - (ii) Evidence the green roofs have been assessed as part of the waterproofing certification provided for the development.
- (c) All landscaping in the approved drawings is to be completed prior to an Occupation Certificate being issued.
- (d) Prior to the issue of an Occupation Certificate, a maintenance plan is to be submitted and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property and a copy of the maintenance plan is to be kept on site at all times during construction and following completion and shall be produced to Council on request. The maintenance plan shall include as a minimum:
- (i) Frequency and methodology of different maintenance requirements, including the removal of green waste.
  - (ii) Details of safety procedures.
  - (iii) Laminated copies of 'As Built' drawings.
  - (iv) Manufacturer's contact details and copies of manufacturers' typical details and specification.

- (v) Copies of warranties and guarantees relating to all materials and plant used in construction.
- (vi) Decommissioning procedures
- (e) Inaccessible green roofs are required to remain inaccessible during occupation of the property.

**(73) ALIGNMENT LEVELS – MAJOR DEVELOPMENT**

- (a) Proposed building floor levels, basement levels, basement car park entry levels and ground levels shown on the approved Development Application plans are indicative only and have not been approved by this consent.
- (b) Prior to a Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work, alignment levels for the building and site frontages must be submitted to and approved by Council. The submission must be prepared by a Registered Surveyor, must be in accordance with the City of Sydney's *Public Domain Manual* and must be submitted with a completed Alignment Levels checklist (available in the *Public Domain Manual*) and Footpath Levels and Gradients Approval Application form (available on the City's website).
- (c) These alignment levels, as approved by Council, are to be incorporated into the plans submitted with the application for a Construction Certificate for any civil, drainage and public domain work as applicable under this consent. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.

**(74) 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 building facade adjoining the footpath, 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.

Any damage to the public way including trees, footpaths, kerbs, gutters, road carriageway and the like must immediately be made safe and functional by the applicant. Damage must be fully rectified by the applicant in accordance with the City's standards prior to a Certificate of Completion being issued for Public Domain Works or before an Occupation Certificate is issued for the development, whichever is earlier.

#### **(75) 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).

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

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

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

**(77) PUBLIC DOMAIN PLAN**

- (a) A detailed Public Domain Plan must be prepared by a suitably qualified architect, urban designer, landscape architect or engineer and must be lodged with Council's Public Domain Section and be approved by Council prior to a Construction Certificate being issued for public domain work or above ground building work, whichever is later. The Public Domain Plan must be submitted with a completed Public Domain Plan checklist (available in the City of Sydney's *Public Domain Manual*).
- (b) The Public Domain Plan must document all works required to ensure that the public domain complies with the City of Sydney's *Public Domain Manual*, *Sydney Streets Design Code* and *Sydney Streets Technical Specification*, including requirements for road pavement, traffic measures, footway pavement, kerb and gutter, drainage, vehicle crossovers, pedestrian ramps, lighting, street trees and landscaping, signage and other public domain elements. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must incorporate the approved Alignment Levels. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.
- (c) The works to the public domain are to be completed in accordance with the approved Public Domain Plan and Alignment Levels plans and the *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.
- (d) A Public Domain Works 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 Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.
- (e) 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 Construction Certificate being issued.
- (f) 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.

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

- (a) Prior to a Construction Certificate being issued for public domain work, including civil, drainage and subsurface works, , a set of hold points for approved public domain, civil and drainage work is to be determined with and approved by the City's Public Domain section in accordance with the City of Sydney's *Public Domain Manual* and *Sydney Streets Technical Specification*.
- (b) Prior to a Certificate of Completion being issued for public domain works and before the issue of any Occupation Certificate for the development or before the use commences, whichever is earlier, electronic works-as-executed (as-built) plans and documentation, certified by a suitably qualified, independent professional must be submitted to and accepted by Council for all public domain works. Completion and handover of the constructed public domain works must be undertaken in accordance with the City of Sydney's *Public Domain Manual* and *Sydney Streets Technical Specification*, including requirements for as-built documentation, certification, warranties and the defects liability period.

**(79) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT**

- (a) Prior to a Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work, 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) 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 excluding any approved preparatory, demolition or excavation works.
- (c) Prior to the issue of any Occupation Certificate, 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.
- (d) 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 for public domain works or above ground building works, whichever is earlier, and prior to the commencement of any work within the public way.
- (e) An "Application for Approval of Stormwater Drainage Connections" must be submitted to the Council with the appropriate fee at the time of lodgement of the proposal for connection of stormwater to the Council's drainage system.



- (f) Prior to a Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), but excluding approved preparatory or demolition work, a stormwater quality assessment must be undertaken and must be approved by Council.

The stormwater quality assessment must:

- (i) be prepared by a suitably qualified drainage engineer with experience in Water Sensitive Urban Design;
- (ii) use modelling from an industry-standard water quality model; and
- (iii) demonstrate what water sensitive urban design and other drainage measures will be used to ensure that the development will achieve the following post-development pollutant loads:
  - a. reduce the baseline annual pollutant load for litter and vegetation larger than 5mm by 90%;
  - b. reduce the baseline annual pollutant load for total suspended solids by 85%;
  - c. reduce the baseline annual pollutant load for total phosphorous by 65%;
  - d. reduce the baseline annual pollutant load for total nitrogen by 45%.

Prior to the issue of any Occupation Certificate, maintenance schedules of the proposed water sensitive urban design and drainage measures must be submitted to and approved by the Certifying Authority and a copy provided to Council.

#### **(80) DEFECTS LIABILITY PERIOD – PUBLIC DOMAIN WORKS**

All works to the City's public domain, including rectification of identified defects, are subject to a 12 month defects liability period from the date of final completion. The date of final completion will be nominated by Council on the Certificate of Completion for public domain works.

#### **(81) DRAINAGE AND SERVICE PIT LIDS**

Drainage and service pit lids throughout the public domain shall be heelguard and bicycle safe, finish flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Pit lids shall be in accordance with the *City of Sydney's Sydney Streets Design Code* and *Sydney Streets Technical Specification*. Details of drainage and service pit lids shall be submitted and approved by Council prior to a Construction Certificate being issued for the relevant stage of work.

#### **(82) NOMINATED ENGINEERING WORKS SUPERVISOR – MAJOR INFRASTRUCTURE**

Prior to issue of a Road Opening Permit for works in the public domain, the developer shall give Council written notification of the appointment of either:

- (a) A Chartered Civil Engineer, with National Professional Engineering Registration (NPER 3) in the construction of civil works, or
- (b) A survey company of Registered Surveyors with accreditation from the Institution of Surveyors NSW Inc, or
- (c) An accredited certifier in civil engineering, as its nominated engineering works supervisor, the responsibility of whom shall be to sufficiently supervise the works to ensure compliance with all relevant statutory requirements, all relevant conditions of development consent, construction requirements detailed in the above specification, and the requirements of all legislation relating to environmental protection and occupational health and safety.

On completion of the works the nominated engineering works supervisor shall certify that the works have been constructed in accordance with the approved plans, specifications and conditions of approval, and that the "Works as Executed" plans are a true and correct record of what has been built. The works supervisor shall be independent of the Principal Certifying Authority.

#### **(83) PUBLIC DOMAIN DAMAGE DEPOSIT**

A Public Domain Damage Deposit calculated on the basis of 20 lineal metres of concrete site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Public Domain Damage Deposit 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 an approval for demolition being granted or a Construction Certificate being issued, whichever is earlier.

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.

#### **(84) PUBLIC DOMAIN LIGHTING**

- (a) Prior to a Construction Certificate for public domain works or above ground building works being issued, whichever is later, a detailed Public Domain Lighting Plan for pedestrian and street lighting in the public domain must be prepared by a suitably qualified, practicing lighting engineer or lighting designer and must be submitted to and approved by Council. The Lighting Plan must be prepared in accordance with the City of Sydney's Interim Draft Sydney Lights Design Code, Sydney Streets Design Code, *Sydney Streets Technical Specification* and *Public Domain Manual* and must include the following:

- (i) Vertical and horizontal illuminance plots for the public domain lighting design to demonstrate compliance with all relevant Australian Standards and to meet the lighting categories and requirements specified by the City;
  - (ii) The location, type and category of existing and proposed lights, including details of luminaire specifications, required to ensure compliance with City policies and Australian Standards;
  - (iii) Footing locations and structural details;
  - (iv) Location and details of underground electrical reticulation, connections and conduits;
  - (v) Certification by a suitably qualified, practicing lighting engineer or lighting designer to certify that the design complies with City policies and all relevant Australian Standards including AS 1158, AS 3000 and AS4282;
  - (vi) Structural certification for footing designs by a suitably qualified, practicing engineer to certify that the design complies with City of Sydney policies and Australian Standards.
- (b) The public domain lighting works are to be completed in accordance with the approved plans and the City of Sydney's Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

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

- (a) Preparation of the detailed design and construction documentation for the proposed public road system shall include all necessary liaison with and requirements of all relevant public utility authorities, Roads and Maritime Services, Council, the Local Pedestrian Cycling and Traffic Calming Committee and its nominated consultants in order to achieve design approvals and construction compliance. Written evidence of approval from relevant authorities must be submitted to Council with the road design submission.
- (b) The design and construction of all road works shall be undertaken in accordance with City of Sydney's *Sydney Streets Technical Specification* and the *Public Domain Manual*. Detailed plans, construction details and specifications for the works shall be prepared and submitted to Council for approval prior to issue of a Construction Certificate, excluding for approved preparatory or demolition work, or before issue of an approval under Section 138 of the *Roads Act 1993* for the road and drainage, infrastructure work. The detailed plans and supporting documentation shall include as a minimum the following information;
  - (i) General subdivision plan with contour details, clearly indicating the extent of work;

- (ii) Road cross sections showing road and footway widths, existing levels, design levels, cross fall grade pavement configuration, batter slopes, engineered retaining walls, kerb returns, kerb and gutter, vehicle crossovers, pedestrian ramps the location of public utility services and 900mm minimum road restoration to match smoothly into the existing road levels;
- (iii) Plan drawing and longitudinal section showing gutter invert, kerb and boundary alignments with design grades of the existing and proposed future public road network including public utility services;
- (iv) Road design and drainage plans showing the following:
  - a. road pavement structure and design;
  - b. kerb, gutter and building alignment;
  - c. traffic management structures / measures;
  - d. traffic, pedestrian and parking signage;
  - e. details of intersections with existing roads including line-marking, pavement marking, sign-posting, swept paths for the largest expected vehicle;
  - f. on-road bicycle route infrastructure and facilities;
  - g. Drainage plans and schedule of drainage elements, showing the following:
    - i. The proposed location of all subsoil drains and sub-pavement drains, including the nominal width and depth of trenches, pipe diameters and materials, longitudinal design grades, and the locations of outlets and cleanouts;
    - ii. The location of public utility services;
    - iii. Details and specifications for the construction of all components of the system in accordance with the *City of Sydney's Sydney Streets Technical Specification*;
    - iv. All assumptions and/or calculations made in the determination of the need or otherwise for subsurface drainage, including requirements of broader stormwater catchment analysis to undertaken beyond the site boundary;
    - v. Drainage details and longitudinal sections with hydraulic grade lines for the design storm and other standard features such as flow rates, pipe class, pipe grade and velocity;
    - vi. Adjustments/upgrades to utility services as required;

- vii. Standard engineering and structural details plan;
  - viii. Erosion and sedimentation control plans;
  - ix. A design certification report for the road works prepared by an appropriately qualified civil engineer certifying that the design complies with the City of Sydney's policies, standards and specifications and those of all other relevant authorities as applicable. All design documentation shall be completed in accordance with the relevant standards and specifications as adopted by Council from time to time. All engineering plans and calculations shall be checked, signed and certified by a suitably qualified practicing professional engineer.
- (c) The road and drainage works are to be completed in accordance with the approved plans and the City of Sydney's Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

#### **(86) TACTILE GROUND SURFACE INDICATORS AND HANDRAILS**

All tactile ground surface indicators, handrails and other elements required to provide access into the building / property must be located entirely within the private property boundary.

#### **(87) DRAINAGE SYSTEM DESIGN**

Drainage systems that convey flood waters from upstream catchments through the site must be designed such that:

- (a) The drainage systems convey flood waters up to and including the 1 in 100 year ARI and flows safely to downstream trunk drainage system. The design must comply with the safety standard recommended in the Australian Rainfall and Runoff, a guide to Flood Estimation by the Institution of Engineers and NSW Flood Development manual, 2005.
- (b) Minimum of 1 in 20 year ARI flows must be contained within below ground pipes and the remaining flows above the pipe capacity and up to and including the 1 in 100 year ARI flows as overland flows. If roads are to be used to convey overland flows the safety requirements outlined in (a) above must be met.
- (c) Any special drainage structures or collection drainage pits within road reserves or in public spaces to capture or divert overland flows must meet safety requirements in (a) above.

#### **(88) TEMPORARY TURNING AREAS**

Any road which is constructed and dedicated as a dead end street, as a result of the staged delivery of the site, must provide a temporary vehicle turning area.

Details of the vehicle turning must be submitted with the detailed design of the affected road.

All temporary turning areas must be designed to accommodate a Council waste collection vehicle as a minimum.

The vehicle turning area must remain until the relevant subsequent stages are complete and the turning area is no longer required.

#### **(89) RAIN GARDENS AND CENTRAL SWALES**

The location of the rain gardens and central swales as shown on the stamped approved plans is supported in principle. Final locations and design of the rain gardens and landscaped verge is to consider the following:

- Crossings and driveway entrances
- Sight lines
- Street lights and other services
- Maximum rainfall harvesting and overall stormwater management
- Street tree locations
- Good design practise

The design and construction of the rain gardens and central swales is to be undertaken in accordance with the City's Lachlan Precinct Civil Design Plans, Sydney Streets Technical Specification and submitted concurrently with the Public Domain Plans and Road Network and Geometric Road Design Plans for approval. The submission shall include as a minimum the following information:

- (a) Detailed construction plans, drawn to scale, by suitably qualified landscape architect and engineers (as appropriate).
  - (i) Details of proposed levels and site grading including temporary surface treatments (if applicable);
  - (ii) Details of bio filtration and soil material;
  - (iii) Location, numbers and type of plant species;
  - (iv) Details of drainage systems including subsoil drainage.
- (b) Prior to the issue of a Construction Certificate, a maintenance plan addressing the Council's operational capabilities is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during the specified maintenance and defects liability periods.
- (c) All works in the approved plan is to be completed prior to any Occupation Certificate being issued for the relevant Stage.

#### **(90) PHYSICAL MODEL**

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

Note:

- (i) The model must be constructed in accordance with the Model Specifications available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements> Council's modelers must be consulted prior to construction of the model.
- (ii) The model is to comply with all of the conditions of the Development Consent.
- (iii) The model must be amended to reflect any further modifications to the approval (under section 96 of the *Environmental Planning and Assessment Act 1979*) that affect the external appearance of the buildings.

**(91) SUBMISSION OF ELECTRONIC CAD MODEL PRIOR TO OCCUPATION CERTIFICATE**

- (a) Prior to an Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development 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.

**(92) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION**

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

**(93) MECHANICAL VENTILATION**

- (a) The premises must be ventilated in accordance with the *Building Code of Australia* and AS1668.1 and AS1668.2.
- (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.

**(94) CAR PARK VENTILATION**

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

**(95) AIR HANDLING**

In the event of any process in any room being of such a nature that heat, excessive moisture, dangerous or noxious gases, fumes or other aerosols are given-off, an air handling system must be installed providing positive capture and removal of the effluents. The effluent must be discharged to atmosphere at a point that will not create a nuisance and located in a position complying with AS 1668.2.

**(96) 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 (temporary structures) in a public place.
- (b) Where a consent is granted allowing the placement of temporary structures in a public place the structures must comply fully with Council's *Policy for the Design of Construction Hoardings* and the conditions of any consent granted including:



- (i) maintaining a current and valid consent for the full duration that the temporary structures are installed in the public place (Section 139, *Roads Act 1993*);
- (ii) bill posters and graffiti being removed within 24 hours of their placement (Clause 3.1);
- (iii) maintaining temporary structures in a clean and tidy condition including repainting where directed by an authorised officer of Council (Clause 3.1);
- (iv) hoarding site fences complying with Clause 3.3 - Element 3;
- (v) site sheds on decks of Type B hoardings being fully screened from the public place (Clause 3.3 - Element 5); and
- (vi) providing and maintaining operational artificial lighting systems under Type B hoardings (Clause 3.3 – Element 9).

#### **(97) 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.

#### **(98) LOT CONSOLIDATION**

All land titles within the site must be consolidated into one lot. A plan of consolidation must be registered with the Land and Property Information Division of the Department of Lands, prior to an Occupation Certificate being issued.

#### **(99) 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 Ausgrid, prior to a Construction Certificate being issued or the commencement of the use, whichever is earlier.

#### **(100) 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.

#### **(101) WASTE AND RECYCLING MANAGEMENT**

- (a) The Waste Management Plan, prepared by Elephants Foot Recycling Solutions, Revision D, dated June 2014 accompanying this Development Application has not been approved by this consent.
- (b) The Waste Management Plan is to be updated to reflect the approved development. It is to be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued. The plan must comply with the Council's *Policy for Waste Minimisation in New Developments 2005*. All requirements of the approved Waste Management Plan must be implemented during construction of the development.
- (c) The building must incorporate designated areas or separate garbage rooms constructed in accordance with Council's *Policy for Waste Minimisation in New Developments 2005*, to facilitate the separation of commercial waste and recycling from residential waste and recycling.

#### **UPON COMPLETION OF THE DEVELOPMENT**

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

#### **(102) WASTE MANAGEMENT FACILITIES - RESIDENTIAL**

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

- (a) residential garbage rooms are to be designed in accordance with Council's "Policy for Waste Minimisation in New Developments 2005" to allow for the cleaning, draining and management of the rooms;
- (b) the maximum travel distance between the storage point and collection point for all residential waste and recycling receptacles shall be no more than 10 metres;
- (c) waste and recycling receptacles are to be stored on the property at all times with a Council access key for servicing;
- (d) unimpeded access shall be provided for collection vehicles between 6.00 am and 6.00 pm on collection days;

- (e) clearance height for access by collection vehicle must be no less than 3.6 metres at any point if vehicle is required to enter site to service bins;
- (f) under no circumstances are commercial tenants to have access to residential waste and recycling bins. Commercial tenancies are to have their own dedicated waste facility;
- (g) a storage area for discarded bulky items must be provided within the development;
- (h) waste and recycling containers will not be supplied until construction of the development is completed, unless otherwise arranged with the City of Sydney's Waste Services Team; and
- (i) the development must have a residential rating (or an application made for one) prior to the provision of a City of Sydney waste service.

#### **(103) WASTE AND RECYCLING COLLECTION CONTRACT - COMMERCIAL**

Prior to an Occupation Certificate being issued and/or commencement of the use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of **all waste associated with the commercial tenancies**. No garbage is to be placed on the public way, e.g. footpaths, roadways, plazas, reserves, at any time.

#### **(104) WASTE/RECYCLING COLLECTION - COMMERCIAL**

The collection of commercial waste and commercial recycling 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.

#### **(105) DISCHARGE OF CONTAMINATED GROUND WATER**

Prior approval must be sought from the City's Public Domain Department to discharge any groundwater into the City's stormwater drainage system.

Other options for the disposal of groundwater include disposal to sewer with prior approval from Sydney Water or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

### **SCHEDULE 1C**

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

#### **(106) 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.

**(107) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

**(108) SURVEY**

All footings and walls adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be submitted to the Principal Certifying Authority indicating the position of external walls in relation to the boundaries of the allotment.

**(109) 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.

**(110) 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.

**(111) 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.

**(112) 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.

**(113) 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.

**(114) SYDNEY WATER CERTIFICATE**

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

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

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

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

**(115) ACCESS DRIVEWAYS TO BE CONSTRUCTED**

Approved driveways are to be constructed for all vehicular access to the construction site in accordance with the requirements of Council’s “Driveway Specifications” to the satisfaction of Council.

**(116) LOADING AND UNLOADING DURING CONSTRUCTION**

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site.
- (b) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

- (d) In addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (e) The structural design of the building must allow the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.
- (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.

#### **(117) 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.

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

The following requirements apply:

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

### **SCHEDULE 1D**

#### **(119) ROAD DEDICATIONS**

Prior to the issue of an Occupation Certificate for the development, the owner(s) of the site is to dedicate to the public as Public Road, the new roads shown upon approved drawing "Proposed subdivision plan. Reference 1763-DRAFT", prepared by Surveying Solutions and dated 6 March 2015, free of cost to Council, as follows:

- (a) The part of Archibald Avenue within the site, 17.14m wide;
- (b) The part of Sam Sing Street within the site, 9.14m wide and 14.04m wide; and

- (c) The part of Hatbox Place within the site, 4.7m wide.

#### **(120) PLAN OF SUBDIVISION**

A separate application is to be made to Council to obtain approval of the final Plan of Subdivision of the site and issue of the Subdivision Certificate under Part 4A of the *Environmental Planning and Assessment Act 1979* to effect the dedications. Such subdivision, for dedication of Public Road only, does not require the issue of a Section 73 Subdivider Compliance Certificate from Sydney Water and must be consistent with the registered Planning Agreement for the development.

#### **(121) RIGHT OF CARRIAGEWAY FOR “BREAKTHROUGH PANELS”**

Prior to the issue of any Occupation Certificate, the final plan of subdivision is to include the creation of a documentary Right of Carriageway and associated Positive Covenant pursuant to Section 88B of the Conveyancing Act 1919. The Right of Carriageway is to be created over the vehicle access from Sam Sing Street and the basement aisles to the “breakthrough panels” at the common boundary with the adjoining property to the east which is legally known as Lot 1 in DP 789878, defined in stratum, including rights for garbage and other service vehicle access, and appurtenant to that property. The Positive Covenant is to be created in terms addressing rights and obligations of the dominant and servient tenement, to Council’s satisfaction.

#### **(122) ROADWORKS DESIGN AND CONSTRUCTION**

Detailed engineering, road, drainage, infrastructure and landscaping works, design and construction plans for construction of the new roads are to be submitted to Council’s Public Domain unit **and approval gained prior to the issue of a Construction Certificate for the Subdivision Works**. The design and documentation is to include any requirements and approvals from external parties such as public utility service authorities and is to be in accordance with Council’s “Sydney Streets – Technical Specifications” and the “City of Sydney Public Domain Manual” or Council’s civil works design and construction specifications current at the time and is to be in accordance with any approved flood analysis and assessment report for the site and is to be consistent with Water Sensitive Urban Design principles.

The submission to Council is to provide plans and specifications sufficient to describe in detail the design, scope and extent of all proposed road, drainage, infrastructure and landscaping works for the construction of those Subdivision Works, prepared and certified by a Professional Engineer. The design and construction plans are to be fully coordinated with the approved Public Domain Plan and Landscape Plan for the development and are to include confirmation that the design complies with Council’s specifications and standards.

Council’s acceptance of completed Subdivision Work and issue of the final Compliance Certificate as the Principal Certifying Authority will be subject to compliance with the approved drawings, certification of compliance with Council’s specifications and applicable standards and the submission of certified Works as Executed drawings.

**(123) CONSTRUCTION CERTIFICATE FOR SUBDIVISION WORKS**

In accordance with the provisions of Section 109C of the Environmental Planning and Assessment Act 1979, a Construction Certificate for the above Subdivision Work, being the construction of the "New Roads", is to be obtained from Council or an appropriately accredited private certifier and submitted to Council as the Principal Certifying Authority, prior to the commencement of any such work on the site.

**(124) PRINCIPAL CERTIFYING AUTHORITY**

In accordance with the provisions of Sections 81A and 109E of the Environmental Planning and Assessment Act 1979, Council is to be formally appointed the Principal Certifying Authority for the Subdivision Work, prior to the commencement of any such work on the site.

**(125) COMPLETION OF SUBDIVISION WORKS**

In accordance with Section 109J(2) of the Act, prior to the issue of the Subdivision Certificate for the subdivision for dedication purposes:

- (a) The Subdivision Work is to be completed in accordance with the requirements and to the satisfaction of Council as the Principal Certifying Authority.
- (b) The site is to be fully remediated in accordance with the requirements of conditions 56, 57 and 58 of this consent and the Site Audit Statement is to be submitted to the Director City Planning, Development and Transport prior to issue of the Subdivision Certificate.
- (c) A separate application may be made to Council to exercise the provisions of Section 109J(2)(c) of the Act with regard to any incomplete works.

**(126) PUBLIC UTILITY SERVICES**

Prior to the commencement of any subdivision work on the site or public domain work, documentary evidence is to be submitted to Council that the requirements of all public utility service authorities with services to be installed in the new road/park have been satisfied with regard to the design and provision of those services.

Prior to the issue of the Subdivision Certificate, documentary evidence is to be submitted to Council that the requirements of all public utility service authorities have been satisfied with regard to the completion of construction and installation of those services.

**(127) SECTION 138 APPROVAL**

Prior to the commencement of any work within the existing public way, a separate application is to be made to Council to obtain approval under Section 138 of the Roads Act 1993.



**(128) STRATA SUBDIVISION**

Any proposal to Strata subdivide the building(s) occupying the residue lot in the above subdivision will require a separate application to obtain approval of the final Strata Plan and issue of the Strata Certificate by Council or an accredited Strata Certifier under the *Strata Schemes (Freehold Development) Act 1973*.

**(129) RESTRICTIONS ON USE OF LAND**

Any such Strata subdivision is to include the creation of documentary Restrictions on Use of Land under Section 88B of the Conveyancing Act 1919:

- (a) In terms requiring that no part of the Common Property in the Strata scheme, apart from the visitor vehicle spaces, which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles, boats, trailers or the like, to the satisfaction of Council.
- (b) In terms prohibiting the use of the car parking spaces in the building(s) occupying those lots by those other than the residents, occupants and owners of the residential apartments within the building, and to Council's satisfaction. Alternatively, the provisions of Section 39 of the Act is to be exercised over any car parking utility lots in the scheme.
- (c) In terms prohibiting the use of residential apartments for short term accommodation such as hotel, serviced apartments, boarding house, tourist and back-packer accommodation, to the satisfaction of Council.

**SCHEDULE 2**

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

**The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply:**

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

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

**SCHEDULE 3****INTEGRATED DEVELOPMENT – GENERAL TERMS OF APPROVAL**

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

**General**

- (130) An authorisation shall be obtained from NSW Office of Water 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 in the authorisation.
- (131) 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 in contact with groundwater watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for reasonably foreseeable high water table elevations to prevent potential future inundation.
- (132) 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**

- (133) 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 proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.
- (134) 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.
- (135) A copy of a valid development consent for the project shall be provided in the report to the NSW Office of Water.

- (136) Groundwater quality testing shall be conducted on a suitable number of samples using a suitable suite of analytes and completed by a NATA-certified laboratory, with the results collated and certificates appended to a report supplied to the NSW Office of Water. Samples must be taken prior to the substantial commencement of dewatering, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
- (137) 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 referred to as "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
- (138) Contaminated groundwater (i.e. above appropriate NEPM 2013 investigation thresholds) shall not be reinjected into any aquifer without the specific authorisation of the NSW Environment Protection Authority (any such discharge would be regulated through a licence issued under the Protection of the Environment Operations Act 1997 [POEO Act]). 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 compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### **During excavation**

- (139) 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.
- (140) 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.
- (141) Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.
- (142) 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.

- (143) 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.
- (144) 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.
- (145) 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**

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

## BACKGROUND

### The Site

1. The site is legally identified as Lot 11 in DP530422 and Lot 12 in DP 546231 and has a street address of No. 40A and 40B O'Dea Avenue, Waterloo ("the site").
2. The site has a battle axe shape. A 9.1m wide battle axe handle driveway allows access to the site from O'Dea Avenue. A very small section of the main part of the site fronts Archibald Avenue / Sam Sing Street in the north-western corner.
3. The total site area is 5,594m<sup>2</sup>. The site is generally level, with a fall of approximately 1 metre from the northern boundary to the southern boundary which meets O'Dea Avenue.
4. The site was occupied by two brick buildings which were used for commercial equipment hire premises. These buildings have recently been demolished. (The site inspections were undertaken prior to the demolition of these buildings, therefore they are still shown in photos included in this report).
5. Rights of Carriageway exist over the battle axe handle driveway to provide access to adjoining properties. The site is crossed by two existing stormwater drainage pipes which are protected by easements. A Sydney Water main with a 2.1m diameter trunk main traverses the battle axe handle.
6. The site is identified as containing contaminated soil and investigations have revealed the existence of an abandoned Underground Storage Tank (UST). Groundwater levels have been observed on the site at depths ranging from 1.3 to 1.95m below ground level.
7. The site is not occupied by a heritage item or located within a heritage conservation area. There are no significant trees or vegetation on the site or in close proximity.
8. A location plan is attached at **Attachment A. Figures 1 – 6** below illustrate the site location and existing development.



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

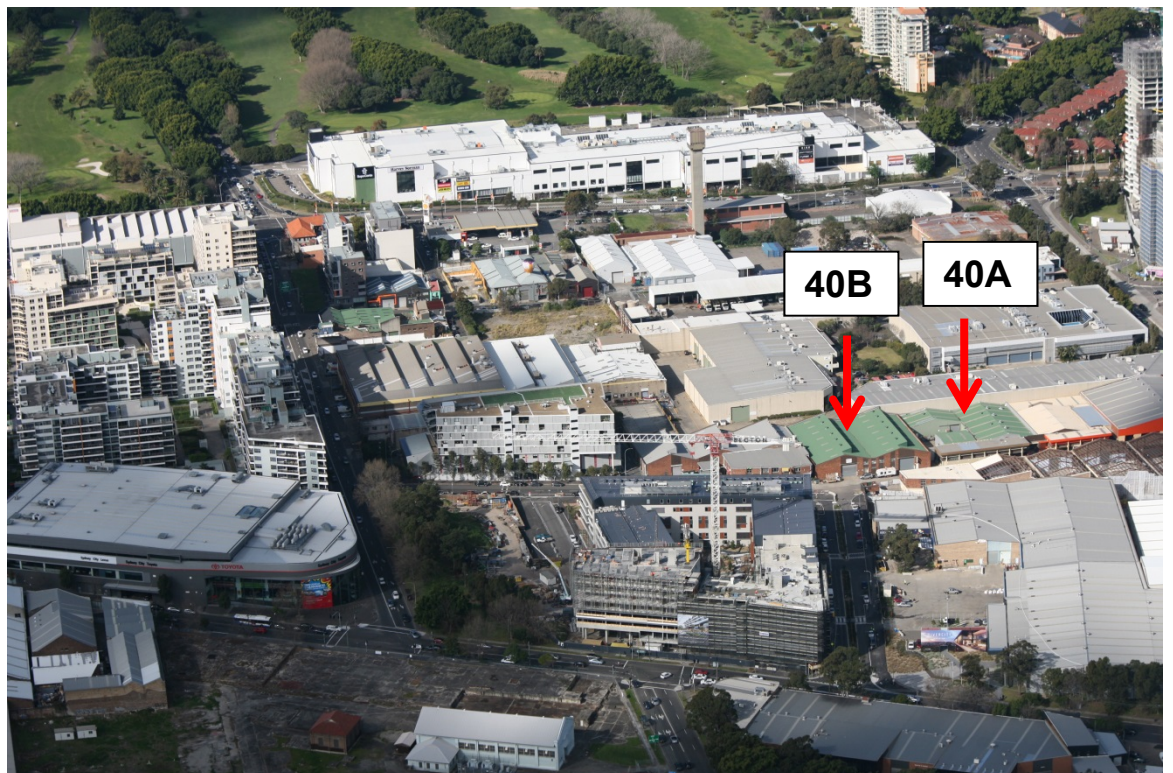


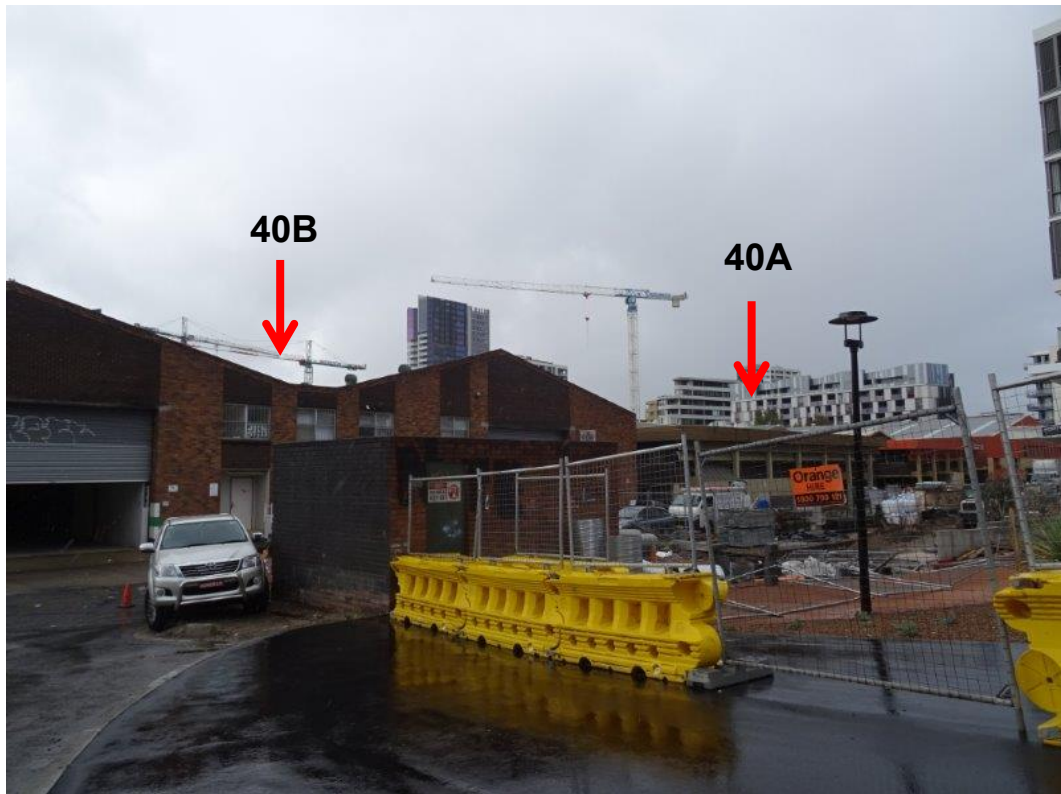
Figure 2: Aerial photograph of subject site and surrounding area, generally looking east.



Figure 3: Aerial photograph of subject site and surrounding area, generally looking north-east.



Figure 4: View of buildings on site, generally looking south down battle axe driveway.



**Figure 5:** View of buildings on site from Sam Sing Street and Archibald Avenue intersection, generally looking east.



**Figure 6:** View looking towards site, looking north up battle axe driveway access from O'Dea Avenue.



### Surrounding Development

9. The site is located within the Lachlan Precinct, which is an area in transition from industrial and warehouse use to mixed use and predominantly residential development.
10. To the immediate north of the site, at 11B Lachlan Street, is a one and two storey brick building used for light industrial and warehousing purposes. Development consent has been granted (D/2013/1163) for the redevelopment of this site as a 2 to 7 storey mixed commercial/residential development with basement car parking.
11. To the east of the site, at 44-48 O’Dea Avenue, is a two storey commercial building and open air car park.
12. To the west of the site, at 30-36 O’Dea Avenue is the recently completed 7 to 10 storey mixed use commercial/residential development known as “Viking”. To the north-west of the site is a park known as “The Rope Walk” and Block B of the mixed use commercial/residential development known as “Divercity”.
13. To the south of the site, at 40 and 42 O’Dea Avenue, are two storey warehouse buildings used by a self-storage business.
14. **Figures 7- 12** below illustrate the development that surrounds the site.



**Figure 7:** View of existing building at 11B Lachlan Avenue, located to the immediate north of the subject site. The building at 40B O’Dea Avenue is on the right of the photo.



**Figure 8:** Photomontage of approved development to the immediate north of the site at 11B Lachlan Street.



**Figure 9:** View of existing building at 11B Lachlan Street, 40B O’Dea Avenue and the recently completed Viking development to the west of the site at 30-36 O’Dea Avenue.



**Figure 10:** View of the site, 40 and 42 O'Dea Avenue to the south of the site, and the Viking development to the west of the site at 30 – 36 O'Dea Avenue.



**Figure 11:** View of 40 and 42 O'Dea Avenue to the south of the site, and the Viking development to the west of the site at 30 – 36 O'Dea Avenue.



**Figure 12:** View of The Rope Walk and Block B of the Divercity development which are located to the north-west of the site.

### Subject Application History and Amendments

15. A preliminary assessment of the proposal identified a number of inconsistencies within the architectural plans. Amended plans were submitted on 22 October 2014 to rectify these inconsistencies.
16. In advance of taking the application to the Design Advisory Panel, additional, larger scale plans were submitted on 17 November 2014 of the lower levels of the development to enable more detailed consideration of the proposal's interface with the public domain.
17. In response to Council Officers' concerns, amended plans were submitted on 15 December 2014 and 13 January 2015. The main amendments to the proposal include:
  - (a) at level 1 (ground floor level), changes to the size, depth, layout and configuration of the 4 commercial units. The depth of the 3 proposed retail units (and therefore their size) has been increased from 4.6m to 8m to provide greater flexibility for future retail uses. The proposed food and drink premises has been slightly decreased in size, but the indoor areas and outdoor terraced areas have been reconfigured to make them more usable;
  - (b) at level 1 (ground floor level), an increase in the amount of active street frontage along Archibald Avenue, through the reconfiguration of the substation and relocation of the WC;

- (c) deletion of planting over Archibald Avenue awning;
  - (d) adjustments to apartment sizes and layouts; deletion of balconies, amendments to window sizes;
  - (e) addition of privacy screening and planting, safety balustrading;
  - (f) reduction in height of glazed windbreaks in the central tower lobby area from 1.5m to 1.39m; and
  - (g) addition of a breakthrough area and panels in Basement Level 1 to allow for future access to an integrated basement with the adjoining site to the east.
18. In response to additional issues raised by Council Officers, further amended plans were submitted on 26 February 2015, 2 March 2015 and 4 March 2015. The main amendments to the proposal include:
- (a) adjustments to reduced levels at ground level (level 1) in response to concerns raised by Council's Development Engineers to ensure PMF (Probable Maximum Flood) levels are respected at critical points (eg. car park entry, lift cores and stairs which extend into basement levels);
  - (b) subsequent design changes resulting from adjustments to ground level RLs, including adjustments to the car park entry ramp, the addition of stairs within the Archibald Avenue building lobby and adjustments to ramps within the development;
  - (c) layout and design changes to apartments 1.06 and 1.07 in the Sam Sing Street tower to improve residential amenity;
  - (d) minor design changes to two apartments to ensure they meet minimum apartment sizes;
  - (e) changes to external screening; and
  - (f) the addition of bicycle parking at ground level.

### **History of Development Applications Relevant to this Site**

19. The following development applications are considered relevant to the proposed development:

(a) **40A and 40B O'Dea Avenue, Waterloo - D/2014/428 and D/2014/428/A**

Development consent D/2014/428 was granted on 2 June 2014 for the demolition of existing structures on the site. Conditions were attached to this consent to limit the demolition to above ground structures, and not for the removal of concrete slabs and hard stand areas on the site. This was because there was evidence that the site is contaminated, and contamination investigations and a remediation strategy had not been prepared.

On 7 January 2015, approval was granted for D/2014/428/A, a section 96(2) modification. This modification approved the removal of the concrete slabs and hardstand areas, site preparation works involving remediation and infrastructure works including stormwater drainage, sewer and water main works and the deletion of a condition relating to demolition/site rectification.

This modification was approved as sufficient evidence was presented to confirm that the site is capable of remediation for the proposed use.

(b) **11B Lachlan Street, Waterloo – D/2013/1163**

Development consent D/2013/1163 was granted on 30 June 2014 for the demolition of the existing building, land remediation, excavation for 2 levels of basement parking for 62 vehicles, construction of a 2 to 7 storey mixed use development comprising 61 residential apartments, 2 ground level retail tenancies and public domain works. Once developed, this building will be located to the immediate north of the subject site.

(c) **“Viking” at 30 – 36 O’Dea Avenue, Waterloo - D/2008/531**

Development consent D/2008/531 was granted on 20 July 2012 for the construction of a 7 to 10 storey mixed use building, including basement car parking and public domain improvements. This development has recently been completed, and is located to the immediate west of the subject site.

### **Competitive Design Process**

20. The site has been the subject of a Competitive Design Alternative process that was conducted by the applicant in February 2014, as required by the South Sydney DCP 1997 (as amended). Council Officers attended the Competition process as observers.
21. After the presentation of its original competition scheme, the jury requested Collins and Turner + Environa Studio to address a series of design and layout matters relating to their proposal. A revised scheme was submitted and presented to the jury. Further deliberations enabled the jury to determine that the revised Collins and Turner + Environa Studio was the preferred scheme.
22. Notwithstanding their support, the jury identified further matters with the revised scheme that would need to be addressed, including apartment layout planning to improve amenity, revisions to the basement layout to make it more efficient and to increase on-site deep soil provision.
23. The developer subsequently engaged the jury’s chair to undertake an architectural peer review of the proposal, and to provide ongoing advice in relation to the design issues that required addressing. This revised scheme is now the subject of this DA.

### **PROPOSAL**

24. The development application seeks consent for:
  - (a) Construction of a mixed use development of:
    - (i) 2 x 4 storey buildings, referred to as the “Archibald Avenue building” and “Hatbox Place building”; and
    - (ii) 1 x 20 storey tower, referred to as “Sam Sing Street tower”.

The proposal comprises 172 residential apartments (12,151 sqm) and 4 non-residential tenancies (189sqm), being 3 x retail premises and 1 x food and drink premises. The proposed residential apartment mix is 1 x studio, 71 x 1 bedroom, 84 x 2 bedroom and 16 x 3 bedroom apartments. The proposal will result in an FSR of 2.2059:1.

- (b) Excavation to a maximum depth of approximately 10.5 metres for 3 basement levels accommodating 159 vehicles, 38 bicycle spaces, 2 car wash bays, motorbike parking areas, 174 individual storage areas, garbage storage rooms, on-site detention tank, service rooms (eg. switch room, pump room). The basement levels will be accessed via a driveway off Sam Sing Street. Provision has been made at basement level 1 for a “breakthrough area” with “breakthrough panels” to allow for future access to connect to adjacent property to the east to allow for a shared/integrated basement.
  - (c) Ground level communal courtyard, 2 x communal roof top gardens on the eastern side of the 4 storey buildings, 1 communal roof top garden on the tower.
  - (d) Site remediation, infrastructure works and landscaping.
  - (e) Public domain works including construction of portions of Sam Sing Street, Archibald Avenue and Hatbox Place (new roads), installation of stormwater, sewer and lighting infrastructure, new pedestrian footpaths and new street trees.
  - (f) Land subdivision for road dedication of the portions of Sam Sing Street, Archibald Avenue and Hatbox Place within the site.
25. The subject application seeks consent for 3 x retail premises and 1 x food and drink premises with no specific fit out or operational details. This assessment addresses the relevant permissibility and locational considerations of the proposed tenancies and discussion relating to potential future uses of these premises is provided under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (as amended) later in this report.
26. Selected photomontages of the proposed development are provided in **Figures 13 - 14** below and a full set of architectural drawings (plans and elevations) are provided at **Attachment A**.



**Figure 13:** Photomontage of proposal as viewed from Sam Sing Street, showing Sam Sing Street Tower and Archibald Avenue building. Looking in an easterly direction.





**Figure 14:** Photomontage of proposal as viewed from Sam Sing Street, showing Sam Sing Street Tower and Hatbox Place building. Looking in a north-easterly direction.

## ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

### Section 79C Evaluation

27. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979 (“**EP&A Act**”), including consideration of the following matters:
  - (a) **Integrated Development – Section 91 EP&A Act**
28. The application was referred to the NSW Office of Water as the proposal constitutes Integrated Development under Section 91 of the EP&A Act.
29. Preliminary assessment indicates that the groundwater table will be intercepted as a result of the excavation for the proposed basement car park. The construction dewatering proposed for the project is deemed to be an aquifer interference activity. The excavation and construction at the property will need to be conducted in accordance with the principles of the *Aquifer Interference Policy* as set out by the NSW Office of Water.
30. An authorisation for the take of ground water as part of the proposed dewatering and remediation of the site is required. The NSW Office of Water have provided General Terms of Approval (“**GTA**”) appropriate to the proposed aquifer interference activity, and these have been incorporated into Schedule 3 of the recommendation.

**(b) Environmental Planning Instruments and DCPs****State Environmental Planning Policy No. 55 – Remediation of Land (“SEPP 55”)**

31. The aim of SEPP 55 is to reduce the risk of harm to human health or any other aspect of the environment arising from contaminated land through appropriate site remediation.
32. The land has previously been used for industrial purposes. The site is identified as containing contaminated soil and investigations have revealed the existence of an abandoned Underground Storage Tank (UST). The application proposes to change the use of the land to residential which is a more sensitive land use. Given this, Council must be satisfied that through appropriate remediation, the site is capable of being made suitable for the proposed use.
33. For D/2014/428/A (the s96 modification consent which relates to the site), a Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) were submitted. In response to Council’s concerns, a revised RAP (dated September 2014) was submitted along with a letter of Interim Advice from a NSW EPA Accredited Site Auditor. The Interim Site Audit Advice confirmed that the remedial strategy and option provided in the RAP are considered practicable and if implemented will effectively manage the identified contamination so that it will not present an unacceptable risk to human health or the environment. Conditions of consent were attached to D/2014/428/A to ensure the remediation and validation of the site is carried out in accordance with the revised RAP, and that a Site Audit Statement is obtained and submitted to Council to confirm that has occurred.
34. Given this, the Council can be satisfied that the site can be made suitable for the proposed residential/commercial use, in accordance with SEPP 55. To ensure the site is remediated prior to the construction of the subject development, the conditions of consent relating to remediation and validation of the site attached to D/2014/428/A have been replicated (as appropriate) in the recommended draft conditions of consent.

**State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (“SEPP E&C”)**

35. The subject application seeks consent for 3 x retail premises and 1 x food and drink premises with no specific fit out or operational details. Council would ordinarily condition that these tenancies require a future first use DA. However, recent changes to SEPP E&C provides that a number of first uses can be approved under a complying development certificate (“CDC”), thus overriding Council standard condition for a first use DA.
36. In the proposed development, the retail premises and food and drink premises are classified as Class 6 under the Building Code of Australia (BCA). Examples of the likely uses that could be approved under a CDC pursuant to SEPP E&C could be a shop, or food and drink premises with a capacity of up to 50 seats.

37. Future uses of this nature are consistent with the desired future character of this section of Archibald Avenue which is identified as being the focus of retail activity in the Lachlan precinct. Therefore generic approval of indicative retail premises and food and drink premises is acceptable in this instance. However, it is recommended that an hours of operation condition of consent be attached in relation to these premises to protect the amenity of the residential apartments located immediately above within the same building.

#### **State Environmental Planning Policy No. 64 – Advertising and Signage**

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

#### **State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (“SEPP65”)**

39. SEPP 65 applies to this proposal as the development constitutes residential flat development.
40. The *Environmental Planning and Assessment Regulation 2000* (“**EP&A Regulation**”) contains specific requirements for information to be submitted when making an application to which SEPP 65 applies. A design verification statement from the registered architect who directed the design of the development was submitted with the application.
41. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality. Guidelines have been developed to aid in the assessment of design quality and are contained in the NSW Residential Flat Design Code 2002 (“**RFDC**”). Discussion on each of the design quality principles and the RFDC is provided below.

##### **(a) Principle 1: Context**

The subject site is located in the Lachlan Precinct of the Green Square Locality. As explained in the Character Statement in South Sydney DCP Part G (Lachlan Precinct) (“Lachlan DCP”), the area is in a period of transition from industrial and warehouse uses to mixed use and predominantly residential development. The Character Statement also highlights:

- (i) that existing large industrial land parcels will be further subdivided with a new internal street network, and the need to undertake future public domain improvements;
- (ii) an activity strip of retail and café uses along Archibald Avenue will form the focal point for the local community;
- (iii) high quality streetscapes are to be achieved throughout the precinct, and there is to be generous street landscaping for amenity. Archibald Avenue will provide a central swale and Hatbox Place will act as an overland flowpath for stormwater flows from the east; and

- (iv) the design of buildings, in particular towers, is to be varied and of high architectural quality so that development individually and collectively contributes to the overall urban design quality of the area.

The proposal is for a mixed use development of 2 x 4 storey buildings and a 20 storey tower, comprising 172 residential units and 3 x retail premises and 1 x food and drink premises. The development addresses the need for provision of public infrastructure by proposing to build and dedicate parts of Sam Sing Street, Archibald Avenue and Hatbox Place for public road purposes, with associated street landscaping. The 3 x retail premises and 1 x food and drink premises are located at ground level with frontage to Archibald Avenue, which is consistent with the desire for this stretch of Archibald Avenue to be the focus of retail and food/drink uses in the precinct. The proposed buildings are of various heights, comply with the core built form controls for the site, adopt the scale envisaged for the site and appropriately address future street frontages.

(b) **Principle 2: Scale**

The development comprises of 2 x 4 storey buildings, and 1 x 20 storey tower. The development is consistent with the height in storeys control identified for the site. It is also generally consistent with the building footprint control identified for the site.

The proposed development, particular the tower, is of a higher scale than existing 1 and 2 storey warehouses in the vicinity of the site. However, it is consistent with the scale of development envisaged for the site and is generally in keeping with the scale of mixed use development recently constructed or approved in the vicinity of the site. While the proposed buildings, particular the tower, are of a higher scale than the existing low rise warehouses in the area, this is considered acceptable given that the area is in a period of planned transition to higher density built form.

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

The development presents as three distinct parts. The 4 storey Archibald Avenue building has its main frontage to Archibald Avenue, while the 4 storey Hatbox Place building has its main frontage to Hatbox Place. The 20 storey Sam Sing Street tower sits towards the western side of the site, between the western ends of the 4 storey buildings. A central communal courtyard area is proposed at ground level (level 1) on the eastern side of the site.

An excavated basement car park extends across almost the whole of the new site area, with sections on the eastern and western sides of the site retained for deep soil planting. The basement is wholly contained below ground level and will not be visible from the public domain.

The Archibald Avenue building proposes a setback of between 0 metres and 0.355 metres at ground floor to future Archibald Avenue, which is considered appropriate given the ground floor retail/food and drink uses and activation objectives. An awning projects out over the future public domain a distance of approximately 2 metres to provide protection to the ground floor commercial tenancies. At levels 2, 3, and 4, parts of the building, balconies and planters are set with nil or almost nil setback from the future property boundary.

The Hatbox Place building adopts a minimum setback of 1.5 metres from the future property boundary with Hatbox Place. This is considered acceptable as it will allow for planting at ground level along the front of this residential building.

Both the Sam Sing Street tower and the western sides of the Archibald Avenue and Hatbox Place buildings are setback 2.975 metres from the future western property boundary with Sam Sing Street. This will enable planting of this frontage, including within a deep soil zone on the western side of the site directly in front of the tower. The levels 1 and 2 (ground floor and first floor) of the tower block are set in further from the future boundary with Sam Sing Street than the rest of the tower block, which will cantilever over these lower floors.

On the eastern side of the site, Sam Sing Street tower is setback 16.38 metres from the eastern property boundary, while the eastern ends of the Archibald Avenue and Hatbox Place buildings are to have nil setback from this boundary. This is consistent with the building footprints envisaged for the site.

The building separation proposed between the 3 buildings is generally consistent with the building footprints envisaged for the site in the South Sydney DCP Part G (Lachlan Precinct)

(d) **Principle 4: Density**

The development has been designed to maximise the allowable density on the site. The density of the development, with an FSR of 2.2059:1, is considered appropriate in the context. While the applicable FSR control is 2.2:1, the non-compliance with this control is considered to be relatively minor (approximately 33sqm) and is acceptable in this instance. The development is consistent with the built form objectives applying to the land.

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

In addition to energy, water and thermal comfort commitments required under State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, the proposal includes a number of design features which aim to make efficient use of natural resources and energy.

The Sam Sing Street tower splits into two sections, with central external lobby areas which are continually naturally lit and ventilated. No air conditioning, mechanical ventilation or daytime lighting are required to the lobby areas throughout the tower. The floor plate of the two sections of the tower differs from one another, with the northern section over most floors having apartments arranged so that they all have north facing rooms to get access to northern sun. In the southern section of the tower, over most floors the apartments are arranged with east / west aspects to maximum solar access.

There is concern that the western elevation of the Sam Sing Street tower, with its extensive use of glazing, will result in excessive heat in west facing tower apartments particularly in the summer months. While horizontal shading devices constructed from a mixture of perforated and expanded aluminium finishes are proposed along this elevation, it is considered that additional solar passive treatment is needed on this façade to address heat impacts. It is recommended that this be required via a condition of consent.

With the Archibald Avenue building and the Hatbox Place building, the external corridors are continually naturally lit and ventilated, thereby reducing reliance on artificial lighting and mechanical ventilation. The apartments within the Archibald Avenue building all have a northerly aspect. In the Hatbox Place building, the apartments located on the eastern side of the building achieve northern sun as they are not aligned with the tower. Those apartments on the western side of the Hatbox Place building are too close to the tower to achieve good passive sun. A number of the apartments within these four storey buildings are double storey, which will enable cross ventilation.

(f) **Principle 6: Landscape**

The proposed road construction works include the provision of street trees, rain gardens and central swales, consistent with Council's requirements.

The landscaping proposed on the new site area and within the development is extensive. Two deep soil planting areas are proposed on the eastern and western sides of the new site area. There are landscaped areas proposed on the Sam Sing Street and Hatbox Place boundaries of the new site, adjoining the interface with the new public domain. A communal courtyard at ground level is provided on the eastern side of site. The south-western part of this courtyard is characterised by a raised landscaped area with terraced levels and stairs which provide access between Level 1 (ground level) and Level 2 (first floor level) of the Hatbox Place building. Communal roof gardens are provided on the roofs of all the buildings, including the tower. The external central lobby within the tower is proposed to be landscaped, while planter boxes are proposed on balconies.

(g) **Principle 7: Amenity**

Building separation

The building separation distances recommended in the RFDC are not achieved, given the proposed layout of the buildings on the new site area. However, the arrangement of the 3 buildings is generally consistent with the building footprints set out in the South Sydney DCP Part G (Lachlan Precinct). Throughout the development where privacy issues may arise, appropriate design measures are proposed (eg. no / limited window openings, privacy screening etc) to reduce potential impacts.

Apartment sizes and storage

All of the proposed apartments meet or exceed the minimum apartment sizes set out in the RFDC.

With regards to storage facilities, provision is made for individual storage facilities in the basement and while some apartments are marked as having internal storage facilities, it is not clear on other apartments where it will be provided. It is considered that the development is capable of complying with the storage requirements of the RFDC. To ensure this, a condition of consent is recommended requiring the submission of plans to the Private Certifying Authority which clearly show the required amount of storage per apartment, prior to the issue of a Construction Certificate.

A number of apartments within the development also have study areas which provide supplementary storage space for those apartments. It is recommended that a condition be incorporated into the consent to ensure that the study areas in these apartments are used for study/storage purposes only and shall not be converted to a separate habitable bedroom.

Floor to ceiling heights

The residential levels of the development provide a minimum of 3.1 metres floor to floor heights to enable delivery of a 2.7 metre floor to ceiling height for habitable rooms, to comply with the RFDC. There is one exception to this in the Sam Sing Street tower, where the upper level of apartment 1.07 (1 x bedroom, bathroom and study) and 1 x bedroom in apartment 1.06 will have floor to ceiling heights of 2.42 metres.

These rooms sit directly above the driveway access to the basement and adequate clearance needs to be maintained for the basement access. Apartment 1.07 is a double storey apartment, and its main habitable areas are on the ground floor and will achieve the minimum floor to ceiling heights of 2.7 metres. A 2.42 metre floor height for this bedroom on its upper level is considered acceptable. Apartment 1.06 is a 2 storey apartment which has generous private open space in the form of a balcony. This 2.4m floor to ceiling height only relates to one habitable room within the apartment (a bedroom), with the other bedroom and the main living areas being able to achieve 2.7m floor to ceiling heights. Given the limited nature of this non-compliance, and the extent of compliance with residential floor to ceiling heights elsewhere in the scheme, this is considered acceptable in this instance.

The RFDC asks that in residential flat buildings in mixed use areas, a minimum floor to floor height of 3.3 metres should be achieved at ground floor level to promote future flexibility of use. The level 1 (ground floor) floor to floor heights in the Sam Sing Street tower and the Hatbox Place building will be 3.7 metres, which exceed the RFDC control.

The only building within the development with a commercial component is the Archibald Avenue building. The level 1 (ground floor) retail and food/drink premises will have floor to ceiling heights which meet or exceed the RFDC control of 3.3 metres.

The RFDC asks for the floor to ceiling heights on the first floor of mixed use buildings to be a minimum of 3.3 metres to promote future flexibility of use. The floor to floor height at level 2 (first floor level) of the Archibald Avenue building is proposed to be 3.1m, to achieve the required heights for residential purposes. This is considered acceptable in this instance given that the floor layout and access arrangements are such that level 2 (first floor) is unlikely to be converted from residential.

#### Direct sunlight access

Of 172 apartments within the development:

- 137 apartments within the development (80%) will receive a minimum of 2 hours of direct sunlight between 9am and 3pm on June 21 onto at least 1sqm of living room windows; and
- 112 apartments within the development (65%) will receive 2 hours direct sunlight between 9am and 3pm on June 21 onto their private open space.

The proposal exceeds the RFDC requirement for direct sunlight access to living room windows, but slightly falls short of the requirement for direct sunlight access to private open space (the requirement is 70%). This small non-compliance is considered acceptable in this instance, given that the development compensates for this shortfall through generous provision of communal open space, much of which will receive excellent solar access.

#### Cross ventilation

Cross ventilation is capable of being achieved in 83% of apartments, which exceeds the RFDC requirement of 60%.

The applicant has advised that the intention is for 100% of the apartments to be cross ventilated, with those apartments that do not currently achieve cross ventilation having fire-rated fan lights fitted above the front doors which open onto external areas to allow for cross ventilation. However, no details of this proposed arrangement have been submitted for assessment.



Single aspect apartments with a southerly aspect

The vast majority of apartments within the development will enjoy northerly, easterly or westerly aspects. Some of the apartments will be dual aspect. Only 6 apartments within the development are single aspect with a southerly aspect, which equates to around 4%, therefore complying with the maximum 10% recommended in the RFDC.

Private open space

The majority of apartments within the development have access to a private balcony while some at level 1 (ground level) will have small private gardens. The balconies within the development are of various dimensions, but not all of them meet the minimum depth recommended within the RFDC of 2 metres. There are 5 x 1 bedroom apartments within the Archibald Avenue building which will have no private open space.

The proposal's lack of private open space for a small number of apartments and non-compliance with the minimum size dimensions is considered acceptable in this instance because of the development's generous provision of communal open space which all residents will be able to access.

Communal open space

A generous amount of communal open space will be provided in the development, with a ground level communal courtyard along with communal roof gardens on all buildings. The proposal far exceeds the minimum amount of communal open space required by the RFDC (around 25 – 30% of the site area).

Corridor / core access

Two lifts will service the Sam Sing Street tower and these are to be located centrally and accessed via the external lobby areas. A maximum of 8 apartments on each floor of the tower will be serviced by these lifts, which complies with the RFDC.

The Hatbox Place building has 6 double storey apartments on levels 3 and 4, which in turn means that the single lift and corridors within this building will be regularly servicing these 6 apartments.

The Archibald Avenue building has 5 apartments each on levels 3 and 4, and which means that the single lift and corridors within this building will be regularly servicing these apartments.

The lifts within the development will also provide access to the roof top garden on the top of the building for all residents.

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

The proposed retail premises and food and drink premises in the Archibald Avenue building will activate the street and provide opportunities for casual surveillance.

The buildings have been designed so that the apartments have primary living areas with either balconies or windows which will allow casual surveillance of the street or the central courtyard. The ground floor apartments have individual entrances either accessed from the street or from within the development, which will increase activity at ground level.

Pedestrian entrances to the development are proposed on all three sides – from Sam Sing Street into the tower, and from Hatbox Place and Archibald Avenue into the lobbies of these buildings. Each of these entry points will also provide access to the communal courtyard. Gates are proposed to be placed across entry points, and access to the building and the communal courtyard will be controlled by electronic security devices. The extensive provision of communal open space within the development will facilitate a cohesive social environment.

Vehicular access to the site is concentrated to a single cross over from Sam Sing Street and is generally consistent with the location indicated in the South Sydney DCP Part G (Lachlan Precinct). The basement design provides logical circulation and provides clear access to the buildings through lifts and stairs.

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

The proposed dwelling mix is detailed in the table below:

	Expressed as number	Expressed as %
<b>Studio</b>	1	0.6%
<b>1 bedroom</b>	71	41.3%
<b>2 bedroom</b>	84	48.8%
<b>3 bedroom</b>	16	9.3%
<b>Total</b>	<b>172</b>	<b>100%</b>

The proposal provides a mix of studio, one, two and three bedroom dwellings that can cater for a range of lifestyles, budgets and housing needs. The development suits the anticipated social mix for the neighbourhood. It is noted that 26 of the apartments (15%) are capable for adaptation for access for all age groups and degrees of mobility.

(j) **Principle 10: Aesthetics**

The development has been the subject of a design competition. The jury described the design as innovative and stated that it would stand out in the local context. The jury supported the approach of landscaping being integrated into all facets of the building design.

Comprising of 3 buildings, the development is divided into three distinct parts and can be read as such. The Archibald Avenue and Hatbox Place buildings are limited to 4 storeys and provide a human scale to the streetscape. They utilise a variety of external materials including off-form concrete, pre-fabricated concrete, glazing, glazed bricks and anodised aluminium screening. Concrete planter boxes are proposed to be provided at all levels along street frontages and will contribute to the site's landscaping.

The Sam Sing Street tower has been designed with consideration of the visual impact of this tall building both in the immediate locality and the wider locality, given that it will be visible from a distance. The tower has been divided into two parts. The east and west facades of the tower present as glazed curtain walls, with horizontal shading devices constructed from a mixture of perforated and expanded aluminium finished in mixed colours. The north and south facades of the tower have a heavier appearance, with more solid elements provided through concrete walls and planter boxes, as well as glazed elements. A sun shade structure is proposed to be erected at roof level of the tower, to provide shading for the communal roof top garden. Landscaping is an integral element in the tower's design, with the design of the floor plates alternating to allow for planting to be accommodated at intermittent levels to contribute to the overall greening of the building.

There is extensive use of screening and panelling material at the lower levels of the development (described on the drawings as 'SCR-1'). This screening/panelling is proposed to be fabricated from perforated and folded aluminium, with a dark bronze anodised finish. To ensure that this material contributes positively to the aesthetics of the building, it is recommended that a condition of consent be attached requiring a final sample and design details of the external screening / panelling to be used in the development, including details of returns and finishes around corners, to be submitted to and approved by Council's Director City Planning, Development and Transport.

The proposed varied use of materials and overall expression of the development is considered to appropriately respond to the design characteristics envisaged for the locality.

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

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

43. On 23 September 2014, the Department of Planning and Environment exhibited proposed changes to SEPP 65 which includes the replacement of the RFDC with an Apartment Design Guide.
44. The amendments to SEPP 65 and the draft Apartment Design Guide have been considered in the assessment of this application. The proposal is considered to be generally consistent with draft SEPP 65 and the draft Apartment Design Guide.

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

45. SEPP 70 relates to Section 94F of the EP&A Act and provides that where the consent authority is satisfied that the development meets certain criteria and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
46. Clause 27P Affordable Housing Conditions of South Sydney LEP 1998 authorises that an affordable housing contribution may be levied for development in land in Green Square within zone 10(e).
47. The development satisfies the criteria because Green Square is undergoing renewal as a result of rezoning and infrastructure investment, and the subject site has benefited from this.
48. It is recommended that a condition imposing an affordable housing contribution to aid in the delivery of affordable housing in accordance with the principles in Schedule 2 of SEPP 70.

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

49. The application is subject to Clause 45 of ISEPP as the development is likely to affect an electrical transmission or distribution network. On this basis, the application was referred to Ausgrid, however no response was received. Notwithstanding this, given the scale of the development a substation is proposed to be accommodated on the Archibald Avenue frontage of the new site. It is recommended that the standard Electricity Substation condition be incorporated into any consent.

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

50. A BASIX Certificate was submitted with the development application. A revised BASIX Certificate (Certificate Number 546116M\_04) was issued on 16 March 2015 and submitted for consideration.
51. The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into 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) ("SEPP 32")**

52. 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.
53. The proposal is consistent with the aims and objectives of SEPP 32 in that the development increases the housing stock and provides a mix of apartment types to meet the demand generated by urban renewal within Green Square.
54. The following Local Environmental Plans are relevant to the proposal:

**South Sydney Local Environmental Plan 1998 (“SSLEP 1998”)**

55. The relevant matters to be considered under SSLEP 1998 for the proposed development are outlined below:

Provision	Consideration	Comment
<p><b>Part 2 Planning Principles</b></p>	<p>Development is to be considered having regard to the goals and objectives within the Strategy for a Sustainable City of South Sydney.</p>	<p>The proposal is considered to be consistent with the goals and objectives of the Strategy.</p>
<p><b>Part 3 Zoning Controls</b></p>	<p>The site is located with the 10(e) Mixed Uses “E” zone.</p>	<p>The proposed development is characterised as “multiple dwellings”, “shops” and a “restaurant” which are permissible in this zone with consent.</p> <p>The zoning objectives seek to establish a predominantly employment based zone while allowing residential uses on appropriate development sites, provided that it is designed to be compatible with other surrounding non-residential land uses and will not adversely affect the operations of existing lawfully operating industrial uses.</p> <p>The proposal is for a predominantly residential development and pursuant to Clause 10, Council must not grant consent to the carrying out of development unless the Council is of the opinion that the proposal is consistent with the objectives of the zone.</p> <p>This assessment finds that, notwithstanding that the individual development is predominantly residential, the 10(e) zone and specifically the Lachlan Precinct remains a predominantly employment based zone and therefore the development is consistent with the objectives of the zone.</p> <p>Refer to discussion in the <b>Issues</b> section of this report.</p>

Provision	Consideration	Comment
<p><b>Division 2 Development at Green Square</b></p> <p>CI 27A to 27K</p>	<p>Council must consider certain principles before granting consent to any development within Green Square.</p> <p>Council must not grant consent for development of any land within Green Square unless a masterplan is adopted for the development site and the development is consistent with the masterplan.</p>	<p>This assessment finds that the proposal is consistent with the vision for Green Square and the relevant planning principles.</p> <p>The land is located in Green Square and a formal request to waive the requirement for a masterplan has been received (within the Statement of Environmental Effects (SEE)).</p> <p>It is considered that sufficient justification as to why a masterplan is unnecessary has been provided, and it is recommended that the masterplan requirement be waived in this instance.</p> <p>Refer to discussion in the <b>Issues</b> section of this report.</p>
<p><b>Division 3 Affordable Housing at Green Square</b></p> <p>CI 27L to 27R</p>	<p>This clause authorises the imposition of an affordable housing condition when the consent authority grants consent to the carrying out of development in certain zones in Green Square, including the 10(e) zone.</p>	<p>The site is located on land in the 10(e) zone and is subject to an affordable housing contribution. It is recommended that a condition of consent be included requiring payment of this contribution.</p>
<p><b>Division 4 Built environment design principles and masterplans</b></p> <p>CI 28</p>	<p>Council must take into consideration certain design principles in determining development applications.</p> <p>Before granting consent to development in Zone 5 or on a site greater than 5000 sqm, Council must take into consideration any masterplan for the land that is available.</p>	<p>The built form of the development responds to the context, improves the public domain and provides an acceptable level of amenity for future occupants.</p> <p>The site area exceeds 5000 sqm. No masterplan exists in relation to the site.</p> <p>It is considered that sufficient justification as to why a masterplan is unnecessary has been provided, and it is recommended that the masterplan requirement be waived in this instance.</p> <p>Refer to discussion in the Issues section of this report.</p>

Provision	Consideration	Comment
<b>Subdivision of land</b>  CI 29	A person must not subdivide land to which this plan applies without the consent of the Council.	The application seeks consent for land subdivision through the excising of land for dedication for road purposes.
<b>Application of provisions of Sydney Local Environmental Plan 2012</b>  CI 29A	Certain provisions of Sydney Local Environmental Plan 2012 apply to development on land to which this Plan applies.	The following provisions of SLEP 2012 apply to development on land to which this Plan applies: <ul style="list-style-type: none"> <li>• clause 2.8 (Temporary use of land),</li> <li>• Part 3 (Exempt and complying development),</li> <li>• clause 7.15 (Flood planning),</li> <li>• clause 7.17 (Development in areas subject to airport noise).</li> <li>• Clause 5.10 (Heritage conservation).</li> </ul> Refer to discussion under Sydney LEP 2012 section later in this report.
<b>Flood Liable Land</b>  CI 38	Council is to consider the likely impacts of flooding in determining an application for the erection of a building or the carrying out of works on land.	In discussions between the developer's consulting engineers and Council's development engineers, flood planning levels were agreed to ensure that there is adequate flood protection incorporated into the design of the development. In particular, this involved revisions to the ground floor level ('level 1' plan) of the development to raise ground levels at critical points.  Council's Development Engineers are now satisfied that the revised proposal is acceptable in terms of flooding and stormwater management.

Provision	Consideration	Comment
<p><b>Contaminated Land</b></p> <p>CI 39</p>	<p>Council is to consider the issue of contamination in determining an application for a residential, child care centre or commercial use on land previously occupied by an industrial use.</p>	<p>As discussed in the SEPP55 section of this report, the land has previously been used for industrial purposes and is identified as containing contaminated soil and investigations have revealed the existence of an abandoned Underground Storage Tank (UST).</p> <p>The application proposes to change the use of the land to residential which is a more sensitive land use.</p> <p>The applicant has submitted Interim Advice from a NSW EPA Accredited Site Auditor (for the purposes of D/2014/428/A which relates to the subject site) which confirms that the site is capable of being remediated to a level appropriate for the proposed residential/commercial use.</p> <p>Refer to the SEPP55 section of this report for further discussion.</p>

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

56. Clause 29A of SSLEP 1998 provides that certain provisions of SLEP 2012 apply to development on the site. The relevant provisions are addressed below.

(a) **Clause 7.15 – Flood planning**

Council’s development engineers are satisfied that the revised proposal is acceptable in terms of flooding and stormwater management. Flood planning levels have been agreed and incorporated into the design development to ensure that there is adequate flood protection. In particular, revisions to the ground floor level (‘level 1’ plan) have been made to raise ground levels at critical points.

(b) **Clause 7.17 Development in areas subject to airport noise**

The land is not identified as being in an area sensitive to aircraft noise.

(c) **Clause 5.10 (Heritage conservation)**

The site is not occupied by a heritage item nor located within a heritage conservation area.



## South Sydney Development Control Plan 1997 (“SSDCP 1997”)

57. The proposal’s compliance with the SSDCP 1997 controls is summarised below:

Development control	Complies?	Comment
<b>PART B: URBAN DESIGN PRINCIPLES</b>		
<b>Urban Form</b> Section 2	Yes	The proposal will achieve a distinctive built form which will positively contribute to the appearance of the streetscape and wider locality.
<b>Urban Villages, Public Spaces and Pedestrian Networks</b> Section 3	Yes	The proposal will result in an improved public domain outcome, with the construction of new roads adjacent to the new site area which will contribute to the public street network identified in SSDCP 1997.
<b>Sustainable, Healthy Environment</b> Section 4	Yes	A number of design features have been incorporated into the development to make efficient use of natural resources and energy. As set out in the revised BASIX certificate, energy, water and thermal comfort targets are capable of being achieved.
<b>PART C: PUBLIC DOMAIN</b>		
<b>Public Domain Improvement</b> Section 2	Yes	Refer to Part G: Lachlan Precinct
<b>Security</b> Section 3	Yes	Refer to Part G: Lachlan Precinct
<b>Implementation (Section 94, FSR Bonus)</b> Section 4	Yes	Refer to Part G: Lachlan Precinct

Development control	Complies?	Comment																	
<b>PART D: SOCIAL PLANNING</b>																			
<b>Access</b> Section 2	Yes	<p>Equitable access to the buildings and its communal open areas is provided through the availability of ramped access and lifts within the development.</p> <p>While stairs have been introduced in the lobby of the Archibald Avenue building in response to flooding design requirements, ramped access is still available to this lift lobby via the ramp located between the Sam Sing Street tower and the Archibald Avenue building.</p> <p>The development will contain 26 apartments which are capable for adaptation for access for all age groups and degrees of mobility.</p>																	
<b>Social Housing and Mix</b> Section 3	No	<p>The development proposes the following dwelling mix:</p> <table border="1" data-bbox="767 994 1422 1205"> <thead> <tr> <th>Type</th> <th>Control</th> <th>Proposed</th> </tr> </thead> <tbody> <tr> <td>Studios</td> <td rowspan="2">28%</td> <td>0.6% (1)</td> </tr> <tr> <td>1 bedroom</td> <td>41.3% (71)</td> </tr> <tr> <td>2 bedrooms</td> <td>50%</td> <td>48.8% (84)</td> </tr> <tr> <td>3 bedrooms</td> <td>18%</td> <td>9.3% (16)</td> </tr> <tr> <td>4 bedrooms</td> <td>4%</td> <td>0% (0)</td> </tr> </tbody> </table> <p>The proposed dwelling mix is non-compliant when tested against the SSDCP 1997 control, with too many studios/1 bedroom apartments, too few 3 bedroom apartments and no 4 bedroom apartments. The proposal has a small non-compliance in relation to the percentage of 2 bedroom apartments.</p> <p>It is considered that the non-compliance is acceptable in this instance given that the minimum controls in SSDCP 1997 are based on 1991 Australian Bureau of Statistics census data and more recent data identifies a different mix to achieve a socially diverse population. The more recent data has been reviewed and adopted into the housing and dwelling mix control in Sydney DCP 2012. While this control does not strictly apply to the proposal, when testing the subject development against the mix percentages, it generally complies and therefore is considered acceptable.</p>	Type	Control	Proposed	Studios	28%	0.6% (1)	1 bedroom	41.3% (71)	2 bedrooms	50%	48.8% (84)	3 bedrooms	18%	9.3% (16)	4 bedrooms	4%	0% (0)
Type	Control	Proposed																	
Studios	28%	0.6% (1)																	
1 bedroom		41.3% (71)																	
2 bedrooms	50%	48.8% (84)																	
3 bedrooms	18%	9.3% (16)																	
4 bedrooms	4%	0% (0)																	
<b>Cultural Issues</b> Section 4	Yes	The proposed development supports the creation of the Lachlan Precinct and in time will contribute to a neighbourhood with a clear urban identity.																	

Development control	Complies?	Comment
<b>Community Infrastructure</b> Section 5	Yes	The proposal involves the construction of part of the road network that will service the Lachlan Precinct, as well as the dedication of land for road purposes within the evolving Lachlan Precinct.
<b>Cumulative Impacts and Trade-Offs</b> Section 6	Yes	There are no identifiable cumulative negative impacts arising from the proposed development when considering it together with recent redevelopment in the vicinity of the site.
<b>Economic Issues</b> Section 7	Yes	The inclusion of the retail premises and food and drink premises within the development will contribute to the future activity of Archibald Avenue, the subject part of which is identified to be the focus of retail activity in the precinct. The retail premises and food and drink premises in the development will offer employment opportunities and encourages local business that can directly serve the local community.
<b>Food Supply</b> Section 8	Yes	The proposed retail premises and food and drink premises have the capability to become fresh food outlets. A supermarket has recently opened within walking distance of the site.
<b>Security</b> Section 9	Yes	The proposed development will increase activity in the area and opportunities for passive surveillance. Gates are proposed to be placed across pedestrian entry points, and access to the building and the communal courtyard will be controlled by electronic security devices.
<b>Health</b> Section 10	Yes	Council's Environmental Health Officers have assessed the proposed development and have advised that it is satisfactory, subject to recommended conditions of consent.
<b>PART E: ENVIRONMENTAL DESIGN CRITERIA</b>		
<b>Site Analysis/Layout</b> Section 1.1 and 1.2	Yes	Sufficient justification has been provided as to why a masterplan (via a site specific DCP or a Stage 1 DA) is unnecessary in this instance. It is recommended that the masterplan requirement be waived in this instance.  Refer to discussion in the Issues section of this report.
<b>Public/Private Open Space</b> Section 1.3 and 1.4	Yes	Refer to Part G: Lachlan Precinct

Development control	Complies?	Comment
<p><b>Landscaping</b> Section 1.5</p>	<p>Yes</p>	<p>Landscaping forms an integral part of the proposed scheme, and it is provided through deep soil planting areas, a communal courtyard, roof top gardens, planting in the external lobby areas of the tower and planter boxes.</p> <p>Given the extensive planting scheme proposed through the development, particularly in relation to green roofs (including planting within the tower lobbies) Council's Landscape Assessment Officer requested that the applicant get specialist input from a specialist green roof consultant to confirm the viability of the proposals. The applicant provided an expert review of the proposed landscaping works, and this has been considered by Council's Landscape Assessment Officer who has advised that the proposal is satisfactory subject to appropriate landscape conditions of consent.</p> <p>The DCP asks for landscaping to be provided at ground level on not less than 25% of the site. Over 25% of ground level ('Level 1' plan) of the new site area will be landscaped, thereby complying with this control. It is noted that part of the communal landscaped area at ground floor level includes a raised area which provides access between the ground level and the first floor of the Hatbox Place building. This raised area is required to conceal the driveway ramp beneath which provides access to the basement car park.</p>
<p><b>Parking, Access and Servicing</b> Section 1.6</p>	<p>Yes</p>	<p>South Sydney Development Control Plan No. 11: Transport Guidelines for Development 1996 ("DCP 11") applies to the site and should be used to calculate the required parking and bicycle parking provision.</p> <p>The Council's Access and Transport team have advised that the proposal is acceptable subject to recommended conditions.</p> <p>The parking is wholly contained below street level and garbage collection areas in the basement are accessed through the driveway on Sam Sing Street. Swept paths have been provided which show that with on-site manoeuvring, cars and garbage trucks will be able to enter and leave the site in a forward direction.</p>

Development control	Complies?	Comment
<b>Storm water Drainage</b> Section 1.7	Yes	On-site stormwater detention (OSD) is required for this development, and therefore will be provided.  Council's Development Engineers are satisfied that the revised proposal is acceptable in terms of flooding and stormwater management.
<b>Site Facilities</b> Section 1.9	Yes	Garbage chutes are provided on each floor of each building near the lifts to allow residents to dispose of household waste. Multiple garbage rooms are provided within the basement. On-site collection will occur, with the garbage truck entering the site and turning at Basement level 1 so that it can exit the site in a forward direction. The proposal is considered to be capable of complying with Council's Waste Management Code.  Individual storage facilities are proposed within the basement for each apartment. No bulk storage facilities have been provided (for the disposal of large household items) – but it is recommended that this be required via a condition of consent.
<b>Building Envelope</b> Section 2.1		Refer to Part G: Lachlan Precinct
<b>Floor Space Ratio</b> Section 2.2		Refer to Part G: Lachlan Precinct
<b>Height and Scale</b> Section 2.3		Refer to Part G: Lachlan Precinct
<b>Setbacks</b> Section 2.4		Refer to Part G: Lachlan Precinct
<b>Façade Treatment</b> Section 2.5		Refer to Part G: Lachlan Precinct
<b>Visual and Acoustic Privacy</b> Section 4.1		Refer to Part G: Lachlan Precinct
<b>Safety and Security</b> Section 4.2	Yes	The development will increase opportunities for casual surveillance of the locality. The apartments have primary living areas with either balconies or windows which will allow passive surveillance of the street or the central courtyard. The retail premises and food and drink premises along Archibald Avenue will contribute to activity at street level. Security devices will be installed so that access to the buildings and the communal open areas is restricted as appropriate.

Development control	Complies?	Comment
<b>Fire Regulations</b> Section 4.6	Yes	The proposed building is capable of complying with the Building Code of Australia, subject to recommended conditions of consent.
<b>Energy Efficiency</b> Section 5.1 to 5.3	Yes	<p>The revised BASIX certificate shows that energy, water and thermal comfort targets are capable of being achieved.</p> <p>Overall, a site responsive design has been achieved, with passive solar design principles having been integrated into the development, as well as principles around natural light and cross ventilation.</p> <p>However, there is concern that the glazed western elevation of the Sam Sing Street tower will result in excessive heat in west facing tower apartments particularly in the summer months. While some passive solar design has been incorporated on this facade in the form of horizontal shading devices, it is considered that additional solar passive treatment is needed. It is recommended that this be required via a condition of consent.</p>
<b>Operational Controls</b> Section 6	Yes	The operational controls relate to noise, construction management, traffic, water pollution and hours of operation. It is recommended that as appropriate, these controls are addressed through conditions of consent.
<b>PART F: DESIGN CRITERIA FOR SPECIFIC TYPES</b>		
<b>Residential Flat Buildings and Mixed Use Development</b> Section 2 and 4	Yes	Refer to Part G: Lachlan Precinct
<b>PART G: SPECIAL PRECINCTS – No. 9 GREEN SQUARE</b>		
<b>Urban Strategy</b> Section 2	Yes	Refer to Part G: Lachlan Precinct
<b>Urban Framework</b> Section 3	Yes	Refer to Part G: Lachlan Precinct

Development control	Complies?	Comment
<b>PART G: SPECIAL PRECINCTS – No. 9 GREEN SQUARE (LACHLAN PRECINCT) (“LACHLAN DCP”)</b>		
5.3 Definitions	Yes	<p><i>Gross Floor Area</i> and <i>Building Height</i> are defined differently in Part G, Lachlan Precinct section of the DCP, compared to the other sections of the SSDCP 1997. The definitions in the Lachlan DCP prevail and are adopted for the purposes of calculating <i>Gross Floor Area</i> and <i>Building Height</i> in this assessment.</p>
5.4 Character Statement	Yes	<p>The Character Statement identifies that the Lachlan Precinct is in a period of transition from industrial and warehouse uses to mixed use and predominantly residential development.</p> <p>The proposal is predominantly residential development and provides 3 x retail premises and 1 x food and drink premises addressing the future Archibald Avenue. The proposal is considered to be consistent with the desired uses identified in the character statement. The proposed location of the retail and food/drink premises is consistent with the plan for the subject section of Archibald Avenue to be the focus of retail activity in the precinct.</p> <p>The proposed development, with its 20 storey tower element, contributes to the Character Statement’s desire to see a variety of building heights across the precinct. The proposal adopts a scale envisaged for the site and an expression that appropriately addresses the future street frontages and adjoining sites.</p> <p>The development addresses the need for provision of public infrastructure by proposing to build parts of Sam Sing Street, Archibald Avenue and Hatbox Place and dedicate land for public road purposes. As identified in the Character Statement, the proposal includes constructing Archibald Avenue with a central swale.</p>

Development control	Complies?	Comment
5.5 Public Domain	Yes	<p><b>5.5.1 Street Hierarchy and Transport</b></p> <p>The proposal involves the construction of:</p> <ul style="list-style-type: none"> <li>• A portion of Archibald Avenue, Sam Sing Street and Hatbox Place.</li> </ul> <p>The proposal also involves the land dedication of:</p> <ul style="list-style-type: none"> <li>• The constructed portions of Archibald Avenue, Sam Sing Street and Hatbox Place.</li> <li>• The battle-axe handle driveway to form part of Sam Sing Street.</li> </ul> <p>The new streets (including footpaths) are consistent with the locations identified in the Lachlan DCP. The streets are to be designed and constructed in accordance with Council's standards as per the terms of the draft Planning Agreement.</p> <p>The battle-axe handle component of Sam Sing Street (the part of Sam Sing Street 9.14m wide) will be temporarily upgraded for vehicle access. It will be upgraded to final street standard in the future.</p> <p>The draft Planning Agreement sets out the detailed road construction works to be carried out by the developer and includes the road construction, footpath construction, allowance for drainage and street lighting, new street planting and construction of stormwater infrastructure. It also contains a draft plan of subdivision which shows which land is proposed to be dedicated for public road purposes.</p>
	N/A	<p><b>5.5.2 Open Space</b></p> <p>The site is not identified as being required to provide public open space.</p>
	N/A	<p><b>5.5.3 Through-Site Links</b></p> <p>The site is not identified as being required to provide a through site link.</p>
	Yes	<p><b>5.5.4 Waterways and Stormwater Management</b></p> <p>On-site detention of stormwater is integrated into the development to ensure post-development peak flows do not exceed pre-development peak flows.</p> <p>Council's Development Engineers are satisfied that the revised proposal is acceptable in terms of flooding and stormwater management.</p>



Development control	Complies?	Comment
5.6 Built Form	No - but acceptable	<p><b>5.6.1 Floor Space Ratio</b></p> <p>The floor space ratio (“<b>FSR</b>”) control for this site is 2.2:1. This FSR figure is inclusive of:</p> <ul style="list-style-type: none"> <li>• a base FSR of 1.5:1;</li> <li>• an additional 0.5:1 as the development provides material public benefit, including works and land dedications for identified roads to the satisfaction of the Consent Authority; and</li> <li>• up to an additional 10% FSR awarded as the proposal has been subject to a competitive design process and the resulting development is deemed to have demonstrated design excellence and generally satisfies the objectives of this DCP and the RFDC.</li> </ul> <p>The proposed development has a FSR of 2.2059:1, which is a minor breach of the control. The total gross floor area (“<b>GFA</b>”) proposed is 12340sqm, which is around 33sqm in excess of that permitted by the control. The proposed development is of a built form consistent with that envisaged through the Lachlan DCP controls for the site in terms of building height, envelopes and layout. The non-compliance with the control is considered to be relatively minor (less than 0.5%) and will not result in any unreasonable harm to the proposed development itself or neighbouring properties.</p> <p>It is noted that there are some areas within the development that have been excluded from GFA because the GFA definition at Section 5.3 of the Lachlan DCP is not clear whether they should be included or excluded. For example, in the Hatbox Place building, the stairs linking the floors of the building serve a dual function as fire stairs and common circulation stairs, and therefore it is not clear whether the area to the immediate east of these stairs should be counted as horizontal circulation space (and therefore included in the GFA calculation), or vertical circulation space (given that this area is integral to the function of the fire stair, and therefore excluded from the GFA calculation). In this case, the extent of area in question is limited, and it remains that the proposal is consistent with the built form envisaged for the site through the Lachlan DCP.</p>

Development control	Complies?	Comment									
5.6 Built Form (continued)	Yes/No	<p><b>5.6.2 Building Height</b></p> <p><u>Height in Storeys</u> The building height in storeys control for this site is varied, with 2 x 4 storey buildings permitted, along with a 20 storey tower.</p> <p>The proposed development complies with the building envelope and proposes 2 x 4 storey and 1 x 20 storey tower element in the locations specified in the Lachlan DCP.</p> <p><u>Floor to Floor Heights</u> As shown in the table below, the proposal generally complies with the floor to floor (“F to F”) and floor to ceiling (“F to C”) height controls within the Lachlan Precinct DCP, with some exceptions:</p> <table border="1" data-bbox="767 943 1422 1818"> <thead> <tr> <th data-bbox="767 943 963 976">Use</th> <th data-bbox="963 943 1155 976">Control</th> <th data-bbox="1155 943 1422 976">Proposed</th> </tr> </thead> <tbody> <tr> <td data-bbox="767 976 963 1547">Ground floor commercial or retail</td> <td data-bbox="963 976 1155 1547">4.2m F to F</td> <td data-bbox="1155 976 1422 1547">Does not comply, with F to F between 3.78m – 4.08m. Considered acceptable given objective of control will still be achieved – adequate daylight levels (the retail premises and food and drink premises are north facing) and flexibility of use can be achieved.</td> </tr> <tr> <td data-bbox="767 1547 963 1818"></td> <td data-bbox="963 1547 1155 1818">3.6m F to C</td> <td data-bbox="1155 1547 1422 1818">Some non-compliances — but considered acceptable for reasons provided above (see “4.2m F to F height” section).</td> </tr> </tbody> </table>	Use	Control	Proposed	Ground floor commercial or retail	4.2m F to F	Does not comply, with F to F between 3.78m – 4.08m. Considered acceptable given objective of control will still be achieved – adequate daylight levels (the retail premises and food and drink premises are north facing) and flexibility of use can be achieved.		3.6m F to C	Some non-compliances — but considered acceptable for reasons provided above (see “4.2m F to F height” section).
Use	Control	Proposed									
Ground floor commercial or retail	4.2m F to F	Does not comply, with F to F between 3.78m – 4.08m. Considered acceptable given objective of control will still be achieved – adequate daylight levels (the retail premises and food and drink premises are north facing) and flexibility of use can be achieved.									
	3.6m F to C	Some non-compliances — but considered acceptable for reasons provided above (see “4.2m F to F height” section).									

Development control	Complies?	Comment		
		Use	Control	Proposed
5.6 Built Form (continued)	Yes	Ground floor residential (adaptable)	3.7m F to F	Complies - except for in 1 limited area – (see “3.3m F to C height” section below).
			3.3m F to C	Complies, except for in 1 limited area. The ground floors of apartments A1.06 and A1.07 in the Archibald Avenue building will have a floor to ceiling height of 3.08m. This has resulted because of level changes required to accommodate flood levels. Given the limited extent of the non-compliance, and that the amenity of the apartments will not be unreasonably impacted upon, it is considered acceptable.
		First floor adaptable residential	3.7m F to F	Does not comply – See discussion under SEPP 65 heading.
			3.3m F to C	Does not comply – See discussion under SEPP65 heading.
		Residential floors above first floor	3.1m F to F	Complies, except for in 1 limited area – See discussion under SEPP 65 heading.
			2.7m F to C	Complies, except for in 1 limited area – See discussion under SEPP 65 heading.

Development control	Complies?	Comment		
5.6 Built Form (continued)	Yes	Use	Control	Proposed
		Roof, plant, lift overruns, etc.	Buildings < 12 storeys: 3m	Does not comply. Lifts and stairs will provide access to the roof top gardens on the Archibald Avenue and Hatbox Place buildings, and will be covered by stylised canopies. These structures range in height from 3.5m to 4m above roof floor level. They are appropriately designed to blend with the architectural expression of the buildings.
			Buildings > 12 storeys: 6m	Complies. Lifts and stairs will provide access to the Sam Sing Street tower roof top gardens, and are generally located centrally on the roof.
Green roofs	Additional height will be permitted to allow balustrades and access lift overruns etc.	A pergola style shade structure is proposed to cover much of the roof of the Sam Sing Street tower, and glazed wind breaks are proposed to be erected on the tower roof.  Stylised canopies will be fixed to the roofs of the Archibald Avenue and Hatbox Place buildings to provide weather protection.		

Development control	Complies?	Comment
5.6 Built Form (continued)	Yes	<p><b>5.6.3 Design Excellence</b></p> <p>The proposal has been the subject of a Competitive Design Alternative process that was conducted by the applicant in February 2014.</p> <p>The Council is satisfied that the proposed development achieves design excellence. Given this, the development is eligible for an additional 10% of floor space, which results in the FSR control for the site being 2.2:1.</p>
	Yes	<p><b>5.6.4 Building Form and Design</b></p> <p><u>Tall buildings</u></p> <p>The Sam Sing Street tower has a floor plate of less than 750sqm, thereby complying with the maximum floorplate control. The tower is articulated by being split into two distinct elements separated by a central lobby, and the two elements of the tower are clearly visible when looking at the east and west elevations.</p> <p>The closest building of 10 storeys or above is the Viking building at 30-35 O’Dea Avenue which has recently been completed. The Sam Sing Street tower will be separated from the 10 storey element of this building by over 60 metres, and therefore complies with the control which seeks separation between tall buildings.</p> <p>The Sam Sing Street tower location is generally consistent with that envisaged through the built form controls, and therefore is suitably distant from future tall buildings and towers.</p> <p><u>Building form layout</u></p> <p>The proposed building form layout is generally consistent with that presented in Map 19 of the Lachlan Precinct DCP.</p>

Development control	Complies?	Comment
5.6 Built Form (continued)	Yes	<p><u>Building setbacks</u></p> <p>The proposal complies with the minimum 1.5m primary setback to Sam Sing Street, with the development having a setback to Sam Sing Street of almost 3m.</p> <p>The proposal complies with the minimum 1.5m primary setback to Hatbox Place.</p> <p>On Archibald Avenue, where the retail premises and food and drink premises are to be located, the development will have a primary setback varying between 0 – 0.355m from the future property boundary. The control asks for a zero setback along this frontage, with glazing to align with the site boundary. Even with the very minor setback proposed, the retail premises will achieve the intent of activating this street frontage, and therefore this is considered acceptable.</p> <p>A 3m by 3m chamfered setback from the future site boundaries is generally achieved on both future street corners (being the intersection of Sam Sing Street with Archibald Avenue, and the intersection of Sam Sing Street with Hatbox Place). It is noted that the proposal included a glazed wind break within this setback area near the corner of Sam Sing Street and Archibald Avenue. This was proposed in response to a potential food / drink use for this outdoor area associated with the adjacent retail tenancy. Installing a glazed wind break on this corner is considered to be premature, given that the future use of this tenancy is not yet determined. The glazed wind break has been deleted from some of the architectural drawings but not all. Therefore, for the avoidance of doubt, a condition of consent is recommended stating that the glazed wind break is not approved, thereby maintaining sightlines across this street corner.</p>

Development control	Complies?	Comment
5.6 Built Form (continued)	Yes	<p><u>Building types/uses</u></p> <p>The development proposes uses consistent with those set out on Map 21 of the Lachlan DCP, these being:</p> <ul style="list-style-type: none"> <li>• the retail and food/drink use of the ground floor, and residential use of the floors above of the Archibald Avenue building;</li> <li>• the residential use of the Sam Sing Street tower; and</li> <li>• the residential use of the Hatbox Place building.</li> </ul> <p><u>Archibald Avenue activity strip</u></p> <p>In response to concerns raised by Council Officers, the following amendments were made to the proposal during the course of the assessment:</p> <ul style="list-style-type: none"> <li>• the depth and size of the retail premises was increased to provide greater flexibility for future retail uses;</li> <li>• the proposed food and drink premises was reconfigured to make the indoor and outdoor terraced areas more usable; and</li> <li>• the extent of active street frontage at ground floor level on Archibald Avenue was increased, through the reconfiguration of the substation and relocation of the WC.</li> </ul> <p>As a result of these amendments, it is considered that the development complies with the control which seeks to activate the subject stretch of Archibald Avenue, and will make a positive contribution to the public domain.</p> <p>The footpath along the southern side of Archibald Avenue is proposed to be around 4.8m wide, which is consistent with the control which seeks generous footpaths on the southern side of Archibald Avenue to enable outdoor café seating.</p>

Development control	Complies?	Comment
5.6 Built Form (continued)	Yes	<p><u>Architectural diversity and articulation</u></p> <p>The development occupies part of the future street block bounded by Sam Sing Street, Hatbox Place, Archibald Avenue and Reed Street. The development itself provides buildings of varying height, size and architectural expression, with different looking facades, articulation and character. The development will contribute to architectural diversity and interest in the Precinct.</p> <p>Each of the proposed buildings is less than 40m in length. Therefore they are not subject to the control which seeks to break up building massing on long buildings. Nonetheless it is noted that Sam Sing Street tower has been designed with two distinct components, to reduce the appearance of bulk.</p> <p>The facade elements of each of building provides a sufficient level of fine grain vertical and horizontal articulation.</p> <p><u>Vertical circulation</u></p> <p>The Sam Sing Street tower is serviced by two lifts in a single core, which provides access to all levels from the basement up to the roof top gardens. The maximum number of apartments per floor being served by these lifts is 8. A set of stairs sits alongside these 2 lifts throughout the building.</p> <p>The Archibald Avenue building is serviced by 1 lift, which provides access to the basement levels, the roof top garden and level 1 (ground level), level 3 and level 4. On levels 3 and 4, 5 apartments per floor are serviced by the lift. Level 2 is not served by the lift as it is occupied by the second storey of the ground level apartments. Stairs are provided near the lift and provide access to all levels, including the roof top.</p> <p>The Hatbox Place building is serviced by 1 lift, which provides access to the basement levels, the roof top garden and level 1 (ground level), level 3 and level 4. On level 3, 6 double storey apartments are serviced by the lift. Level 2 is not served by the lift as it is occupied by the second storey of the ground level apartments. Stairs are provided near the lift and provide access to all levels, including the roof top.</p>



Development control	Complies?	Comment
5.6 Built Form (continued)	Yes	<p><u>Active street frontages</u></p> <p>Archibald Avenue will be activated along the street front by retail premises along with a food and drink premises with terraced seating which adjoins the street. The food and drink premises will have a security screen for after hours use. A condition of consent should require details of this shutter to be submitted so that it is well designed, with a degree of openness so that it does not present a solid, blank appearance to the street.</p> <p>A lobby entry off Archibald Avenue provides access to apartments on the floors above, some of which have balconies which, when used, will contribute to activity on the street frontage.</p> <p>The extent of non-active street frontage along the Archibald Avenue ground level frontage was reduced through the submission of amended plans during the course of the assessment. It is now considered that this section of Archibald Avenue will make a positive contribution to activity in this retail strip.</p> <p>Sam Sing Street is activated through a lobby entry which provides access to apartments in the tower. It is also activated through 3 ground level apartments in the tower which have individual entries which address the street, and a pedestrian access which provides convenient access to the ground level entry points to apartments in the Archibald Avenue building. The basement car park is accessed off Sam Sing Street, which will increase activity in the public domain.</p> <p>The western (side) elevations of the Archibald Avenue building and Hatbox Place building present non-active street frontage facades to Sam Sing Street. This is considered acceptable given that they are articulated through the use of materials, and considering the extent of active street frontage provided elsewhere through the development.</p> <p>Hatbox Place is activated through 6 apartments in the Hatbox Place building addressing the street with individual entries. A lobby provides access to the apartments on the floors above. There are also balconies which overlook the street and their use will contribute to activity along the building frontage.</p>

Development control	Complies?	Comment
5.6 Built Form (continued)	Yes	<p><u>Active edges</u></p> <p>Archibald Avenue is identified as an active retail edge. The retail premises provide a glazing line adjacent to the public domain, and each is accessed via doors directly from the street. The food and drink premises provides an indoor area as well as outdoor terraced areas. One of these terraced outdoor areas will be directly adjacent to the footpath and will activate the street frontage through the provision of outdoor dining facilities.</p> <p><u>Continuous awnings</u></p> <p>A continuous awning is provided on the street frontage above level 1 (ground floor) for the full length of the Archibald Avenue building. The awning will extend a distance of 2.39m across the future property boundary and over the footpath. It will wrap around the corner of the building on the Sam Sing Street side.</p> <p>Planting was originally proposed to be installed on the top of the awning. However, in response to concerns raised by Council Officers about future maintenance given the location, it has been deleted from the proposal.</p> <p><u>Residential amenity</u></p> <p>As discussed earlier in this report, the proposed development generally complies with the internal amenity guidelines set out in the RFDC.</p> <p>With regard to overshadowing, the proposal will result in overshadowing of nearby properties, including residential properties. In this regard, it is noted that the additional overshadowing is resulting from a building which is generally compliant with the built form controls (including height) contained in the Lachlan DCP.</p>

Development control	Complies?	Comment
5.6 Built Form (continued)	Yes	<p><u>Green roofs</u></p> <p>There are communal roof top gardens proposed on each of the three buildings. The Hatbox Place building will also provide 2 private roof top gardens for apartments 5.06 and 5.08 which are located alongside the roof level in the Sam Sing Street tower. Council's Landscape Assessment Officer has assessed the green roofs and considers them acceptable, subject to a consent condition which includes requirements relating to detailed design, structural certification and future maintenance.</p> <p><u>Public art</u></p> <p>No public art is proposed as part of the development. Given that there is no requirement for publically accessible open space in the development, a detailed Public Art Strategy and provision of public art is not considered necessary.</p>
	Acceptable	<p><b>5.6.5 Typical Ground Floor Condition for Residential Flat Buildings</b></p> <p>Within the development there are ground floor residential uses within each of the 3 buildings.</p> <p>In the <b>Hatbox Place building</b>, there are 6 ground floor residential apartments, all of which have street frontage to Hatbox Place and individual entries. With regard to the controls:</p> <ul style="list-style-type: none"> <li>• A 1.5m primary building setback is achieved;</li> <li>• A minimum 4m setback from the site boundary to the glass line enclosing the internal space at level 1 (ground floor) and level 2 (first floor), with the exception of 1 apartment (H1.01), which only achieves a 2.4m setback at level 2 (first floor). This is considered acceptable in this instance given that this is resulting from the need to accommodate a fire stair near the rear of this apartment, some setback is still achieved, and given the overall compliance with this setback control elsewhere in the building.</li> <li>• A landscaped area (including planter boxes) of approximately 2 metres wide is provided where possible within the front garden areas. This is not deep soil planting given the basement car park beneath. However, this is considered acceptable given the provision of deep soil elsewhere on the site.</li> </ul>

Development control	Complies?	Comment
5.6 Built Form (continued)	Acceptable	<ul style="list-style-type: none"> <li>• The level 1 (ground floor) private open space at the front of each apartment range from around 2m to 3m deep. While the control states that it should be up to 2m deep, the provision of some of the private open space at 3m deep is considered acceptable as it provides usable open space. The control asks for the level 2 (first floor) balconies to be minimised to ensure adequate daylight to reach ground floor living areas. The level 2 (first floor) balconies are around 2m deep (including planter boxes), which, coupled with deep ground floor private open space, may reduce the amount of daylight reaching the ground floor living areas. On balance, this is considered acceptable in this instance as these are double storey apartments, the private open space provided is of good quality.</li> <li>• There is sufficient distance between the future property line and the glass line enclosing the ground floor internal space to allow privacy to be achieved through a mixture of fencing and screen planting. Given this, it is not considered necessary to require the provision of sills or opaque treatments to at least 0.8m above ground floor level to provide privacy.</li> <li>• Vertical aluminium fencing and gates are proposed along the front garden areas of each ground floor dwelling. A condition is recommended to ensure this fencing is a maximum of 1.4m high above finished ground level.</li> </ul> <p>In the <b>Sam Sing Street tower</b>, there are 3 apartments which have street frontage to Sam Sing Street and individual entries. With regard to the controls:</p> <ul style="list-style-type: none"> <li>• A setback at level 1 (ground floor) of around 9m is achieved from the future property boundary with Sam Sing Street, which is greater than the required 1.5m primary building setback.</li> <li>• The minimum 4m setback from the site boundary to the glass line enclosing the internal space at level 1 (ground floor) and level 2 (first floor) is also exceeded.</li> </ul>

Development control	Complies?	Comment
5.6 Built Form (continued)	Acceptable	<ul style="list-style-type: none"> <li>• A landscaped area is provided in front of these apartments, some of which is deep soil planting. Some of this landscaped area will be private garden enclosed by fencing for these apartments. The landscaped areas will contribute to the level of privacy afforded to these ground floor areas.</li> <li>• The level 2 (first floor) balconies (including planter boxes) are around 2m deep. Above level 2, the higher levels of the tower block are cantilevered a depth of around 6m out from the glass line of the ground floor apartments. While this may reduce the amount of daylight reaching these apartments, on balance, it is considered acceptable as they will have the benefit of considerable glazing along their primary aspect, and apartments 1.06 and 1.07 are both two storey apartments.</li> <li>• There is sufficient distance between the future property line and the glass line enclosing the ground floor internal space to allow privacy to be achieved through a mixture of fencing and screen planting. Given this, it is not considered necessary to require the provision of sills or opaque treatments to at least 0.8m above ground floor level to provide privacy.</li> <li>• Vertical aluminium fencing and gates are proposed along the front garden areas to enclose the private gardens of apartments. A condition is recommended to ensure this fencing is a maximum of 1.4m high above finished ground level.</li> </ul> <p>In the <b>Archibald Avenue building</b>, there are a total of 7 apartments which have individual entries at level 1 (ground floor). None of the apartments have a ground floor street frontage to Archibald Avenue, with all of them having their front door access from within the development itself, on the southern elevation of the building. At level 1 (ground floor), all of the apartments provide a study area, with the exception of apartment A1.06 which provides a bedroom with ensuite, and apartment A1.07, which only provides stair access to the apartment above.</p>

Development control	Complies?	Comment
5.6 Built Form (continued)	Acceptable	While apartment A1.06 has a door which can provide privacy for the bedroom, for this door to remain open to enable the room to be ventilated through the windows it is recommended that appropriate privacy treatment be incorporated into the ground floor windows up to a height of 1.6m above finished floor level, and that the glazing in the window be fixed to this height as well. This will enable privacy to the ground floor of this apartment while windows above this height can remain open to achieve natural ventilation.
	See comments	<p><b>5.6.6 Acoustic and Visual Privacy</b></p> <p>An Acoustic Report and additional supporting letter were submitted for Council's consideration. Council's Acoustic Specialist has reviewed this report and supporting letter and as a result of shortfalls in these documents, has recommended that additional noise reporting be undertaken prior to the issue of a Construction Certificate and to the satisfaction of Council. Other acoustic conditions of consent, including a condition requiring the submission of a Construction Noise Management Plan, have also been recommended.</p> <p>Council's Acoustic Specialist considers that, subject to further noise reporting being satisfactorily completed, the development will be capable of achieving adequate levels of internal acoustic amenity for dwellings if windows and doors are closed, mechanical ventilation is used and adequate glazing and façade treatments are adopted. On the basis of the acoustic information submitted, Council Officers cannot be satisfied that the development will achieve the acoustic requirements of the Lachlan DCP for internal amenity when windows and doors are open. Ultimately, it will be up to the occupants of apartments in the building to determine whether they would like to keep their windows and doors open to allow for natural ventilation, or would prefer a quieter internal environment with windows and doors closed, with mechanical ventilation operating.</p>

Development control	Complies?	Comment
5.6 Built Form (continued)	See comments	Visual privacy between apartments, particularly for apartments at the lower levels of the development with windows facing into the internal courtyard, is largely achieved through the external screening. On some private balconies, these screens are operable to enable occupants to determine for themselves the extent of privacy they wish to achieve. On level 5 of the development, a walkway on the eastern side of Sam Sing Street tower provides access to the roof top gardens on the Archibald Avenue building and Hatbox Place building. To provide privacy to the immediately adjacent apartments in the tower, a mixture of highlight windows, translucent glazing and privacy planting and screening are proposed.
	Yes	<p><b>5.6.7 Development Levels</b></p> <p>The development levels for the site have been determined in consultation with Council's Development Engineers who are satisfied that the revised proposal is acceptable in terms of flooding and stormwater management.</p> <p>The retail premises will have finished floor levels which will allow level or slightly ramped access. This is considered acceptable. With regard to access to the residential components of the development, ramped access is available from both Hatbox Place and Sam Sing Street. A set of stairs has been introduced in the Archibald Avenue building lobby because of the need to increase finished floor levels for flood protection. Ramped access remains available to the Archibald Avenue building lobby via Sam Sing Street.</p>

Development control	Complies?	Comment
5.6 Built Form (continued)	Yes	<p><b>5.6.8 Parking and Access</b></p> <p>The proposed driveway crossing to provide access to the basement car park is located off Sam Sing Street. It's location is generally consistent with the vehicular access point specified for the site on Map 17 (Access and Circulation) of the Lachlan DCP.</p> <p>Where the driveway meets the future property boundary line with Sam Sing Street, it has a width of 7.4m. This exceeds the control, which specifies that vehicle access/egress is to be a single crossing with a maximum of 3.3m over the footpath. Given the basement car park's size (serving over 150 vehicles) as well as the fact that in the future it is likely to also provide shared access to the adjoining site to the east therefore servicing more vehicles, the proposed driveway width which will allow for the passage of two cars, is considered acceptable.</p> <p>The basement car park design provides logical circulation, and will allow for vehicles, including garbage trucks, to enter and exit the site in a forward direction.</p> <p>The access points to the basement car park have been designed with consideration of flood levels. The driveway crest near the car park entry point, as well as the ground floor areas near lift shafts and stairs which allow access to the basement, have ground levels which have been set with consideration of flood levels. Council's Development Engineers are satisfied that the revised proposal is acceptable in terms of flooding and stormwater management.</p> <p>The street block bounded by Archibald Avenue, Sam Sing Street, Hatbox Place and Reed Street is to be delivered across more than one landholding, therefore a shared/integrated basement car park with a single vehicle access point is required. Given that this is the first site in the street block to develop, provision has been made on basement level 1 for a breakthrough area which will includes breakthrough panels which will allow for future penetration to connect the car park to the property to the east so that in the future, this adjoining property can use the vehicle aisles within the basement car park for access from Sam Sing Street. Requirements regarding the provision of a shared/integrated basement car park have been included in the Voluntary Planning Agreement.</p>



Development control	Complies?	Comment
5.6 Built Form (continued)	Yes	<b>5.6.9 Staging and Implementation</b> As a result of the proposal which includes the construction of new roads, the site will have three public road frontages and each side of the development will be accessible via a public street.

**South Sydney Development Control Plan No. 11: Transport Guidelines for Development 1996 (“DCP 11”)**

58. DCP 11 sets out maximum car parking levels in order to reduce traffic congestion and reduce reliance on private vehicles in the city. The proposal’s compliance with the requirements of DCP 11 is summarised below:

<b>South Sydney DCP 11: Transport Guidelines for Development</b>			
<b>Parking</b>	<b>Control</b>	<b>Proposed</b>	<b>Complies?</b>
Residential	139 (max)*	138 (including 26 accessible)	Yes
Residential visitors	29 (max)	18	Yes – but 1 of the 18 spaces should be made accessible.
Retail	4 (max)	3 (including 1 accessible)	Yes
Bicycles Residential	57 (min)	38 in basement	No
Bicycles Residential Visitor	17 (min)	17 at ground level ('Level 1')	Yes
Bicycle Retail/Food and drink	3 (min)	0	No
Car wash bay	1	2	Yes

\*Note: As the proposed development is located more than 800m walking distance from Green Square Railway Station, a maximum allowance of 1 space per 2 bedroom unit is permitted (rather than the usual control of 0.8 space per 2 bedroom unit).

59. The proposal complies with the DCP11 car parking provisions, but does not provide the required amount of bicycle parking for a development of this scale. It is recommended that a condition of consent be attached requiring the provision of the minimum number of bicycle parking spaces required under DCP 11, these being 57 residential spaces, 17 residential visitor spaces and 3 spaces for the retail and food and drink uses.

60. The 17 visitor spaces proposed at level 1 (ground level) should be Class 3 facilities. The 57 residential bicycle spaces are to be Class 2 facilities, and these are to be provided independently of the other individual storage facilities in the basement. It is considered that there is enough room within the proposed designated bicycle parking area at Basement Level 1 to accommodate the additional 19 spaces required. The relatively low number of resident bicycle parking provision (with only around 1 third of apartments having access to these cycle facilities) makes their provision even more important. The individual storage facilities within the basement remain a second option for those residents not wishing to store their bicycles with others.
61. The proposed arrangement for waste collection is for the garbage truck to enter the site through the driveway on Sam Sing Street, collect refuse and turn in Basement Level 1, then exit the site through the driveway in a forward direction. Swept path diagrams have been provided to demonstrate that this proposed arrangement is workable. The proposed arrangements for accessing the site for waste collection are acceptable. A condition of consent is recommended regarding hours for collection of commercial waste, to protect residential amenity in the locality.

#### **City of Sydney Contaminated Land Development Control Plan 2004**

62. As discussed previously in this report under the SEPP55 section, the proposal is capable of meeting the objectives of this DCP.

#### **City of Sydney Access Development Control Plan 2004 (“Access DCP”)**

63. The proposal can achieve the objectives of the Access DCP in that equitable access to the building is provided through level or ramped entries at ground levels to the retail tenancies and residential buildings, and lift access is available to all levels of the buildings, including the roof top terraces.

#### **Green Square Affordable Housing Development Control Plan (“Affordable Housing DCP”)**

64. In accordance with SEPP 70, SSLEP 1998 and the Affordable Housing DCP, it is recommended that a condition requiring an affordable housing contribution is attached to the consent, to aid in the delivery of affordable housing.

#### **Planning Proposal and draft amendment to Sydney Development Control Plan 2012 – Lachlan Precinct, Waterloo, Green Square**

65. A Planning Proposal and draft amendment to Sydney Development Control Plan 2012 seek to translate the current controls for the Lachlan Precinct under SSLEP 1998 and SSDCP 1997 into the Sydney LEP 2012 and the Sydney DCP 2012, from which the Lachlan Precinct is currently excluded.
66. The Planning Proposal and draft amendment to Sydney Development Control Plan 2012 were publicly exhibited for 28 days from 22 July 2014 to 18 August 2014. Following public exhibition, the Planning Proposal and draft Sydney DCP 2012 amendment were approved by Council and the Central Sydney Planning Committee on 3 November 2014 and 30 October 2014 respectively. Since this time Council Officers have been working with the Department of Planning and Environment and Parliamentary Counsel’s Office to draft the legal instrument and bring the controls into force. It is likely that the new LEP and DCP controls will come into force by late-March 2015.

67. Savings provisions are contained in both the draft Sydney LEP 2012 and draft Sydney DCP 2012 which explain that if a DA has been made (i.e. submitted to Council for assessment) before the commencement of the Sydney LEP 2012 amendment and the Sydney DCP 2012 (Green Square – Lachlan Amendment) in relation to Lachlan Precinct land and the application has not been finally determined before that commencement, the application must be determined as if the LEP and DCP amendments had not commenced. At the time of writing the report, these controls have not commenced, but are considered imminent.
68. These savings provisions would apply to the proposed development given that the application was submitted to Council in June 2014. Notwithstanding this, given the imminence of the controls, it is considered appropriate to consider how the proposal performs against them. The proposal's compliance with the key draft Sydney LEP 2012 controls is summarised below:

Draft Provision in Sydney LEP 2012	Consideration	Complies? / Comments
<b>Zoning</b>	The proposal is to amend the land use zoning from zone 10(e) Mixed Uses "E" zone to Zone B4 Mixed Uses.	<p>Yes.</p> <p>Zone B4 Mixed uses provided for a mix of compatible uses which would allow for the integration of suitable business, office, residential, retail and other development in the zone.</p> <p>Residential accommodation, retail premises and food and drink premises are permitted with consent in the zone. The proposed development would be permissible with consent in the B4 zone.</p>

Draft Provision in Sydney LEP 2012	Consideration	Complies? / Comments
<b>Floor Space Ratio ("FSR")</b>	<p>The proposed FSR control for this site is 2.2:1. This FSR figure is inclusive of:</p> <ul style="list-style-type: none"> <li>• a base FSR of 1.5:1</li> <li>• an additional 0.5:1 as the proposed development provides for community infrastructure, including works and land dedications for identified roads to the satisfaction of the Consent Authority;</li> <li>• up to an additional 10% FSR awarded as the proposal has been subject to a competitive design process and the resulting development is deemed to have demonstrated design excellence and generally satisfies the objectives of the Sydney LEP 2012.</li> </ul>	<p>No.</p> <p>The proposal has a FSR of 2.2059:1, which is a minor breach of the control (in the order of 0.5%). The total gross floor area ("<b>GFA</b>") proposed is 12340sqm, which is around 33sqm in excess of that permitted by the control. The proposed development is of a built form consistent with that envisaged through the Lachlan DCP controls for the site in terms of building height, envelopes and layout. The non-compliance with the control is considered to be relatively minor and will not result in any unreasonable harm to the proposed development itself or neighbouring properties.</p>
<b>Building Height</b>	<p>The proposed height controls which would apply to the site are as follows:</p> <ul style="list-style-type: none"> <li>• RL91.10 (in the area to be occupied by the proposed Sam Sing Street tower);</li> <li>• RL41.23 (in the area to be occupied by the proposed Archibald Avenue building); and</li> <li>• RL40.40 (in the area to be occupied by the proposed Hatbox Place building).</li> </ul>	<p>Yes.</p> <p>The maximum height proposed for the Sam Sing Street tower is RL90.35 (to the top of the lift core).</p> <p>The maximum height proposed for the Archibald Avenue building is RL41.23 (to the top of the architectural canopy over the lift core).</p> <p>The maximum height proposed for the Hatbox Place building is RL40.05 (to the top of the architectural canopy over the lift core).</p>

Draft Provision in Sydney LEP 2012	Consideration	Complies? / Comments
<b>Design Excellence</b>	<p>It is proposed to adopt the requirements and considerations set out in Part 6, Division 4, Design Excellence of the Sydney LEP 2012, the accompanying Competitive Design Policy and the Design Excellence section of Sydney DCP 2012.</p> <p>An additional 10% FSR or height is achievable through successful completion of a competitive design process.</p> <p>The trigger for requiring a competitive design process within the Lachlan Precinct is proposed to be nine storeys (approximately 30 metres) or a site area of 5,000 square metres.</p>	<p>Under the proposed controls, the proposal would trigger the requirement for a competitive design process.</p> <p>The proposal has been the subject of a Competitive Design Alternative process that was conducted by the applicant in February 2014.</p> <p>It is considered that the proposed development achieves design excellence. Given this, an additional 10% FSR may be awarded to the development.</p>
<b>Parking</b>	<p>It is proposed to categorise the site as:</p> <ul style="list-style-type: none"> <li>• Land Use Transport Integration (LUTI) Category C for residential development; and</li> <li>• Public Transport Accessibility Level (PTAL) Category F for non-residential development;</li> </ul> <p>with the parking rates to be determined as per Part 7, Division 1 of the Sydney LEP 2012.</p>	<p>Under Sydney LEP 2012 the following maximum number of car parking spaces for residential flat buildings will apply:</p> <ul style="list-style-type: none"> <li>• 139 residential parking spaces (of which 26 are to be accessible);</li> <li>• 18 visitor parking spaces (of which 1 should be accessible);</li> <li>• 4 retail parking spaces.</li> </ul> <p>The proposed car parking rates do not exceed those specified above.</p>

Draft Provision in Sydney LEP 2012	Consideration	Complies? / Comments
<b>Restricted Retail Premises</b>	It is proposed to include the site as land identified as Restricted Retail Development on the Retail Premises Map. On land to which this restriction applies, development consent cannot be granted for the purposes of shops or markets with a GFA of greater than 1,000 sqm.	The proposal only involves the provision of 189sqm of retail premises and food and drink premises.

69. The draft Sydney DCP 2012 controls are largely consistent with those contained in the existing SSDCP 1997 Part G: Special Precincts – No. 9 Green Square Lachlan Precinct. The proposal's compliance with the existing SSDCP 1997 controls has already been considered within this report. Where relevant to the subject application, where the controls have changed, the proposal's compliance with Sydney DCP 2012 controls is considered below:

Draft Provision in Sydney LEP 2012	Consideration	Comment
<b>5.4.3.4 – Building setbacks</b>	Primary building setback along southern part of Sam Sing Street has been increased to 3 metres (from 1.5 metres in SSDCP 1997).	Generally complies – a setback of almost 3m is achieved.

Draft Provision in Sydney LEP 2012	Consideration	Comment
<b>5.4.3.5 – Building Typologies and Use – Ground floor non-residential uses</b>	Ground floor non-residential uses are to achieve a minimum depth of 10m measured from the line of enclosure to accommodate amenities, storage space, back of house activities and other spatial requirements to support non-residential uses.	Does not comply.  The original application proposed retail units at a depth of 4.6m. During the course of the assessment, Council Officers raised concerns about the usability and viability of retail tenancies of this depth. In response to these concerns the applicant amended the proposal to increase the depth and size of the retail tenancies. The proposed retail tenancies now have a depth of around 8m when measured from the line of enclosure. In conjunction with other amendments to improve the usability and activation of the commercial tenancies, it is now considered that the proposal is satisfactory in terms of contributing to the activation of the subject stretch of Archibald Avenue.
<b>5.4.3.5 – Building Typologies and Use – Awnings</b>	All awnings should be setback from the kerb line to avoid collision with tall vehicles potentially operating in the parking lane.	A continuous awning is provided on the northern elevation of the Archibald Avenue building, above the retail/café tenancies. This awning is setback from the future Archibald Avenue kerb line so will not present as a collision hazard for vehicles on Archibald Avenue.
<b>5.4.3.9 – Parking and access – Shared / Integrated basement</b>	Where required to be provided by Council, a shared/integrated basement car parking area with a single vehicular access point is to be provided in the locations identified in Figure 5.90: Lachlan Precinct.	The Council is requiring the provision of a shared/integrated basement car park with a single vehicle access point in this instance, given that the street block bounded by Archibald Avenue, Sam Sing Street, Hatbox Place and Reed Street is to be delivered across more than one landholding. The proposal makes provision for a breakthrough area with breakthrough panels on Basement Level 1, and requirements regarding the provision of a shared/integrated basement car park have been included in the Voluntary Planning Agreement.

**ISSUES**

70. The issues identified in this report as requiring further discussion are considered in more detail below.

**Mixed Uses Zone Objectives and Proposed Land Use**

71. Pursuant to SSLEP 1998, the site is located within the 10(e) Mixed Uses zone. The proposed development is characterised as “multiple dwellings”, “shops” and a “restaurant” which are permissible with development consent in the 10(e) zone.

72. Clause 10 of SLEP 1998 provides that:

*Except as otherwise provided by the plan, the Council must not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the proposal is consistent with the objectives of the zone within which the land is located.*

73. The objectives of the 10(e) zone are:

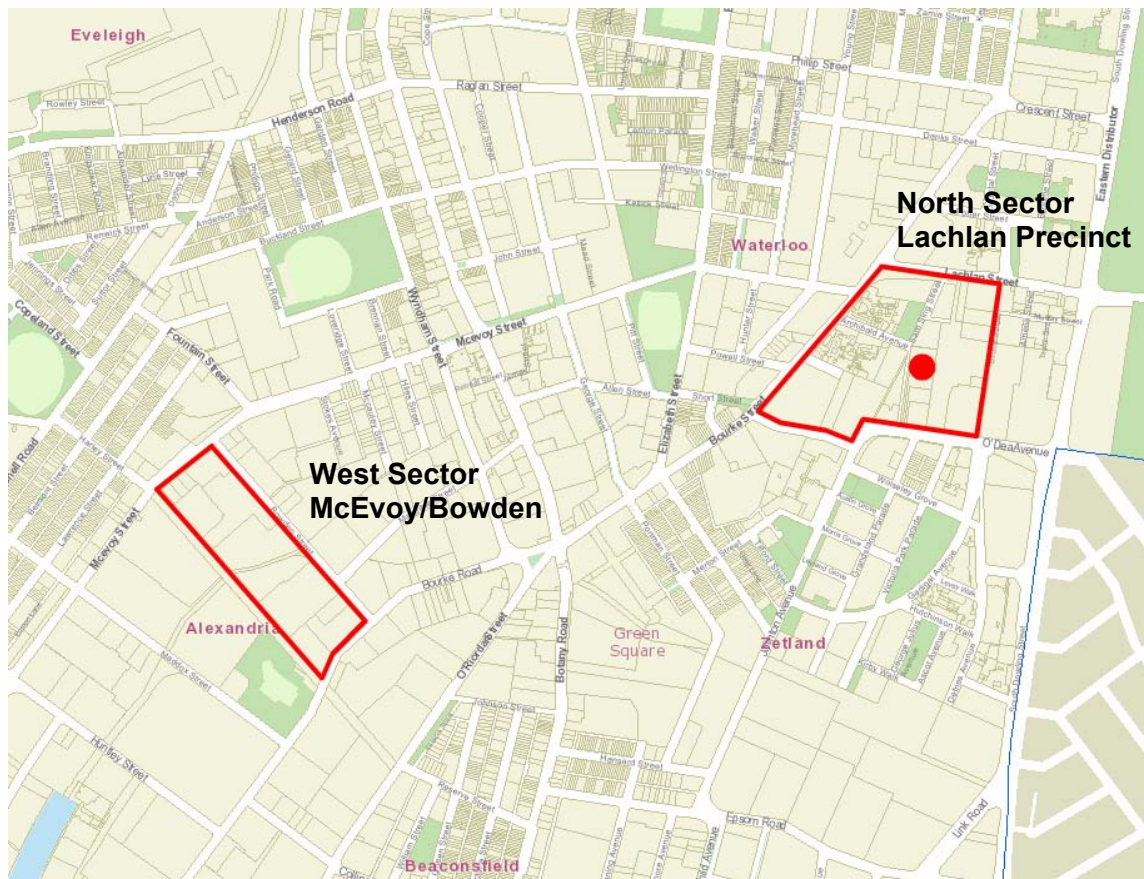
- “(a) to establish a predominantly employment-based zone while allowing residential use on appropriate development sites, and*
- (b) to allow for appropriate business activities which contribute to economic growth and employment opportunities within the Green Square area, provided they are environmentally compatible in terms of design and operational requirements with residential development, and*
- (c) to allow residential development within the zone, provided it is designed so as to be compatible with other non-residential uses and will not adversely affect the operations of existing lawfully operating industrial uses, and*
- (d) to minimise any adverse impact, including social impact, on residential amenity by devising appropriate design assessment criteria and applying specific impact mitigation requirements by the use of development control plans, and*
- (e) to ensure that development within the zone contributes to a highly sustainable, vibrant community, and reflects equal and integrated consideration of social, economic and environmental design issues.”*

74. Overall, the zone objectives seek to establish a predominantly employment based zone while allowing residential uses on appropriate development sites that are compatible with other surrounding non-residential uses.

75. The proposed development is for a predominantly residential development. Pursuant to Clause 10 of the SSLEP 1998, Council must not grant consent to the development unless it is of the opinion that the proposal is consistent with the objectives of the zone, and more specifically in this instance, that the 10(e) zone remains a predominantly employment based zone.



76. Given ambiguity around the word “predominantly” and lack of a standard or control, at its meeting on 9 May 2005, Council resolved to adopt an interim policy position for the 10(e) zone. The policy position sought to guide redevelopment in the zone until a review of the mixed uses zones was completed. The resolution provided that a minimum of 50% of the floorspace proposed must be non-residential uses.
77. The proposed development results in 1.5% non-residential uses and 98.5% residential uses, and does not perform against the 50% interim policy position.
78. The city undertook a Review of Zoning and Land Use in the Green Square Urban Renewal Area in 2006 in the lead up to the preparation of Sydney LEP 2012. The Lachlan Precinct was deferred from the Sydney LEP 2012 to enable further testing of the controls and additional consultation. SSLEP 1998 and the 10(e) zone continued to apply to the land.
79. The 10(e) zone is located in two geographic zones in the local government area. Figure 15 illustrates where the 10(e) zone is located and its two sectors being the northern sector (Lachlan Precinct) and the west sector (bound by McEvoy Street and Bowden Street).



**Figure 15:** Map illustrating existing 10(e) zones, identified as the North sector and West Sector, and the subject site (dot).

80. In order to establish whether the 10(e) zone will remain a predominantly employment based zone or not, it was considered that a review of the existing floorspace (non-residential versus residential) across the zone was the most suitable approach.

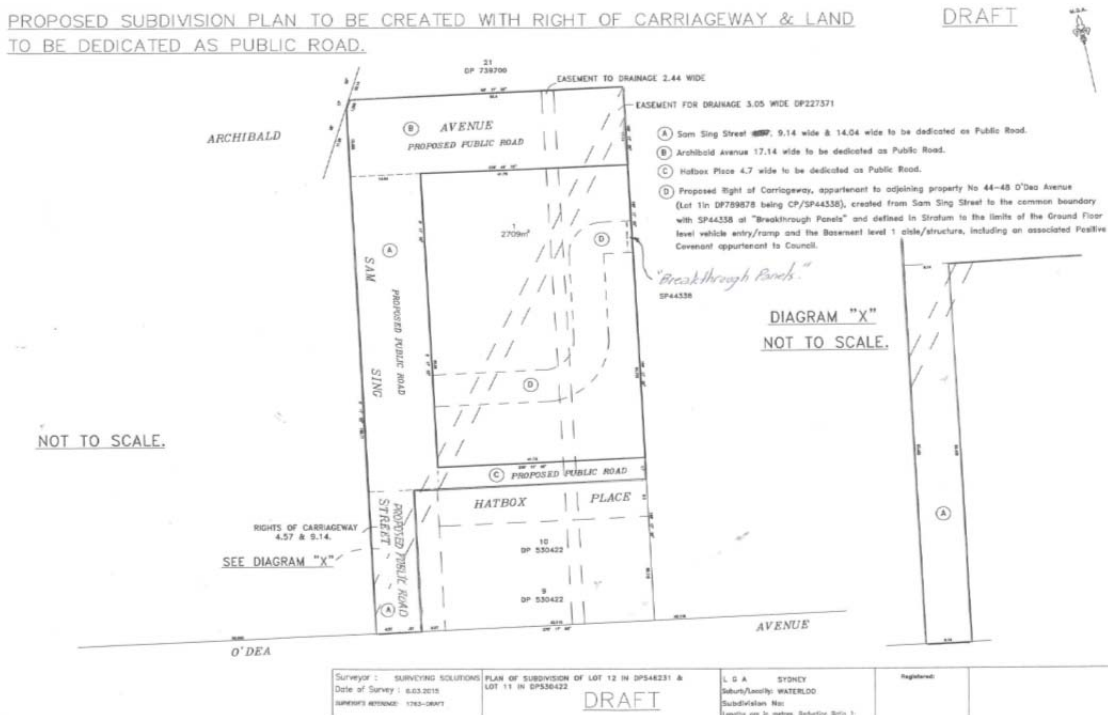
81. Data from the City’s 2012 Floor Space and Employment Survey was obtained from Council’s Research, Strategy and Corporate Planning Unit. This data was collated with the floorspace of mixed use developments that were completed and approved since the 2012 study, including:
- (a) Viking development;
  - (b) Blocks B, C and D of the Divercity development;
  - (c) 11B Lachlan Street;
  - (d) Block A of the Divercity development; and
  - (e) 18-20 O’Dea Avenue (Stage 1 approval).
82. The table below outlines the existing and proposed proportion of non-residential floorspace versus residential floor space across the 10(e) zone:

Existing across 10(e) zone		Proposed including 40A&B O’Dea Avenue	
Non-residential floor space	Residential floor space	Non-residential floor space	Residential floor space
<b>63%</b>	<b>37%</b>	<b>59%</b>	<b>41%</b>

83. Based on an analysis of the floor space across the entire zone, approximately 63% of the existing floor space is used for non-residential purposes while 37% is used for residential purposes. Including the proposed development in the floor space mix in the zone would have the effect of decreasing the percentage of floor space used for non-residential purposes to around 59% and increasing the percentage of floor space used for residential purposes to around 41%.
84. It is considered that the proposal will enable the zone to remain predominantly employment based. The proposal is also considered to be consistent with the other relevant objectives noting that the residential development has been designed to be compatible with, and is unlikely to affect the existing non-residential (light industrial/commercial) uses and operations to the south, north and east of the site. As such, the CSPC can be satisfied that the zone objectives are achieved pursuant to Clause 10 of SSLEP 1998 and can grant development consent to the proposal.
85. Furthermore, it is noted that the Planning Proposal to bring the Lachlan Precinct into the Sydney LEP 2012 and draft amendment to bring the Precinct into the Sydney DCP 2012 are due to come into force imminently.
86. The proposed amendments include the rezoning of the Lachlan Precinct from 10(e) Mixed Uses to B4 Mixed Uses. The B4 Mixed Uses zone does not emphasise a predominant use and would allow a compatible land use mix to that proposed. The future direction envisaged for the Lachlan Precinct is to transition from industrial and warehouse uses to mixed use and predominantly residential development. Given this, the proposed development is considered acceptable in terms of its imminent zoning and the emerging locational context.

**Floor space ratio, Material Public Benefit and S94 Contributions**

- 87. The application seeks consent for an additional 0.5:1 FSR permitted under Section 5.6.1 Floor Space Ratio of the Lachlan DCP, which can only be achieved where a development provides a material public benefit to the satisfaction of the consent authority.
- 88. The application was accompanied by a public benefit offer for:
  - (a) construction of portions of future Sam Sing Street, Archibald Avenue and Hatbox Place within the site;
  - (b) the land dedication of portions of future Sam Sing Street, Archibald Avenue and Hatbox Place for public road purposes;
  - (c) Section 94 offset for the outstanding credit arising from the value of the road and dedication; and
  - (d) the provision of access through the subject site for the purpose of providing future vehicular access to the adjoining site to the east at 44-48 O’Dea Avenue.
- 89. **Figure 16** is the proposed subdivision plan which shows that land to be dedicated as proposed public road, as well as the proposed Right of Carriageway across the site to provide access to the adjoining property at 44-48 O’Dea Avenue.



**Figure 16:** Proposed subdivision plan, showing proposed land dedications as well as proposed Right of Carriageway across the site to provide access to the adjoining property to the east.

- 90. Council officers have reviewed the offer and are satisfied that it is consistent with the material public benefit identified for this site in the Lachlan DCP.

91. The value of the additional 0.5:1 FSR is calculated on the basis of the additional floorspace amount and the non-residential and residential rates nominated in the South Sydney Council document *"Developing Public Domain Improvements – A Guide to Council's Bonus Floor Space System"*.
92. The value of the material public benefit (cost to build and dedicate the roads) has been costed by a quantity surveyor and accepted by Council's Public Domain Unit.
93. The cost to build and dedicate the roads exceeds the value of the community infrastructure FSR. The applicant has requested that the outstanding credit is offset against the Section 94 developer contributions in accordance with Section 93F of the EP&A Act.
94. The construction and dedication of the subject sections of future Sam Sing Street, Archibald Avenue and Hatbox Place is not identified in the City of Sydney Development Contributions Plan 2006 ("the plan").
95. Where a developer proposed to undertake works that are not specifically listed in the plan, these works are defined as a "material public benefit" and must be the subject of a formal Planning Agreement.
96. Prior to the formal Planning Agreement being drafted, pursuant to part 2.5 of the plan, Council considered and acknowledged that the diversion of contributions from adopted works to non-identified works may threaten the achievement of the adopted works programme and any such work would have to be of a truly exceptional relevance, quality and scale to be considered eligible for acceptance as a material public benefit. The proposed material public benefit is considered to meet this test for the following reasons:
  - (a) the works are of truly exceptional relevance as the construction and dedication of future Sam Sing Street, Archibald Avenue and Hatbox Place is an identified material benefit in the Lachlan DCP.
  - (b) the road construction works will be delivered to a quality required by Council, and to Council's standards; and
  - (c) the scale of the works is consistent with the scope and detailed identified in the Lachlan DCP.
97. A draft Planning Agreement has been prepared and the terms are currently being finalised. It is expected that the draft Agreement will be placed on public exhibition in the near future.
98. Pursuant to Section 93F Planning Agreements of the EP&A Act, Section 94 does not apply to the extent of the value of the material public benefit as provided for in the Planning Agreement. The draft Planning Agreement will set out a specific monetary amount that can be excluded from Section 94 and, as such, the works can be accepted as a material public benefit and this amount can be excluded from the total developer contributions generated by the proposal.

**Request to waive preparation of a masterplan**

99. The land is located in Green Square and under Clause 27C of SSLEP 1998 a masterplan is required to be prepared for the development site. The masterplan requirement can be satisfied through the preparation of a site specific DCP or a Stage 1 development application.
100. A formal request under Clause 27C of SSLEP 1998 to waive the masterplan requirement was lodged with the application. The basis of the request is the adequacy of the planning controls for the site, as set out in SSLEP 1998, SSDCP1997 and the adopted Lachlan Precinct DCP.
101. The Council may waive the requirement for a masterplan because of the minor nature of the development concerned, the adequacy of other planning controls that apply to the proposed development, or for such other reasons as the Council considers sufficient. However, Council must have regard to the criteria in Clause 27D (4) (a) – (m).
102. It is considered that there are sufficient grounds to waive the masterplan requirement in this instance as:
  - (a) the site specific Lachlan Precinct DCP was adopted on 19 April 2013 which contains the core building form controls (FSR and building height) and detailed design, environmental, infrastructure controls and locality character statements. As these controls have been developed and adopted, and relate to the site, an additional site specific DCP or Stage 1 DA that would reflect much of what is already contained in the Lachlan DCP is considered unnecessary in this instance;
  - (b) the Lachlan DCP prescribes building envelopes for neighbouring land within the Lachlan Precinct and does not preclude appropriate built form consistent with these envelopes to occur on neighbouring land; and
  - (c) the criteria set out in Clause 27D (4) (a)-(m) provides site and design considerations. These considerations are addressed through the application of the relevant controls within this report. Overall, the development can satisfactorily perform against these criteria.

**Easements burdening the subject site**

103. The site is burdened by 2 stormwater drainage easements (“Easement for Drainage 3.05m wide” and “Easement to Drain Water 2.44m wide”) which traverse the site.
104. “Easement for Drainage 3.05m wide” burdens Lots 11 in DP530422 and Lot 12 in DP 546231, which are the subject site. The party with the power to release this easement is the City of Sydney.
105. “Easement to Drain Water 2.44m wide” burdens Lots 11 in DP530422 and Lot 12 in DP 546231, and benefits lots 9, 10 and 11 in Deposited Plan 530422 and Lot 12 in 546231. Lot 11 in DP530422 and Lot 12 in DP 546231 are the subject site. The applicant has submitted a letter from the registered proprietor of Lots 9 and 10 in DP 530422 consenting to the diversion or extinguishment of this Easement.

106. Development Consent D/2014/428/A granted approval for infrastructure works including stormwater drainage diversion works. Condition 27 of this consent stated that upon completion of the construction of the stormwater drainage diversion works, the downstream components of the existing drainage lines within the site are to be capped and de-commissioned, to provide for the activation of the stormwater diversion line and discharge into Council's public stormwater system. This condition also explained that any proposal to extinguish the existing easements will require separate application to Council to allow for the release and termination of "Easement for Drainage 3.05m wide" given that the City is a beneficiary of the drainage rights.
107. It is recommended that the requirement for the formal extinguishment of both easements forms part of the deferred commencement condition, so that the easements are removed prior to the consent becoming operational.

### **Strategy for a Sustainable City of South Sydney**

108. One of the principal objectives of the LEP as stated in Clause 7 is to implement the goals and objectives contained in the Strategy for a Sustainable City of South Sydney. Clause 8 also provides that in assessing any development application that the Council must take into consideration the goals and objectives of the Strategy as they relate to the proposed development.
109. In order to realise the main goal of the strategy, a number of detailed strategies were developed and are grouped under sub-goals of Environment, Land Use and Transport, Character and Identity, Community Well-Being and City Management. An assessment of the development application reveals that it meets the goals of the above strategies.

### **Section 79C(1)(b) Other Impacts of the Development**

110. The BCA Classification of the development is Class 2 (residential), 7a (basement level car parking) and Class 6 (retail / café). The development is capable of complying with the requirements of the BCA.
111. 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.

### **Section 79C (1) (c) Suitability of the site for the development**

112. The proposal is consistent with the existing planning controls for the site, which recognise that the Lachlan Precinct is a locality transitioning to a mix of uses. Sufficient evidence has also been submitted to indicate that the site can be remediated to be made suitable for the proposed residential/commercial use.

### **Section 79C (1) (d) Submissions**

### **INTERNAL REFERRALS**

113. The application was referred to Council's Urban Designer, Building Services Unit, Specialist Land Surveyor, Environmental Health Team, Public Domain Team, Transport and Access Team, Waste Management Team, Landscape Assessment Officer, Safe City Team and Strategic Planning Unit.

114. The conditions of other sections of Council have been included in the proposed conditions.
115. The application was also considered by the Design Advisory Panel (DAP). Where relevant, DAP's comments have been incorporated into design amendments and consent conditions.

## **EXTERNAL REFERRALS**

### **NSW Office of Water**

116. The application was referred to the NSW Office of Water for assessment of the bulk excavation which generates a requirement site dewatering which is deemed to be an aquifer interference activity. The NSW Office of Water issued General Terms of Approval (GTAs) on 19 November 2014 which have been incorporated into Schedule 3 of the draft conditions of consent.

### **Airports**

117. The application was referred to Sydney Airport Corporation Ltd (SACL) as the Sam Sing Street tower will intrude into prescribed airspace for Sydney Airport. Council received correspondence from the Department of Infrastructure and Regional Development (Commonwealth Government) dated 8 October 2014 approving this controlled activity subject to conditions. These conditions have been incorporated into the draft conditions of consent.

### **Ausgrid**

118. The application was referred to Ausgrid. No comments were received from Ausgrid in response. Given the scale of the development, a substation is proposed to be accommodated on the Archibald Avenue frontage of the new site. It is recommended that the standard Electricity Substation condition be incorporated into any consent.

### **Sydney Water**

119. The application was referred to Sydney Water. Sydney Water responded on 25 July 2014, advising that:
- (a) the drinking water main which services the site will need to be amplified;
  - (b) an extension of the wastewater system will be required;
  - (c) the subject site is traversed by a Sydney Water asset, this being a 2.1m diameter trunk water main. This water main traverses the site's battle axe handle. Where proposed works are in close proximity to a Sydney Water asset, the developer may be required to carry out additional works to facilitate the development and protect the asset (in this case, the water main).

Sydney Water have advised that detailed requirements in relation to both water and waste water requirements are to be provided at Section 73 phase. A condition requiring a Section 73 Compliance Certificate under the Sydney Water Act 1994 has been incorporated into the draft conditions of consent.

**Roads and Maritime Services (RMS)**

120. The application was referred to RMS. RMS raise no objection to the application. RMS made comments for Council's consideration regarding compliance with relevant local planning controls, the layout of the car park areas complying with relevant Australian Standards, the need for a construction traffic management plan and the cost of any works for public utility adjustment/relocation being borne by the developer. The Council has standard conditions relating to car park design and construction traffic management plans which have been incorporated into the draft conditions of consent.

**NOTIFICATION AND ADVERTISING**

121. The application constitutes integrated development; as such the application was advertised and notified for 30 days between 11 July 2014 and 11 August 2014 in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000. As a result of this notification and advertising, no submissions were received.

**Section 79C (1)(e) Public Interest**

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

**FINANCIAL IMPLICATIONS / SECTION 94 CONTRIBUTIONS****Affordable Housing Contributions**

123. The development is subject to the affordable housing contribution under clause 27P of SSLEP 1998. The contribution is calculated based on:
- (a) \$174.19 per square metre of the total residential floor area (15,313sqm), plus
  - (b) \$58.04 per square metre of the non-residential floor area (204sqm).
124. The total contribution required is **\$2,679,211.50** (this will be indexed according to time of payment). The contribution is payable to NSW Planning and Environment prior to issue of a Construction Certificate.

**Section 94 Contributions**

125. The development is subject to development contributions under the City of Sydney Development Contributions Plan 2006 ("the plan"). The contribution is calculated based on the development's net increase in the resident and workforce population.
126. The residential population proposed is 172 dwellings. With regard to the worker population, the new retail premises / food and drink premises generate 8 employees. No credits have been applied for past uses of the site.
127. Based on the net increase in resident and workforce population, a contribution of **\$3,446,675.80** would normally be required to be paid to Council prior to the issue of a Construction Certificate. This breaks down as follows:



<u>Contribution Category</u>	<u>Amount</u>
Community Facilities	\$445,346.07
Public Domain	\$274,307.50
New Open Space	\$2,137,340.83
New Roads	\$542,824.28
Accessibility	\$22,514.14
Management	\$24,342.98
<b>Total</b>	<b>\$3,446,675.80</b>

128. Pursuant to Section 93F Planning Agreements in the Act, Section 94 of the Act does not apply to the extent of the value of the material public benefit as provided for in the Planning Agreement.
129. The value of the material public benefit as provided for will be specified in the Planning Agreement, and as such, the applicable Section 94 contribution can be reduced to exclude the material public benefit.
130. For transparency reasons and future reference, it is recommended that the Section 94 condition is divided into the following two parts:
- (a) total Section 94 amount generated by proposal (including amount that will subsequently be excluded): **\$3,446,675.80**; and
  - (b) a condition stating that the Section 94 contributions payable as per (a) may be offset in accordance with the terms of the Planning Agreement required to satisfy Deferred Commencement condition (1).

### RELEVANT LEGISLATION

131. Environmental Planning and Assessment Act 1979.
132. Water Management Act 2000.
133. Airports Act 1996.

### CONCLUSION

134. The proposed development is generally consistent with the core built form controls and zone objectives contained in SSLEP 1998 and SSDCP 1997.
135. The proposed mixed use development is located in the 10(e) Mixed Uses zone in the Lachlan Precinct where SSLEP 1998 applies. This assessment finds that, notwithstanding that the individual development is predominantly residential, the 10(e) zone remains a predominantly employment based zone and the proposal is considered to be consistent with the objectives of the zone.
136. The proposed development is also generally consistent with the proposed controls for the site contained in the current Planning Proposal and draft Sydney LEP / DCP 2012 controls applying to the site.
137. The development will provide ground level retail premises and food and drink premises in the Archibald Avenue building, with these premises having frontage onto future Archibald Avenue. It will contribute 172 residential apartments to the housing stock required for the incoming population anticipated for the Green Square locality.

138. The development adopts a suitable form, scale and architectural expression to the three future street frontages and surrounding land. An acceptable level of internal amenity is afforded to future residents and the built form will not unreasonably preclude achievement of internal amenity to future redevelopment schemes on adjoining sites.
139. The SSLEP 1998 requirement for a masterplan to be prepared for this site has been assessed as unnecessary in this instance given the existing site specific built form controls for the site with which the proposal is generally consistent.
140. The application was accompanied by a public benefit offer for construction of portions of three roads, and for public land dedication. A draft Planning Agreement has been prepared to secure provision of the material public benefit and the terms are currently being finalised. The draft Planning Agreement is expected to be placed on public exhibition in the near future.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Siobhan Fox-Roberts, Senior Planner).