

ITEM 5. DEVELOPMENT APPLICATION: 87 BAY STREET GLEBE**FILE NO: D/2014/1521****DEVELOPMENT APPLICATION NO: D/2014/1521****SUMMARY****Date of Submission: 2 October 2014****Applicant: MECONE PTY LTD****Architect: CHROFI / KANNFINCH****Developer: DENWOL GLEBE PTY LIMITED****Owner: DENWOL GLEBE PTY LIMITED****Cost of Works: \$110,880,000.00**

Proposal Summary: The application seeks development consent for construction of the detailed design of a mixed use development ranging in height from 2 to 9 storeys, and encompasses the following:

- demolition of the existing buildings;
- excavation for 2 levels of basement car parking;
- 207 residential apartments, including 19 affordable housing units;
- 4,720sqm of retail/commercial floor space;
- 156 car parking spaces, plus 6 service spaces;
- Landscaped communal rooftop and podium level; and
- Through site pedestrian link and public domain works.

The construction of the development is proposed to be carried out in two stages. Stage 1 comprising the western portion of the site, including the affordable housing, commercial/office component, and residential towers C and P. Stage 2 comprises the eastern portion of the site, including ground floor retail tenancies and residential towers A and B.

The proposal is Integrated Development under the Water Management Act 2000.

**Proposal Summary:
(continued)**

The notification of the application resulted in 2 submissions being received. One submission provides some support for the outcome of the design competition process, but seeks further improvements in access to the park, and residential amenity. The other submission objecting to density, scale, suitability of the site for intensive residential use, heritage and amenity impacts, amenity for future residents, securing of the affordable housing, and BCA non-compliance.

Preliminary concerns identified in assessment of the proposal included:

- Loss of podium landscaping
- Architectural detail and expression
- Flooding
- Design of affordable housing component
- Apartment amenity and mix
- Internal circulation areas
- Solar impact on NSW Land and Housing Site
- Impact on heritage listed street tree
- Basement layout and parking provisions
- Staging requirements and VPA implications

Amended plans and additional information have been submitted to address these issues.

In its amended form, the proposal is considered to be generally consistent with the relevant planning controls.

Summary Recommendation:

The development application is recommended for deferred commencement consent, requiring the owner of the site to provide a statement by a NSW EPA Accredited Site Auditor, and to execute amendments to the Voluntary Planning Agreement and register the amended agreement on the title prior to the activation of the consent.

Development Controls:

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

Attachments:

- A - Proposed Architectural Plans
- B - Proposed Landscape Plans
- C - Photomontages

RECOMMENDATION

It is resolved that:

- (A) pursuant to the provisions of Clause 7.20(3) of Sydney Local Environmental Plan 2012, the consent authority waive the requirement for a development control plan to be prepared, as it would be unreasonable or unnecessary in the circumstances due to the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012, containing site specific planning controls against which the application has been prepared;
- (B) pursuant to the provisions of Clause 6.21(7) of Sydney Local Environmental Plan 2012, the consent authority award 10% additional floor space to the development as the proposal exhibits design excellence;
- (C) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, deferred commencement consent be granted to Development Application No. D/2014/1521, subject to the following:

(1) PLANNING AGREEMENT

Prior to activation of this consent:

- (a) The **amendments** to the Voluntary Planning Agreement (executed 6 December 2013 between The Council of the City of Sydney and M.T. Management Pty Ltd), prepared by Council and placed on public exhibition on **XXXXXX**, shall be executed and submitted to Council;
- (b) The guarantee must be provided to Council in accordance with the Planning Agreement at the time of execution; and
- (c) The **amended** Planning Agreement, as executed, must be registered on the title of the land in accordance with the Planning Agreement.

(2) SECTION B SITE AUDIT STATEMENT

Prior to activation of this consent:

A Section B Site Audit Statement (SAS) must be obtained from a NSW EPA Accredited Site Auditor and be submitted to the Council's Area Planning Manager for written approval.

The SAS must confirm that the nature and extent of the contamination has been appropriately investigated and determined in the contamination assessment undertaken by Urban Environmental Ref UES108PH2.RO1, dated 11 October 2012, and the submitted Remediation Action Plan prepared by DLA Environmental reference DL3346_S001803, dated July 2014, is appropriate to make the site suitable for the proposed land use.

Should the Site Auditor require any additional site assessment be undertaken to fully delineate the extent of the contamination existing onsite, then this must be carried out and the results of the additional testing be provided to the Auditor and the Remediation Action Plan amended to take into account any comments/recommendations raised by the Auditor.

A copy of the final Remediation Action Plan as referenced by the Auditor in the Site Audit Statement must be submitted to the City, along with the Site Audit Statement for written approval.

On no account must any works associated with the development be undertaken until this condition has been fully satisfied and the condition discharged.

- (D) evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within 24 months of the date of the determination;
- (E) 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
- (F) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

SCHEDULE 1A

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

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

(1) STAGED CONSTRUCTION

The consent allows construction works to be broken into 2 stages, as follows:

(a) Construction Stage 1

- (i) Residential Blocks C, P and E
- (ii) West half of podium with commercial floor space
- (iii) West half of basements
- (iv) Temporary loading dock and garbage collection room

(b) Construction Stage 2

- (i) Residential Blocks A and B
- (ii) East half of podium with retail floor space
- (iii) East half of basement including permanent loading dock and garbage collection room
- (iv) Construction of public through-site link

- (v) Dedication of road widening after completion of construction

(2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2014/1521, dated 2 October 2014, and the following drawings prepared by CHROFI and Kannfinch Architects:

Drawing Number	Drawing Name	Date
DA 001 Rev A	Cover Sheet	02/04/2015
DA 030	Staging Plan	18/09/2014
DA 031	Temporary Loading Dock	18/09/2014
DA 101 Rev B	Basement 2	19/03/2015
DA 102 Rev B	Basement 1	19/03/2015
DA 103 Rev B	Ground Floor (Level 1)	19/03/2015
DA 104 Rev B	Ground Mezzanine Floor Plan (Level 2)	19/03/2015
DA 105 Rev C	First Floor Plan (Level 3)	19/03/2015
DA 106 Rev C	Second Floor Plan (Level 5)	19/03/2015
DA 107 Rev C	Third Floor Plan (Level 6)	19/03/2015
DA 108 Rev C	Fifth Floor Plan (Level 7)	19/03/2015
DA 109 Rev C	Sixth Floor Plan (Level 8)	19/03/2015
DA 110 Rev C	Seventh Floor Plan (Level 9)	19/03/2015
DA 111 Rev C	Eighth Floor Plan (Level 5)	19/03/2015
DA 112 Rev C	Ninth Floor Plan (Level 11)	19/03/2015
DA 113 Rev A	Roof Plan (Level 12)	19/03/2015
DA 114 Rev A	Post Adaption Units Layouts	27/03/2015
DA 201 Rev A	Elevation Sheet 1	19/03/2015
DA 202 Rev A	Elevation Sheet 2	19/03/2015
DA 203 Rev A	Elevation Sheet 3	19/03/2015
DA 204 Rev A	Elevation Sheet 4	19/03/2015

Drawing Number	Drawing Name	Date
DA 205 Rev A	Elevation Sheet 5	19/03/2015
DA 206 Rev A	Section Sheet 1	19/03/2015
DA 207 Rev A	Section Sheet 2	19/03/2015
DA 208 Rev A	Section Sheet 3	19/03/2015

And the landscape drawings prepared by 360 Degrees Landscape Architects:

Drawing Number	Drawing Name	Date
LAN-DA-01 Iss. A	Title Page	13/03/2015
LAN-DA-02 Iss. A	Planting Schedule and Schedule of Finishes	13/03/2015
LAN-DA-03 Iss. A	Key Plan	13/03/2015
LAN-DA-04 Iss. A	Ground Floor Plan	13/03/2015
LAN-DA-05 Iss. A	Through Site Link Plan	13/03/2015
LAN-DA-06 Iss. A	Through Site Link Planting Plan	13/03/2015
LAN-DA-07 Iss. A	Level 3 Plan	13/03/2015
LAN-DA-08 Iss. A	Level 3 Soil Depth Plan	13/03/2015
LAN-DA-09 Iss. A	Level 3 Planting Plan	13/03/2015
LAN-DA-10 Iss. A	Level 5 Stage 1 Plan	13/03/2015
LAN-DA-11 Iss. A	Level 5 Stage 2 Plan	13/03/2015

Drawing Number	Drawing Name	Date
LAN-DA-12 Iss. A	Level 5 Stage 1 Soil Depth Plan	13/03/2015
LAN-DA-13 Iss. A	Level 5 Stage 2 Soil Depth Plan	13/03/2015
LAN-DA-14 Iss. A	Level 5 Stage 1 Planting Plan	13/03/2015
LAN-DA-15 Iss. A	Level 5 Stage 2 Planting Plan	13/03/2015
LAN-DA-16 Iss. A	Level 9 Plan	13/03/2015
LAN-DA-17 Iss. A	Level 9 Soil Depth Plan	13/03/2015
LAN-DA-18 Iss. A	Level 9 Planting Plan	13/03/2015
LAN-DA-19 Iss. A	Typical Landscape Sections	13/03/2015
LAN-DA-20 Iss. A	Typical Landscape Sections	13/03/2015
LAN-DA-21 Iss. A	Typical Landscape Sections	13/03/2015
LAN-DA-22 Iss. A	Typical Landscape Sections	13/03/2015
LAN-DA-23 Iss. A	Typical Landscape Sections	13/03/2015
LAN-DA-24 Iss. A	Landscape Planting Palette	13/03/2015
LAN-DA-25 Iss. A	Landscape Planting Palette	13/03/2015

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.

(3) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT

The terms of the planning agreement (as may be amended) entered into in accordance with Deferred Commencement Condition 1 are to be complied with.

(4) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) Apartment 2.3.20 must include access to natural light and ventilation in the north-west bedroom
- (b) Individual letterboxes are to be incorporated within the design of the front wall/fence for the terrace units fronting Wentworth Street.

Details of the requested modifications are to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

(5) MATERIALS AND SAMPLES

- (a) The vertical metal balustrade detail to be used on Level 3 of Tower B is to be submitted for the approval of the Area Planning Manager prior to the issue of a Construction Certificate.

Note: consideration is to be given in the detailing to the use of a steel fin design to provide a degree of privacy for and screening of the balcony areas from the surrounding Public Domain.

- (b) The following material samples have been reviewed and are approved. Any modifications to these approved materials are to be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued:
 - (i) Namoi Valley Architectural Range dry pressed bricks to all face brick areas. Colours: Silver Grey, Light Cream, Medium Cream.
 - (ii) Innwood composite timber cladding system to internal balcony linings. Colours: American Walnut, Teak, Western Red Cedar.
- (c) A materials sample board detailing all proposed external finishes (including but not limited to: painted brickwork, aluminium glazing, aluminium louvers, balustrades, painted concrete, roller shutters, awnings, panel cladding system, roof surfacing) must be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued.
- (d) The glazing used for:
 - (i) All balustrades on the northern aspects of Buildings A, B, C and D, from Levels 6 and above, must have a maximum normal specular reflectance of visible light of 8%.

- (ii) All other areas on the external façade of the development should have a maximum normal specular reflectance of visible light of 20%

as per the recommendation provided in the Solar Light Reflectivity Analysis by Windtech, 7 July 2014 (WB972-01F03(Rev0)).

(6) APPROVED DESIGN ROOF - TOP PLANT

All roof-top plant and associated equipment must be located within the approved building envelope. Should the plant exceed the approved building envelope, then further approval is required from Council.

Details of screening to all roof-top plant, including external colours and finishes are to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

(7) APPROVED DESIGN OF BASEMENT VEHICLE CROSSOVER ON COWPER STREET

In respect of the heritage listed Tree 12 – *Flindersia australis* – Crow's Ash, the recommendations presented in the Addendum Report by 'Redgum Horticultural' dated 3 March 2015, must be adopted in the design of the vehicle crossover from Cowper Street. The detailed design of the vehicle crossover (taking into account the requirements for flexibility in the pier locations) must be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued

(8) 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.

(9) GROSS FLOOR AREA

The following applies:

- (a) The total Gross Floor Area of the development is 20,889m² as calculated in accordance with the definition contained within the Sydney Local Environmental Plan 2012.

- (b) Prior to a final 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 the Sydney Local Environmental Plan 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.

(10) BUILDING HEIGHT

- (a) The height of the building must not exceed the following presented on the Approved Plans:

	RL to the upper roof surface of the building	RL to the top of plant
Tower C	35.00	36.6
Tower P	25.70	29.50 (lift overrun)
Tower A	35.00	36.6
Tower B	35.00	36.6

- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifying Authority.

(11) FLOOD PLANNING DESIGN MODIFICATIONS

- (a) All basement openings (including the vehicle entrances and exits, ventilation ducts, windows, light wells, lift shaft openings, risers and stairwells) shall be protected from inundation by flood waters up to the Probable Maximum Flood (PMF) level as identified by the Blackwattle Bay Flood Study commissioned by the City of Sydney.
- (i) It is preferred that this is achieved by setting all basement openings at the PMF level in accordance with the Interim Floodplain Management Policy.
 - (ii) Where this cannot be achieved the stairs to the basement should rise to the PMF level before entering the basement and, flood gates shall be used to provide PMF protection for other basement openings where the approved plans indicate a level less than the PMF.
 - (iii) Where the stairs to the basement cannot be set to the PMF level, flood gates shall be used to provide protection for all basement openings up to the PMF level where the approved plans indicate a level less than the PMF.
- (b) Where flood gates are used, the following shall apply
- (i) Flood gates shall be mechanically activated and installed in a manner that ensures activation is achieved in circumstances where electrical power to the site is not available.

- (ii) A suitable automated system shall be installed to ensure that flood gates are activated upon commencement of basement flooding.
 - (iii) Suitable warning systems, signage and exits shall be provided to ensure the safe egress of persons from the basement during activation of the flood gates.
 - (iv) Prior to the issue of any Occupation Certificate, a Positive Covenant must be registered on the title for all systems involving the flood gates to ensure operation and maintenance of the system.
- (c) The modifications are to be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued.

(12) PUBLIC ART

- (a) The Public Art Strategy is not approved. Further consideration is to be given to:
- (i) the range of opportunities, sites and approaches.
 - (ii) the scale and cost of the proposed public art work commensurate with the scale and cost of the development.
 - (iii) The art work responding to the spatial opportunities offered by the site – visibility from Wentworth Park, the natural slope of the site, the framing of public space by the adjoining buildings.

Please contact the City's Public Art Programme Manager to discuss.

- (b) Final details of the approved public art work must be submitted to and approved by Council's Area Planning Manager prior to issue of a Construction Certificate. The public artwork must be in accordance with the *Sydney DCP 2012* and the *Public Art Policy*. Installation of the art work must be completed to Council's satisfaction prior to the issue of an Occupation Certificate.

(13) 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.

(14) 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.

(15) 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.

(16) ALLOCATION OF PARKING

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

Car Parking Type	Stage 1	Stage 2	Total
Residential spaces	27	65	91
Accessible residential spaces	10	22	32
Maximum Subtotal			123
Residential visitor spaces	8	5	14
Accessible residential visitor spaces	1	0	1
Office and business parking	6	4	10
Accessible office and business parking	-	1	1
Retail parking	-	5	5
Subtotal			156
Car share spaces (minimum)	-	2	2
Service vehicle spaces	-	6	6
Total			162

Motorcycle parks	7	7	14
Medium Rigid Vehicle loading dock(s)	-	1	1

- (b) Notwithstanding the car parking numbers specified in (a), where reconfiguration of the car parking can be achieved, the following maximum car parking numbers may be provided:

Car Parking Type	Stage 1	Stage 2	Total
Residential visitor spaces	-	15	15
Office and business parking	21	-	21
Retail parking	-	15	15

(17) CAR SHARE SPACES

- (a) A minimum of 2 car parking spaces for the exclusive use of car share scheme vehicles are to be provided. A revised basement plan showing these spaces must be submitted to and approved by Council's Area Planning Manager prior to the Construction Certificate being issued.
- (b) The spaces must be retained as common property of the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time.

- (c) The spaces must be made available to car share operators without a fee or charge.
- (d) The spaces must be sign posted for use only by car share vehicles and well lit.
- (e) The spaces must be publicly accessible at all times.
- (f) The car share spaces are to be available at the same time that the car park commences operation.

(18) VEHICLE CIRCULATION IN BASEMENT 1

Basement Level 1 is to be signposted, marked and configured to ensure all vehicles flow in a one-way (clockwise) direction. Appropriate and clear signage and road markings are to be implemented.

(19) CONVEX MIRRORS

Convex mirrors are to be provided to improve visibility for vehicles on ramps and/or vehicles approaching the ramps.

(20) 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.

Bicycle Parking Type	Number	Requirements
Residential	207	Spaces must be a Class 1 or Class 2 bicycle facilities
Employee	30	Spaces must be Class 2 bicycle facilities
All visitors	20	Spaces must be Class 3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	3	
Personal lockers	30	

Notes:

- (i) If a basement storage area on title that is large enough to store a bike and is no smaller than a class 1 bike locker this can be counted as a space.
- (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 Principle Certifying Authority confirming prior to the Construction Certificate being issued.

(21) LOADING DOCK SCHEDULE/REGISTER

The on-site medium rigid vehicle loading dock is also to be available for all residents for use by removal vehicles, bulky good deliveries and similar. This shall be managed either by a schedule showing residents when they can use the dock, or by a register managed on site to allow residents to reserve a time period for their deliveries. This information is to be made available to all residents.

(22) GREEN TRAVEL PLAN

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

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

(23) ASSOCIATED ROADWAY COSTS

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Sydney Streets Technical Specification" including amendments and "Sydney Streets Design Code".

(24) 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.

(25) 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.

(26) 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*.

(27) ON SITE LOADING AREAS AND OPERATION – STAGE 2

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.

(28) 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.

(29) 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.

(30) 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.

(31) 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.

(32) 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.

(33) SECTION 94 WESTERN PRECINCT CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2006

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

STAGE ONE

<u>Contribution Category</u>	<u>Amount</u>
Community Facilities	\$84,566.94
Public Domain	\$163,053.54
New Open Space	\$1,338,614.13
Accessibility	\$13,382.83
Management	\$14,469.93
Total	\$1,614,087.36

STAGE TWO

<u>Contribution Category</u>	<u>Amount</u>
Community Facilities	\$92,651.17
Public Domain	\$178,640.75
New Open Space	\$1,466,579.80
Accessibility	\$14,662.17
Management	\$15,853.19
Total	\$1,768,387.07

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

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 the first Construction Certificate for the relevant Stage. 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 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.

(34) RESTRICTION ON RESIDENTIAL DEVELOPMENT

The following restriction applies to buildings approved for residential use:

- (a) All apartments and terraces within the development must be used as permanent residential accommodation only and not for the purpose of a hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with the Sydney Local Environmental Plan 2012.
- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those apartments and terraces from "residential accommodation" as defined in Sydney Local Environmental Plan 2012. The covenant is to be registered on title prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.
- (c) No more than two adult people shall occupy any bedroom and no bedroom shall contain more than two beds. This excludes children and children's beds, cots or bassinets.
- (d) The total number of adults residing in one unit shall not exceed twice the number of approved bedrooms.

- (e) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (f) The advertising, organising or use of the apartments or terraces for “tourist and visitor accommodation” as defined in Sydney Local Environmental Plan 2012 is not permitted.

(35) RESTRICTION ON USE OF CAR SPACES – RESIDENTIAL 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.

(36) USE - SEPARATE DA REQUIRED

A separate development application for the fit out and use of all Commercial and Retail areas must be submitted to and approved by Council prior to that fit out or use commencing.

(37) ADDITIONAL REPORTING REQUIRED – BASELINE ENVIRONMENTAL NOISE LEVELS

Prior to the satisfaction of the COMPLIANCE WITH THE ACOUSTIC REPORT Condition and issue of the construction certificate by the PCA, the applicant is to engage a suitably qualified acoustic consultant* to undertake the following work and provide a written report to the written satisfaction of the Area Planning Manager, City Of Sydney Council in accordance with the following:

- (a) Short term attended environmental noise measurements are to be undertaken by the consultant and reported on the to the written satisfaction of Council’s Area Planning Manager,
- (b) The measurements are to encapsulate 1/1 octave band L90 spectra between the Octave Band Centre Frequencies of 31.5Hz to 8 kHz inclusive.

- (c) The attended measurements are to be conducted and reported on in accordance with the methodologies and prescribed limitations of both the NSW EPA *Industrial Noise Policy* and the Australian Standard *AS1055-1997 – Measurement and description of environmental noise*.
- (d) 1/1 octave band spectra will be suitable for use in determining environmental noise planning performance requirements in accordance with the Noise – Entertainment and Noise – General conditions.
- (e) Adequate 1/1 octave band L90 spectra will be ascertained that are representative of both the Rating Background Levels and noise sensitive locations which occur in areas surrounding the 87 Bay Street location, and are also representative of the assessment time frames within the above referenced noise conditions and the day, evening and night periods as prescribed by the *Industrial Noise Policy*.

***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.

(38) COMPLIANCE WITH THE ACOUSTIC REPORT

- (a) All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report prepared by Woods & Grieve Engineers, dated 16 September 2014, referenced; *Project Number: 26543-SYD-N* (Our Ref: 2014/446628) 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) *Section 4.4 of The Report* and the *Additional Reporting Required – Environmental Baseline Noise Levels Condition* - In certifying the design drawings and specifications prior to construction certificate (and verification of emissions prior to the occupation certificate), environmental noise planning performance parameters are to be developed in accordance with the Noise – Entertainment and Noise – General conditions on the basis of environmental baseline noise levels presented in both:

- a. Section 4.4 – Table 6 of The Report, and,
 - b. 1/1 octave band RBL90 spectral data determined to the written satisfaction of the , City Of Sydney's Area Planning Manager.
- (ii) *Section 4.5 of The Report* – Applicable internal noise criteria will be to the consultant's satisfaction and not exceed those levels given in *Table 7* of the report nor the requirements of *Section 4.2.3.11 – Amenity* of the City's Development Control Policy, 2012.
- (iii) *Section 5.1 of The Report* – In agreement with the PCA, all building mechanical services will be to the satisfaction of the Acoustic Consultant.
- (iv) *Section 5.3 of The Report*:
- a. In agreement with the PCA, all building façade construction elements will be to the satisfaction of the acoustic consultant.
 - b. The consultant is to undertake the following work to the satisfaction of the PCA:
 - i. Provide a brief report detailing Rw requirements for all façade construction elements of the building facades and,
 - ii. Detail, in association with the PCA, acceptable construction elements and methodologies that will meet these requirements for the building to be contracted to.
- (v) *Noise – General* Condition and noise from the Residential and Commercial Uses:
- a. Environmental baseline noise levels approved by Council's Area Planning Manager in accordance with the ADDITIONAL REPORTING REQUIRED – BASELINE ENVIRONMENTAL NOISE LEVELS condition, 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".
 - b. Furthermore, the consultant is to prepare a summary report of how the development will be certified (and verified prior to occupation certificate) to comply with the NOISE – GENERAL condition 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 the NOISE – GENERAL condition excluding those related to entertainment noise.

- c. The report must identify all noise emissions sources including mechanical plant, air conditioning, commercial noise, loading bay noise and any other applicable noise source and determine 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 the NOISE – GENERAL condition. Requirements given in this report will form part of this consent.
- d. All non-residential uses associated with the premise, are required to comply with the NOISE – GENERAL condition and must not, either individually or cumulatively cause the NOISE _ GENERAL condition to be exceeded.

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

- (vi) Noise – Entertainment Condition and Entertainment Noise from Non-Residential uses:
 - a. Environment baseline noise levels approved by the Council's Area Planning Manager, in accordance with 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 non-residential uses associated with the development. This is to be such that the cumulative entertainment noise emissions criteria from the development will be controlled to comply with the NOISE – ENTERTAINMENT Condition.
 - b. The consultant is to determine and define the maximum allowable Entertainment Noise Emissions which may cumulatively emerge from the non-residential uses associated with the premise such that the collective noise emissions will not exceed the NOISE – ENTERTAINMENT condition at any internal or external noise sensitive receiver. This is to be reported on and submitted to for the written approval of The City's Area Planning Manager.
 - c. Any noise limits and construction noise performance requirements that are defined in accordance with the above report for individual non-residential tenancies will constitute noise limits imposed by this consent.
- (iv) Sound Isolation Ratings of floors separating a residential use are to achieve a minimum performance specification of $L_{n,w} + C_I \leq 55$ where they separate habitable rooms of residential premises or any superior performance requirement deemed appropriate by the consultant in agreement with the PCA. 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.

(39) 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 $L_{A90, 15 \text{ minute}}$ 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 $L_{A90, 15 \text{ minute}}$ noise level shall both be measured with all external doors and windows of the affected residence closed.

- (iii) The relevant background noise level ($L_{A90, 15 \text{ minute}}$) 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.

(40) 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 $L_{A10, 15 \text{ minute}}$ (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.

(41) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

A site specific Demolition, Excavation & Construction Noise & 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 & 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 & Construction Noise & 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.
- (j) Vibration impact will be appraised and controls given such that works will comply with the lesser of:
 - (i) *Sections 4.8 and 4.9 of the Report as defined in the COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION AND OCCUPATION CERTIFICATES condition, or*
 - (ii) The DIN 4150 standard limits to control and prevent cosmetic damage to any building in the vicinity of the works. Buildings are to be appraised in accordance with the standard.

(42) COMPLIANCE WITH DEMOLITION, EXCAVATION & 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 & 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 Construction Hours/Noise Code 1992 and are giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building unit. Approval to vary the authorised noise and vibration levels must be sought from, and then approved by, Council's Area Planning Manager prior to activities being undertaken that exceed sanctioned emission levels.

- (c) Such periods must be set and agreed to by Council's Health and Building Unit and will be set on a temporary basis with terms and conditions 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.

(43) 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) Specific 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 the above code, how it will be managed to the lowest reasonable and feasible levels;
- (e) Indicate a timeframe for completion the associated task;
- (f) Such periods must be set and agreed to by Council's Health and Building Unit and will be set on a temporary basis with terms and conditions 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.

(44) 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.

(45) 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) The NPOM is to be submitted for the written approval of the Area Planning Manager – South. Any terms given in writing will form part of this consent.
- (c) 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 the whole of the residential associated, communal outdoor recreational spaces and reflect methodologies to keep the good order and amenity of the neighbourhood.
- (d) 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.
- (e) The plan must be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued.

(46) 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 the NOISE – ENTERTAINMENT condition 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.

(47) SIGNS - SEPARATE DA REQUIRED

A separate development application for any proposed signs (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.

SCHEDULE 1B

Prior to Construction Certification/Commencement of Work/Health and Building

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

(48) ASBESTOS REMOVAL WORKS

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with WorkCover NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal Licence which ever applies.
- (b) Five days prior to the commencement of licensed asbestos removal, Workcover must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.
- (c) All works must be carried out in accordance with the *Work Health and Safety Regulation 2011* and the NSW Government and WorkCover document entitled *How to manage and control asbestos in the work place: Code of Practice (NSW WorkCover)* and the *City of Sydney Managing Asbestos Policy*.
- (d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal work area should be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.
- (e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs should be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs should be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs should be in accordance with AS 1319-1994 Safety signs for the occupational environment for size, illumination, location and maintenance.
- (f) Asbestos to be disposed of must only be transported to waste facilities licensed to accept asbestos. The names and location of these facilities are listed in Appendix F of the City of Sydney's Managing Asbestos Guidelines.
- (g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).
- (h) No asbestos laden skips or bins are to be left in any public place without the approval of Council.
- (i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

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

(49) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

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

(50) STRUCTURAL CERTIFICATION FOR DESIGN – BCA (ALL BUILDING CLASSES)

Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to class 2-9 building) and Cause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of the Certifying Authority (Council or a private accredited certifier). A copy of the certificate must be submitted to Council if Council is not the CA.

(51) CERTIFICATION OF GEOTECHNICAL INSPECTION

Prior to the issue of a Construction Certificate, a **Geotechnical Inspection Certificate** in accordance with Clause A2.2(a)(iii) of the Building Code of Australia prepared by an appropriately qualified person must be submitted to the satisfaction of the Certifying Authority and a copy submitted to Council.

(52) GEOTECHNICAL REPORT AND CERTIFICATION

Prior to commencement of any foundation or bulk excavation, a Geotechnical Report must be submitted to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy submitted to Council (if it is not the Principal Certifying Authority).

(53) EXCAVATION VIBRATIONS

Vibration must be monitored during excavation. The threshold for Peak Particle Velocity must be set so as not to exceed 12mm/sec, as per the recommendations contained in the letter issued by D. Katauskas Consulting Geotechnical Engineer, 7 July 2014.

(54) BCA - NEW BUILDINGS WORKS - CLASS 2-9 BUILDINGS

- (a) Pursuant to Clause 98 of the Environmental Planning and Assessment Regulation 2000, the proposed building work must comply with the Building Code of Australia (BCA) including:

- (b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (1) above cannot be achieved, an alternate solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.
- (c) Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 96 of the Act to be lodged with Council to amend the development approved in this consent.

Note: The provisions of Clause 94 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of the proposed development.

(55) ANNUAL FIRE SAFETY STATEMENT FORM

An **annual Fire Safety Statement** must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued.

(56) FIRE SAFETY CERTIFICATE TO BE SUBMITTED

A Fire Safety Certificate must be submitted to the Principal Certifying Authority for all of the items listed in the Fire Safety Schedule prior to an Occupation Certificate being issued.

(57) PHYSICAL MODELS

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

(58) SUBMISSION OF ELECTRONIC CAD MODELS 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.

(59) 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).

(60) ROAD OPENING PERMIT

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

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

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

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

(62) DISCHARGE OF CONTAMINATED GROUNDWATER

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.

(63) 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.

(64) COMPLIANCE WITH ACID SULFATE SOILS MANAGEMENT PLAN

All recommendations contained in the Acid Sulfate Soils Management Plan prepared by, DLA Environmental, July 2014, Revision 1, must be implemented.

(65) ENVIRONMENTAL MANAGEMENT PLAN

Prior to the commencement of any demolition and remedial works an Environmental Management Plan (EMP) must be prepared for the site and submitted to the City's Area Planning Manager for written approval prior to the commencement of work. The EMP must consider all potential environmental impacts from the approved works including but not limited to sedimentation control, contamination containment, stockpiles, noise and vibration, odours and dust emissions.

All works must be undertaken onsite in accordance with the approved Environmental Management Plan.

(66) 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.

(67) NOTIFICATION – NEW CONTAMINATION EVIDENCE

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

(68) 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

(69) 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.

(70) 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.

(71) MICROBIAL CONTROL IN WATER SYSTEMS

- (a) Prior to the issue of a Construction Certificate detailed plans of any water cooling system (including cooling towers) as defined under the *Public Health Act 2010* must be prepared by a suitably qualified person and certified in accordance with AS3666: 1: 2011 Air handling and water systems of buildings – Microbial Control – Design, installation and commissioning and must be submitted to and approved by Council.
- (b) Water cooling system operation and maintenance manuals and maintenance service records shall be readily available at the premises for inspection by an authorised officer upon request. Such records must be kept on the premises in accordance with Clause 2.6 to AS/NZS 3666:2:2011 Air handling and water systems of buildings – Microbial control, operation and maintenance.
- (c) The installation, operation and maintenance of warm water systems and water cooling systems (as defined under the *Public Health Act 2010*) must comply with the following:
 - (i) *Public Health Act 2010*, Public Health Regulation 2012 and Parts 1 and 2 (or part 3 if a Performance-based water cooling system) of AS3666:2011 Air handling and water systems of buildings – Microbial Control and the NSW Health Code of Practice for the Control of Legionnaires Disease.

- (ii) Prior to the issue of an Occupation Certificate or if non applicable, prior to commencement of the use, the owner or occupier of the premises at which any warm water system and/or water cooling system is installed must cause notice of such installation(s) by providing to Council's Environmental Health department, written notification by way of the prescribed form under Clause 12 to the Public Health Regulation 2012. Any changes to these particulars must be notified to Council's Environmental Health department in writing within 7 days of the change(s). Copies of the notification forms are available on the City of Sydney website.

(72) 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.

(73) 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.

(74) 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.

(75) LAND REMEDIATION

The site is to be remediated and validated in accordance with the Remedial Action Plan approved by the Site Auditor and the Council prior to the consent becoming operative. 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, the Site Auditor and the Principal Certifying Authority.

Any variations to the approved Remediation Action Plan shall be approved in writing by the NSW EPA Accredited Site Auditor and Council's Area Planning Manager prior to the commencement of such work.

(76) SECTION A SITE AUDIT STATEMENT

Prior to the execution of works associated with the built form of the development (excluding building work directly related to remediation) a Part A Site Audit Statement (SAS) is to be obtained from a NSW EPA Accredited Site Auditor is to be submitted to the 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.

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.

An Occupation Certificate must not be issued by the PCA unless a Site Audit Statement has been submitted to and approved by the City in accordance with this condition.

(77) SITE AUDIT STATEMENT – ENVIRONMENTAL MANAGEMENT PLAN

Where the ongoing land use suitability and release of the Final (Section A) Site Audit Statement (SAS) is dependent upon the implementation of an Environmental Management Plan (EMP) in relation to any residual contamination remaining onsite this must be submitted to and approved by the Site Auditor and the City's Area Planning Manager prior to the issue of the SAS.

A covenant shall be registered on the title of the land binding the owners and future owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the encapsulated/remaining contaminated materials, including the discharge or prevention of discharge there from of any contaminants or for any works subsequently required by the NSW Environment Protection Authority

A copy of the revised land title highlighting the covenant must be submitted to the City's Area Planning Manager and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

(78) COMPLIANCE WITH APPROVED ENVIRONMENTAL MANAGEMENT PLAN

Any future intrusive ground works carried out that have the potential to conflict with any residual contamination remaining onsite must only be carried out in accordance with the Environmental Management Plan as referenced by the Site Auditor on the final Site Audit Statement and approved by the Council.

(79) RAINWATER HARVESTING & RAINWATER TANKS**(a) Use**

- (i) Rainwater is only to be collected from roof catchments and its use is restricted to toilet flushing, washing cars, garden use and for washing machines only.

(b) Installation requirements

- (i) All plumbing work is to be carried out by a licenced plumber and must be carried out in accordance with AS/NZS 3500:2003. A permit in accordance with the NSW Code of Practice - Plumbing and Drainage 2006 (as amended) is to be obtained from Sydney Water for the work to be carried out.
- (ii) Rainwater tanks shall be designed to include, but not be limited to the following:
- (iii) Rainwater tanks shall be fixed to structurally adequate bases or walls in accordance with manufactures specifications or engineers details.
- (iv) Shall not be fixed to, or otherwise supported by a bounding common fence, wall or the like, without prior approval be adjacent land owners.
- (v) All roof gutter downpipes must be fitted with a first flush device in accordance with the manufacturer's recommendations.
- (vi) Openings being suitably sealed to prevent access by children and being fitted with a fine mesh screens in order to prevent penetration of contaminants and insects such as mosquitoes.
- (vii) All gutters, downpipes and associated supply pipe work must be free draining to prevent ponding of rainwater and made of suitable non corrodible materials.
- (viii) Shall have an overflow device being fitted to the rainwater tank which directs water into an existing stormwater drainage system, and shall have a suitable drainage plug/tap fitted and positioned in a manner that facilitates flushing and cleaning.

- (ix) The water supply system from a rainwater tank shall be clearly marked at intervals not exceeding 500 mm with the word 'RAINWATER' in contrasting colour, in accordance with AS 1345. Water outlets shall be identified as 'RAINWATER', or with a rainwater tap identified by a green coloured indicator with the letters 'RW'.
 - (x) A suitable back up water supply using potable water must be provided to ensure that essential services such as toilet flushing are not contradicted where there is inadequate rainfall to meet demand or the rainwater harvesting system fails.
 - (xi) Rainwater tanks that are not directly connected with the potable supply, the indirect connection shall be by means of a visible "air gap" external to the rainwater tank, in accordance with the provisions of the National Plumbing Code AS /NZS 3500 - Minimum air gap requirements.
 - (xii) Where a rainwater tank is to be directly cross connected with the Sydney Water supply, an appropriate testable device shall be provided at the meter location on the potable water supply to prevent backflow of rainwater.. This device must meet the requirements of Sydney Water.
 - (xiii) Water pumps are to be located so as not causing an "offensive noise" as defined by the Protection of the Environment Operations Act 1997 to any affected receiver.
- (c) Proximity to other services
- That all rainwater pipes must be separated from any parallel drinking water service. Above ground pipes must be 100mm away and below ground 300mm away from any drinking water pipe
- (d) Marking and labelling
- (i) Above ground distribution pipes shall be continuously marked 'RAINWATER' in accordance with AS1345. Alternatively, adhesive pipe markers clearly labelled 'RAINWATER' made in accordance with AS 1345 can be used.
 - (ii) Below ground distribution pipes shall be continuously marked 'RAINWATER' at intervals not exceeding 500mm in accordance with AS1345. Alternatively, identification tape/pipe sleeve continuously marked 'RAINWATER' made in accordance with AS 2648 can be used.
 - (iii) All rainwater tank outlets, taps, valves and tank apertures shall be identified as 'RAINWATER' with a sign complying with AS1319 or a green coloured indicator with the letters 'RW'. Alternatively a permanent sign at the front of the premises and visible to all visitors may be displayed advertising rainwater use.

(e) Maintenance

- (i) All rainwater tanks installed are to be maintained by the owner in accordance with these provisions, the NSW Health Department Circular no 2002/1 "Use of rainwater tanks where a reticulated potable supply is available" and any other local water utility requirements.
- (ii) The rainwater collection system shall be constantly maintained in accordance to the manufacturer's instructions and in line with any approved maintenance plan so as to prevent risk of pathogenic microbial contamination including legionella and organisms.

(80) LANDSCAPING OF THE SITE

- (a) In accordance with the approved landscaping plans, the following information, 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:
 - (i) Details of planting procedure and maintenance;
 - (ii) Details of drainage, waterproofing and watering systems.
- (b) Prior to the issue of a Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property.
- (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued..

(81) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

- (a) The Construction Traffic Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Construction Traffic Management Plan must be submitted to and approved by Council prior to a Construction Certificate being issued.

(82) 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 both building and site frontages of both stages 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.

(83) PAVING MATERIALS

The surface of any material used or proposed to be used for the paving of colonnades, thoroughfares, plazas, arcades and the like which are used by the public must comply with AS/NZS 4586:2004 (including amendments) "Slip resistance classification of new pedestrian surface materials".

(84) 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.

(85) 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).

(86) 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*.

(87) PUBLIC DOMAIN PLAN

- (a) A detailed Public Domain Plan covering the frontages of both stages 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*.
 - (i) All works to the frontage of the Stage 1 site must be completed before an Occupation Certificate is issued in respect of the Stage 1 development site or before the use commences within the Stage 1 development site, whichever is earlier.
 - (ii) All works to the frontage of the Stage 2 site must be completed before an Occupation Certificate is issued in respect of the Stage 2 development site or before the use commences within the Stage 2 development site, 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. A separate guarantee can be lodged for each of the stages of construction.

- (f) The Bank Guarantee will be retained in full until all Public Domain works are completed for each stage 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 for each stage. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

(88) 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.

(89) 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.

(90) 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).

(91) 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.

(92) 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.

(93) 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.

(94) PROTECTION OF STONE KERBS

- (a) The existing stone kerbs on the frontages of the site are to be retained and properly protected during excavation and construction works.

- (b) To avoid damage to stone kerbs during excavation and construction works for the development, temporary removal and storage of the stone kerbs may be approved by Council. Removed, serviceable stone kerbs (i.e. those that are in good condition as agreed by Council officers) must be re-installed in accordance with the City of Sydney's standard details and specifications after the construction works have been completed. Note: A temporary concrete kerb will need to be constructed to retain the footpath until the stone kerbs can be reinstalled. The removed stone kerbs are to be reinstalled prior to the issue of an Occupation Certificate. Note: all costs associated with the works are to be at no cost to the Council.
- (c) Damaged kerbs are to be replaced to match existing to Council's satisfaction or as otherwise advised by Council officers.
- (d) Where new crossings or temporary crossings are to be constructed to access the property, the affected kerb stones should be salvaged and reused wherever possible.
- (e) All new driveway laybacks and kerbs are to be constructed with stone kerbs to match existing stones or as specified by City officers. All unused stone kerbs are to be salvaged and returned to the City's store.
- (f) Council approval is required before kerbs are removed.
- (g) Council approval is required prior to the cutting of existing stone kerbs for stormwater kerb outlets.

(95) 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.

(96) 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.

(97) 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.

(98) RIGHT OF PUBLIC ACCESS

- (a) Prior to the issue of an Occupation Certificate for the development, a documentary Right of Public Access, limited in stratum if so desired, is to be created and registered on the Title of the consolidated development site. The Easement is to be defined over a north-south strip of land, nominally 10m in width, extending from the southern alignment of Wentworth Park Road and extending to the northern alignment of Wentworth Street, generally in the centre of the site and as shown on approved plans numbered DA 103, Revision B. The Easement is to be created appurtenant to Council in terms granting unrestricted rights for public pedestrian access, without vehicles, exclusive of wheelchairs for the disabled, to Council's satisfaction,
- (b) Prior to the issue of an Occupation Certificate for the development, a documentary Positive Covenant is to be created and registered on the Title of the consolidated development site, appurtenant to Council. The Positive Covenant is to be created in terms indemnifying Council against any claims and damages arising from the use of the Right of Public Access, and is to require the maintenance of a \$20,000,000 public indemnity insurance policy and is to require the maintenance, upkeep, repair and lighting of the Right of Public Access in accordance with Council's requirements and to the satisfaction of Council.

(99) LAND SUBDIVISION

Any proposal to subdivide the site, including any stratum subdivision of the building(s), will require a separate application to Council to obtain development consent for the proposal and subsequent issue of the Subdivision Certificate under Section 109J of the Environmental Planning and Assessment Act 1979.

(100) STRATA SUBDIVISION

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

(101) PROJECTIONS OVER PUBLIC ROAD

The proposed Juliet balconies attached to the building, shown as overhanging the footways of Wentworth Street and Cowper Street, must not overhang the alignments of those streets by more than 0.45m, and shall comply with the provisions of Schedule 4 ("Projections over or into public roads") of the Sydney Development Control Plan 2012.

(102) TREES APPROVED FOR REMOVAL

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

Tree No:	Botanical Name / Common Name
7	Elaeocarpus reticulatus (Blueberry Ash)

- (c) Reference should be made to the Arboricultural Impact Assessment Report prepared by 'Redgum Horticultural' dated 26 April 2014 for tree numbering and locations.

(103) TREES THAT MUST BE RETAINED

- (a) With the exception of Tree No.7 all existing street trees must be retained and protected throughout the proposed development.
- (b) Reference should be made to the Arboricultural Impact Assessment Report prepared by 'Redgum Horticultural' dated 26 April 2014 for tree numbering and locations.

(104) COMPLIANCE WITH ARBORIST'S REPORT

- (a) All recommendations contained in the Arboricultural Impact Assessment Report prepared by 'Redgum Horticultural' dated 26 April 2014, must be implemented during the demolition, construction and use of the development.

- (b) In respect of the heritage listed Tree 12 – *Flindersia australis* – Crow's Ash, the recommendations presented in the Addendum Report by 'Redgum Horticultural' dated 3 March 2015, must be implemented during the demolition, construction and use of the development.

(105) SITE SUPERVISION AND REPORTING

- (a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone in accordance with Australian Standard 4970 Protection of Trees on Development Sites. The Arborist must certify compliance with each key milestone detailed below:
 - (i) The Arborist must certify the installation of the tree protection measures to Council and the Principal Certifying Authority prior to the issuing of a construction certificate;
 - (ii) During any excavation and trenching within the Tree Protection Zone.
 - (iii) During any Landscape works within 5 metres of the trunk of any tree listed for retention.
- (b) A quarterly Arboricultural compliance report shall be submitted to Council which provides details on the health and structure of tree to be retained and protected and must include:
 - (i) Certification of compliance with each key milestone
 - (ii) Details of any other works undertaken on any tree to be retained or within TPZ/s
 - (iii) Documentary evidence of compliance with tree protection and measures (including photographs and site notes).

(106) STREET TREE PLANTING AND MAINTENANCE

- (a) A Landscape Plan indicating the location of the street trees to be planted in association with the development must be submitted to and approved by Council prior to the issue of the Construction Certificate.
- (b) All new Street trees must be located and planted in accordance with the City's Street Tree Master Plan and must be planted:
 - (i) by a qualified Arborist or Horticulturist (AQF Level 3); and
 - (ii) before the issue of an Occupation Certificate.
- (c) The tree pits must be inspected by Council's Contract Coordinator – Street Trees, before and after planting.

- (d) All street trees planted in accordance with the approved Landscape Plan must be maintained by a qualified Horticulturist or Arborist (AQF Level 2 or 3) for a minimum period of twelve (12) months commencing on the planting date. Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning, fertilizing, pest and disease control and any other operations to maintain a healthy robust tree.
- (e) At the end of the twelve (12) month maintenance period, written approval must be obtained from Council before hand-over of any street tree to Council.
- (f) If a street tree has been replaced due to maintenance deficiencies during the twelve (12) month maintenance period, the twelve (12) month maintenance period will start again from the date that the street tree is replaced.

(107) STREET TREE PROTECTION

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

- (a) Tree trunk and major limb protection must be undertaken prior to the issuing of the Construction Certificate. The protection must be installed by a qualified Arborist (AFQ 2 or 3) and must include:
 - (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunk at all times;
 - (ii) Tree trunk/s and/or major branches must be protected by wrapped hessian or similar material to limit damage, and
 - (iii) Timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion,
 - (iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project.
- (b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.
 - (i) Materials or goods, including site sheds, must not be stored or placed:

- a. around or under the tree canopy; or
 - b. within two (2) metres of tree trunks or branches of any street trees.
- (c) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9333, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

(108) STREET TREE PRUNING

- (a) The consent from Council must be obtained prior to the undertaking of any street tree pruning works including tree roots greater than 40mm diameter. Only minor pruning works will be approved by Council.
- (b) Any pruning that is required to accommodate hoardings, scaffolding, or to accommodate the loading/unloading of vehicles, and has been approved by Council, must be carried out by a qualified Arborist (AQF3), and must be in accordance with AS4373 Australian Standards 'Pruning of Amenity Trees'.

(109) SERVICES

- (a) Any trenching works for services / hydraulics / drainage etc must not be undertaken within a Tree Protection Zone (TPZ), and be referred to the Site Arborist with regard to tree protection, prior to commencement of any works.
- (b) Alternative installation methods for services, such as directional boring/drilling, or redirection of services shall be employed where large woody roots greater than 40mm diameter are encountered during the installation of any services adjacent to the specified TPZ.

(110) ELECTRICITY SUBSTATION

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

(111) TELECOMMUNICATIONS PROVISIONS

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

- (b) A separate DA must be submitted prior to the installation of any external telecommunication apparatus, or the like.

(112) 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.

(113) GARBAGE ROOM

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

(114) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL

- (a) The Waste Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste Management Plan must be updated and 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.

(115) WASTE AND RECYCLING MANAGEMENT - MINOR

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

(116) WASTE/RECYCLING COLLECTION

The collection of waste and 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.

SCHEDULE 1C**During Construction/Prior to Occupation/Completion****(117) 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.

(118) BASIX

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

(119) HOURS OF WORK AND NOISE – OUTSIDE CBD

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

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

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

(120) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS

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

- (a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (b) The notice is to be durable and weatherproof and is to be displayed throughout the construction period;
- (c) A copy of the first page of the development approval, building approval (including any modifications to those approvals) and any civic works approvals is to be posted alongside the notice in weatherproof casing;
- (d) The approved hours of work, the Principal Certifying Authority including contact address and certification details, the name of the site manager, the responsible managing company, its address and 24 hour contact phone number for any enquiries, including construction/noise complaint, are to be displayed on the site notice;
- (e) The notice(s) is to be mounted at eye level on the perimeter hoardings and is also to state that unauthorised entry to the site is not permitted.

(121) NOTIFICATION OF EXCAVATION WORKS OR USE OF HIGH NOISE EMISSION APPLIANCES/PLANT

The immediately adjoining neighbours must be given a minimum of 48 hours notice that excavation, shoring or underpinning works or use of high noise emission appliances / plant are about to commence.

(122) DEDICATION OF ROAD WIDENING

The owner must dedicate for road purposes, free of cost to Council, a 1.5 metre widening along the site frontage to Wentworth Park Road, as contained in the Voluntary Planning Agreement for the site, on the understanding that the affected area can be used in the calculation of floor space for the building. The widening is to be detailed in a plan of subdivision/consolidation of the land. This plan is to be registered at the Land and Property Information office prior to an Occupation Certificate being issued.

(123) ENCROACHMENTS – NEIGHBOURING PROPERTIES

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

(124) ENCROACHMENTS – PUBLIC WAY

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

(125) SURVEY

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.

(126) 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.

(127) 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.

(128) HAZARDOUS AND INDUSTRIAL WASTE

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

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

(129) 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.

(130) 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.

(131) 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.

(132) 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.

(133) 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.

(134) 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.

(135) SYDNEY WATER CERTIFICATE

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

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

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

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

SCHEDULE 2

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

SCHEDULE 3**Terms of Approval****Integrated Development Approvals**

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

General

1. 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.
2. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be 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.
3. 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

4. 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.
5. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the 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.
6. A copy of a valid development consent for the project shall be provided in the report to the NSW Office of Water.

7. 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.
8. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (sometimes 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.
9. Contaminated groundwater (i.e. above appropriate *National Environmental Protection Measure 2013* [NEPM] 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

10. Engineering measures designed to transfer groundwater around the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
11. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
12. Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. 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.
13. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
14. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

15. The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.
16. Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety procedures.

Following excavation

17. 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 known as 87 Bay Street and is located approximately 1.5 kilometres south-west of the Sydney CBD, within the suburb of Glebe. The site comprises the entire block bounded by Wentworth Park Road, Bay Street, Wentworth Street and Cowper Street (see **Figure 1**).
2. The site is legally described as Lot 1 DP 874988 and comprises a total area of 5,427m².
3. The site is elongated in an east-west direction, with the northern boundary (109.56m) following the curvature of Wentworth Park Road which skirts around the southern edge of Wentworth Park. The site is approximately 50-55m deep from north-south. The site slopes from a highpoint (RL5.74) in the middle of the southern boundary on Wentworth Street down towards Wentworth Park Road, with a low point in the north-east corner (RL2.72).
4. Existing on site is a series of single and two-storey light industrial and commercial buildings of predominantly brick construction and of various design eras and styles. The buildings occupy the entire site, with no vegetation contained within the site. Vehicle access is provided off all road frontages.
5. The site is not a heritage item and is not located within Heritage Conservation Area.
6. The site is currently used by the Australasian College of Beauty, construction company the Parkview Group, a small cafe and a marketing office for the proposed development (refer to **Figures 2 – 7** below).



Figure 1: Aerial image of subject site (outlined in black) and surrounding area.



Figure 2: Site viewed from Wentworth Park.

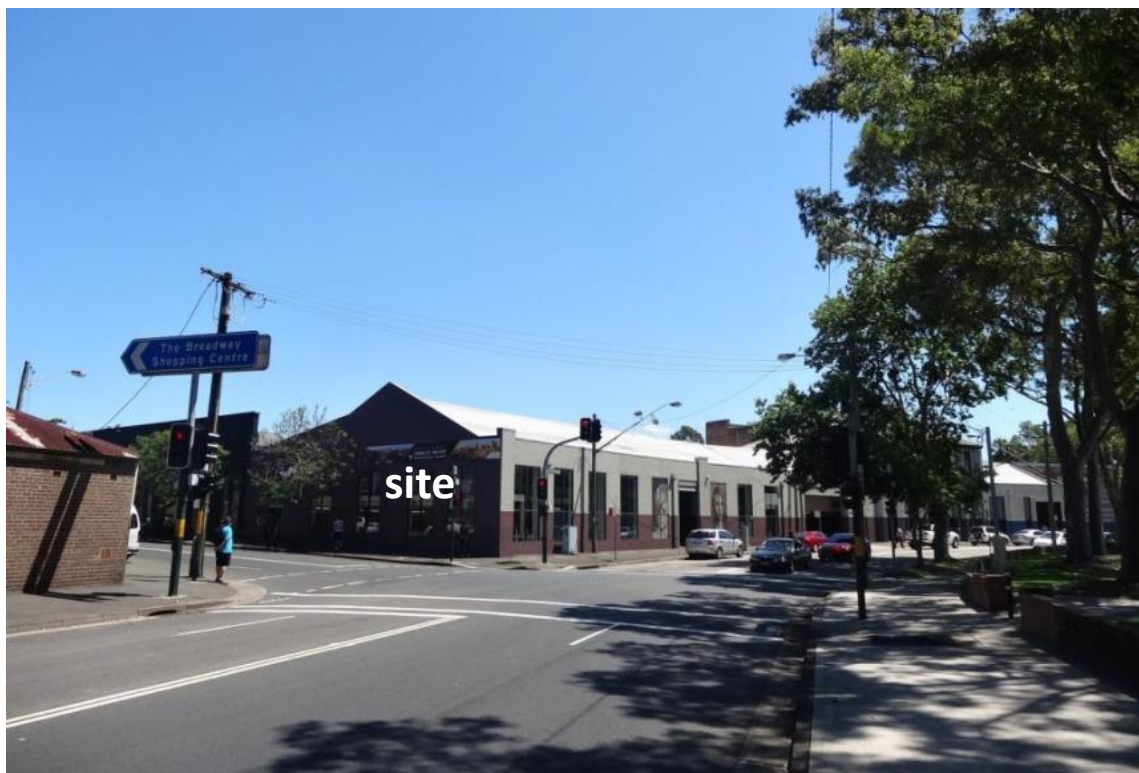


Figure 3: North-east corner of the site viewed from Wentworth Park Road looking across the intersection with Bay Street.



Figure 4: Curved northern elevation of the existing building to Wentworth Park Road.



Figure 5: North-west corner of the site viewed from the intersection of Wentworth Park Road and Cowper Street.



Figure 6: South-east corner of the site viewed from the intersection of Wentworth Street and Bay Street.



Figure 7: South-west corner of the site viewed from the intersection of Wentworth Street and Cowper Street.

Surrounding Development

7. The site is well serviced by community and recreational facilities (Wentworth Park, Ian Thorpe Aquatic Centre, Ultimo Community Centre & Library) and educational establishments (UTS, University of Sydney), as well as commercial amenities (cafes, restaurants and convenience stores). Given, these services, the area has been identified by the City of Sydney for significant residential development.

South

8. Immediately to the south of the site (across Wentworth Street) is the NSW Department of Land and Housing site, known as the 'Glebe Affordable Housing Project'. This site has a site-specific Local Environmental Plan and Development Control Plan and a stage one development approval (D/2013/412) approved 2 February 2014 by the Central Sydney Planning Committee (CSPC). D/2013/412 provides for 6 building envelopes between 2 and 9 storeys and a total of 495 dwellings (153 social, 95 affordable and 247 market dwellings), basement parking for 175 cars and public domain works including extension of Elger St, relocation of Stirling St and the creation of a park on Elger Street. This site has been cleared of all development as shown in Figure 1 above and **Figure 8** below.

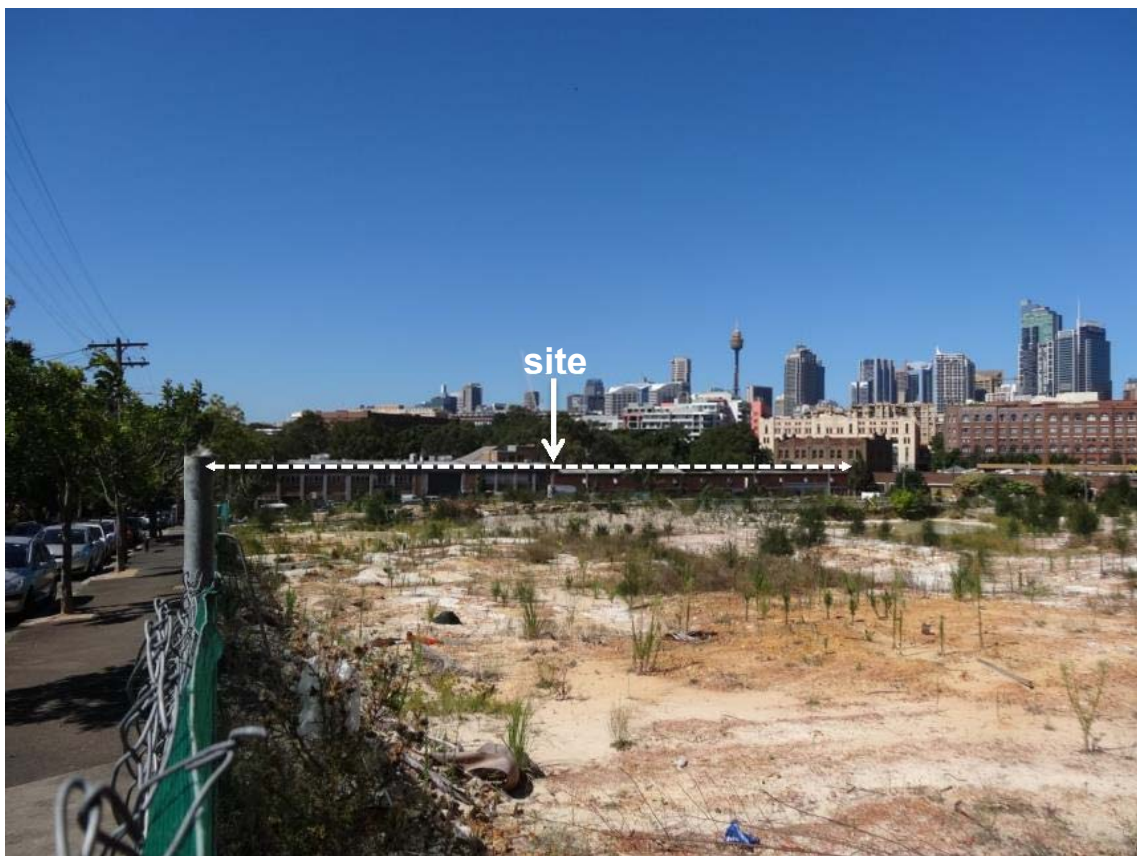


Figure 8: View from the eastern footway of Cowper Street looking north-west across the NSW Land and Housing Corporation site towards the existing buildings on the subject site (in the middle of the image) and the Sydney CBD in the distance.

East

9. To the east (across Bay Street) is the City of Sydney's Bay Street Depot, which contains a series of predominantly older brick warehouses and storage areas and is utilised by the City Operations Unit (**Figure 9**).



Figure 9: View from Bay Street of the City of Sydney City Operations Depot at 10-16 Bay Street.

West

10. To the west (across Cowper Street) is public housing owned by NSW Housing, and to the south-west private terrace houses along the western side of Cowper Street (**Figure 10**).



Figure 10: Terrace housing on Cowper Street to the south-west of the site.

North

11. To the north (across Wentworth Park Road) is the large public space of Wentworth Park. The park provides expansive areas for passive recreation, as well as centrally accommodating the Wentworth Park Greyhound track. Further north, the park is traversed by the Inner West Light Rail line.

Relevant History to this Site

12. A Planning Proposal was endorsed for the subject site in July 2013 which led to the re-zoning of the site from 'Industrial' to 'B4 Mixed Use'. It also resulted in a number site specific provisions which are detailed in Clause 6.23 and 6.24 of the Sydney Local Environmental Plan 2012 and section 6.3 of Sydney Development Control Plan 2012. The site specific controls provide FSR, building height, affordable housing, sustainable design, building envelope, setback and through site link provisions.

Design Excellence Competition, January-March 2014

13. A competitive design alternatives process was undertaken in accordance with the *City of Sydney Competitive Design Policy 2012*. Nettelton Tribe/Fox Johnson, Kannfinch/CHROFI, BVN Donovan Hill/Chen Chow Little, and Koichi Takada architects participated in the competition. A design excellence jury, Council representatives and client representatives met on 10 March 2014 to review the submitted architectural schemes. The jury unanimously selected the scheme by Kannfinch/CHROFI subject to design amendments. An amended scheme was submitted and on 24 March 2014 the jury adopted the scheme by Kannfinch/CHROFI (**Figure 11**).



Figure 11: Adopted Competitive Design Alternatives Process photomontage

Voluntary Planning Agreement

14. On 6 December 2013 a voluntary planning agreement (VPA) was entered into with the City of Sydney Council and the owners of the subject site at the time, MT Management Pty Ltd.
15. The VPA set out developer contributions envisaged to be provided as part of the Stage 2 development application. The VPA secured the following undertakings:
- (a) Creation of an affordable housing lot and creation of the affordable housing prior to the issue of the first Occupation Certificate.
 - (b) The registration of a positive covenant requiring that:
 - (i) No less than 7.5% of the GFA of the development above 1.5:1 is used or intends to be used for affordable housing, OR

- (ii) No less than 7.5% of all residential GFA approved in relation to the development is used or intends to be used for affordable housing.

whichever is the greater.

- (c) Creation and dedication of the Road Lot (a 1.5m widening of Wentworth Park Road) prior to the issue of the first Occupation Certificate for any part of the land. Construction and embellishment to Council's standard footpath requirements prior to the issue of the first Occupation Certificate in respect of any part of the land affected by the relevant stage.
 - (d) Creation and registration of the Through Site Link Easement prior to the issue of the first Occupation Certificate in respect of the part of the land affected by the Through Site Link Easement. Construction and embellishment prior to the issue of the first Occupation Certificate in respect of any part of the land affected by the relevant stage.
 - (e) Delivery of the ESD required targets in relation to each Stage prior to the issue of the first Occupation Certificate in respect of any part of the land affected by the relevant Stage.
16. The contributions in the VPA do not exclude the imposition of contributions under Section 94 and 94a of the Environmental Planning and Assessment Act, which will be required to be paid as part of this development proposal.
17. On 30 March 2015, the applicant's forwarded details of proposed modifications sought to the current VPA for the site. Following further discussion and amendment, the modifications requested are as follows:
- (a) The affordable housing lot be created prior to the issue of the first Occupation Certificate that relates to any part of the residential development within stage 1, versus the current requirement that it be delivered prior to the issue of the first OC.
 - (b) The completion of the affordable housing building be carried out prior to the issue of the first occupation certificate that relates to any part of the residential development within stage 1, versus the current requirement that it be delivered prior to the issue of the first OC.
 - (c) That the Developer's Works Contribution, Road Contribution, and Through Site Link all be delivered prior to the issue of the final OC in respect of Stage 2, versus the current requirement that these be prior to the first OC in respect of any part of the land affected by the relevant stage.
 - (d) The height of the Through Site Link easement be limited in height to an agreed RL below the base of the support structures and overhead pedestrian bridge that span the through site link at the podium level.
 - (e) Novation of the agreement to another entity of the applicant, correction of an error/inconsistency, and clarification of insurance arrangements
18. At the time of writing this report the modifications were yet to be exhibited or executed. City Officers were in agreement with the requested modifications.

PROPOSAL

19. The application seeks development consent for a mixed-use development on the site, comprising five residential tower blocks on a mixed retail, commercial and residential podium and two levels of basement parking. The proposed development is the outcome of a competitive design process. It is proposed to construct the development in two stages.
20. In summary, the application as notified included:
 - (a) demolition of the existing buildings
 - (b) excavation for 2 levels of basement car parking;
 - (c) 213 residential apartments, including 25 affordable housing apartments;
 - (d) 4,720sqm of retail/commercial floor space;
 - (e) 156 car parking spaces, plus 6 service spaces;
 - (f) Landscaped communal rooftop and podium level;
 - (g) Through site pedestrian link, dedication of a 1.5m strip along Wentworth Park Road for footpath widening, and public domain works;
 - (h) Stormwater management and waste management measures; and
 - (i) Removal of one street tree.
21. Following preliminary assessment of the application by City staff, the applicant was advised in correspondence, dated 20 November 2014, that the application required modification to address a number of issues including:
 - (a) Greater consideration to be afforded to the design excellence provisions of the Sydney LEP 2012;
 - (b) Overall aesthetics and finishes including loss of podium landscaping;
 - (c) Apartment compliance and amenity including private open space, size, mix, cross ventilation;
 - (d) Amenity for future residents of the affordable housing;
 - (e) Flood planning levels need to be addressed;
 - (f) Additional solar study of the impact on the neighbouring NSW Department of Land and Housing site;
 - (g) Commercial floor to ceiling heights;
 - (h) Treatment of plant areas;
 - (i) Bicycle parking provisions;
 - (j) Impact of basement access on heritage listed street tree; and

- (k) Staging requirements to be provided and consistent with the VPA.
22. Amended plans and documentation to address these matters was provided 11 December 2014.
23. Following review of the amendments, issues were still raised with a number of the above elements in letters dated 12 and 17 February 2015. A further amended design response was provided 5 March 2015 and 20 March 2015.
24. Key changes adopted in the proposal include:
- (a) Improvements in the position and depth of podium landscaping;
 - (b) Additional architectural detailing (treatment of facades, screening of plant, changes in the expression of the upper level), and changes in materials;
 - (c) Increased balcony dimensions;
 - (d) A reduction from 25 to 19 affordable housing apartments providing for improved amenity and dwelling mix; and
 - (e) Improved ventilation.
25. In summary the application as amended seeks construction of the following:
- (a) 2 basement levels, accessed from Cowper Street, accommodating:
 - (i) 156 car spaces (129 market apartments, 10 affordable housing apartments, 6 Commercial, 5 Retail), plus 6 service spaces and one car wash bay;
 - (ii) 14 motorbike spaces; and
 - (iii) 243 bicycle parks/storage.
 - (b) Mixed retail, commercial and residential podium, with 5 residential towers above (Towers A, B, C, P and E – see **Figures 13 & 18**), providing a total GFA of 20,889m², and comprising:
 - (i) 3,980m² GFA commercial space;
 - (ii) 740m² GFA retail space; and
 - (iii) 207 residential apartments (188 market and 19 affordable) with GFA of 16,169m², comprising:
 - a. 56 x studio
 - b. 46 x 1 bedroom apartments
 - c. 84 x 2 bedroom apartments
 - d. 21 x 3 bedroom apartments
 - e. Total GFA for the affordable Housing component of 1,213m² or 7.5% of the total residential component.

- (c) Both temporary (Stage 1) and final (Stage 2) loading dock/garbage collection points on the ground level accessed from Wentworth Street;
 - (d) 1620m² of communal open space comprising rooftop podium landscaping connected with an aerial pedestrian bridge and communal rooftop garden on tower 'P';
 - (e) Through site link bisecting the site to be delivered in Stage 2 of the development, providing access from the intersection of Wentworth Street and the realignment of Stirling Street (as part of the NSW Land and Housing site redevelopment) through to Wentworth Park Road.
 - (f) Dedication of a 1.5m strip along Wentworth Park Road for footpath widening following completion of Stage 2.
26. Images and photomontages of the proposal are provided below (**Figures 12 – 20**). A full set of architectural plans are provided in Attachment A.
27. The elements included in each of the two stages are clearly depicted on the architectural plans and set out in recommended condition 1.



Figure 12: Photomontage of the view from William Henry Street looking west to the corner of Wentworth Park Road and Bay Street.

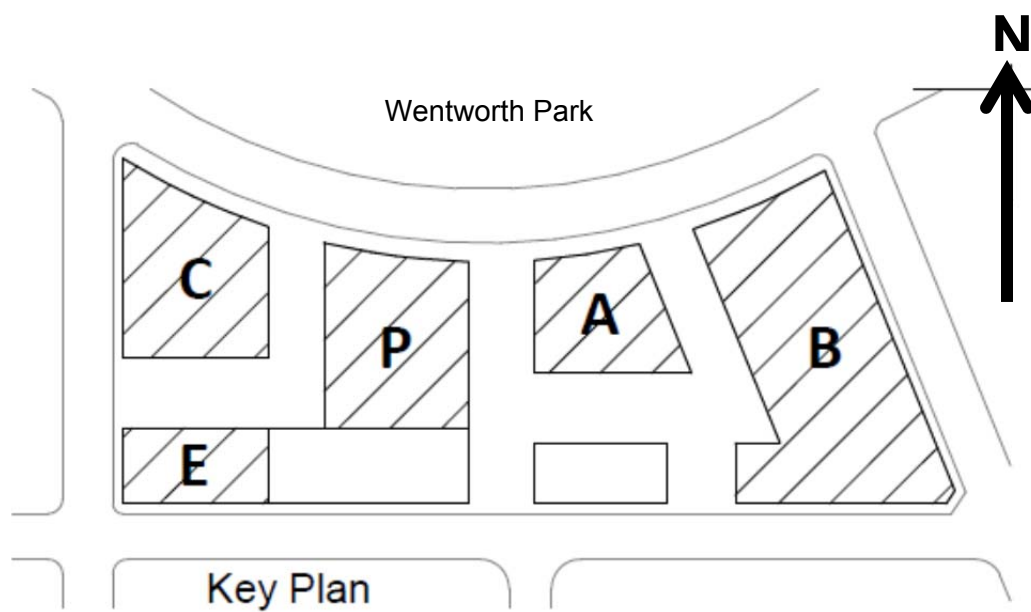


Figure 13: Plan view of residential tower locations.



Figure 14: Tower B expression to Wentworth Park and Bay Street.



Figure 15: Photomontage of the proposed through site link looking south, with Tower 'P' exhibiting a partial cantilever over the space.



Figure 16: Photomontage of proposed terraces to Wentworth Street



Figure 17: Proposed podium landscaping – view from Block 'E' looking east.

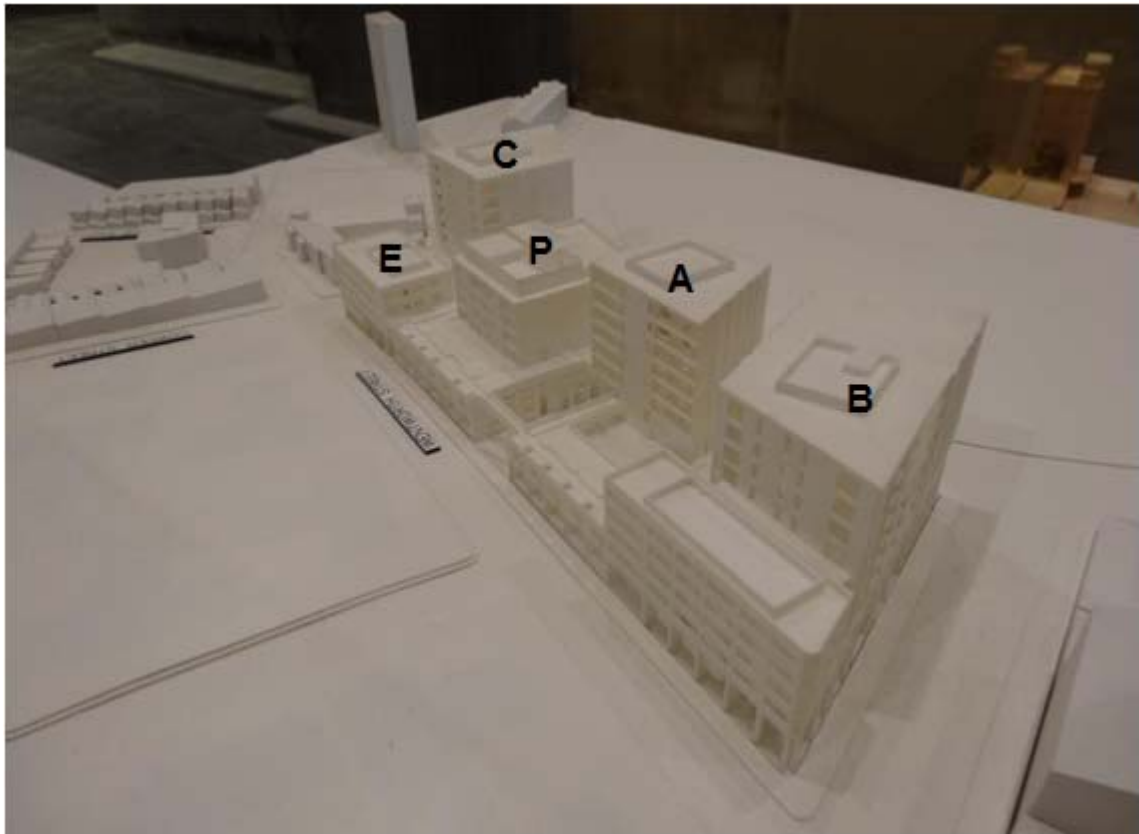


Figure 18: Model view looking towards the north-west. The respective towers A, B, C, E & P denoted.



Figure 19: Model view looking towards the south-west



Figure 20: Model view looking north-west at the rear of Tower B on the corner of Bay Street and Wentworth Street

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

28. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

(a) Environmental Planning Instruments and DCPs.

Water Management Act 2000

Aquifer Interference Approval

29. The proposed excavation works to accommodate the basement car parking levels are to a depth where dewatering of the site will be required. The application was subsequently referred to the NSW Office of Water in accordance with the provisions of Section 91 of the Water Management Act, 2000.
30. The NSW Office of Water granted its concurrence in correspondence, dated 21 October 2014, and has provided its General Terms of Approval. These General Terms of Approval have been included within the recommendation, and will be imposed on any consent granted.

State Environmental Planning Policy No 55—Remediation of Land

31. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

32. Environmental reports submitted for the proposal indicate that the development site has significant land contamination including pollutants from underground storage tanks. Contamination in the form of hydrocarbons, PAH, lead, mercury and asbestos have been detected at exceeded levels which require remediation. Ground water is shallow at 1 – 1.4 meters below ground level with some ground water contamination detected, with potential for offsite migration noted. Proposed basement levels are well below existing ground water levels and further ground water testing to show the full extent of potential contamination has been recommended, but not provided. These findings influence the construction phase and overall building performance with the objective of protecting environment and public health.
33. A Remediation Action Plan (RAP) was submitted with the development application. The RAP concludes that the site can be made suitable for the proposed use. However, a statement by a NSW EPA Accredited Site Auditor certifying that the RAP is practical and the site will be suitable after being remediated in accordance with the requirements of the RAP was not provided with the application. A request has been made to the applicant to provide an audit statement, but at the time of finalising this report had not been provided. A deferred commencement condition of consent is included in the recommended conditions for such a statement to be provided before the consent can commence.

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

34. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 10 design quality principles, being:

(a) **Principles 1, 2 and 3: Context, Scale and Built Form**

The site has been identified through a detailed planning proposal for a mixed use, commercial and residential development. As such, the application is appropriate within the context of the planning framework and the future development of the NSW Land and Housing site immediately to the south.

The proposal complies with the height controls under Sydney LEP 2012. Although there are some departures from the height and building envelopes specified in the Sydney DCP 2012, these have been derived from detailed site analysis and the competitive design process. The creation of 4 tower elements and the relocation of massing towards Wentworth Park, and a reduced envelope height across the majority of the southern portion of the site is considered to deliver a better outcome in the context of the development of both the subject site and the future NSW Land and Housing site. This is discussed in further detail below.

The proposal reinforces the curved nature of the Wentworth Park Road frontage in the design. The podium design reduces the bulk and scale of the proposal, providing a pedestrian scale to the ground floor and active commercial and retail tenancies to all road frontages and the through site link. The separate tower elements and balconies provide articulation, and the podium landscaping softens the built form.

The proposed tower forms help to achieve solar access, views, outlook, visual and acoustic privacy for future residents and neighbouring sites. The proposal is not considered to significantly impinge on the development potential of the City Depot to the east and the NSW Land and Housing site immediately to the south

(b) **Principle 4: Density**

The proposed FSR of 3.85:1 is the maximum the site is eligible for in meeting the site specific criteria set down in the Sydney LEP 2012 (Clause 6.23), and if a bonus 10% for design excellence is awarded.

The proposed density is consistent with the areas future context and the overall design is not considered to result in unacceptable levels of amenity impact for neighbouring properties. The sites proximity to the CBD, and the established and proposed infrastructure, public transport, community, educational and recreational facilities provides support for the density of development proposed.

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

The Sydney LEP 2012 and the VPA for the site include requirements that the water and energy uses for the site to exceed the minimum BASIX targets by 25%. These increased targets have been included in the proposal, and both the conditions of the VPA and the recommended conditions of consent will ensure that the development complies with the sites energy efficiency commitments and those contained in its BASIX certificate.

To meet ESD requirements for site a number of strategies have been employed including use of large rainwater tanks, low water use vegetation, low energy and water consumption fixtures and the provision of landscaped roofs to assist with thermal comfort. The proposal also complies with solar access and cross ventilation requirements.

(d) **Principle 6: Landscape**

The site currently provides no deep soil planting and the proposal does not seek to introduce any deep soil planting. However, the proposal seeks to dedicate a 1.5m wide strip of land for road widening and footpath improvement to Wentworth Park Road, and in accordance with 6.3.1.3(1) of the Sydney DCP 2012 has been made is exempt from the DCP requirements for deep soil planting. This widening of Wentworth Park Road may provide for improved street trees and deep soil landscaping.

A total of 1620m² (29.85%) of hard and soft landscaped common area is proposed, which exceeds the 25% requirement under the RFDC. Proposed common open space consist of:

- (i) A Level 3 rooftop communal courtyard accessed from the lobbies at the southern side of Towers A & B;
- (ii) Podium rooftop landscaping at Level 5 atop the terraces fronting Wentworth Street and wrapping around towers C, E & P, with an aerial pedestrian bridge to join the two stages of the development across the through site link.

(iii) A Level 9 rooftop garden on Tower P

The communal areas will provide residents with space for passive recreation accessible from lift lobbies within the building. The landscaping plans accommodate seating, pedestrian paths and extensive planting. Pathways, plantings and walls have been carefully positioned to preserve privacy for individual apartments bordering the communal outdoor areas. The Level 9 roof garden includes a pergola structure, well setback from the tower perimeter and balustrades positioned to prevent overlooking, while angled louvres on Towers A & C will preserve privacy for residents.

The proposal presented a significant loss in the large scale of landscaping (trees and large shrubs) depicted in the design competition images. Following officer concerns, detail of planting zones and depths was provided and increased in order to accommodate soil depths of greater than 800mm in numerous areas and provide for trees that will be visible from Wentworth Park Road.

(e) **Principle 7: Amenity**

Compliance with amenity controls are detailed in the below RFDC table. In summary, the proposal presents an acceptable level of residential amenity for future occupants.

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

The proposed development provides for casual surveillance of the surrounding public domain through windows being located along all facades. Active retail and commercial uses are provided at ground floor and within the through site link.

Proposed residential units at ground level fronting Wentworth Street are a terrace typology with individual entrances providing for an active frontage which assists in deterring opportunities for crime. Proposed ground level treatments including windows, doorways and fences are designed in such a way to minimise opportunities for unauthorised access.

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

The proposed development has the following unit mix:

(i)	56 Studios / 46 One Bed	49.3%
(ii)	84 Two Beds	40.6%
(iii)	21 Three Beds	10.1%

The proposal does not comply with the desired maximum 40% of studio and one bed outlined in Sydney DCP 2012. However, this variation is supported and discussed in the Issues section.

The proposal has been designed to provide 32 apartments (15.5%) of the total dwellings as adaptable units, which complies with the Sydney DCP 2012 requirement.

(h) **Principle 10: Aesthetics**

The proposed built form, as amended, presents a high quality design, positively accentuating the curve of Wentworth Park Road in the design. The proposal utilises a variety of building heights, architectural elements, including cantilevers, and materials to provide visual interest.

The tower block footprints and wall lengths are less than those of the Sydney DCP 2012, and a wider through site link (10m versus 7m), provides for increased landscaping and improved aesthetics in built form.

The terrace typology of the building to Wentworth Street has a finer grain expression, and improvements in the detailing have improved the aesthetics.

Plant areas have been well considered and are located within the building behind architectural louvres or within screened rooftop areas well setback from the perimeter of the building towers.

The palette of materials proposed, including brick, concrete, glass, steel, and aluminium louvres reflects the past industrial nature of the site and the use of brick responds to the context of surrounding development in Glebe.

Amendments to the proposal, such as the introduction of a re-entrant detail to the ends of the Wentworth Park Road elevation balconies, and to the Bay Street elevation of Tower B, and the use of additional vertical louvres and decorative timber composite linings has improved the overall aesthetics of the design.

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

Residential Flat Design Code

36. Clause 30 of SEPP 65 requires consideration of the Residential Flat Design Code (RFDC), which provides additional detail and guidance for applying the design quality principles outlined in SEPP 65 to a specific locality. Compliance with the guidelines within the RFDC are addressed in the table below.

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
Building Depth 10-18m	No	Towers C, P & B all exhibit building depths in excess of 18m (in the order of 20-26m). However the configuration of the towers around a central core ensures a very high number of dual aspect apartments, with good levels of solar access and ventilation, around centralised cores.

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Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
<p>Communal Open Space Communal open space to be 25-30% of site area.</p> <p>Private Open Space 25m² at ground level with minimum dimension in one direction of 4m.</p>	<p>Yes</p> <p>No</p>	<p>A total of 1620m² (29.85%) of landscaped common area is proposed, which complies with the requirement.</p> <p>One solely ground floor apartment is provided, providing an 8m² outdoor terrace fronting Wentworth Street. The 15 two-storey terraces all have unencumbered ground floor open space areas in the order of 6m², less than 25m². See discussion under the Issues heading.</p>
Safety	Yes	A CPTED statement was prepared assessing the development and recommendations adopted in the use of durable vandal proof materials, design of the through site link, and building entries. Further recommendations on lighting and CCTV can be adopted in conditions of consent and future conditions of consent for fit out of the commercial/retail premises.
Visual Privacy	Acceptable	To compensate for non-compliances in building separation distances prescribed under SEPP65, the proposal includes the use of external louvres and landscaping.
<p>Single Aspect Apartments Single aspect apartments should be limited in depth to 8m from a window. Limit single aspect apartments with a southerly aspect (SW-SE) to max.10% of total units.</p>	No	<p>The proposal includes 34 single aspect south facing apartments (16%).</p> <p>Skylights, including a light well to the northern edge of the terrace units boarding the Level 3 communal outdoor area, have been adopted where possible (to 10 of the single aspect apartments).</p>
<p>Apartment Layout (Kitchen) The back of a kitchen should be no more than 8m from a window.</p>	Yes	No apartments have kitchens more than 8m from a window.

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
Apartment Layout (Unit Sizes) Minimum unit sizes: <ul style="list-style-type: none"> • Studio: 38.5m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 95m² 	Acceptable	<p>The proposal includes apartment sizes as follows:</p> <ul style="list-style-type: none"> • studio: 35m² – 60m² • 1 bed: 45m² – 62m² • 2 bed: 66m²-97m² • 3 bed: 96m²-142m² <p>The proposal includes 7 studio apartments within the affordable housing component with a minimum size of 35m². These proposed apartments provide regular shapes and functional configurations such that this departure is supported. In addition a current draft amendment to the RFDC seeks to introduce a 35m² minimum.</p> <p>4 one-bedroom apartments within Tower B provide a minimum size of 48m² and no private open space. However, all provide a dual aspect, and the minor non-compliance of 2m² is considered acceptable.</p> <p>12 two-bedroom apartments fall below the minimum 70m² for 2 bedrooms apartments. One is a 66m² dual aspect apartment within the affordable housing component; the other 11 are market apartments of either 68m² or 69m², with dual aspect and private balconies.</p> <p>While the apartments are undersized, the floor plans show adequate space is provided to accommodate bedroom furniture and rooms are regularly shaped with access to natural light and ventilation.</p> <p>The variations to the minimum apartment sizes are supported.</p>
Balconies Provide primary balconies to all units with a 2m min. width	No	<p>29 of the 191 above ground floor units provide no balconies.</p> <p>Just 74 (39%) of the 191 above ground floor apartments provide balconies which meet the minimum 2m width.</p> <p>This departure is discussed further under the Issues section.</p>

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
Ceiling Heights 2.7m min ceiling height in habitable areas. 3.3m min for ground floor and first floor including residential within mix use buildings	Yes No	Floor to floor heights of 3.1m are proposed for the residential tower components, ensuring a minimum 2.7m floor to ceiling height can be achieved. Despite the application stating that ground floor and first floor residential units will obtain floor to ceiling heights of 3.1m, the plans depict floor to ceiling height of just 2.7m being accommodated, and a non-compliance in the order of 0.6m. This is discussed further in the Issues section.
Ground Floor Apartments Optimise the number of ground level units with separate entries. Provide ground floor apartments with access to private open space.	Yes	All ground floor apartments have been provided with separate entries from Wentworth Street. Although fronting the street, all ground floor apartments have courtyards directly accessible from principal living areas, held in their private ownership.
Internal Circulation The number of units accessible from a single core/corridor should be limited to eight.	No	The upper 5 levels of Tower B have between 9 and 14 units serviced by a single core. This is discussed further in the Issues section.
Storage Minimum storage provision facilities: <ul style="list-style-type: none"> • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ (With minimum 50% storage area located within unit)	Yes	Adequate storage is provided within each apartment. Additional residential storage is also proposed within basement levels.
Daylight Access 70% of units to receive 3 hours of direct sunlight in midwinter to living rooms and private open spaces. 2 hours may be acceptable in urban areas.	Acceptable	The application proposes the following levels of solar access compliance. <ul style="list-style-type: none"> • 70% of units receive solar access for 2hrs to living areas and private open spaces.

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
Natural Ventilation 60% of units to be cross ventilated.	Yes	A total of 63.7% of apartments propose cross ventilation as follows: <ul style="list-style-type: none"> 131 apartments are natural cross ventilated as a result of cross through, cross over, and corner apartment design; 1 apartment achieves cross ventilated with the addition of an operable skylight. Amendments to the proposal resulted in the inclusion of louvered glazing to balcony windows and doors to allow ventilation while providing security for residents.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45 – Electricity Transmission

38. As the development site is within the vicinity of existing power lines, the application was referred to Ausgrid on 15 October 2014 under the provisions of Clause 45 of the SEPP (Infrastructure) 2007 for comment.
39. No response was received from Ausgrid.
40. The proposal incorporates 2 substations in the south-west corner of the site to ensure the efficient maintenance of the local electricity network.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

41. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
42. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
- (a) protect and improve hydrological, ecological and geomorphologic processes;
 - (b) consider cumulative impacts of development within the catchment;
 - (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off;

(d) protect and rehabilitate riparian corridors and remnant vegetation.

43. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained with the deemed SEPP.

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

44. A BASIX Certificate has been submitted with the development application.
45. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal (and in order to address Clause 6.23 and 6.24 of the Sydney LEP 2012 measures for water and energy that exceed the BASIX targets by 25%). A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

State Environmental Planning Policy (Affordable Rental Housing) 2009

46. The proposal provides affordable housing secured under the conditions of the executed Voluntary Planning Agreement for the site and the proposed amendments. Under the agreement, the affordable housing must be managed by a registered Community Housing Provider.
47. The proposed development of the site is consistent with the aims and objectives of SEPP.

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

48. 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.
49. The proposed development of the site is consistent with the aims and objectives of SEPP.

Sydney LEP 2012

50. The site is located within the B4 – Mixed Use zone. The proposed use is defined as a '*residential flat building*' and '*commercial premises*', both of which are permissible uses pursuant to Clause 2.3 of SLEP 2012.
51. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Table		
Development Control	Compliance	Comment
4.3 Height of Buildings and Clause 6.24	Yes	<p>A maximum height of 12m is permitted under Clause 4.3.</p> <p>However, pursuant to Clause 6.24 the maximum allowable building height is 33m, provided the development meets the following:</p> <ul style="list-style-type: none"> • provide at least 0.75:1 of the maximum FSR on the FSR Map for floor space other than residential accommodation); • exceed BASIX commitments for water and energy targets by not less than 25%; and • provide at least 7.5% of the floor space for affordable housing. <p>With regard to Clause 6.24 the development will:</p> <ul style="list-style-type: none"> • provide 5204m² (4720m² commercial/retail, 484m² through site link – or 0.96:1 FSR) for a purpose other than residential; • exceed BASIX commitments for water and energy targets by not less than 25%; and • provide 1213m² (7.5%), of the total floor space proposed for residential accommodation, as affordable housing to be managed by an affordable housing provider. <p>Therefore, subject to the plans and conditions securing the site specific criteria, the development is eligible for the maximum height of 33 under Clause 6.24 and the overall building accords with this height limit.</p>

Compliance Table		
Development Control	Compliance	Comment
4.4 Floor Space Ratio and Clauses 6.21 and 6.23	Yes	<p>The maximum allowable FSR is 3.85:1 which includes:</p> <ul style="list-style-type: none"> • a base FSR of 1.5:1 under Clause 4.4; • an additional FSR of 2.2:1 under Clause 6.23* which is a site specific control; and • an additional 10% associated with the design excellence process under Clause 6.21 which equates to 0.15:1. <p>*to be eligible for the additional FSR the development has to adhere to the same controls listed for height above, and which it demonstrates.</p> <p>The development has gone through a competitive design alternatives process and under Clause 6.21 of the LEP. Therefore the development is eligible for an additional 10% FSR.</p> <p>The proposed built form and compliance with the site specific controls is further addressed in the Issues section.</p>
5.9 Preservation of trees or vegetation	Acceptable	<p>The proposal will result in the removal of one street tree (Blueberry Ash) from the footway in Wentworth Street. This tree is located in the alignment of the through site link. The removal of this tree is offset by the introduction of 1 new tree of the same species close to the intersection with Bay Street. In addition 10 new trees are to be located within the through site link, 4 of which are positioned near the Wentworth Street end of the link within planted garden beds.</p> <p>The proposed basement entry position from Cowper Street has the potential to have an adverse impact on a <i>Flindersia australis</i> – Crow's Ash (Tree 12 in the assessment report), which is registered as a Heritage item on the NSW Environment and Heritage Data Base Number 2427713. The potential impact on this tree is further discussed in the Issues section.</p>

Compliance Table		
Development Control	Compliance	Comment
5.10 Heritage conservation	Acceptable	<p>The site is not listed as a heritage item and does not fall within a heritage conservation area.</p> <p>However the site is located within the vicinity of heritage items:</p> <ul style="list-style-type: none"> • Street trees along Cowper Street (1670) - (Discussed above); • Street trees along Wentworth Park Road (1816); • Former woolstore facades at 89-97 Wattle Street (12040); and • Former woolstore farmers and graziers no. 1 including interiors at 372-428 Wattle Street (12040). <p>The site is also in close proximity to heritage conservation areas.</p> <p>The applicant submitted a Heritage Impact Statement, which confirmed the site has little to moderate significance and the proposal will have limited and acceptable impact on the surrounding heritage items and conservation areas.</p> <p>This assessment is accepted.</p>

Compliance Table		
Development Control	Compliance	Comment
Part 6 Local provisions - height and floor space		
Division 4 Design excellence	Yes	<p>The proposal underwent a competitive design process required under this clause.</p> <p>As discussed previously, following initial assessment of the application for development consent, a number of issues were raised in the development of the proposal from the design competition stage.</p> <p>Following numerous requests for amendment and refinement of the design and landscaping details, the proposal is considered to satisfy the objectives of design excellence.</p> <p>The design details and materials are considered appropriate, with the use of brick and detailing drawing on historic cues from industrial buildings in the area.</p> <p>The curved form of the development positively accentuates the public domain of Wentworth Park and the through site link will provide distinct pedestrian benefits and activation in this area.</p> <p>The gaps between tower forms will preserve views corridors to Wentworth Park and the city from sites to the south.</p> <p>The proposed use and mix is considered suitable to the site, and the design appropriately addresses the site and surrounding characteristics, and sustainability principles, while minimising adverse environmental impacts.</p> <p>An appropriate interface is established at ground level between the buildings and the public domain, while addressing flood hazard impacts.</p> <p>The landscaping design at both podium and rooftop level is considered to provide excellence in integration of landscape design.</p>

Compliance Table		
Development Control	Compliance	Comment
Division 5 Site Specific Provisions 6.23 – Floor Space	Yes	The provision for additional FSR has been discussed above under 4.4 Securing the site specific controls for affordable housing is addressed in the issues section.
Division 5 Site Specific Provisions 6.24 – Building Height	Yes	These have been discussed above 4.3
Part 7 Local provisions—general		
Division 1 Car parking ancillary to other development	Can comply	<p>A maximum of 175 car parking spaces are assessed as permitted (123 residential; 16 residential visitor; 21 commercial, 15 Retail).</p> <p>A total 162 car parking spaces are proposed as follows:</p> <ul style="list-style-type: none"> • 130 residential • 11 commercial • 5 retail • 10 affordable housing as per VPA • 6 service parks and 1 car wash bay (excluded from the LEP maximums) <p>The provision of 130 residential as well as 10 for the affordable housing component exceeds the total 136 residents and resident visitor parks permissible.</p> <p>Appropriate conditions of consent are recommended to ensure the car parking spaces proposed are provided according to the staging of the development, correctly allocated, and comply with the LEP maximum controls.</p>
7.14 Acid Sulphate Soils	Yes	The site is identified as containing class 2 Acid Sulphate Soil, such that consent is required for works below the natural ground level, and works likely to lower the water table. An acid sulphate soils management plan has been submitted and a condition recommended to address acid sulphate soils on site under this plan management plan.
7.15 Flood planning	Acceptable	The site is identified by Council as being flood prone. See discussion under the heading Issues.

Compliance Table		
Development Control	Compliance	Comment
7.19 Demolition	Yes	The proposal includes the construction of a detailed design. Recommended conditions of consent and the accompanying VPA secure the completion of public domain works and will ensure the adverse visual impacts of the demolition will be addressed.
7.20 Development requiring preparation of a development control plan	Yes	The requirements of this clause have been addressed under the site specific provisions in 6.3.1 of the Sydney DCP 2012. It is recommended that the consent authority waive the requirement for a development control plan to be prepared, as it would be unreasonable or unnecessary in the circumstances due to the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012, containing these site specific planning controls against which the application has been prepared.

Sydney DCP 2012

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

2. Locality Statements – Mountain Street
The subject site is located in the Mountain Street (2.6.11) locality. The proposed mixed use development is considered to be in keeping with the unique character of the area and design principles in that it provides commercial uses at ground and first floor level and adopts the use of brick material and design details from the warehouse character of the area.

3. General Provisions		
Development Control	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>The proposed development will make a positive contribution to the public domain.</p> <p>The proposal provides for the dedication of a 1.5m wide strip along Wentworth Park Road for road/footpath improvements. The proposal also provides for a 10m wide through site link that will be accessible 24 hours and incorporates a high degree of landscape design and integration with the adjoining commercial/retail tenancies. These features will significantly enhance the pedestrian movement and safety in the area.</p> <p>The proposal includes the retention and introduction of street trees in accordance with the Council Street Tree Master Plan.</p> <p>The public domain elements and furniture will be constructed in accordance with Council standards under the recommended conditions of consent.</p>
3.1.5 Public Art	Can Comply	<p>The proposal includes a public art strategy to introduce an artistic feature within the through sink link. Further improvement in the strategy and final artwork design is required and an appropriate condition of consent recommended addressing this.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.2 Defining the Public Domain	Yes	The development will contribute to the activity, safety, amenity and quality of the public domain through the introduction of retail and commercial uses along three street frontages as well as terrace style dwellings along Wentworth Street..
3.2.2 – height of entries up to 1.0m	No	<p>The colonnade design was adopted in the design competition and is considered acceptable on the basis that:</p> <ul style="list-style-type: none"> the recessed colonnade extends the length of the Stage 2 development phase; the column design is reflected along all of the north, east and west elevations of the building; and, active retail use is adopted behind it. <p>Some entries to the terraces are up to 2.2m above the ground level of Wentworth Street. However, this departure is considered an appropriate response to the topography of Wentworth Street and in providing an appropriate built form.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The proposed development has been subject to a design competition.</p> <p>Clause 3.3.5 provides for the award of additional floor space of up to 10% of the area covered by the design competition.</p> <p>The development seeks a bonus of 809.1m² equating to a bonus of 9.94%</p>
3.5 Urban Ecology	Yes	<p>As discussed previously, the proposal involves the removal of one street tree, but provides for its substitution and the introduction of significant areas of new landscaping.</p> <p>The potential impact on the heritage tree in Cowper Street is discussed in the Issues Section.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	The proposal will not have unacceptable impacts on the environment and more than satisfies BASIX requirements through a further 25% increase of the required targets for water and energy secured in the VPA and presented in the BASIX certificate for the proposal.
3.7 Water and Flood Management	Acceptable	<p>The site is identified as being on flood prone land. See discussion under the heading Issues.</p> <p>The proposed development includes stormwater treatment tanks and rainwater tanks within the basement satisfying the requirements of BASIX.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>Dedication of the road widening lot and affordable housing lot form part of the requirements of the executed VPA for the site.</p> <p>No other subdivision is proposed as part of this application.</p> <p>Appropriate conditions of consent are recommended to address the future provisions of car parking under a strata subdivision.</p>
3.9 Heritage	Yes	<p>A Heritage Impact Statement has been submitted with the application. The report concludes that there is little to moderate heritage value associated with the site and that the proposal will have no significant adverse impacts on nearby heritage items and conservation areas. This conclusion is supported by the City's Heritage Specialist and demolition of the existing buildings is not opposed.</p> <p>The potential impact of the proposal on the heritage tree in Cowper Street is discussed further in the Issues section.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.11 Transport and Parking 3.11.2 Car Share Scheme	Can Comply	The proposal seeks to provide for 3 car share spaces within Cowper Street. The City's transport planners seek that these car share spaces be provided within the basement of the development and a condition of consent is recommended to require this. This is discussed further in the Issues section.
3.11.3 Bike Parking	Yes	<p>The proposal requires 277 bike parks (207 resident, 21 residential visitor, 27 commercial worker, 10 commercial visitor, 2 retail staff, and 10 retail customer spaces)</p> <p>The proposal provides a total of 284 bike parking spaces (213 in residential storage cages, 27 in communal commercial cages and 3 in a communal retail cages, and 35 visitor and customer parks at Level 1.</p> <p>No end of trip facilities (lockers, showers) are evident on the plans for commercial/retail staff. A condition of consent is recommended to ensure they are addressed in the fit out of the buildings.</p> <p>Council's transport planner considers the number of visitor bike spaces is onerous given the demands from the residential and commercial uses are likely to complement each other. A combined total of 20 visitor spaces is acceptable.</p> <p>Conditions of consent are recommended to secure appropriate bicycle parking.</p>
3.11.9 Accessible Parking	Acceptable	The proposal includes 39 accessible parking spaces 1 per each of the 32 adaptable units and 7 visitor spaces. This is one short of the required 8 visitor spaces, but is considered acceptable.

3. General Provisions		
Development Control	Compliance	Comment
3.11.13 Design of waste collection	Yes	The proposal provides for a temporary waste loading dock in Stage 1 on Wentworth Street in the area eventually to be occupied by Apartments 1.2.02 and 1.2.03. Appropriate conditions of consent are included to address provision for a loading zone and the decommission of this area and future use of the loading bay within Stage 2 prior to the issue of an occupation certificate for Stage 2.
3.12 Accessible Design	Yes	The DCP specifies that when new developments propose more than 30 units, 15% of the dwellings are to be adaptable dwellings. The proposal includes 32 adaptable units (15.5%), which complies with this requirement. A BCA and accessibility report was submitted with the application. The proposal is capable of providing appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA, subject to recommended conditions.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides good passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A comprehensive waste management plan has been provided with the development proposal. A condition of consent seeking that it be amended to reflect the final development and a condition for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005 is recommended.
3.17 Contamination	No	See discussion under SEPP 55 above.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.1 Building height	No	Refer 6.3.1.1 and 6.3.1.2 below
4.2.1.2 Floor to ceiling heights	No	The proposal provides a floor to ceiling height of 2.9-3.3m at Ground floor rather than 3.6m required. Similarly at first floor level a floor to ceiling height of just 2.9m is provided rather than 3.3m required. This was discussed under the analysis of the RFDC above and is discussed further under the issues section.
4.2.2 Building setbacks	No	Refer 6.3.1.3 below.
4.2.3 Amenity	Yes	The proposal's amenity with regard to solar access, landscaping and open space, ventilation, outlook and noise was addressed in the SEPP 65 and RFDC section of this report and overall is considered acceptable. Dwelling mix, private open space, and internal circulation areas are discussed under the Issues section of this report.
4.2.4 Fine grain, architectural diversity and articulation	Yes	The proposal achieves diversity through the use of the podium and tower design and building breaks between towers and the provision of the through site link to provide sightlines through and into the landscaped areas. The introduction of re-entrant details to balcony and wall junctions and to break up the depth of Tower B adds interest and reduces the perceived bulk of the building. A varied pallet of brick and modern materials is to be utilised.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.6 Waste minimisation	Yes	<p>As addressed under 3.14 above, a comprehensive waste management plan has been provided with the development proposal.</p> <p>The proposal seeks both a temporary waste collection and loading area for Stage 1 and a permanent loading dock and turntable included in Stage 2 to service the entire development.</p> <p>The 5 tower blocks are each serviced by their own waste chute in each central core, with garbage collection rooms in Basement 1. Waste bins are then transported via a designated lift to the loading dock on Level 1.</p> <p>The occupants of the terrace units on Wentworth Street, will be required to transport their waste and recycling to the residential garbage room for Stage 1 and adjacent the loading dock in Stage 2.</p>
4.2.7 Heating and Cooling Infrastructure	Yes	<p>Heating and cooling infrastructure is provided in appropriately screened locations within the building or the roofs to satisfy this control.</p>
4.2.8 Letterboxes	Yes	<p>The proposal includes provision for individual letterboxes within the main entry of each lobby.</p> <p>The ground floor terraces will have their own letterbox. A condition is recommended to ensure the design is integrated within the front wall.</p>

6. Specific sites		
Development Control	Compliance	Comment
6.3.1 – 87 Bay Street 6.3.1.1 Land use	Yes	<p>The proposal provides for a range of commercial and retail uses, with the large format space for the Beauty School and fine grain smaller retail tenancies.</p> <p>Although the proposal exceeds the DCP building envelope in some areas this is offset by reductions in others and the overall environmental effects considered acceptable.</p>
6.3.1.2 Built form	No - Acceptable	<p>The built form does not exactly reflect the height in storeys, street front heights, and 5-6 storey podium with up to 3 tower elements.</p> <p>This is discussed further in the Issues Section.</p>
6.3.1.3 Setbacks	<p>Yes</p> <p>Yes</p> <p>No - Acceptable</p>	<p>The plans include the dedication to Council of a 1.5m strip along Wentworth Park Road for footpath widening (this is also incorporated in the VPA).</p> <p>The first 2 levels along Wentworth Park Road are setback 3m reducing to 1.5m above in accordance with this provision</p> <p>The 5* storey element to the rear of Tower B exceeds the 4* storey street front height in storeys without a 3m setback.</p> <p>* The 4 storey height control allows for over height ground floor and the proposal includes mix of retail/loading dock and residential such that there is 5 and 6 storey elements.</p> <p>This is discussed further in the Issues Section.</p>

ISSUES

Request for Development Control Plan

53. Clause 7.20 of the Sydney LEP 2012 specifies that development consent must not be granted unless a development control plan has been prepared for the land if the site is more than 5000 square meters or if the development will result in a building with a height greater than 25 metres above ground level.

54. The proposal exceeds both of the criteria set out above. However, as outlined above, the site has been subject to a detailed planning proposal, which resulted in the insertion of Site Specific provisions in both the Sydney LEP 2012 (Clauses 6.23 and 6.24) and the Sydney DCP 2012 (Clause 6.31). These provisions were formulated to address, and in consideration of, the matters normally contained within a development control plan.
55. It is recommended that the consent authority waive the requirement for a development control plan to be prepared, as it would be unreasonable or unnecessary in the circumstances due to the site specific planning controls against which the application has been prepared.

Site Specific DCP Height in Storeys

56. The proposal adopts a number of departures from the height in storeys plan provided in Figure 6.66 of the Sydney DCP (**Figure 21** below).



Figure 21: Sydney DCP height in storeys plan for 87 Bay Street.

57. The applicant has provided an image (**Figure 22**) and assessment of the proposal against the DCP controls.

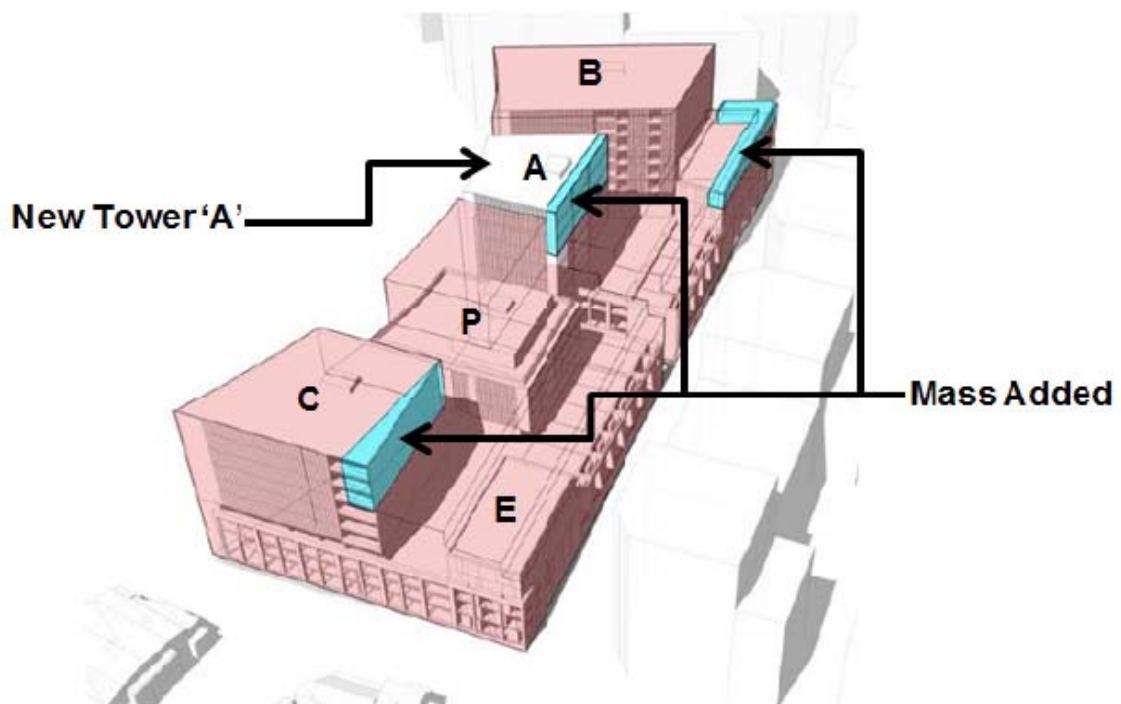


Figure 22: Applicant's representation of areas of non-compliance with the DCP height in storeys, including the additional Tower 'A' (unshaded)

58. The proposal provides a 2-3 storey podium and 4 tower elements fronting Wentworth Park Road, in contrast to 3 tower elements sitting above a predominant 5-6 storey building height advocated in the DCP.
59. Since the design competition, and in contrast to the Sydney DCP 2012 height in storeys plan, the proposal removes building mass from a large part of the Wentworth Street frontage. The mass (or reduced height in storeys) is redistributed in: 4 towers; additional height at the corner of Wentworth Street and Bay Street; and, to the rear of Tower P. This redistribution in building mass/height is considered to provide overall benefits to future residents of the development and future development to the south as follows:
 - (a) The 4 tower elements to the north maximises solar access and the amenity of the views over Wentworth Park;
 - (b) The reduced height along much of Wentworth Street provides a better relationship and improved solar access to a greater proportion (approx. 82%) of the future northern facades of the NSW Land and Housing site (see **Figure 23**);

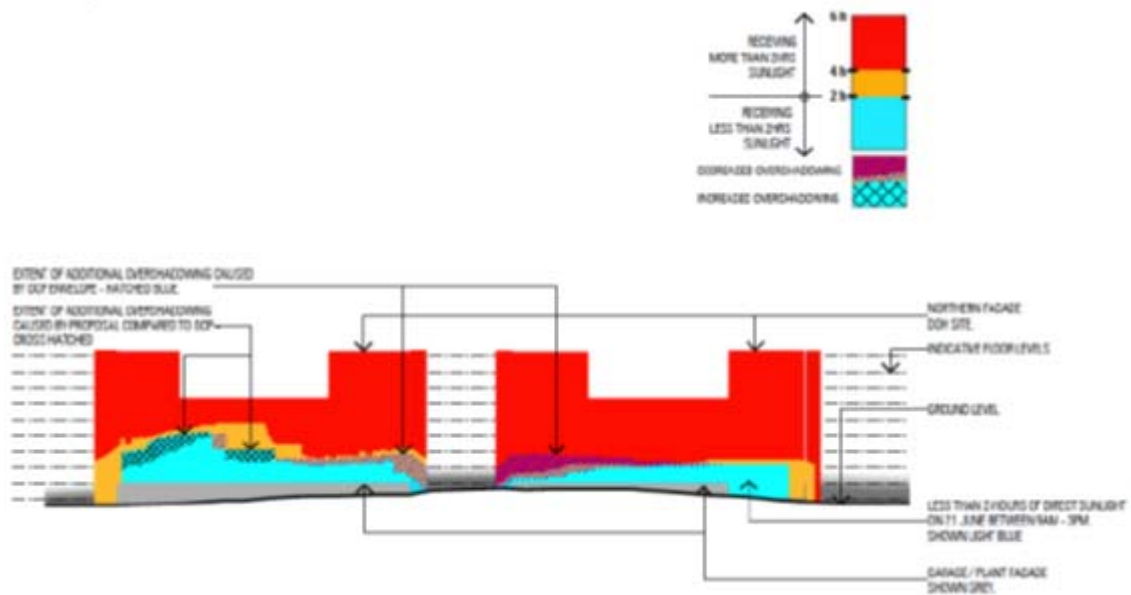


Figure 23: Cumulative solar impact on the Stage 1 building envelopes of the NSW Land and Housing Site. Single hatched areas are a reduction in overshadowing; cross hatched areas represent additional overshadowing.

- (c) The strong podium line above Level 3 and the upper light weight material reduce the perceived bulk of the building; and
- (d) The reduced street wall height to the remainder of Wentworth Street and rooftop landscaping provides an improved outlook for future residents of the NSW Land and Housing site (**Figure 24**).

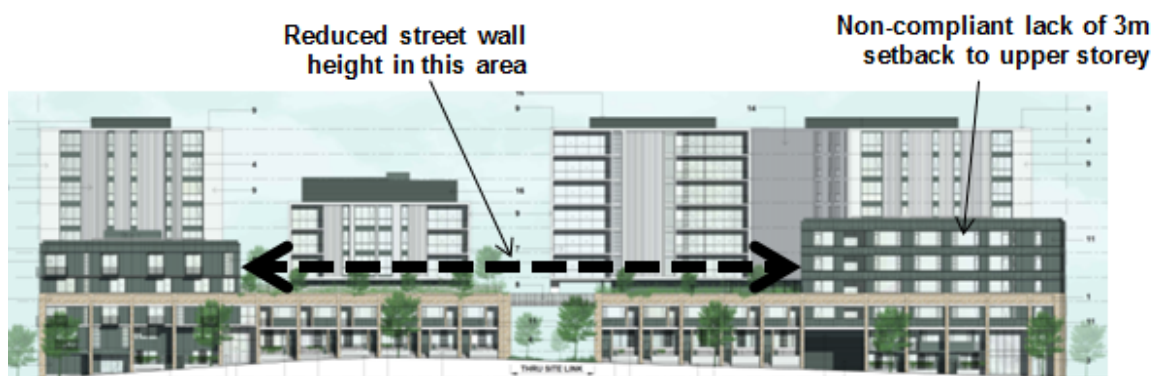


Figure 24: South elevation demonstrating reduced street wall along a large portion of the Wentworth Street frontage (the area highlighted with the bold arrow).

60. For these reasons the proposed departures from the DCP height in storeys are supported.

Floor to Ceiling Heights

61. This issue is closely related to the height in storeys discussed above. The proposal provides in parts of the commercial area for a level denoted as a mezzanine, but providing only limited void spaces to the ground floor. This area makes the assessment of the DCP provisions difficult.
62. The Sydney LEP 2012 excludes mezzanines from the definition of a storey. However, the floor does not meet the definition of a mezzanine under the BCA (i.e. a mezzanine is regarded as a storey in that part of the building in which it is situated if its floor area is more than 200m² or more than 1/3 of the floor area of the room, whichever is the lesser), as it exceeds the area requirements and as such must be regarded as a floor in its own right.
63. This assessment of the level denoted as a “mezzanine” as a floor, leads to a non-compliance with the DCP height in storeys for part of the development beneath Towers C and P (**Figure 25**), and resulting floor to floor heights of 3.52m at ground floor and 3.1m at the first floor commercial level. These floor to floor heights will result in floor to ceiling heights in the order of 3.1 and 2.7m respectively, and non-compliance with the Sydney DCP in the order of 0.5m and 0.6m respectively.

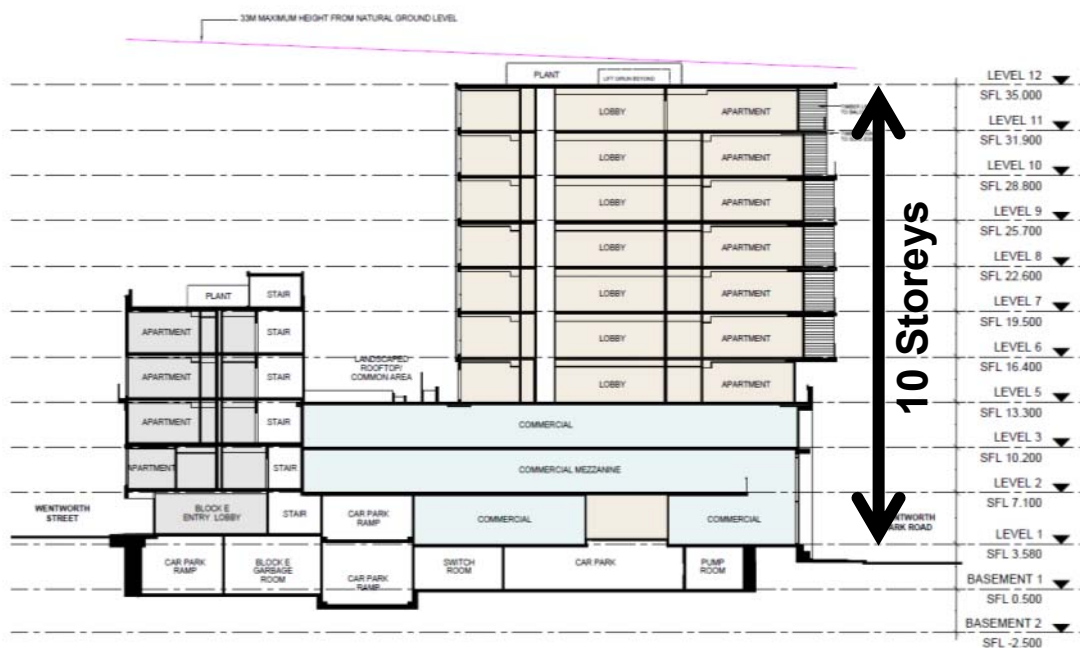


Figure 25: South elevation demonstrating reduced street wall along a large portion of the Wentworth Street frontage.

64. Despite this non-compliance, support is provided to the proposal for the following reasons:
 - (a) the proposal provides for over height retail and commercial floor areas in the other parts of the development;
 - (b) externally the development presents a consistent podium to all street frontages; and

- (c) The entire development complies with the maximum 33m Sydney LEP height for the site.

Dwelling mix

65. The application proposes 56 x studio apartments (27%), 46 x 1 bedroom apartments (22%), 84 x 2 bedroom apartments (41%) and 21 x 3 bedroom apartments (10%).
66. The proposed percentage of studio and one bedroom apartments (49%) does not comply with the combined maximum required in the Sydney DCP 2012 of 40%, equating to an excess of 19 apartments within this unit mix across the proposal.
67. However, the proposed 2 bedroom and 3 bedroom unit numbers are within the specified minimum percentages sought in the Sydney DCP 2012.
68. To support the departure from the unit mix, the applicant has provided an assessment of the current apartment mix and demographics of the Glebe and Ultimo areas. This analysis supports the proposed mix due to the majority of the population being young, single or couples without children, attending tertiary education facilities, and currently living in apartments of which 44.1% (Glebe) and 52.6% (Ultimo) combined are studio and one bedroom units.
69. The amendments to the proposal reduced the affordable housing component of studio/one bedroom units from 96% to 63%. A letter supporting the proposed unit mix for the affordable housing component of the development was submitted from a recognised affordable housing provider.
70. The proposal provides a mix of studio, one, two and three bedroom dwellings that are varied in design and size and will cater for a range of lifestyles, budgets and housing needs. The applicant is considered to have demonstrated a need for the percentage of studio and one-bedroom units to higher than the DCP provision on this site, such that the unit mix is considered acceptable and is not considered to negatively impact on objectives of the control from a City wide perspective.

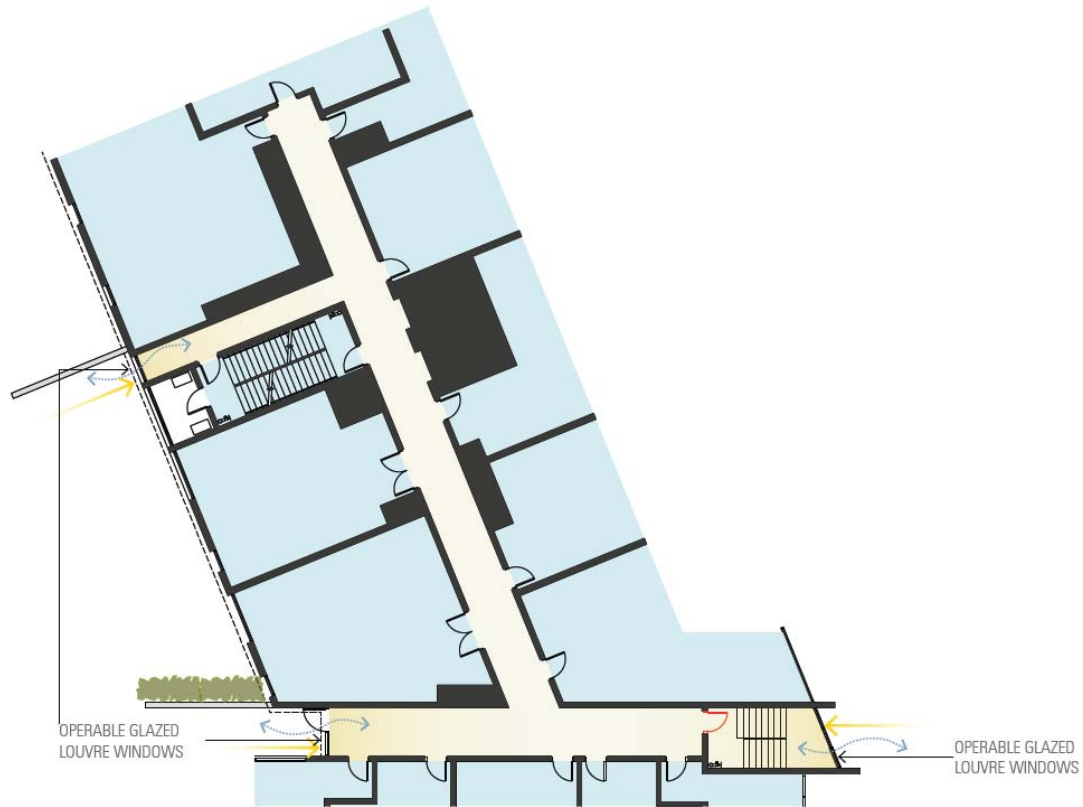
Private Open Space

71. SDCP 2012 states that private open space may be in the form of courtyards, decks and balconies and is to be provided for at least 75% of dwellings in a development. Ground floor private open spaces should have a minimum area of 25m² and minimum dimension of 4m, and upper levels are to have a minimum of 10m² and 2m dimension.
72. The development provides a total of 85% of the apartments with private open space, compliant with the DCP 75% target.
73. The original application was amended to increase the width of a number of balconies within the towers to ensure they provide the 2m minimum dimension.
74. Further amendments increase provision of open space within the affordable housing component from just 4 units to 17 units through the introduction of Juliet balconies projecting up to 450mm over Wentworth Street and Cowper Street, and one further balcony. The provision of these balconies will significantly enhance the amenity of the affordable housing units.

75. With respect to minimum consolidated areas, as noted in the assessment the single ground floor apartment and terraces do not meet the open space requirements, and just 74 (39%) of the 191 above ground floor apartments provide balconies which meet the minimum 2m dimension and 10m² area requirement.
76. Despite the overall degree of non-compliance with the area requirements, a high proportion of the apartments provide expansive glazed frontages with Juliet style balconies allowing in many instances for both living areas and bedrooms to be opened to the outside. A high proportion of those with northerly aspect and/or at podium level provide well in excess of the 10m² minimum. Communal open spaces exceed the 25% provision by 4.85% allowing for the provision of high quality outdoor landscaped spaces for residents. For these reason, the private open space provisions are accepted.

Internal Circulation

77. The DCP requires that internal common areas, corridors and lifts have access to daylight and an outlook. Initial concern was raised with the design of the central cores within the towers.
78. Amendments were made to the proposal to introduce additional glazing and operable windows to the internal corridors of all 5 tower elements in combination with hold-open automatically fire closing doors to address fire safety in stairwells.
79. Concern was also raised with the configuration of Tower B requiring 9-14 units to be serviced from a single core of 2 lifts (**Figure 26**). Modifications were made to introduce operable glazing at two points of the corridor and also within the south-east stairwell, which combined with the provision of 2 lifts is considered acceptable.



FLOOR PLAN - BLOCK "BAY"
L3 LOBBY

Figure 26: Internal corridor detail for Level 3 of Tower B, with operable glazing adopted to corridor ends to provide light, ventilation and outlook to corridors.

Privacy

Between Towers

80. Separation distances between the tower units of the development range from 8 to 10m, which does not comply with the 18m (for 5 – 8 storeys) and 24 metre (for 9 storeys plus) separations recommended in the DCP.
81. This was the subject of analysis in the design competition phase and the details of fixed louvres proposed in the adopted scheme. This aspect of the proposal has not altered, with the exception of additional louvres being proposed to Tower B.
82. The proposed louvres combined with the configuration of primary living spaces to the north and south, is considered appropriate in addressing privacy between the towers (**Figure 27**).

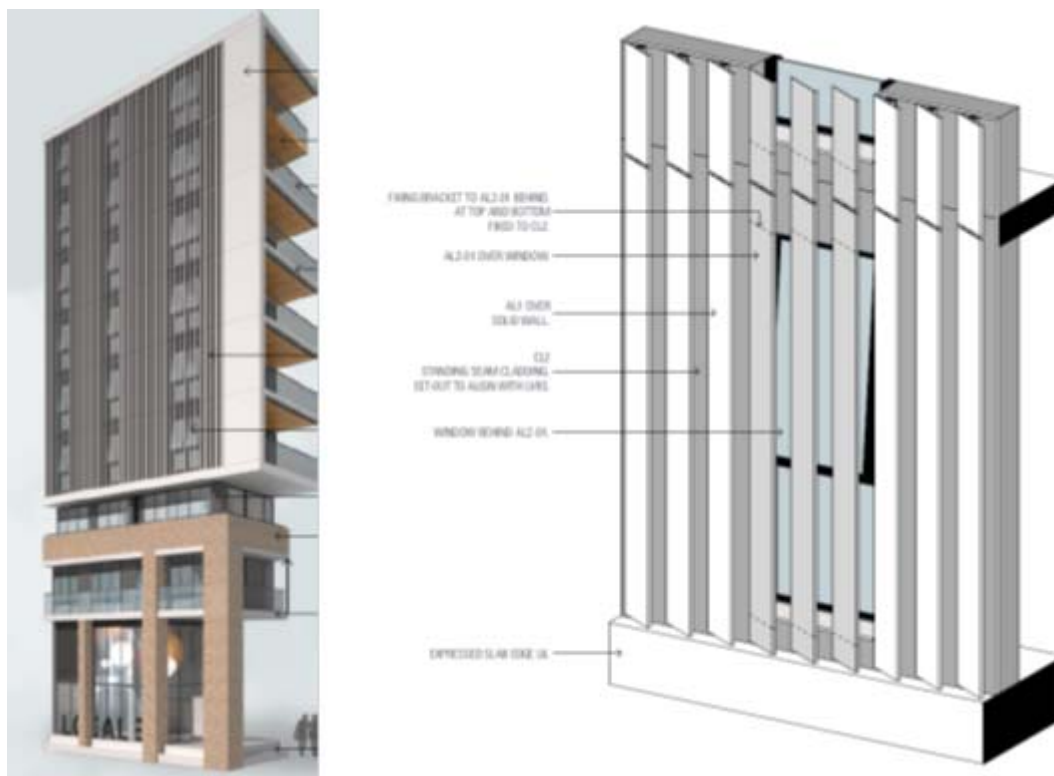


Figure 27: Fixed external louvres, mounted off the building facade allowing awning window and air circulation behind.

Between NSW Land and Housing Site

83. The application proposes a setback of approximately 13m between Level 7 in the south-east corner of the development and the NSW Land and Housing site (**Figure 28**). A minimum setback of 18m is recommended in the RFDC.
84. Given the setback relates only to the uppermost level, and the benefits provided by the proposal to the application of the maximum DCP envelope, the non-compliance is considered acceptable.

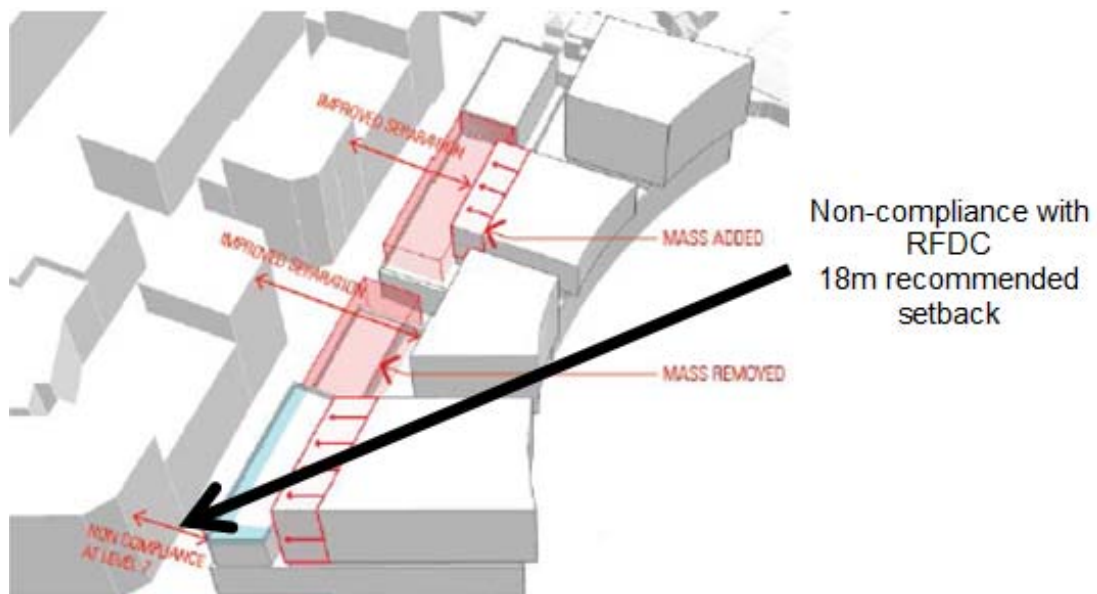


Figure 28: Increase building height in south-east corner results in non-compliance with RFDC building separation to NSW Land and Housing Site.

Flood Planning

85. The Interim Floodplain Management Policy requires all openings to the basement to be set at a level no less than the PMF (which has been defined by the Blackwattle Bay Flood Study).
86. The applicant provided a flood analysis report recommending the basement entry points would be set at a level of 4.0m AHD (0.3m less than the PMF level indicated by the Blackwattle Bay Flood Study).
87. Following discussions between relevant Council staff it was agreed that the additional height up to the PMF would be provided through the use of flood gates. While the use of flood gates is not normally accepted due to the difficulties of ensuring proper maintenance and activation, in this instance it was considered to be an acceptable compromise in order to also address appropriate urban design and public domain outcomes.
88. Appropriate conditions have been recommended to achieve the required flood protection.

Transport and parking

89. The proposed parking allocations depicted on the plans and presented in the application do not distinguish between resident and resident visitor parking allocations and exceeded the combined Sydney LEP 2012 maximum provisions for the two combined. The application states the requirement for 10 spaces to be delivered for the affordable housing component of the development, but this requirement sits outside of the planning controls to determine the maximum parking permissible for the site. The recommended conditions of consent allocate the proposed parking according to the Sydney LEP 2012 maximum provisions.

90. The application proposes 3 car share spaces on the eastern side of Cowper Street, adjacent the proposal. The City Transport Planning and Traffic Operations Unit have recommended conditions of consent for 2 car share spaces to be provided within the existing car parking proposed in the basement of the development, retaining on street parking for surrounding residents.

Heritage Tree (Tree 12) in Cowper Street

91. The proposed basement entry position from Cowper Street was identified in the initial assessment of the application as having the potential to have an adverse impact on a *Flindersia australis* – Crow's Ash, which is registered as a Heritage Item (**Figure 29**).



Figure 29: Crow's Ash tree on Cowper Street potentially affected by the proposed basement entry position.

92. The initial application did not provide an assessment of the potential impacts on the tree. Concerns were raised with the applicant for consideration to be given to a revised access position.
93. An arborist report and root mapping were carried out by the applicant to assess the extent of the trees root structure. Following this a recommended design and construction methodology were submitted for the driveway crossover to mitigate any adverse effects on the tree.
94. This information was reviewed by the Council's Tree Management Officer who considers that the root mapping identified large structural roots within the footprint of the new driveway and in the area where it is expected that excavations would be required during installation of the driveway and crossover. For this reason the Tree Management Unit do not support the proposed basement access position.
95. Despite the uncertainty of the root mapping, the basement access location is supported in the proposed location off Cowper versus the alternative streets for reasons of access, safety, traffic congestion and pedestrian conflict. Appropriate conditions are recommended to address the design and construction methodology of the access.

Changes to the Voluntary Planning Agreement

96. Clause 6.23(5) and 6.24(5) of the Sydney LEP 2012 requires the consent authority to be satisfied that the floor space provided for affordable housing will be used for affordable housing and managed by a Community Housing Provider (CHP) before consent can be granted.
97. Information submitted by the applicant shows that at least three CHPs are interested in managing the units for affordable housing however the consent authority needs to be satisfied that an arrangement will be secured before the floor space is awarded.
98. The current VPA executed and registered on the title for the site secures the provision of affordable housing. The modifications sought to the VPA do not alter this provision, but seek changes in the timeframes for delivery of the affordable housing, and modifications to address design details and timeframes in respect of the easements and land dedications also specified under the current VPA.
99. In order to address the modifications to the VPA that are necessary for the proposal to proceed, and to ensure consistency in both consent and the VPA, it is recommended that deferred commencement consent be imposed requiring the VPA to be amended, executed, and registered on the title.

Staging

100. As outlined in the proposal, the application seeks that the development be constructed in 2 stages. The Staging is clearly indicated on the plans and has implications with respect to:
 - (a) Waste collection arrangements;
 - (b) Car parking and operation of the basement;
 - (c) Delivery of public domain elements and provision of the through site link; and
 - (d) Payment of contributions;
101. Conditions of consent are recommended to address these staging matters.

Other Impacts of the Development

102. The proposed development is considered capable of complying with the BCA. It is Class 2, 5, 6 & 7a.
103. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

104. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial/residential surrounding and amongst similar uses to that proposed.

INTERNAL REFERRALS

105. The application was referred to Council's:

- (a) Heritage and Urban Design Specialists;
- (b) Landscaping Specialist
- (c) Strategic Planning Unit;
- (d) Building Services Unit;
- (e) Environmental Health Unit;
- (f) Public Domain Unit;
- (g) Technical Services Unit
- (h) Specialist Surveyor;
- (i) Transport and Access Unit;
- (j) Waste Management;
- (k) Tree Management; and
- (l) Public Art Specialist

106. No objection to the amended proposal was raised, subject to the imposition of appropriate conditions. The recommended conditions have been included in the recommendation of this report.

EXTERNAL REFERRALS**Sydney Water**

107. The proposal seeks significant new stormwater, water and sewer connections. The application was referred to Sydney Water.

108. Sydney Water advised that they raise no objection to the proposal subject to a Section 73 Compliance Certificate being obtained.

NOTIFICATION AND ADVERTISING

109. The application constitutes integrated development and as such the application was notified and advertised for 30 days from 16 October 2014 to 15 November 2014, in accordance with the provisions of Environmental Planning and Assessment Regulations 2000.

110. As a result of this notification, two (2) submissions were received.

111. The submission from The Glebe Society Inc. raised the following matters:

- (a) **Competitive Design Process has resulted in a development that addresses Wentworth Park Road and improves pedestrian access.**

Response – This is recognised in the assessment provided.

- (b) **Need to consider safer access to Wentworth Park especially in absence of deep planting requirements.**

Response – Access is provided to Wentworth Park through the controlled intersection of Bay Street and Wentworth Park Road and via a raised pedestrian crossing near the intersection of Cowper Street.

- (c) **Concern about solar access to south-west corner, building proximity and privacy.**

Response – Issues of privacy and solar access are addressed earlier in the report.

112. The submission from Hands off Glebe Inc. sought the development application be refused and raised the following issues:

- (a) **Excessive density** – High density, high rise development is unwelcome in Glebe. The proposal is the highest density development in Glebe and it is incompatible with the existing development in the area.

Response – The site specific planning proposal for the site and design excellence provision of the Sydney LEP and DCP specify the density controls that the development will comply with.

- (b) **Excessive height** – The development does not provide an appropriate transition and will adversely affect the amenity of the NSW Department of Land and Housing site.

Response – The proposal provides an improved transition to that of the Sydney DCP maximum height in storeys envelopes as a result of a competitive design process.

- (c) **No retail commercial use** - Do not need additional retail space in this area and the site is too noisy for residential uses on the Bay Street and Wentworth Park Road frontages.

Response – The site currently has retail and commercial uses at ground level and the planning controls promote this to provide activation at street level.

- (d) **Basement car parking** – should not be allowed as below flood level and position of entrance will create noise and traffic on Cowper Street and Wentworth Street where none currently exists.

Response – Flooding planning levels are recommended and will be required for all entry points to the basement. Basement car parking reduces noise at street level from alternative above-ground car parking.

- (e) **Rooftop landscaping** – should not be permitted as will impact adversely on future residents of NSW Land and Housing Site.

Response – The NSW Land and Housing Site is separated from the site by Wentworth Street. The podium and roof top landscaping is supported as it reduces urban heat and will provide a positive outlook for future residents to the south.

- (f) **Heritage** – The proposal does not preserve the historical legacy of the Glebe area previously recognised by the NSW National Trust in the 1970's and UNESCO as worthy of preservation.

Response – The site is bounded by four streets and clearly separated from surrounding heritage conservation areas. The proposal is the result of a site specific planning proposal and a competitive design process.

- (g) **DCP & LEP non-compliances** – The proposal does not comply with (i) unit mix providing a higher number of studio and one bed units that are likely to be utilised as short term or serviced apartments, and seeks to justify non-compliance by excluding the affordable housing component, (ii) noise controls and (iii) numbers of bicycle parks.

Response – These matters have been addressed in the body of the report.

- (h) **Affordable Housing** – (i) this component is proposed for Stage 3 casting doubt it will be built, (ii) the units have poor amenity and some sized well below SEPP 65 requirements, (iii) VPA is inadequate to protect the units from being appropriate for other uses and not in the public interest as the affordable housing provider will have to pay market price for them.

Response – The proposal does not include a Stage 3 and the affordable housing is to be secured in Stage 1 of the development. Amendments have been made to the proposal to improve the amenity of the apartments. The VPA and conditions of consent will provide adequate protection for the provision of affordable housing and pricing for potential sale to a provider.

- (i) **Noise** – (i) levels of noise from traffic will be substantially increased, (ii) Garbage collection noise impact has not been considered on residents in Wentworth Street and Cowper Street, (iii) noise level suggested as acceptable is 3 times the level specified in SEPP (Infrastructure) 2007 of 35dB(A), (iv) reliance on air conditioning for noise control.

Response – The proposal has been reviewed by the City's Acoustic Specialist and appropriate conditions recommended.

- (j) **Construction Effects** – (i) not permit developer to work at weekends or engage in noise generation before 8am, (ii) address vibration of drilling into sandstone rock for basement.

Response - The proposal has been reviewed by the City's Acoustic Specialist. Appropriate conditions are recommended to address noise and vibration.

- (k) **Fire Risk** – (i) Assumptions and non-compliances in the BCA report may not be justified, (ii) non-compliance with maximum 8 units accessible from a corridor may cause congestion

Response – The proposal has been reviewed by the City's Building Surveyors and they are satisfied that the proposal can comply with the BCA at CC stage, and an appropriate condition reflecting this is recommended.

- (l) **Flood Control** – proposed development is not compatible with the flood hazard.

Response - Flooding planning levels are recommended and the development will be required to meet them.

PUBLIC INTEREST

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

FINANCIAL IMPLICATIONS/S94 CONTRIBUTION

Section 94 Contributions

114. In accordance with the provisions of the City of Sydney Development Contributions Plan 2006, the proposed development is subject to a Section 94 contribution.
115. A credit of \$186,243.39 based on a calculated figure of 102 workers for the previous existing workforce for the site has been included in the applicable contribution payable. This credit has been broken into two components reflecting the relevant existing buildings to be demolished in each of the respective stages as follows:

Stage	Buildings Demolished	Worker Credit
Stage 1	2, 3, 4 and 5	-\$91,905.32
Stage 2	1, 6, 7A & 7B	-\$94,338.07

116. As the proposal seeks staged construction, the contribution has been calculated in two payments to correlate with each stage being constructed/delivered as follows:

Stage 1	Number	Contribution
1 Bed/Studio Unit	33	
2 Bed Unit	38	
3+ Bed Unit	12	
Worker Credit		-\$91,905.32
TOTAL		\$1,614,087.36

Stage 2	Number	Contribution
1 Bed/Studio Unit	69	
2 Bed Unit	46	
3+ Bed Unit	9	
Worker Credit		-\$94,338.07
TOTAL		\$1,768,387.07

117. A contribution of **\$1,614,087.36** is attributed to Stage 1 and **\$1,768,387.07** is attributed to Stage 2 with each payable prior to issue of the first Construction Certificate for the applicable stage of the development. An appropriate condition is recommended for imposition.

RELEVANT LEGISLATION

118. The Environmental Planning and Assessment Act 1979, Water Management Act 2000.

CONCLUSION

119. The proposal has been amended during the assessment period to address concerns relating to the architectural detail and expression, landscaping, flooding design of affordable housing component, apartment amenity and unit mix, internal circulation areas, solar impact on the NSW Land and Housing Site, impact on the heritage listed street tree, the basement layout and parking provisions, staging requirements, and VPA implications.
120. As amended, the proposal is considered to be generally consistent with the relevant planning controls and responds appropriately to the constraints of the site. The proposal is considered to be a satisfactory design outcome and contextually appropriate for its siting within this urban renewal area
121. The subject site benefits from site specific planning controls included in the Sydney DCP 2012. The site has also been the subject of a competitive design competition.
122. The proposal will result in a strong design outcome and a building form which provides a positive interface with the public domain and suitable levels of amenity for future occupants.
123. The development application is recommended for approval as a deferred commencement consent requiring the submission of a Site Audit Statement and preparation, exhibition, execution and registration on title of amendments to the VPA prior to the issuing of an operational consent.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Alistair Smith, Senior Planner)