

ITEM 6. DEVELOPMENT APPLICATION: UNITS 39-41 - 1A COULSON STREET ERSKINEVILLE**FILE NO: D/2014/1703****DEVELOPMENT APPLICATION NO: D/2014/1703****SUMMARY****Date of Submission:** 5 November 2014**Applicant:** Urbis**Architect:** Bates Smart**Developer:** Fridcorp Pty Ltd**Owner:** THE OWNERS - STRATA PLAN NO 74596**Cost of Works:** \$50,220,821.00

Proposal Summary: The subject application seeks consent for a residential flat building between 5 and 7 storeys containing 112 apartments, 17 three storey terraces, basement car parking for 65 cars and associated landscaping.

The application is Integrated Development requiring the approval of the NSW Office of Water under the Water Management Act 2000.

Notification of the application resulted in 6 submissions being received and objecting to the proposal regarding the following:

- privacy
- loss of fences
- strain on infrastructure.

Summary Recommendation: The development application is recommended for deferred commencement consent requiring the owner of the site to execute the Voluntary Planning Agreement and register this agreement on 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 - Architectural Plans
- B - Photomontages
- C - Landscape Plans

RECOMMENDATION

It is resolved that:

- (A) the requirement for the preparation of a Development Control Plan under clause 7.20 is waived. The recent Sydney Development Control Plan 2012 contains Part 5.5 which has detailed controls which specifically addressed the environmental concerns for the site as raised by the Local Environmental Plan clause;
- (B) the clause 4.6 variations for height be supported as the proposal will not detract from the amenity of the site or area, and still achieves the objectives of the control and the zone;
- (C) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2014/1703, subject to the following:

(1) PLANNING AGREEMENT

Prior to activation of this consent:

- (a) The Voluntary Planning Agreement is to be entered into Council's satisfaction, placed on public exhibition and 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 Planning Agreement, as executed, must be registered on the title of the land in accordance with the Planning Agreement.
- (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 this deferred commencement consent; failing which this deferred development consent **will lapse** pursuant to section 95(6) of the Environmental Planning and Assessment Act 1979;
- (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) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2014/1703 dated 05/11/2014 and the following drawings:

Drawing Number	Rev.	Title	Architect	Date
DA1.01	B	Proposed Site and Roof Plan	Bates Smart	02.03.2015
DA3.10	C	Apartment Building Proposed Ground Floor Plan	Bates Smart	11.03.2015
DA3.11	A	Apartment Building Proposed Level 1 Plan	Bates Smart	04.11.2014
DA3.12	A	Apartment Building Proposed Level 2-4 Plan	Bates Smart	30.10.2014
DA3.15	A	Apartment Building Proposed Level 5 Plan	Bates Smart	30.10.2014
DA3.15	A	Apartment Building Proposed Level 6 Plan	Bates Smart	30.10.2014
DA3.18	A	Apartment Building Proposed B002 Plan	Bates Smart	30.10.2014
DA3.19	A	Apartment Building Proposed B001 Plan	Bates Smart	30.10.2014
DA3.20	B	Terraces Level 00 Plan	Bates Smart	02.03.2015
DA3.20	B	Terraces Level 00 Plan	Bates Smart	02.03.2015
DA3.21	B	Terraces Level 01 Plan	Bates Smart	02.03.2015
DA3.22	B	Terraces Level 02 Plan	Bates Smart	02.03.2015
DA7.10	A	Apartment Building North Elevation	Bates Smart	04.11.2014
DA7.11	A	Apartment Building South Elevation	Bates Smart	04.11.2014
DA7.12	B	Apartment Building East Elevation	Bates Smart	02.03.2015
DA7.13	B	Apartment Building West Elevation	Bates Smart	02.03.2015
DA7.20	B	Terraces North and South Elevation	Bates Smart	02.03.2015
DA8.10	A	Section AA	Bates Smart	30.10.2014

Drawing Number	Rev.	Title	Architect	Date
DA8.11	C	Section BB	Bates Smart	11.03.2015
DA8.12	B	Section AA	Bates Smart	02.03.2015
DA02	B	Site Plan	Aspect	March 2015
DA03	B	Ground Floor Site Plan	Aspect	March 2015
DA04	B	Ground Floor Courtyard	Aspect	March 2015
DA05	B	Street Interface and Planters	Aspect	March 2015
DA06	B	Roof Terrace	Aspect	March 2015
DA07	B	Terrace Houses	Aspect	March 2015
DA08	B	Street Sections	Aspect	March 2015
DA09	B	Planting Strategy	Aspect	March 2015
DA10	B	VPA Contributions Plan	Aspect	March 2015

and as amended by the conditions of this consent.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(2) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT

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

(3) POSITIVE COVENANT

- (a) Prior to the issue of the first Occupation Certificate, the owner of the site is to obtain registration on Title of the land of a Positive Covenant appurtenant to Council, and to Council's satisfaction.
- (b) The Positive Covenant is to be created in terms requiring the registered proprietor of the land, at the time, and upon request by Council to do all things necessary, including execution of all relevant documents and instruments to obtain termination and extinguishment of the rights currently possessed over the existing Right of Carriageway and Easement for Services 8 wide and variable, created by DP788543 within adjoining Lot 2 DP 788543 and the existing Right of Carriageway and Easement for Services 6.77 wide created by DP788543 within adjoining SP 36655.

- (c) The above action cannot be initiated by Council until such time as the construction of the full width of Zenith Street has been completed and dedicated as public road, for its full frontage to the subject site.

(4) COMPLIANCE WITH SUBMITTED MATERIALS AND SAMPLES BOARD

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board, and specifications prepared by Bates Smart dated 05 November 2014.

(5) 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 Director City Planning, Development and Transport prior to the issue of a construction certificate.

(6) DESIGN QUALITY EXCELLENCE

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

(7) GROSS FLOOR AREA

The following applies:

- (a) The total Gross Floor Area of the development is 10,962m² 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.

(8) BUILDING HEIGHT

- (a) The height of the residential flat building must not exceed the following:

	RL to the parapet of the building	RL to the top of plant
Residential Flat Building	33.55	35.05

- (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.

(9) SECTION 94 SOUTHERN 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.

<u>Contribution Category</u>	<u>Amount</u>
Community Facilities	\$277,875.03
Public Domain	\$127,154.99
New Open Space	\$1,333,600.29
New Roads	\$338,696.86
Accessibility	\$14,047.77
Management	\$15,188.88
Total	\$2,106,563.82

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.

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

Please contact Council's Planning Administration staff at planningsystemsadmin@cityofsydney.nsw.gov.au 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.

(10) RESTRICTION ON RESIDENTIAL DEVELOPMENT

The following restriction applies to buildings approved for residential use:

- (a) All apartments 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) No more than two adult people shall occupy any bedroom and no bedroom shall contain more than two beds. This excludes children and children's beds, cots or bassinets.
- (c) The total number of adults residing in one unit shall not exceed twice the number of approved bedrooms.
- (d) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (e) No person can advertise or organise the use of residential apartments approved under this consent for short term accommodation or share accommodation.

(11) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL

The following conditions apply to car parking:

- (a) The on-site car parking spaces are not to be used other than resident of the subject building for parking of vehicles related to residence in the unit with which the space is associated. No storage should take place for commercial businesses in car parking spaces.
- (b) The strata subdivision of the site is to include a restriction on user pursuant to Section 39 of the Strata Schemes (Freehold Development) Act, 1973 as amended, so burdening all utility car parking allotments in the strata plan and/or an appropriate documentary restriction pursuant to Section 88B of the Conveyancing Act 1919, burdening all car parking part lots in the strata plan.

(12) TREE REMOVAL / RETENTION

Approval is NOT granted for the removal of the any trees within or adjacent to the site. A separate application (Prune/Remove Tree on Private Land Application) shall be submitted to Council requesting tree removal. Please note approval will not be granted for the removal of any trees within neighbouring properties.

(13) 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's Landscape Assessment Office and Council's Area Planning Manager prior to the issue of the Construction Certificate. Street trees must be located and planted in accordance with the City's Street Tree Master Plan, and the following:
 - (i) Coppersmith Lane – *Hymenosporum flavum* (Native Frangipani)
 - (ii) Metters Street – *Jacaranda mimosifolia* (Jacaranda)
 - (iii) Zenith Street – *Zelkova serrata* 'Green Vase' (Japanese Zelkova)
- (b) The trees must be grown to NATSPEC Guidelines for Specifying Trees to ensure quality trees and more successful establishment
- (c) At the time of planting, the container size is to be a minimum of 100 litres and a minimum height of 2.5 metres.
- (d) The street tree(s) must be planted:
 - (i) by a qualified Arborist or Horticulturist (AQF Level 3); and
 - (ii) before the issue of an Occupation Certificate.
- (e) The tree pits must be inspected by Council's Contract Coordinator – Street Trees, before and after planting.

- (f) 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.
- (g) At the end of the twelve (12) month maintenance period, written approval must be obtained from Council's Contract Coordinator – Street Trees, before hand-over of any street tree to Council.
- (h) 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.

(14) LANDSCAPING OF THE SITE

- (a) A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate for above ground building works. The plan must include:
 - (i) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;
 - (ii) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers;
 - (iii) Location, numbers, type and supply of plant species (and NATSPEC – see below); noting the plan is to be consistent with Section 3.5 of the City of Sydney Development Control Plan 2012. The species list is to enhance and improve the local biodiversity value of the site through increasing the use of locally indigenous species in the landscaping of the development. In particular, terrace rear courtyards include more locally indigenous species including shrubs, grasses and groundcovers.
 - (iv) Details of planting procedure and maintenance;
 - (v) 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.

(15) ARBORICULTURAL IMPACT ASSESSMENT

- (a) An Arboricultural Impact Assessment (AIA) must be submitted to and approved by Council's Area Planning Manager prior to the issuing of the Construction Certificate. The report must be prepared by a qualified Arborist with a minimum Australian Qualification Framework (AQF) of Level 5 in Arboriculture, reflect current industry practices, with particular reference to the Australian Standard 'Protection of trees on development site' (AS4970-2009) and must include:
- (i) Identify and include correct botanical and common names of all trees within the proposed development site and also trees growing within neighbouring properties (within a 5 metres radius) that are likely to be affected by the development
 - (ii) An assessment and discussion of the likely impacts the proposed development will have on the trees located adjacent to the northern boundary within the rear yards of Ashmore Street properties. This should include above and below ground constraints on the trees that should be retained;
 - (iii) Recommendations of any design modifications, construction techniques and/or other protection methods required to minimise adverse impact any tree that should be retained during the demolition and construction works, and into the long term;
 - (iv) A description of the recommended tree protection zones required to ensure health, vigour and stability of trees is maintained during construction and development and into the future;
 - (v) A description of the recommended protection measures to be put in place to ensure the protection of trees to be retained;
 - (vi) 'Methodology Statement' for demolition of existing surface material' (concrete, bitumen etc) - detailing sensitive removal of the existing bitumen and concrete from the TPZ of any tree that must be retained, to ensure the protection of the root systems;
 - (vii) 'Methodology Statement' for tree sensitive design requirements / methods for any works to be undertaken within the TPZ of trees located within the 5 metres of the northern boundary.

(16) COMPLIANCE WITH ARBORICULTURAL IMPACT ASSESSMENT

All recommendations, Tree Protection, and Methodology Statements contained in the approved Arboricultural Impact Assessment & Methodology Statement as required by 15 must be implemented during the demolition, construction and use of the development.

(17) NOISE - GENERAL

- (a) The emission of noise associated with the use of the premises including the operation of any mechanical plant and equipment 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 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 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 Industrial Noise Policy are applicable.
- (b) An $L_{Aeq, 15 \text{ minute}}$ 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 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 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 Industrial Noise Policy are applicable. Internal Noise measurements are not to be corrected for duration.

(18) 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.

(19) 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.

(20) 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.

(21) ALLOCATION OF PARKING

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

Car Parking Type	Number
Residential spaces	37
Accessible residential spaces	19
Residential visitor spaces	8
Motorcycle parking	5(a)
Subtotal	64
Car wash bay	1
Total	65

Note:

- (a) Four (4) motorcycle parking spaces is equivalent to one (1) car parking space

(22) METTERS STREET VEHICLE ACCESS

- (a) The Metters Street vehicle access is to be constructed in-line with the design principles of a continuous footpath treatment:

- (i) The grade of the footpath is to continue across the vehicular crossing.
 - (ii) The layback is to be design and constructed so that the back of the layback matches the continuous grade of the footpath.
 - (iii) The vehicular crossing is to match the surface characteristics of the surrounding footpath.
 - (iv) The vehicular crossing pavement is to be constructed as per the City's design specifications (i.e. sub-base, concrete strength, thickness and reinforcement).
- (b) The details must be submitted to and approved by Council prior to the Construction Certificate being issued.

(23) LOADING DOCK SCHEDULE/REGISTER

The on-site loading area 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.

(24) GREEN TRAVEL PLAN

A Green Travel Plan must be submitted to and approved by Council's Transport and access unit 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.

(25) SMALL CAR PARKING SPACES

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

(26) 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".

(27) BICYCLE PARKING

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

Bicycle Parking Type	Number	Requirements
Residential	124	Spaces must be a combination of class 1 bicycle lockers(1) and class 2 facilities.
Residential visitor	12	Spaces must be Class 3 bicycle rails

Note:

- (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.

(28) 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.

(29) 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.

(30) 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.

(31) ON SITE LOADING AREAS AND OPERATION

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

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

(32) 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.

(33) 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.

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

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

(35) SECURITY GATES

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

(36) SERVICE VEHICLE SIZE LIMIT

The size of vehicles servicing the property must be a maximum length of 9.9m.

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

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

(38) SIGNS AT EGRESS

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

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

(39) TRAFFIC WORKS

Any proposals for alterations to the public road, involving traffic and parking arrangements, must be designed in accordance with RMS Technical Directives and must be referred to and agreed to by the Local Pedestrian, Cycling and Traffic Calming Committee prior to any work commencing on site.

(40) VEHICLE FOOTWAY CROSSING

A separate application is to be made to, and approved by, Council for the construction of any proposed vehicle footway crossing or for the removal of any existing crossing and replacement of the footpath formation where any such crossings are no longer required.

All disused or redundant vehicle crossings and laybacks must be removed and footway, kerb, gutter and road restoration reinstated in accordance with Council's standards, to suit the adjacent finished footway and edge treatment materials, levels and details, or as otherwise directed by Council officers. All construction and replacement works are to be completed in accordance with the approved plans prior to the issue of an Occupation Certificate.

Note: In all cases the construction materials should reinforce the priority of pedestrian movement over that of the crossing vehicle.

(41) VEHICLES AWAITING REPAIR

At all times vehicles awaiting repair, undergoing repair or awaiting collection after repair must stand entirely within the property.

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

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

(42) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

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

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

Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design 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.

(44) 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.

(45) 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).

(46) 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.

(47) 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.

(48) 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.

(49) BASIX

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

(50) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

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

(51) 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.

(52) 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.

(53) 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.

(54) 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.

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

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.

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.

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.

- (xi) 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 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.

(56) 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.

(57) 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.

(58) WASTE AND RECYCLING COLLECTION

- (a) Clearance height for access by collection vehicle must be no less than 3.6m at any point if vehicle is required to enter site to service bins.
- (b) The maximum travel distance between the storage point and collection point for all waste and recycling receptacles shall be no more than 10 meters.
- (c) Unimpeded access shall be provided for collection vehicles between 6am and 6pm on collection days.
- (d) Waste and recycling containers will not be supplied until construction in developments is completed unless otherwise organised with waste services.
- (e) If there is commercial tenancies in this development they are not to use the residential waste and recycling service and have their own waste facility.
- (f) The development must have a residential rating or applied for a residential rating prior to a City Of Sydney waste service.

(59) HAZARDOUS AND INDUSTRIAL WASTE

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the Department of Environment and Conservation (DEC) and the NSW 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 1996.
- (c) Waste Avoidance and Recovery Act 2001.
- (d) Work Health and Safety Act 2011.

- (e) New South Wales Construction Safety Act 1912 (Regulation 84A-J Construction Work Involving Asbestos or Asbestos Cement 1983).
- (f) Work Health and Safety Regulation 2011.
- (g) The Occupational Health & Safety (Asbestos Removal Work) Regulation 1996.

(60) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL

- (a) The Waste Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste Management Plan is to be submitted to and approved by Council'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.

(61) LAND REMEDIATION

The site is to be remediated and validated in accordance with the Remedial Action Plan prepared by Environmental Investigations Australia dated 29th October 2014 and referenced E22031 Ac RAP Rev 3 and the Letter of Interim Advice prepared by Dr Ian Swane dated 29th October 2014. All remediation work carried out shall be conducted in accordance with the guidelines in force under the *Contaminated Land Management Act 1997*.

Including the additional measures listed by Site Auditor, in Section 3.3 of the interim letter of advice.

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

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

(62) 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.

(63) 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.

(64) SITE VALIDATION REPORT

Prior to the issue of an Occupation Certificate, a Site Validation Report is to be forwarded to City's Area Planning Manager, for written approval. The validation report is to be prepared by a suitably qualified environmental consultant with experience in land contamination and New South Wales EPA contaminated land legislation and guidelines including the *Contaminated Land Management Act 1997*. The report is to satisfactorily document the following.

- (a) The extent of validation sampling, and the results of the validation testing.
- (b) That the remediation and validation of the site has been undertaken in accordance with Remedial Action Plan reference E22031 Ac RAP Rev 3 dated 29th October 2014.
- (c) That the site is suitable for the proposed use.

(65) 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 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.

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

(66) 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.

(67) COMPLIANCE WITH DEMOLITION, EXCAVATION & CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

All works conducted on site which form part of this development must be carried out in accordance with the submitted Demolition, Excavation and Construction Management Plan prepared by Acoustic Logic dated 16/10/2014.

(68) COMPLIANCE WITH THE ACOUSTIC REPORT & ADDITIONAL REPORTING & CERTIFICATION REQUIREMENTS PRIOR TO CONSTRUCTION AND OCCUPATION CERTIFICATES

- (a) All performance parameters, requirements, engineering assumptions and recommendations contained in the Noise Impact Assessment prepared by Acoustic Logic, dated 16/10/2014, ref 20141201.1/1610A/RO/RL, titled must be certified as implemented during the detailed design stage prior to the construction and again verified prior to the commencement of the use of the premises in accordance with requirements of (b) and (c) below and to the satisfaction of the certifying authority.
- (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* (see definition below) to be in accordance with the requirements of The DA Report set out below. Specifically, the consultant will prepare a written Acoustic Certification Report with reference to drawings, to the satisfaction of the Principal Certifying Authority (PCA – or other specified authority) which addresses the following requirements:

- (i) All recommendations outlined in the Part 5.3 Recommendations of the report above
- (c) Prior to the issue of an Occupation Certificate, a suitably qualified acoustic consultant is to provide a written Acoustic Verification Report to the satisfaction of the PCA or other authority as given in (b) above 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.

(69) ALIGNMENT LEVELS – MAJOR DEVELOPMENT

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

(70) 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).

(71) 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.

(72) 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".

(73) PUBLIC DOMAIN PLAN

- (a) A detailed Public Domain Plan must be prepared by a suitably qualified architect, urban designer, landscape architect or engineer and must be lodged with Council's Public Domain Section and be approved by Council prior to a Construction Certificate being issued for public domain work or above ground building work, whichever is later. The Public Domain Plan must be submitted with a completed Public Domain Plan checklist (available in the City of Sydney's Public Domain Manual).
- (b) The Public Domain Plan must document all works required to ensure that the public domain complies with the City of Sydney's Public Domain Manual, Sydney Streets Design Code and Sydney Streets Technical Specification, and the Ashmore Public Domain Strategy including requirements for road pavement, traffic measures, footway pavement, kerb and gutter, drainage, vehicle crossovers, pedestrian ramps, lighting, street trees and landscaping, signage and other public domain elements. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must incorporate the approved Alignment Levels. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.

- (c) The works to the public domain are to be completed in accordance with the approved Public Domain Plan and Alignment Levels plans and the Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

(74) 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.

(75) 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.

(76) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

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

(77) 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.

(78) 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.

(79) DRAINAGE AND SERVICE PIT LIDS

Drainage and service pit lids throughout the public domain shall be heel guard 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.

(80) PUBLIC DOMAIN DAMAGE DEPOSIT

A Public Domain Damage Deposit calculated on the basis of 100 lineal metres of asphalt site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The City's Public Domain team is to confirm the value of the security to be lodged. The Public Domain Damage Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

The guarantee must be lodged with Council prior to an approval for demolition being granted or a Construction Certificate being issued, whichever is earlier.

The Bank Guarantee will be retained in full until the final Occupation Certificate has been issued and any rectification works to the footway and Public Domain are completed to Council's satisfaction. On satisfying the above requirements 90% of the total securities will be released, with the remaining 10% to be retained for the duration of the 12 months Defect Liability Period.

(81) 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;
 - (vii) Temporary lighting to facilitate Staging or until adjoining developments are constructed and permanent lighting installed are to form part of the submission.
- (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.

(82) ROAD NETWORK AND GEOMETRIC ROAD DESIGN

- (a) Preparation of the detailed design and construction documentation for the proposed public road system shall include all necessary liaison with and requirements of all relevant public utility authorities, Roads and Maritime Services, Council, the Local Pedestrian Cycling and Traffic Calming Committee and its nominated consultants in order to achieve design approvals and construction compliance. Written evidence of approval from relevant authorities must be submitted to Council with the road design submission;
- (b) The detailed stormwater design shall also demonstrate to City's Urban Renewal Team that the local street network downstream of the development has sufficient capacity to convey the stormwater from the development;
- (c) Due to timing of individual developments within Ashmore Precinct, it may be necessary for the applicant to design temporary/interim stormwater systems to satisfy the development in accordance with City's Technical Specification. Such a design needs to be in association with City's Urban Renewal Team;
- (d) The design and construction of all road works shall be undertaken in accordance with City of Sydney's Sydney Streets Technical Specification and the Public Domain Manual. Detailed design plans, construction details and specifications for the works shall be prepared and submitted to Council for approval prior to issue of a Construction Certificate, excluding for approved preparatory or demolition work, or before issue of an approval under Section 138 of the Roads Act 1993 for the road and drainage, infrastructure work. The detailed plans and supporting documentation shall include as a minimum the following information:

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

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

(83) 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 extent of the public domain area to be covered by the dilapidation report is to be confirmed by the City prior to submission.

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.

(84) 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.

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

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

- (a) Conform to the specifications and standards contained in Managing Urban Stormwater: Soils and Construction (Landcom, 2004); the Guidelines for Erosion and Sediment Control on Building Sites (City of Sydney, 2004); and the NSW Protection of the Environment Operations Act 1997.
- (b) Include a drawing(s) that clearly shows:
 - (i) location of site boundaries and adjoining roads
 - (ii) approximate grades and indications of direction(s) of fall
 - (iii) approximate location of trees and other vegetation, showing items for removal or retention
 - (iv) location of site access, proposed roads and other impervious areas
 - (v) existing and proposed drainage patterns with stormwater discharge points
 - (vi) north point and scale
- (c) Specify how soil conservation measures will be conducted on site including:
 - (i) timing of works
 - (ii) locations of lands where a protective ground cover will, as far as is practicable, be maintained

- (iii) access protection measures
- (iv) nature and extent of earthworks, including the amount of any cut and fill
- (v) where applicable, the diversion of runoff from upslope lands around the disturbed areas
- (vi) location of all soil and other material stockpiles including topsoil storage, protection and reuse methodology
- (vii) procedures by which stormwater is to be collected and treated prior to discharge including details of any proposed pollution control device(s)
- (viii) frequency and nature of any maintenance program
- (ix) other site-specific soil or water conservation structures.

(86) TEMPORARY PUBLIC DOMAIN INFRASTRUCTURE

- (a) Where temporary or interim Public Domain Infrastructure works are required to service the development, and provide temporary access to the development, details of the temporary works are to be submitted and approved by the Council prior to a Construction Certificate being issued. The submission must include:
 - (i) Construction documentation of the temporary works, plans, sections, details and specifications.
 - (ii) Evidence that the temporary works adequately services the development.
 - (iii) Approval for the works by effected landowners, and properties affected by temporary works within the Right of Way.
 - (iv) Approval for the works by the relevant authority (Sydney Water and the like).
- (b) The design of all infrastructures that will be located in future road reserves, or which is to be managed by the Council is to be designed in accordance with the City's Sydney Streets Technical Specification and the City's Ashmore Public Domain Strategy.
- (c) All temporary Public Domain Infrastructure works including drainage, lighting, road, footway works are the like to be constructed in accordance with the approved plans and to the City's satisfaction in accordance with Council standards and the City's Sydney Streets Technical Specification.

(87) TEMPORARY ACCESS

Safe pedestrian, cyclist and vehicle access to each residential unit must be provided which connects the Public Domain Road Reserve, to each residential unit.

Safe access must be provided in accordance with Australian Standards, and the principles of the Sydney Streets Design Code, including the provision of adequate lighting, footway widths and grades, and the like.

Temporary or interim works may be required within the site and to the surrounding properties, and the Right of Way to enable access.

Details of the access, including temporary works is to be submitted and approved by the Council prior to Construction Certificate.

The access must be constructed in accordance with the approved plans prior an Occupation Certificate being issued or the use commencing whichever is the earlier.

(88) 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.

(89) 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).

(90) STRATA SUBDIVISION – APPROVAL OF STRATA PLAN REQUIRED

A separate application must be made to Council or an accredited certifier to obtain approval of the Strata Plan and issue of a Strata Certificate under the Strata Schemes (Freehold Development) Act 1973.

(91) 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's Area Planning Manager and Energy Australia, prior to a Construction Certificate being issued or the commencement of the use, whichever is earlier.

(92) 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.

(93) 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.

SCHEDULE 1C**During Construction/Prior to Occupation/Completion****(94) 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.

(95) ACOUSTIC ASSESSMENT PRIOR TO OCCUPATION CERTIFICATE

A statement is required to be submitted to the Certifying Authority prior to Occupation Certificate being issued for the relevant building that certifies the development or proposed use is capable of, complying with the design criteria and operating without causing a nuisance.

(96) 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.

(97) USE OF HIGH NOISE EMISSION APPLIANCES / PLANT

- (a) The operation of high noise emission appliances, plant and/or machinery such as pile – drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436-2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites is restricted to the hours of:
 - (i) 8:00am - 12:00pm and 1:00pm - 4:30pm Mondays to Friday
 - (ii) 9:00am – 1:00pm on Saturdays
 - (iii) No work is permitted on Sundays or Public Holidays
- (b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436- 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

(98) 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.

(99) DUST MANAGEMENT

All reasonable and feasible steps must be taken to ensure that dust from activities conducted on site is kept to a minimum. This includes the covering and wetting down of disturbed soils.

(100) 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.

(101) 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.

(102) 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.

(103) 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.

(104) 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.

(105) ENCROACHMENTS – NEIGHBOURING PROPERTIES

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

(106) 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.

(107) 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.

(108) 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.

(109) 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.

(110) STREET NUMBERING – MAJOR DEVELOPMENT

Prior to an Occupation Certificate being issued, street numbers and the building name must be clearly displayed at either end of the ground level frontage in accordance with the Policy on Numbering of Premises within the City of Sydney. If new street numbers or a change to street numbers is required, a separate application must be made to Council.

SCHEDULE 1D**Subdivision Conditions****(111) SUBDIVISION CERTIFICATE**

A separate application is to be made to Council for approval of the final "Plan of Subdivision of Lot 3 in DP788543" and issue of the Subdivision Certificate under Part 4A of the Environmental Planning and Assessment Act 1979.

(112) SYDNEY WATER CERTIFICATE

Prior to the issue of the Subdivision Certificate, a Section 73 (Subdivider) 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.

(113) TRANSFER OF LOT 3

Lot 3 in the "Plan of Proposed Subdivision of Lot 3 in DP788543" is to be transferred into Council's ownership in Fee Simple, at no cost to Council. The Title of Lot 3 is to be issued by the NSW Office of Land and Property Information in the Council of the City of Sydney, **prior to the issue of any Occupation Certificate for the development.**

(114) STORMWATER DRAINAGE EASEMENT

The construction, diversion or deviation of any public stormwater drainage system within the site, if required, is to be the subject of a documentary Easement for Drainage of a width and terms acceptable to Council, and created appurtenant to Council under Section 88B of the *Conveyancing Act 1919* to Council's satisfaction.

(115) EASEMENTS AND COVENANTS

Any easements, rights of way and/or positive/restrictive covenants required as a consequence of the subdivision are to be created pursuant to Section 88B of the *Conveyancing Act 1919* and to Council's satisfaction.

(116) PUBLIC ROAD DEDICATIONS

The final Plan of Subdivision is to include the dedication as Public Road, free of cost to Council, of the following new roads within the site:

- (a) The part of Zenith Street, nominally 5.3m to 5.5m wide (south of Metters Street).
- (b) The part of Zenith Lane 900mm wide (between Metters Street and Coppersmith Lane).
- (c) The part of Metters Street 13.8m wide.
- (d) The part of Coppersmith Lane 6.4m wide.

as shown upon the approved drawing being "Plan of Proposed Subdivision of Lot 3 in DP788543".

Prior to the issue of the Subdivision Certificate for the dedications, the new roads are to be designed and constructed in accordance with the requirements and to the satisfaction of Council as the PCA.

(117) PUBLIC ROAD

The new roads within the site must not be dedicated in isolation of any existing public roads and, accordingly, **prior to the issue of the Subdivision Certificate**, the subject dedications are to form the extension or widening of existing dedicated public road.

(118) DESIGN AND CONSTRUCTION OF SUBDIVISION WORKS

Detailed engineering, road, drainage and infrastructure works, design and construction plans for the construction of the roads to be dedicated as Public Road, are to be submitted to Council and approval gained prior to the issue of any Construction Certificate for the Subdivision Works. The design and documentation is to include any requirements and approvals from external parties such as public utility service authorities and is to be in accordance with Council's *"Development Specifications for Civil Works Design and Construction"* or Council's specification current at the time and is to be in accordance with any approved flood analysis and assessment report for the site and is to be consistent with Water Sensitive Urban Design principles.

The submission to Council is to provide plans and specifications sufficient to describe in detail the design, scope and extent of all proposed road, drainage and infrastructure works for the construction of the new roads extensions prepared and certified by a Professional Engineer.

The certification is to include confirmation from a Professional Engineer that the design complies with Council's civil works specifications and is to be fully coordinated with the approved Public Domain and Landscape plans for the development. The plans, documentation and certification are to be submitted concurrently to Council's Public Domain Section for review and Council's acceptance of completed Subdivision Work and issue of the final Compliance Certificate as the Principal Certifying Authority will be subject to certification and compliance with the approved drawings, the Development Specifications for Civil Works Design and Construction, applicable standards and the submission of certified Works as Executed drawings.

(119) CONSTRUCTION CERTIFICATE FOR SUBDIVISION WORKS

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

(120) PRINCIPAL CERTIFYING AUTHORITY

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

(121) COMPLETION OF SUBDIVISION WORKS

Prior to the issue of the Subdivision Certificate for the Plan of Subdivision, all Subdivision Work on the site is to be completed in accordance with the requirements and to the satisfaction of Council as the Principal Certifying Authority. A separate application can be made to Council to exercise the provisions of Section 109C(2) of the Act with regard to any incomplete works.

(122) COMPLETION OF PUBLIC DOMAIN WORKS

Prior to the issue of the Subdivision Certificate, any public domain works considered to be associated with the subject Subdivision Works are to be completed in accordance with the requirements and to the satisfaction of Council.

(123) STRATA SUBDIVISION

Any proposal to Strata subdivide Lot 1 and/or Lot 2 will require a separate application to Council or an accredited Strata Certifier to obtain approval of the Strata plan and issue of the Strata Certificate under The Strata Schemes (Freehold Development) Act 1973.

(124) FUTURE SUBDIVISION

Any proposal to further subdivide Lot 1 and/or Lot 2, to separate in Title the Townhouse dwellings or Stratum subdivide the residential apartment building components of the development will require separate development application and subsequent approval from the Council of the plan of subdivision and issue of the Subdivision Certificate under Part 4A of the *Environmental Planning and Assessment Act 1979*

SCHEDULE 2

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

SCHEDULE 3**Terms of Approval**

The Terms of Approval for Integrated Development as advised by the NSW Office of Water 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.
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 NEPM 2013 investigation thresholds) shall not be reinjected into any aquifer without the specific authorisation of the NSW Environment Protection Authority (any such discharge would be regulated through a licence issued under the *Protection of the Environment Operations Act 1997* [POEO Act]). The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

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 and Surrounding Development

1. The site is part of the Ashmore Precinct urban renewal area located in Erskineville. The precinct is bounded by Ashmore Street to the north, Mitchell Road to the east, Coulson Street to the south and the Illawarra rail line to the west.
2. The Ashmore Precinct is a large, predominantly light industrial precinct that is presently undergoing re-development into a mixed use, commercial and residential precinct. Renewal of the precinct will assist in delivering the City's Sustainable Sydney 2030 vision and targets through the provision of new residential, commercial and retail development and public infrastructure such as open space, stormwater management and cycle lanes. Figure 1 below shows the Ashmore Precinct urban renewal area.



Figure 1 Ashmore Precinct with site highlighted.

3. The development site has a legal description of SP74596. The site is irregular in shape with an area of approximately 6,664m² and does not have a direct street frontage. The site itself is located at the northernmost point of the Ashmore precinct, bounded by other warehouses and development sites.
4. The site is currently occupied by brick and metal sheds comprising warehouses and associated offices. The northern wall of the building is located directly on the boundary and acts as a rear fence for the neighbouring properties in Ashmore Street to the north. A similar nil setback exists to the warehouse to the east, which is also a site for future development within the precinct.
5. To the west of the site within the Ashmore Precinct is the recently lodged 'Golden Rain' development comprising a residential flat building for 109 units and 18 terraces.
6. Further west and northwest of the site within the Ashmore Precinct is the recently approved 'Erko' development comprising residential flat buildings and townhouses with a total of 318 dwellings.
7. The T4 Illawarra railway line is adjacent to the eastern boundary of the Ashmore Precinct. To the north are existing single and two storey terrace style housing. To the south of the Ashmore Precinct is a mix of residential (3-7 storeys in height) and industrial properties (single storey).
8. The site is not a heritage item and is not located within a heritage conservation area.
9. The Ashmore Precinct is bounded to the north, west and east by heritage conservation areas that house the established communities of Erskineville and Alexandria.
10. Photos of the site and surrounds are shown below.



Figure 2 Site location and surrounding development in the precinct.



Figure 3 Corner of Southern and Western elevation of the existing warehouse.



Figure 4 Southern elevation of the existing warehouse, with the neighbouring property beyond.



Figure 5 – Southern elevation of existing site.



Figure 6 – Western Elevation of existing warehouse with future Golden Rain development to the left.



Figure 7 – Looking west along Ashmore Street to the North of the site.

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION**36-36A/1A Coulson Street, Erskineville – D/2011/2152**

11. The 'Erko' site is located west of the subject site and is adjacent to the Bankstown and Illawarra Railway Line. Deferred commencement consent D/2011/2152 was granted in October 2012 (later activated in June 2013) for the staged construction of four residential flat buildings ranging in height from 3 to 8 storeys and townhouses accommodating a total of 318 new dwellings, 213 car parking spaces, associated infrastructure, landscaping and public domain works.
12. Residential flat buildings A, B and C were given detailed Stage 2 development approval under D/2012/2152.
13. Stage 2 consents have now been granted for all buildings including D and E. The Stage 2 DA (D/2013/784) for Building D (41 apartments) was approved by Council on 18 February 2014. Building E (D/2013/428 - 16 townhouses) was approved by Council on 17 June 2013. The development is being undertaken by Leighton Properties and marketed as 'Erko'. Construction is presently underway on all buildings. (Figure 8).



Figure 8 – Looking west across the Eve development, with Erko beyond.

35-3B/1A Coulson Street, Erskineville – D/2012/1823 and /D/2014/912

14. The Stage 1 concept proposal for 'Eve' was issued in March 2014 for site layout, street network and building envelopes, comprising 3 residential flat buildings between 3 storeys and 6 storeys with a maximum building height of 22 metres, a gross floor area of approximately 13,982m² and 2 levels of basement parking. Works include the demolition of all structures on site and site remediation.

15. A Competitive Design Alternatives Process for the Stage 2 development of 'Eve' began on 5 March 2014 and a recommendation for the formal appointment of the successful architectural firm was made on 15 April 2014. The Stage 2 DA for the detailed design and construction of the development was lodged with the City of Sydney Council on 27 June 2014 (D/2014/912) and was granted deferred commencement of consent on 4 December 2014.

Real Estate Marketing Suite (D/2015/210)

16. On 16 March 2015, a development application was approved under delegation for the fitout and use of part of the existing warehouse building as a temporary marketing suite, display apartment and associated meeting area. The suite was approved to advertise the subject site, 39-41 /1A Coulson Street. Approved works also included a new facade to Unit 17 of 16-20/ 1A Coulson Street, car parking for 8 vehicles and hoarding along the Macdonald Street frontage of the Eve site at 35-35b/1a Coulson Street with associated real estate signage.

Design Excellence Competition

17. In April of 2014, a design competition process was undertaken for the subject site, 39-41/1A Coulson Street, Erskineville. The competition entries utilised the development standards and controls contained in SLEP 2012 and SDGP 2012. Bates Smart, Cox Richardson, Hayball and SJB architects participated in the competition. A design excellence jury, Council representatives and client representatives met on 1 September 2014 to review the submitted architectural schemes. The jury unanimously selected Bates Smart as the winner.

Voluntary Planning Agreement

18. An offer has been made by the land owner/s to enter into a Voluntary Planning Agreement (VPA) for the dedication of land within the subject site for public roads, including associated works and embellishments. The land dedication and associated works is consistent with SDGP 2012 (Ashmore Neighbourhood) and the Draft Ashmore Public Domain Strategy.
19. The VPA is currently still being prepared and will require exhibition in accordance with section 25D and section 25E of the Environmental Planning and Assessment Regulation 2000. Following completion of the exhibition, the VPA will be executed. Accordingly, a deferred commencement consent condition is recommended that the VPA be exhibited and executed prior to the consent becoming operational.

PROPOSAL

20. The application seeks consent for the construction of the following:
 - (a) residential flat buildings between 5 and 7 storeys with a total GFA of 8,228.2m² and 17 new terraces with a height of 2 storeys with attics and a total GFA of 2,733.8m².
 - (b) 112 apartments comprising:
 - (i) 4 x Studio bedroom apartments;
 - (ii) 42 x 1 bedroom apartments; and
 - (iii) 66 x 2 bedroom apartments.

- (c) 17 terraces comprising:
 - (i) 5 x 2 Bedroom terraces;
 - (ii) 7 x 3 Bedroom terraces; and
 - (iii) 5 x 4 Bedroom terraces.
 - (d) one basement car parking level accommodating 65 car spaces, motorcycle parking, bicycle parking and storage accessed from Metters Street.
 - (e) 16 of the terraces will have a single car parking space, with one terrace providing two spaces giving a total of 18 car parking spaces provided.
 - (f) a loading dock/garbage collection point on the ground level accessed from Metters Street, which will be extended to form the north eastern boundary to the residential flat building.
 - (g) landscaping of the site including a central courtyard, setback planting and elevated common open space area.
 - (h) subdivision of the site to create a development lot and land dedications to the Council. The resultant land sizes will be 6,666m² for the site and 2,179m² dedicated to council.
 - (i) as part of the subdivision, in addition to a new road and laneway being dedicated to Council, the southern triangular corner of the site is being dedicated as 101m² landscaping and future public walkway. The loss of this land from the site area has implications to landscaping calculations.
21. Amended plans were provided by the applicant on 18th of March 2015 which addressed concerns including the entry to basement car park, building heights, and the landscaping of the terraces. These amendments are minor and do not warrant re-exhibition.
22. Photomontages of the proposal are provided below. A full set of architectural plans are provided in Attachment A.



Figure 9 Photomontage of the front northern elevation of the residential flat building from Metters Street.



Figure 10 Photomontage of the southern elevation from the proposed pedestrian through site link.



Figure 11 Photomontage of southern elevation showing the ground floor private courtyards to Metters Street.



Figure 12 Photomontage showing northern elevation of the rear entrances to the terraces from Coppersmith Lane.

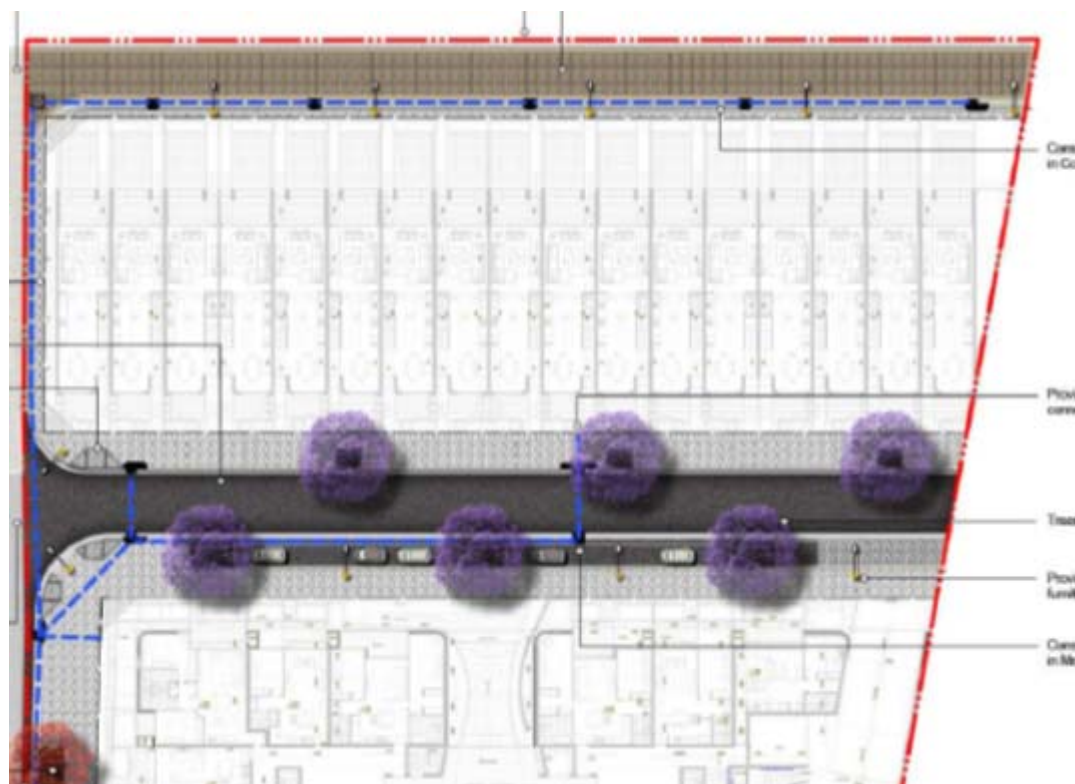


Figure 13 VPA plans showing detail of the proposed dedicated road and laneway with street planting.

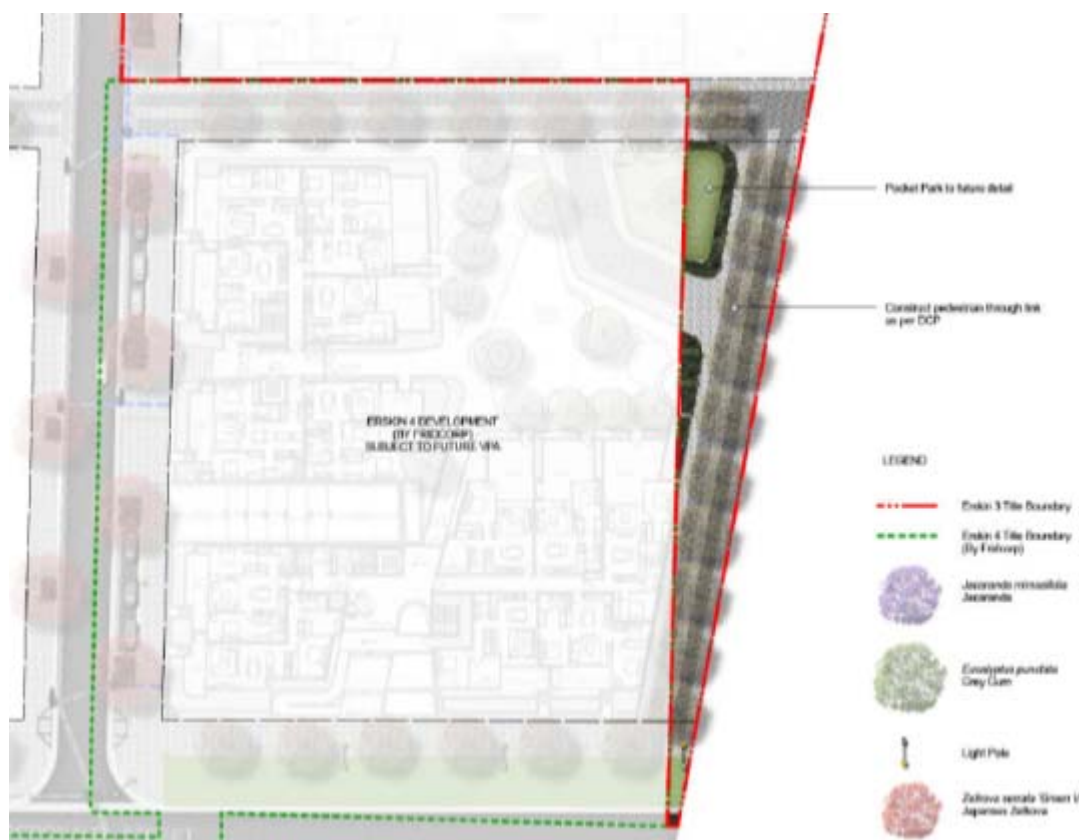


Figure 14 VPA Plans showing proposed 101m² triangular parcel of land in south-eastern corner to be dedicated as landscaping and through site link.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

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

(a) Environmental Planning Instruments and DCPs.

State Environmental Planning Policy No 55—Remediation of Land

24. SEPP 55 requires the consent authority to consider whether the land is contaminated prior to consenting to the carrying out of development. If the land is contaminated, the consent authority must be satisfied that the land is suitable for its intended use in its present state, or that it will be suitable after remediation.
25. The land on the site has been tested and has been deemed that contamination is likely. The consultant has stated that the site can be made suitable providing an Remediation Action Plan (RAP), site validation and groundwater sampling is carried out. The RAP accompanied with the application has outlined remediation for the site. A site auditor has provided an interim letter of advice regarding the RAP and has detailed additional measures that need to be taken in order for the site to be deemed as suitable.
26. Based on the information submitted and the historical land use study that has been undertaken by City staff, Council's Health Compliance Unit is satisfied that the site can be made suitable for the proposed uses and satisfy the requirements of SEPP 55. An appropriate condition has been recommended for imposition.

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

27. 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

Complies: The Ashmore Precinct is undergoing transition from a predominately light industrial precinct to a mixed use, commercial and residential neighbourhood. The application for residential flat buildings is appropriate within the context of the future Ashmore Precinct and will contribute to the desired future character and scale of the area.

The proposal complies with the height controls under LEP 2012 and is consistent with the height and building envelopes detailed in part 5 of the DCP 2012 for the Ashmore Precinct. The building design provides for appropriate modulation and articulation of facades through the use of a variety of materials and finishes and fine grain composition along street frontages. The built form has been articulated through the incorporation of deep and wide building slots, which also assist in reducing the scale of the proposal.

Appropriate street level massing reduces the bulk and scale of the proposal and provides good visual amenity. The upper levels of the building are setback from the predominate building line, providing an appropriate transition in scale.

The inclusion of landscaped setbacks to the right of carriageway to be used as a pedestrian link will enhance the future desired character of the Ashmore Precinct.

(b) Principle 4: Density

Complies: The proposed FSR is consistent with LEP 2012 and the DCP 2012 Part 5 – Ashmore Precinct and is appropriate in the Ashmore Precinct given its proximity to the established and proposed infrastructure, public transport, community and recreational facilities. The proposed density responds well to the existing and future context of the precinct, and does not result in unacceptable levels of amenity impact for existing and future neighbouring residential properties.

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

Complies: The proposal is compliant with the requirements of BASIX, and an appropriate condition is recommended to ensure that the development complies with the commitments contained on its BASIX certificate.

To meet Ecologically Sustainable Development requirements for the 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 and vertical gardens to assist with thermal comfort. The proposal also complies with solar access and cross ventilation requirements.

(d) Principle 6: Landscape

Generally acceptable: A total of 131m² (5.5%) of deep soil zone planting is provided within the 3m landscaped setbacks of the residential flat building, and within the setbacks and rear yards of the terraces. This is below the 6.25% required under the Residential Flat Design Code (RFDC), and the DCP 2012 requirement of 10%.

From the subdivision, deep soil is being provided away from the residential flat building lot in the form of tree pits, and a 101m² dedicated lot as part of the public walkway. Should the dimensions be incorporated into the calculations, the site would be achieving 16% deep soil zone, which would exceed the requirements of the DCP 2012.

A total of 290m² (10%) of landscaped common area is proposed, which does not comply with the 25% requirement under the RFDC. Proposed common open space consists of a ground level communal courtyard in the centre of the proposed residential flat building, as well as a communal terrace on the top level of the residential flat building. The common areas will provide residents with space for passive recreation and will be accessible from either the main entry or secondary building entries. The ground level courtyard will accommodate seating, pedestrian paths and extensive planting. The roof level communal courtyard will provide an additional communal space for passive and active recreation with a generous planted zone with northerly aspect.

In addition to planting in the ground level communal courtyard, the street frontage gardens are designed to allow for ground cover with trailing planting species and allow for future vertical growth. 101m² deep soil planting is dedicated to the south of the site.

(e) Principle 7: Amenity

Complies: Compliance with amenity controls as detailed in the following RFDC table. In summary, the proposal presents an acceptable level of residential amenity for future occupants.

(f) Principle 8: Safety and Security

Complies: The proposed development provides for casual surveillance of the surrounding public domain through windows being located along all facades. Proposed residential units at ground level fronting Metters and Zenith Streets, as well as the eastern property boundary include individual entrances providing for an active frontage which assists in deterring opportunities for crime. Units fronting the pedestrian walkway provide windows to allow for casual surveillance from bedrooms. 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

Generally complies: The proposed development has the following unit mix:

- (i) 4 x Studio apartments (3%)
- (ii) 42 x 1 bedroom apartments (38%);
- (iii) 66 x 2 bedroom apartments (59%), including 1 x 1 bedroom + study apartments capable of being used as second bedrooms;

This proposed mix does not comply with the requirements of DCP 2012 for 3 bedroom apartments are not included. However, noting the number of terraces proposed that contain 3 bedroom dwellings, the development is considered to adequately contribute to the house stock mix for the area.

This variation is supported and discussed in the Issues section.

The proposal has been designed to provide 19 apartments (17%) of the total dwellings as adaptable units, which complies with the DCP 2012 requirement.

Complies: The proposed built form presents a high quality design, using a variety of architectural elements and materials to provide visual interest and the landscaped common area improves the outlook for residents.

The 2 storey with attic terraces have a finer grain expression as a direct response to the neighbourhood terrace context of the Erskineville locality.

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

28. The development is considered generally acceptable when assessed against the above stated principles and SEPP 65 generally, which are replicated in large part within Council's planning controls and DCP 2012.

29. 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.

[illegible]

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
Deep Soil Zone A minimum of 25% of the required open space area of the site should be a deep soil zone, a total of 6.25% of the site area.	No	A total of 131m ² (5.5%) of deep soil zone planting is provided to the residential flat building. This is a result of the site area being reduced through subdivision, and the dedication of 101m ² of land for public through site link which would have otherwise contributed to a compliant zone for the residential flat building. Discussed further in Clause 68 of the Issues section.
Communal Open Space Communal open space to be 25-30% of site area. Private Open Space 25m ² at ground level with minimum preferred dimension in one direction of 4m.	No	A total of 290m ² (10%) of landscaped common area is proposed for the resultant lot following subdivision, which does not comply with the RFDC requirement. However this is considered acceptable noting the site area is significantly reduced through the dedication of land for roads and public through site link. 38% of ground level apartments have an area of 25m ² for private open space, and 23% have an area of 23m ² . The remaining apartments do not achieve the minimum dimensions. Whilst not compliant, this departure is acceptable due to the minor extent of the non-compliances.
Safety	Yes	A Crime Prevention Through Environmental Design (CPTED) statement was prepared identifying areas within the development that required appropriate design and security management.
Visual Privacy	Yes	The proposal generally complies with the recommended building separation distances and the proposal largely achieves acceptable separation to maintain visual privacy for future occupants and those of adjoining buildings. Screening and vertical gardens have been incorporated to reduce potential overlooking impacts between balconies.

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
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.	Yes	The proposal includes no single aspect south facing apartments.
Apartment Layout (Kitchen) The back of a kitchen should be no more than 8m from a window.	Yes	All apartments have kitchens with a maximum depth ranging from 6 to 8m from a window.
Apartment Layout (Cross-Over) The width of cross-over or cross-through apartments over 15 m deep should be 4m or greater to avoid deep narrow apartment layouts.	Yes	All cross-through apartments have a minimum width of 4m.
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 	Yes	The proposal includes minimum apartment sizes as follows: <ul style="list-style-type: none"> • Studio – 43m² - 48m² • 1 bed: 49m² - 50m² • 2 bed: 69m² - 73m² Additionally the terrace houses provide <ul style="list-style-type: none"> • 3 bed: 95m² - 102m² • 4 Bed – 157m² The proposal includes 9 apartments (8%) that fall below the minimum size for 1 and 2 bedrooms apartments. These apartments are generally 49m ² and 69m ² in area respectively. While the apartments are undersized, floor plans show adequate space is provided to accommodate bedroom furniture and rooms are regularly shaped with access to natural light and ventilation. The variation to minimum apartment sizes is supported.

<i>Residential Flat Design Code</i>		
<i>Rule of Thumb</i>	<i>Compliance</i>	<i>Comment</i>
Balconies 2m min balcony width	Yes	88% of balconies have minimum widths greater than 2m. However design of the remaining balconies is still sufficient to achieve adequate amenity for the occupants of the apartments. This is addressed further in the Issues section of this report
Ceiling Heights 2.7m min ceiling height in habitable areas. 2.25-2.4m ceiling height in non-habitable areas.	Yes	Floor to floor heights of between 3.1m and 3.15m are proposed, ensuring a minimum 2.7m floor to ceiling height can be achieved.
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 the public domain or the internal common open space area. All ground floor apartments have private courtyards directly accessible from principal living areas.
Internal Circulation The number of units accessible from a single core/corridor should be limited to eight.	No	Apartment numbers served by a single core range is 9 apartments. However the dual core allows for additional natural light and ventilation through the provision of windows in build slots and is considered an appropriate design response.
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 with storage in the 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.	Yes	75% of RFB 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.	No	50% of apartments are natural cross ventilated as a result of cross through and corner apartments. The building depths are below 8m, with kitchens located in shared living areas to provide greater access to natural ventilation.

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

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

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

32. 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.
33. The proposed development of the site is consistent with the aims and objectives of SEPP32.

Sydney LEP 2012 (LEP 2012)

34. The site is located within the B4 Mixed Use zone under LEP 2012. The proposed use is characterised as residential and is permissible in the B4 mixed use zone.
35. The relevant matters to be considered under LEP 2012 for the proposed development are outlined below.

Compliance Table		
Development Control	Compliance	Comment
4.3 Height of Buildings Terrace	No	A maximum height of 9m is permitted. A height of 9.65m is proposed. A request to vary this development standard by 7.2% has been received and is addressed in the Issues section of this report.

Compliance Table		
Development Control	Compliance	Comment
4.3 Height of Buildings Residential Flat Building	No	A maximum height of 25m is permitted. A height of 26.5m is proposed. A request to vary this development standard by 6% has been received and is addressed in the Issues section of this report.
4.4 Floor Space Ratio	Yes	The site has a maximum FSR of 1.5:1 In accordance with Clause 6.21(7)(b)(i) of LEP 2012 the site has a bonus floor space of up to 10% for demonstrating design excellence, giving a maximum permissible FSR of 1.65:1. A FSR of 1.64:1 is proposed, which complies with the maximum of 1.65:1.
5.9 Preservation of trees or vegetation	Yes	No trees are proposed to be removed.
Division 4 Design excellence	Yes	The proposal is the result of a competitive design process held on 1 September 2014. The submitted design is consistent with the architectural design from the winning scheme.
Part 7 Local provisions—general		
Division 1 Car parking ancillary to other development	Yes	A maximum of 34 car parking spaces are permitted for the terraces. A total of 18 car parking spaces are proposed. A maximum of 81 car parking spaces are permitted for the Residential Flat Building. A total of 65 car parking spaces and 124 bike spaces are proposed including a single car wash bay.
7.14 Acid Sulphate Soils	Yes	The site is identified as containing class 4 Acid Sulphate Soil. A condition has been recommended to address construction requirements in acid sulphate soils on site.

Compliance Table		
Development Control	Compliance	Comment
7.15 Flood planning	Yes	The site is identified as being flood prone. Flood planning levels have been incorporated into the design of the proposal and have been assessed as being acceptable, as discussed in the Issues section of this report.
7.20 Development requiring preparation of a development control plan	Yes	<p>A DCP is required under this clause as the site area is more than 5,000m².</p> <p>However, in accordance with clause 7.20 (3), Council <i>'is satisfied that such a plan would be unreasonable and unnecessary in the circumstances.'</i> Part 5.5 of the Sydney DCP 2012 provides a detailed plan to address all the considerations of Clause (4) (c) and any additional plan would be providing superfluous information and controls.</p> <p>Discussed further in the Issues section</p>

Sydney DCP 2012 (DCP2012)

36. The relevant matters to be considered under DCP 2012 for the proposed development are outlined below.

2. Locality Statements – Ashmore
<p>The subject site is located in the Ashmore locality. The proposed residential flat building and terraces are considered to be in keeping with the desired future character of the area by contributing new dwelling types and sizes in an area surrounded by predominately low density housing.</p> <p>The proposal balances the public and private domain through the provision of landscaped setbacks, active street frontages and opportunities for passive surveillance. The proposal provides a built form with high visual amenity, and reinforces the future pedestrian only pathway identified within the Ashmore Neighbourhood controls of DCP 2012.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposed development will make a positive contribution to the public domain through the dedication of land for new streets and laneways as well as transferring a portion of the site to Council to facilitate a future pedestrian right of way. This will allow for the transformation of this land into a landscaped pedestrian link in the future.
3.2 Defining the Public Domain	Yes	The proposed development will enhance the public domain by providing for landscaped ground floor entries to private residences which will activate the street and provide opportunities for passive surveillance, while maintaining visual privacy for residents.
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The proposal was subject to a competitive design process. This process permitted a bonus FSR of up to 10% over the site.</p> <p>The detailed design of the buildings proposed satisfies the requirements of this provision.</p>
3.5 Urban Ecology	Yes	No trees are proposed to be removed as part of this proposal.
3.6 Ecologically Sustainable Development	Yes	The proposal will not have unacceptable impacts on the environment and satisfies BASIX requirements.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. The proposal has been designed to adequately minimise flood risks.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>Subdivision to facilitate the dedication and transfer of land to the City in accordance with the VPA is part of the proposed application.</p> <p>In accordance with the requirements of the VPA, the subdivision will facilitate the dedication of a new road, laneway and transfer a portion of the site for a future pedestrian link.</p> <p>Any proposed strata subdivision for the site is subject to a separate application. An appropriate condition has been included to this effect.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.11 Transport and Parking	Yes	<p>A maximum of 34 car parking spaces are permitted for the terraces. A total of 18 car parking spaces are proposed.</p> <p>A maximum of 81 car parking spaces are permitted for the Residential Flat Building. A total of 65 car parking spaces and 124 bike spaces are proposed including a single car wash bay. The provision of parking is acceptable subject to conditions relating to car space allocation and use.</p> <p>The driveway entrance has been modified through the amended design to be set back 1m from the boundary and to enter at a 90° angle. The swept paths demonstrate that Council's 9.24m waste truck is able to manoeuvre in and out of the site adequately.</p>
3.12 Accessible Design	Yes	<p>DCP 2012 specifies that when new developments propose more than 30 units, 15% of the dwellings are to be adaptable dwellings. The proposal includes 19 adaptable units (16%), which complies with this requirement.</p> <p>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 DCP 2012 and the BCA, subject to recommended conditions.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the Crime prevention through environmental design (CPTED) principles.</p>
3.14 Waste	Yes	<p>A condition has been included to comply with the relevant provisions of the <i>City of Sydney Code for Waste Minimisation in New Developments 2005</i>.</p>

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.1 Building height	Terrace – Yes RFB- No	DCP 2012 allows for a 2 storey height limit for the terraces, and a 5-7 storey height limit for the residential flat building. The building height complies with the height in storeys control for the terrace houses as these are two storeys plus attic, and exceeds the 5 storey height control for the residential flat building for the south eastern portion of the building. The non-compliance is discussed further in the Issues section of this report.
4.2.2 Building setbacks	Yes	Landscaped setbacks of variable widths are proposed to each property boundary. See further discussion under the Issues section of this report.
4.2.3 Amenity	Yes	The amenity of the residential flat building 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 is acceptable. Dwelling mix and private open space is discussed under the Issues section of this report.
4.2.4 Fine grain, architectural diversity and articulation	Yes	The proposal achieves a fine grain diversity through the use of building breaks that provide sightlines into the central courtyard, deep landscaped slots in the facades, modulation, a varied pallet or materials, increased setbacks on Level 5 and individual entries to ground level apartments.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.5 Types of development	Yes	<p>The residential flat building is designed as a U shaped building with a central courtyard. The central courtyard maintains visual connections to both Metters Street, Zenith Street and the future pedestrian walkway.</p> <p>The development includes residential uses on the ground floor. Ground floor apartments incorporate individual entries from the streets and private open space in the form of decks. Balustrades to ground floor decks are primarily constructed of vertical, open style metal palings that maintain privacy while allowing for passive surveillance of the public domain. The proposal also includes stepped garden beds to provide a greater landscaped presentation to the pedestrian level.</p>
4.2.6 Waste minimisation	Yes	<p>Each dwelling in the residential flat building has adequate space to manage waste. Six chutes for garbage are provided (one per core) and are accessible on each level, with waste being collected in storage rooms within the basement.</p> <p>Waste will be collected off Metters street for the terraces, and from an internal loading bay within the basement of the residential flat building.</p>
4.2.7 Heating and Cooling Infrastructure	Yes	Heating and cooling infrastructure is provided in appropriate locations in all buildings to satisfy this control.
4.2.8 Letterboxes	Yes	<p>The residential flat building includes individual letterboxes located at ground level in the main foyer at entrance on the Metters Street, contained wholly within the security doors.</p> <p>The terraces and ground floor dwellings have their own letterboxes.</p>

5. Specific Areas		
5.5 Ashmore Neighbourhood		
Development Control	Compliance	Comment
5.5.2 Urban design principles		
5.5.2 Urban design principles	Yes	<p>Landscaped setbacks are provided to the ground floor dwellings generally in accordance with the 3m DCP requirement.</p> <p>Setbacks are discussed in further detail in the Issues section of this report.</p>
5.5.3 Local infrastructure and public domain		
5.5.3.1 Street network	Yes	The proposal includes the provision of new streets in accordance with DCP 2012 and the draft Ashmore Public Domain Strategy.
5.5.3.2 Movement and connectivity	Yes	One access point is provided to the proposal, in accordance with the DCP 2012.
5.5.4 Accessibility and amenity in the public domain		
5.5.4.2 Quality of landscaping and landscaped setbacks	Yes	<p>A mix of native and exotic species is proposed within the landscaped setbacks. Plant selection will attract and support native wildlife, complement street trees and will not restrict light into apartments.</p> <p>The planting to the development will be maintained as part of the strata management program to ensure consistent maintenance.</p>
5.5.8 Building layout, form and design		
5.5.8.1 Height of Buildings	Yes	<p>The proposal complies with the height in storeys map in DCP 2012, with the exception of a minor encroachment on Level 5 and 6 at the south eastern corner.</p> <p>This encroachment is acceptable and is discussed in the Issues section below.</p>

5. Specific Areas		
5.5 Ashmore Neighbourhood		
Development Control	Compliance	Comment
5.5.8.2 Views	Yes	The proposal retains important district views to the CBD and Newtown from Sydney Park.
5.5.8.3 Dwelling type and location	Yes	<p>The proposal for a residential flat building, including a mix of apartments and terraces, complies with the preferred dwelling type for the site.</p> <p>4 x Studio bedroom apartments (3%);</p> <p>42 x 1 bedroom apartments (33%);</p> <p>66 x 2 bedroom apartments and 5 x 2 Bedroom terraces (55% combined);</p> <p>7 x 3 Bedroom terraces. and 5 x 4 Bedroom terraces (9% combined)</p> <p>The unit mix is further discusses under Clause 79 of this report.</p>
5.5.8.4 Building form and design	Yes	The proposal includes individual front entries for ground floor apartments and appropriate setbacks satisfy the provisions of this control.

5. Specific Areas		
5.5 Ashmore Neighbourhood		
Development Control	Compliance	Comment
<p>5.5.8.5 Typical ground floor condition for residential flat buildings</p> <p>5.5.8.7 Fences</p>	Acceptable	<p>The proposal incorporates deep soil planting areas within landscaped setbacks on the ground floor. All ground floor apartments are provided with a private open space deck of adequate depth and size to satisfy the intent of this control.</p> <p>Flooding controls require the ground floor to be raised above ground level. As a result, the ground floor is located 1.5m above the public domain, which does not comply with the maximum 1m requirement.</p> <p>Ground level entries and courtyards have been designed to address the level change by providing wide entry areas to ground level apartments and open style fencing.</p>
5.5.8.8 Building materials	Yes	A variety of materials are proposed including face brick and stone finishes, which complement existing materials predominantly used in surrounding areas.

ISSUES

Clause 4.6 - request for height variation to Clause 4.3 of Sydney LEP 2012.–

37. The height limit for the residential flat building is 25m. The proposed height is 26.5m, a non-compliance of 1.5m and a variation of 6% to the standard.
38. The non-compliance relates only to the lift overrun, mechanical plant and communal open space roof canopy only, as illustrated in Figure 15. The proposed height variation does not accommodate any gross floor area.

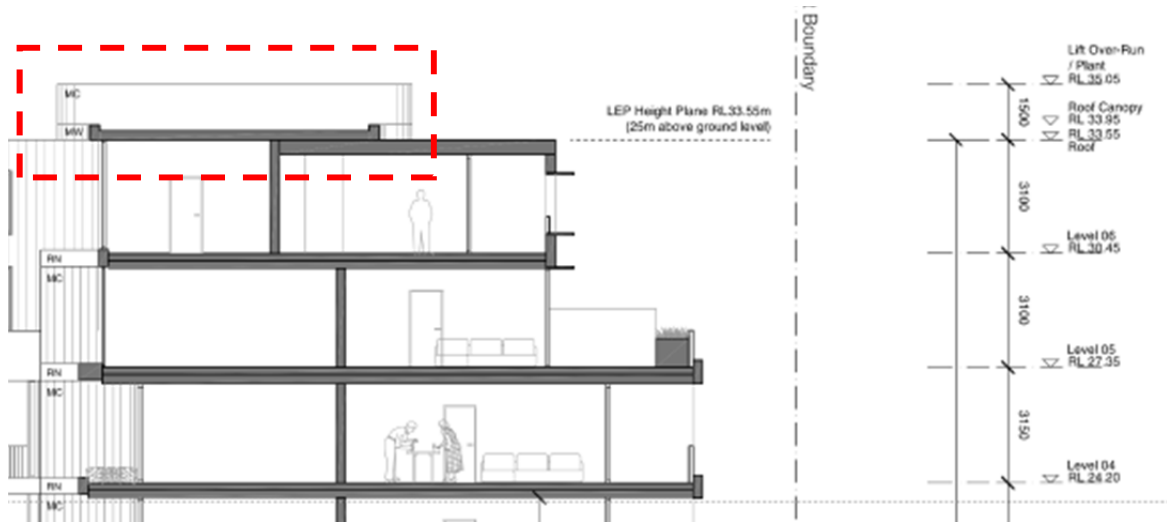


Figure 15 – Identifying area of height non-compliance for the residential flat building.

39. The height limit for the terraces is 9m. The proposed height is 9.5m, a non-compliance of 0.5m and a variation of 5% to the standard.
40. The non-compliance results from the need to address flood planning levels under DCP 2012, and provide sufficient floor to ceiling heights.

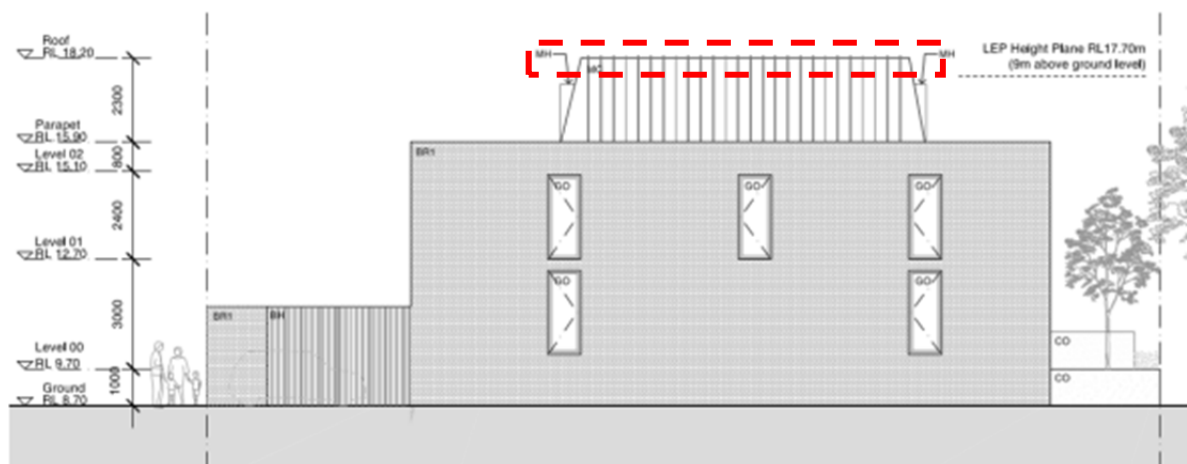


Figure 16 – Identifying area of height non compliance for the terrace houses.

41. A Clause 4.6 variation has been submitted requesting to vary the height standard under Clause 4.3 of LEP 2012. Clause 4.6 imposes conditions in exercising the power to grant consent to the proposed development as follows:
 - (a) the proposed development will be consistent with the objectives of the zone;
 - (b) the proposed development will be consistent with the objectives of the 'Height of Buildings' standard;

- (c) a written request has been submitted from the applicant that demonstrates that compliance with the development standard is unreasonable or unnecessary, as there are sufficient environmental planning grounds to justify contravening the development standard and the matters required to be demonstrated have been adequately addressed.
- 42. The applicant submits that the non-compliant building height to the terraces is a result of meeting flood levels and will not result in an additional impact to surrounding properties to the north, and will not impact on the existing and future neighbourhood character of the locality.
- 43. The applicant submits that the non-compliant building height to the residential flat building is a result of the services to the lift overrun and plant, as well as meeting flood levels. The area of non-compliance is non-habitable and does not constitute GFA.
- 44. The proposal is still consistent with the objectives of the zone and height standards and will not result in an adverse impact on residential amenity, including bulk, solar access and daylight provisions beyond that of a compliant design.
- 45. The internal amenity for the terraces is enhanced through the additional head heights in the attic rooms, and does not change the overall design and form of the terraces beyond those of the winning scheme of the competitive design alternative submission.
- 46. For the lift overruns and plant, the visibility of the non-compliance from the street or surrounding properties would be minor, and is an appropriate design which is intended to screen undesirable plant and equipment elements with a high degree of architectural detail.
- 47. Strict compliance with the standard is considered unnecessary and unreasonable in this instance. As such the proposed height increase is acceptable as a variation to the standard.

Eastern Wing – Height in storeys non-compliance

- 48. The DCP 2012 height in storeys control specifies a 5 storey height control in the south eastern portion of the building. The proposal extends the 6th and 7th storey in this location, which results in a breach in the height in storeys control as shown in Figure 17 below.

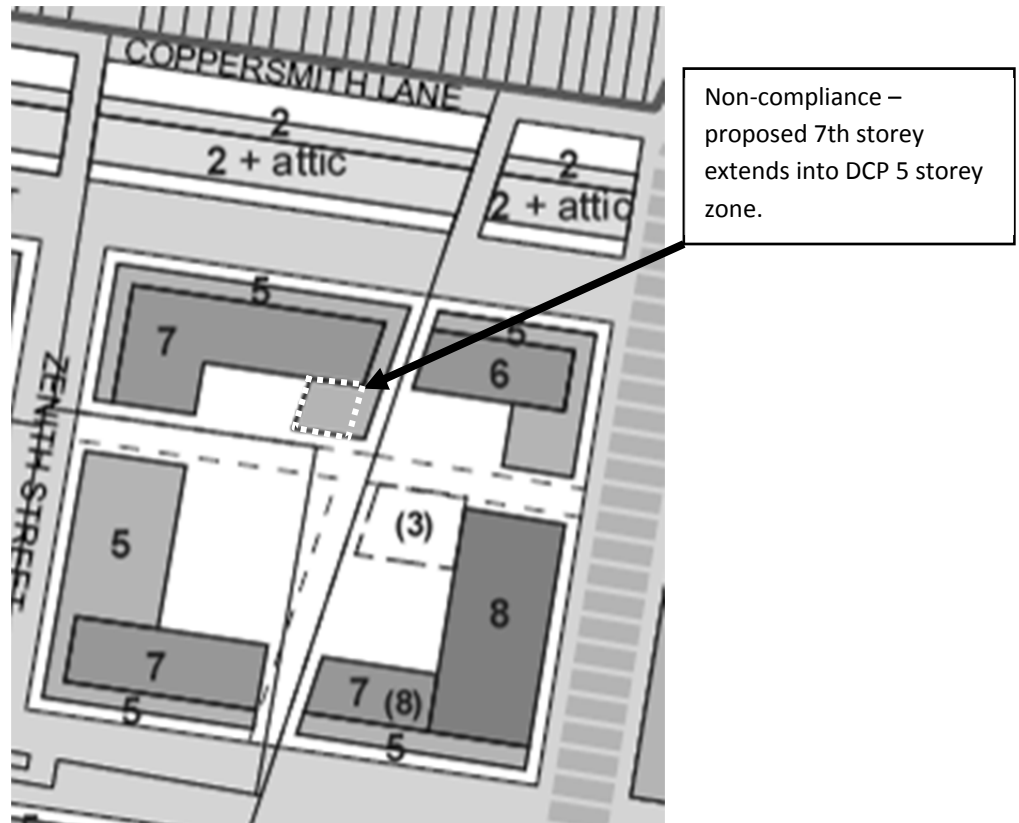


Figure 17 – Area of non-compliance identified

49. The proposal includes an upper level return to reflect that of the western wing. The additional floor area is compliant with the floor space ratio and height in metres development standards of LEP 2012.
50. The impact of the DCP 2012 height in storeys non-compliance is considered to be acceptable in this instance. The impacts of the non-compliance do not create excessive bulk, and submitted shadow diagrams show that the adjoining development to the south will receive in excess of 2 hours of sunlight to living spaces and balconies on the 21 June.
51. The design is a response to the allocation of gross floor area, and the inclusion the second lift core and services. By providing the additional lift core, the building was able to provide additional lifts, fire stairs and garbage services to a fewer number of apartments. The resultant design allows a reduction in circulation lengths from lobbies to apartment entries, and provides greater opportunities for glazing and ventilation to the foyers facing the central courtyard.
52. The proposed modification to the approved height in storeys control is considered to have merit and is supported.

Eastern Setback to side boundary

53. The application proposes a setback from the future property to the east of the property boundary of between 3.3m for levels 1-4 and 3.6m for levels 5 and 6.
54. These separations are non-compliant with RFDC rules of thumb requiring 9m separations.

55. However, the DCP 2012 controls requires a 3.3m boundary setback for levels 1 to 4, and 6.5m boundary setback for levels 5 and 6. As such the proposal is compliant for levels 1 to 4, but non-compliant for Levels 5 and 6.
56. The existing warehouse to the east has a nil setback to the boundary of the subject site. Whilst no proposal has been lodged for the future development of this property, the applicant has prepared an indicative plan to demonstrate the likely future potential impact on the setbacks for the eastern units as demonstrated in Figure 18 below.

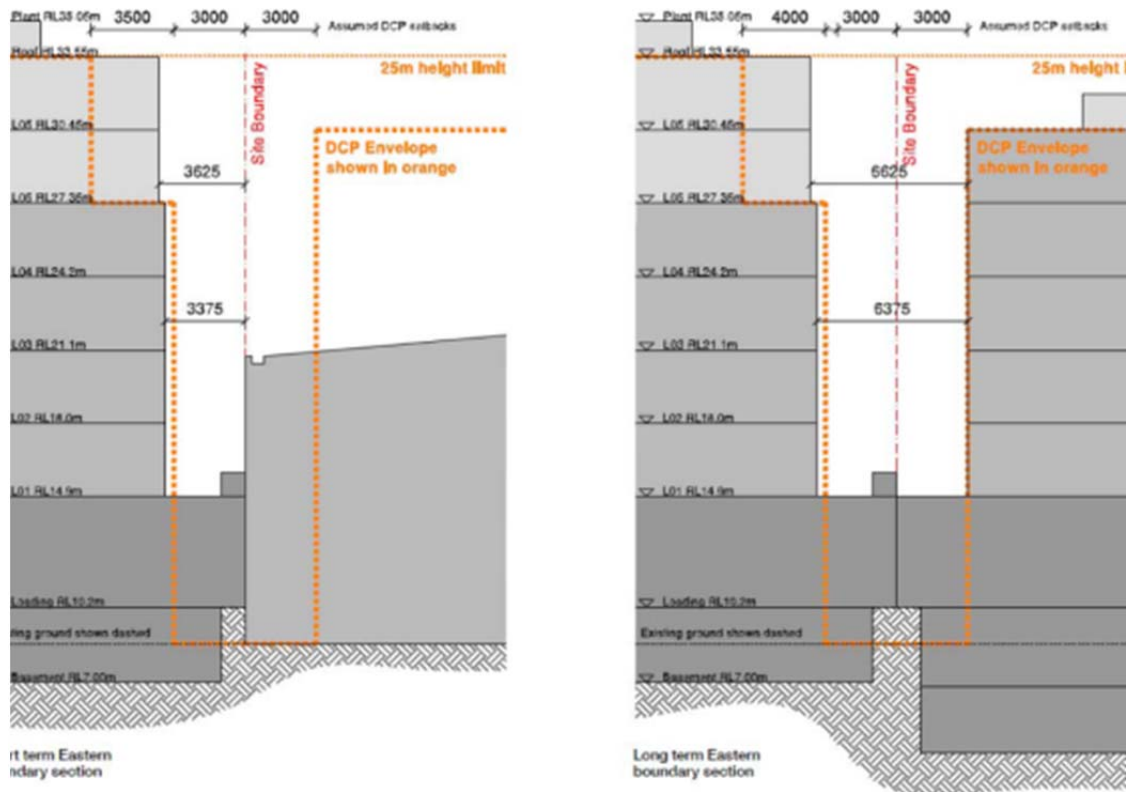


Figure 18 – Demonstrating existing setbacks and likely future development setbacks.

57. The non-compliance from the RFDC and DCP 2012 controls is acceptable as the design of the building incorporates elements to preserve the amenity for the subject site and for future development to the east.
58. On levels 1 to 4, the principal living areas are set back 6 metres to ensure further separation from the adjacent boundary, and the eastern bedrooms of levels 5 and 6 are fitted with direction louvres to enhance visual privacy to future developments.

59. At level one, an enlarged balcony with boxes for significant planting is proposed to provide an additional level of privacy and a visual barrier to the adjacent property. The planting is demonstrated below in Figure 19.



Figure 19 - Proposed planter boxes for the privacy of the eastern units.

60. The units are considered to have a sufficient setback to both the current warehouse building and any future residential flat building. The design does not impede future development to the east, and is able to maintain privacy and amenity for the subject site and the neighbouring property. As such the non-compliance is acceptable.

Zenith Street setback

61. DCP 2012 requires the primary building line to be setback 2.5 m from both streets. The proposal has setbacks of 2.09m to 2.95m setback along the Zenith Street frontage.

62. The variation to the DCP 2012 control is considered acceptable, noting the design does not create excessive bulk to the street, and the building retains adequate separation from the Eve development to the west, and the terraces to the north.



Figure 20 – Plan of ground floors 1-4 identifying the averaged 2.5m setback and the non-compliant corner.

Landscaped Setbacks – Residential Flat Building

63. DCP 2012 requires the provision of 3m landscaped setbacks to the ground floor to Metters and Zenith Streets. The application proposes setbacks between 2.2m and 4m to these frontages on the ground level. Private courtyards are also proposed to be located within this 3m setback area.

64. Figures 21 and 22 illustrate the typical treatment to the ground floor landscaped area. It is considered that the proposal complies with the objectives of DCP 2012 and will provide a high quality interface with the public domain through the provision of landscaping in the form of trees, shrubs and groundcovers, and a combination of open fences and masonry walls to balance the privacy needs of residents and visual permeability to allow for social interaction. The proposed setbacks are considered to be acceptable.



Figure 21 Render of the proposed staggered landscaped setbacks to the ground floor of the residential flat building.

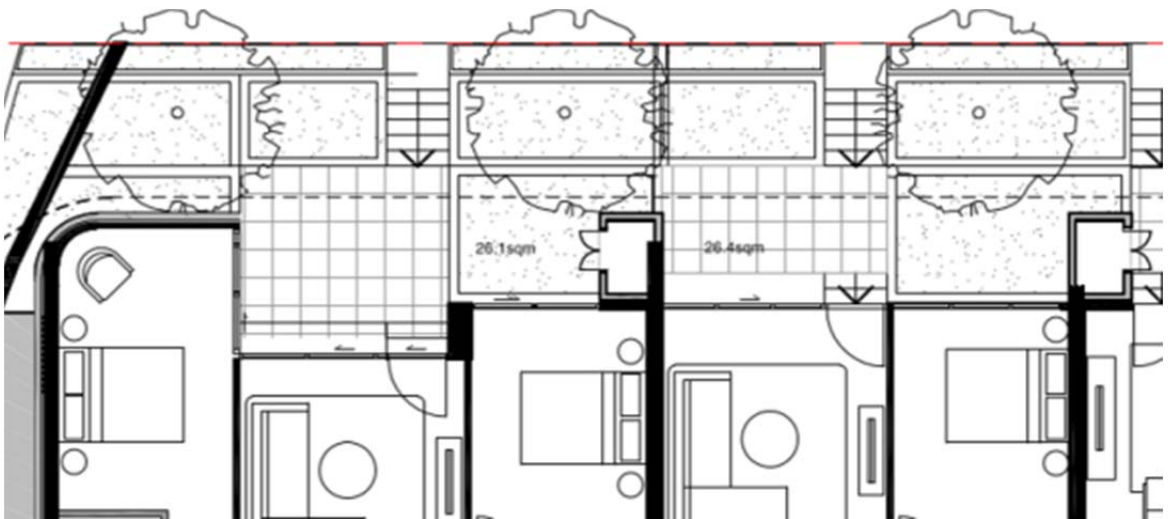


Figure 22 Plan of the proposed staggered landscaped setbacks to the ground floor of the residential flat building.

Landscaped Setbacks – Terraces

65. DCP 2012 requires the provision of 3m landscaped setbacks to the ground floor to Metters Street for the terraces. The application proposes setbacks between 1m planting and 2m front terraces located within the 3m setback area.
66. The proposed design reduces the landscape setback to Metters Street, but allows for a high degree of interaction between the private space of the terrace and the public realm of the street. Deep soil planting is provided in the form of 1m wide garden beds and permeable paving.

67. Figure 23 and 24 illustrates the typical treatment to the ground floor landscaped area. It is considered that the proposal complies with the objectives of DCP 2012 and will provide a high quality interface with the public domain through the provision of landscaping in the form of trees, shrubs and groundcovers, and a combination of open fences and masonry walls to balance the privacy needs of residents and visual permeability to allow for social interaction. The proposed setbacks are considered to be acceptable.



Figure 23 Photomontage of the proposed trawling planting and 1m wide planter box.



Figure 24 Plans detailing the arrangement of the front setbacks of the terraces.

Deep Soil Provision

68. The site area for the residential flat building is proposed to be 2,309m² following future subdivision. Of this space, 5.5% (131m²) of the site area is deep soil zone. The reason for the deficiency is due to the following factors.

69. From the subdivision, deep soil is being provided away from the RFB lot in the form of tree pits, and a 101m² dedicated lot as part of the public walkway. Should the dimensions be incorporated into the calculations, the site would be achieving 16% deep soil zone, which would exceed the requirements of the DCP 2012.
70. Design details have been incorporated where possible to maximise deep soil planting zones, including basement realignments, permeable paving and amendments to the terrace houses to provide 11% (739 m²) of deep soil for the site as a whole.

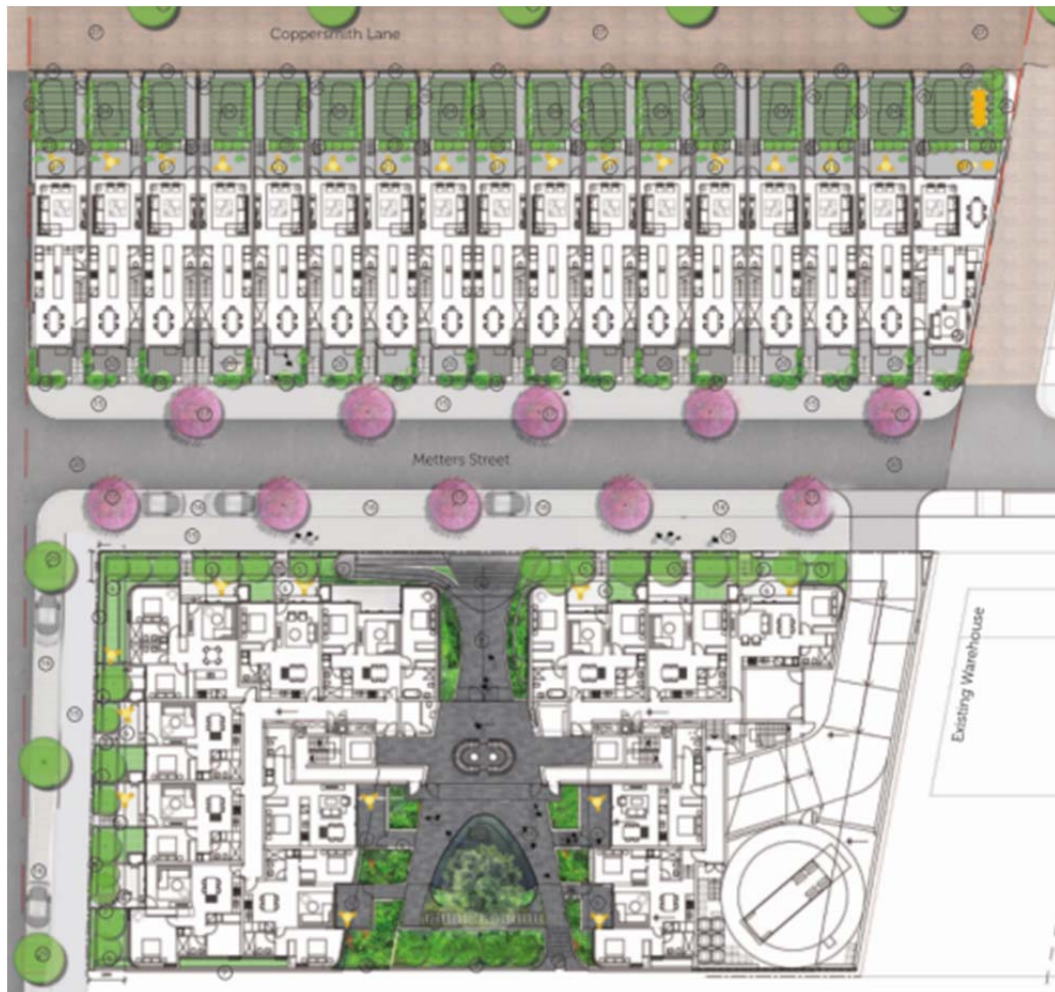


Figure 25 Detail of landscaping for site (not including dedicated pedestrian walkway to the south).

71. In total, the terrace house designs provide 13% (22m²) of site coverage for each lot of deep soil zones, with an additional 23m² of permeable paving provided.
72. The proposal does not meet the numerical control for the resultant lot area following subdivision, but the provision of deep soil planting is provided across the site as a whole to manage both the degree of landscaping, open space and water management. As such, the variation is acceptable.

Private open space

73. DCP 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. SEPP 65 requires a minimum of 8m² for private open space balconies.
74. A total of 13 ground level apartments are proposed, with 5 apartments being provided with area of greater than 25m² (38% compliance). Of the non-compliant apartments, 3 apartments have 23m² balconies (23%), 2 apartments with 14m² (15%), and the remaining three have areas of 18m², 11m² and 8m²
75. Whilst these are non-compliant with the DCP Controls, 12 of the 13 (92%) of the apartments comply with the RFDC controls for balcony dimensions.
76. From the total of 99 above ground floor apartments proposed, 35 (35%) have balconies of at least 10m² and minimum widths of approximately 2m.
77. Of the remaining 64 balconies, 26 (26%) exceed the minimum 8m² under SEPP 65. The other undersized balconies include 18 units with 6m² (18%), 20 units with 7.2m² (20%). Two studios do not provide balconies.
78. It is recognised that the deficient floor space of these balconies has been incorporated in the internal areas of the apartment to provide living areas with internal floor areas above the minimum requirements as set out by the RFDC.
79. Whilst the proposal has shortfalls in the minimum dimensions for balconies; the design provides balconies to 98% of all apartments, which exceeds the minimum 75% requirement of the DCP. This gives a net benefit to the amenity of the site by providing private open space to majority of units in the building, and as such the shortfalls are acceptable.

Dwelling mix

80. The application proposes 129 dwellings, comprising:
- | | | |
|-----|---|-----------------|
| (a) | 4 x Studio bedroom apartments | (3%); |
| (b) | 42 x 1 bedroom apartments | (33%); |
| (c) | 66 x 2 bedroom apartments and
5 x 2 Bedroom terraces | (55% combined); |
| (d) | 7 x 3 Bedroom terraces. and
5 x 4 Bedroom terraces | (9% combined) |
81. The 3+ bedroom percentage does not comply with the required mix outlined in DCP 2012 of 10%, which equates to 13 apartments for the proposal, or a shortfall of 1 apartment.

82. The proposal provides a mix of one, two, three and four bedroom dwellings that are varied in design and size and will cater for a range of lifestyles, budgets and housing needs. Given the non-compliance is relatively minor the proposal is considered acceptable and is not considered to negatively impact on objectives of the control from a City wide perspective.

Requirement for development control plan.

83. Clause 7.20 of the Sydney LEP2012 states that, as the site area of the proposal is in excess of 5000m², the application requires the preparation of a development control plan (DCP) for the site.
84. In accordance with Clause 7.20 (3), the requirement may be waived in the situation that such a plan would be unreasonable and unnecessary.
85. In the circumstance of this proposal, the requirement is considered to be unreasonable and unnecessary. This is because Sydney DCP 2012 Part 5.5 for the Ashmore precinct provides a detailed plan to address all the considerations of Clause 7.20 (4) (c) of the Sydney LEP 2012.
86. The requirement is waived for this application.

Other Impacts of the Development

87. The proposed development is capable of complying with the BCA. It comprises Class 1, 2 and Class 7a buildings.
88. 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

89. The Ashmore Precinct is undergoing transition from a predominately light industrial precinct to a mixed use, commercial and residential neighbourhood. The proposal is of a nature in keeping with the overall function of the site, and is consistent with the desired future character of the overall Ashmore Precinct.

INTERNAL REFERRALS

90. The application was referred to Council's:
- (a) Heritage and Urban Design Specialists;
 - (b) Strategic Planning Unit;
 - (c) Building Services Unit;
 - (d) Environmental Health;
 - (e) Public Domain;

- (f) Safe City;
 - (g) Surveyors;
 - (h) Transport and Access; and
 - (i) Waste Management.
91. 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.
92. The urban design team raised the option of additional amendments to ensure the proposal meets the numerical compliance for deep soil planting and landscaping, however as discussed previously, the amended design achieves a satisfactory outcome to achieve the objectives of the Sydney DCP controls for the enhancement of the public domain and the amenity for the future residents.

EXTERNAL REFERRALS

Notification, Advertising and Delegation

93. The application constitutes integrated development and as such the application was notified and advertised for 30 days in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result 6 submission(s) were received.

- (a) The wall of the factory forms the rear fence for Ashmore Street properties, concerns raised as to its treatment as result of works.

Response – The applicant has advised that as part of the VPA works, a 1.8m paling fence will be installed to replace the rear boundary fence, which will allow for residents to apply for rear access points at a later time.

- (b) Social impact and strain on infrastructure and services.

Response – The proposed number of units accords with the direction for the Ashmore precinct as determined by the City's strategic division. The proposal is compliant with the controls and targeted numbers to meet the envisioned density for the area. The proposal will contribute substantially to the supply of housing in the Local Government Area and the revitalisation of the Ashmore Precinct – a key objective of the Urban Consolidation SEPP and Sustainable Sydney 2030.

- (c) Privacy concerns from elevated deck of the terrace and attic rooms

Response – The elevated deck of the terraces was removed in amended plans, and the attic bedrooms are located a sufficient distance from the rear boundary to preserve the visual privacy for surrounding residents.

PUBLIC INTEREST

94. 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**

95. The development is subject to a Section 94 Contribution of \$2,150,563.82 under City of Sydney Development Contributions Plan 2006.

<u>Contribution Category</u>	<u>Amount</u>
Community Facilities	\$277,875.03
Public Domain	\$127,154.99
New Open Space	\$1,333,600.29
New Roads	\$338,696.86
Accessibility	\$14,047.77
Management	\$15,188.88
Total	\$2,106,563.82

96. This calculation is based on 129 new dwellings and a credit for 88 existing workers. The credit for 88 existing workers was calculated as per the Section 94 rates, with the number of workers calculated per floor space for the mix of industrial uses currently operating from the site. An appropriate condition has been included.

RELEVANT LEGISLATION

97. The Environmental Planning and Assessment Act 1979.

CONCLUSION

98. The proposal was subject to a competitive design process, which established the potential for design excellence and bonus FSR of up to 10% for the site. It is considered that the design of the development application exhibits design excellence and the award of bonus floor space is merited.
99. The proposal is consistent with winning competitive design alternative scheme and the zone objectives and core development standards contained in SLEP 2012.
100. The clause 4.6 variations for height are acceptable as the areas of non-compliance do not constitute additional GFA, will not deviate from the winning design, will not detract from the amenity of the site or area, and the proposal still achieves the objectives of the control and the zone.
101. The requirement for the preparation of a DCP under clause 7.20 is waived, noting the current Sydney DCP 2012 Part 5.5 for the Ashmore precinct provides a detailed set of controls to address the environmental impact concerns as raised by the clause.

102. The Ashmore Precinct is undergoing transition from a predominately light industrial precinct to a mixed use, commercial and residential neighbourhood.
103. The proposal will contribute substantially to the supply of housing in the Local Government Area and the revitalisation of the Ashmore Precinct – a key objective of the Urban Consolidation SEPP and Sustainable Sydney 2030.
104. The development has been designed having regard to the relevant constraints of the site and relevant controls including the Ashmore Neighbourhood provisions within DCP 2012. Whilst there are some numerical non-compliances, the proposal will result in a building form which provides a positive interface with the public domain and suitable level of amenity for future occupants.
105. The development application is recommended for approval as a deferred commencement consent requiring the preparation, exhibition, execution and registration on title of the VPA, prior to the issuing of an operational consent.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Rohan Johnston, Planner)