

ITEM 5. DEVELOPMENT APPLICATION: 84-92 EPSOM ROAD ZETLAND**FILE NO: D/2014/1928****DEVELOPMENT APPLICATION NO: D/2014/1928****SUMMARY**

Date of Submission: 15 December 2014, Amended Plans received 11 May 2015

Applicant: Karimbla Construction Services (NSW)

Architect: Allen Jack + Cottier (AJC)

Developer: Karimbla Construction Services (NSW)

Owner: Karimbla (No. 42) Pty Ltd

Cost of Works: \$64,079,400

Proposal Summary: The staged construction of a mixed use development comprising 4 residential flat buildings between 2 and 11 storeys with 215 apartments and 620sqm of retail premises / commercial premises. Excavation of 1 level of basement parking with a total of 223 vehicle car parking spaces over basement and ground floor level. Landscaping, public domain and infrastructure works are also proposed. The application involves the construction of portion of Rose Valley Way and Fuse Street, subdivision of development lots and road dedication.

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

The application was exhibited from 19 December 2014 to 2 February 2015 and one submission was received relating to the lack of car parking spaces provided. This concern has been considered and addressed within this report.

The proposed development is generally consistent with the core development standards and zone objectives contained in Sydney LEP 2012 with the exception of the Height of Building standard.

**Proposal Summary:
(continued)**

It is noted that the application was lodged 4 days before the gazettal of the Sydney LEP 2012 Amendment (Green Square Aquatic Centre and Gunyama Park, Epsom Park and Kellick Street, Waterloo). This amendment incorporated a new alignment of the future road, Rose Valley Way, and amended the height of building controls for the subject site accordingly. The proposal is generally consistent with the new height controls, apart from the proposed Building A which exceeds the 35m height control by 4.8m.

A written Clause 4.6 request to vary the standard has been submitted by the applicant and is considered acceptable in this instance.

The building design has been the subject of a competitive design process and represents a well resolved architectural design that adopts an appropriate form, scale and expression to the existing and proposed street frontages and surrounding land.

The development performs well against the relevant built form and amenity controls in the Sydney DCP 2012 and SEPP 65. Where the proposal departs from controls, it is considered that urban design and amenity objectives have been achieved and addressed.

The development demonstrates that the design excellence objectives are achieved and an additional 10% of floor space can be awarded by the consent authority in this instance.

The requirement for a Stage 1 development application and a site specific DCP has been assessed as unnecessary in this circumstance. The site is identified as a specific area, Epsom Park, within the Sydney DCP 2012. The area has been subject to a master planning exercise to develop planning controls for the precinct and subject site and includes built form massing including setbacks, building height in stories and street wall heights. In this instance it is recommended that the requirement for a Stage 1 DA is waived.

The application was accompanied by a public benefit offer for construction of portions of Rose Valley Way and Fuse Street, the widening of the Epsom Road footpath land, the dedication for public road purposes and easements for public access.

**Proposal Summary:
(continued)**

The site and surrounding area is subject to flooding. At the request of the City's Public Domain unit the applicant is preparing flood modelling including various stages and scenarios. At the time of writing this report these models have not been completed and Council cannot be satisfied that the provision of Clause 7.15 (Flood Planning) of the Sydney LEP 2012 have been satisfied, particularly as it relates to impacts on neighbouring properties.

As such, the recommendation is for the Central Sydney Planning Committee (CSPC) to consider the merits of the proposal and delegate the decision to determine the development application to the Chief Executive Officer once the Planning Agreement has been exhibited for 28 days (and any submissions considered) and the flood modelling is completed to satisfy Clause 7.15 (Flood Planning) of the Sydney LEP 2012.

Summary Recommendation:

It is recommended that the CSPC consider the merits of the proposal and delegate the decision to determine the development application to the Chief Executive Officer upon completion of the Planning Agreement exhibition process and flood modelling.

- Development Controls:**
- (i) State Environmental Planning Policy No 55 – Remediation of Land
 - (ii) State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (“Codes SEPP”)
 - (iii) State Environmental Planning Policy 65 - Design Quality of Residential Flat Development (“SEPP 65”)
 - a. Draft SEPP 65 exhibited on 23 September 2014
 - (iv) State Environmental Planning Policy 70 Affordable Housing (Revised Schemes) (“SEPP 70”)
 - (v) State Environmental Planning Policy (Infrastructure) 2007 (“ISEPP”)
 - (vi) State Environmental Planning Policy No 32— Urban Consolidation (Redevelopment of Urban Land) (“SEPP 32”)
 - (vii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (“BASIX”)
 - (viii) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended) (“Sydney LEP 2012”)
 - a. Draft Sydney Local Environmental Plan 2012 Amendment No. 13 (Green Square Aquatic Centre and Gunyama Park, Epsom Park and Kellick Street, Waterloo) (Gazetted 19 December 2014)
 - (ix) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended) (“Sydney DCP 2012”)
- Attachments:**
- A - Architectural Drawings
 - B - Photomontages

RECOMMENDATION

It is resolved that:

- (A) the variation sought to Clause 4.3 building height in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 be supported;
- (B) the request to waive the Stage 1 Development Application and a site specific Development Control Plan requirement for the subject site be supported, given the resolution of the Sydney Development Control Plan 2012 planning controls which apply to the site and the unlikelihood that an improved building mass could be found;
- (C) authority be delegated to the Chief Executive Officer (CEO) to determine Development Application No. D/2014/1928, after:
 - (1) The Planning Agreement is publicly exhibited and any submissions considered; and
 - (2) The flood modelling has been completed to satisfy Clause 7.15 (Flood Planning) of the Sydney LEP 2012.
- (D) if the CEO determines to approve the application, then consideration be given to granting a deferred commencement consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, subject to the conditions set out in Part A below; and
- (E) in determining the application, the CEO consider the draft conditions of consent, as shown in Part A and Part B below, and any other relevant conditions:

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

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

(1) SECTION B SITE AUDIT STATEMENT

A section B Site Audit statement must be obtained from a NSW EPA Accredited Site Auditor and forwarded to the City's Area Planning Manager certifying that the Remediation Action Plan is practical and the site will be suitable after being remediated in accordance with the requirements of the submitted Remediation Action Plan.

(2) PLANNING AGREEMENT

- (a) That a Planning Agreement in accordance with the public benefit offer made by Karimbla Properties (No. 42) Pty Ltd be executed and submitted to Council; and
- (b) The guarantee must be provided to Council in accordance with the Planning Agreement at the time of execution; and

- (c) The Planning Agreement, as executed, must be registered on the Title of the land in accordance with the Planning Agreement.

(3) DESIGN MODIFICATIONS

- (a) To prevent after hours lighting of the future sports field from disturbing occupants, sliding, adjustable privacy screens are to be incorporated into all affected levels facing Gunyama Park for bedroom windows and balconies. Sliding privacy screens are to be incorporated into the lower levels (1-3) of Building A's northern elevation.
- (b) The ground floor terraces to Building A at its northern interface with Gunyama Park are not approved. The 3m public access easement along the building frontage should be designed to allow a continuous path of travel along the facade and be aligned with the park boundary. The design of the interface should be developed with and approved by the City's Public Domain Unit.
- 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 by within **24 months** of the date of this determination 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;
 - 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.
 - 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.

PART B - CONDITIONS OF CONSENT

(ONCE THE CONSENT IS IN OPERATION)

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

SCHEDULE 1A

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

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

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2014/1928 dated 15 December 2014 as amended and the following drawings:

Drawing Number	Architect	Date
DA-00-2001-P1 Issue 11	Allen Jack + Cottier	11/05/15
DA-00-2100-G Issue 12	Allen Jack + Cottier	11/05/15
DA-00-2101-01 12	Allen Jack + Cottier	11/05/15
DA-00-2102-02 11	Allen Jack + Cottier	11/05/15
DA-00-2103-03 11	Allen Jack + Cottier	11/05/15
DA-00-2104-04 11	Allen Jack + Cottier	11/05/15
DA-00-2105-05 11	Allen Jack + Cottier	11/05/15
DA-00-2106-06 10	Allen Jack + Cottier	05/12/15
DA-00-2107-07 10	Allen Jack + Cottier	05/12/15
DA-00-2108-08 10	Allen Jack + Cottier	05/12/15
DA-00-2109-09 10	Allen Jack + Cottier	05/12/15
DA-00-2110-10 05	Allen Jack + Cottier	05/12/15
DA-00-2111-11 09	Allen Jack + Cottier	05/12/15
DA-00-2112-G-2 01	Allen Jack + Cottier	11/05/15
DA-00-3100 04	Allen Jack + Cottier	11/05/15
DA-00-3101 05	Allen Jack + Cottier	11/05/15
DA-00-3102 04	Allen Jack + Cottier	11/05/15
DA-00-3200 08	Allen Jack + Cottier	11/05/15
DA-00-3201 07	Allen Jack + Cottier	11/05/15
124832/Staging (Rev 1)	JBW Surveyors Pty Ltd	28/08/14

and as amended by the conditions of this consent.

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

(2) APPROVED DESIGN ROOF - TOP PLANT

All roof-top plant and associated equipment must be located within the approved building envelope.

(3) BUILDING HEIGHT

- (a) The height building A must not exceed RL 58.2 (AHD) to the top of the building and RL 57.6 (AHD) to the parapet of the building.
- (b) The height building B must not exceed RL 29.96 (AHD) to the top of the building and RL 28.7 (AHD) to the parapet of the building.
- (c) The height of building C must not exceed RL 36.45 (AHD) to the top of the building and RL 36.05 (AHD) to the parapet of the building.
- (d) The height of building D must not exceed RL 50.3 (AHD) to the top of the building and RL 50.3 (AHD) to the parapet of the building.
- (e) Prior to an Occupation Certificate for each stage being issued, a Registered Surveyor must provide certification that the height of each relative building accords with (a) – (d) above, to the satisfaction of the Principal Certifying Authority.

(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 Allen Jack + Cottier, sheets 1-4 within the SEPP 65 Design Statement dated 10 December 2012.

(5) DESIGN QUALITY EXCELLENCE

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

(6) FLOOR SPACE RATIO - ALL OTHER AREAS

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the business use must not exceed 2.19:1 calculated in accordance with Sydney LEP 2012. For the purposes of the calculation of FSR, the Gross Floor Area of the retail/commercial component is 620sqm, for the residential component is 22,030sqm, and the total Gross Floor Area is 22,650sqm.
- (b) Prior to the 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 LEP 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.

(7) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT

The terms of the Planning Agreement entered into in accordance with Deferred Commencement Condition (2) are to be complied with.

(8) USE - SEPARATE DA REQUIRED

- (a) A separate development application for the fitout and use of the ground floor retail premises / commercial premises within Building A and Building D must be submitted to and approved by Council prior to that fitout or use commencing.
- (b) In the event the first use of any ground floor retail premises / commercial premises is approved under a complying development certificate in accordance with the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, for the avoidance of doubt, the hours of operation shall be restricted to 7.00am to 7.00pm Monday to Saturday and 9.00am to 6.00pm on a Sunday or a public holiday.

(9) SIGNS - SEPARATE DA REQUIRED

A separate development application for any proposed signs additional to those approved as part of this consent (other than those in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008) must be submitted to and approved by Council prior to the erection or display of any such signs.

(10) USE OF COMMON AREAS AND FACILITIES

The podium communal landscape area, community room, roof top terraces, gymnasium, swimming pool, lounge area, garbage rooms, bicycle parking and car share bays must be available for the use all residents of Building A, B, C and D and must be designated as common property on any strata subdivision of the site, with no exclusive use rights.

(11) STUDY AREAS

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

(12) AIR CONDITIONERS GENERALLY

No air-conditioning equipment is to be visible from the public domain. Equipment and associated wiring shall:

- (a) Not be located on awnings, balconies or attached to the face of the building;
- (b) Not be located on roofs in such a way that it is visible from any street, footpath or park;
- (c) Be visually screened if located 1.8 metres above ground level in other locations; and
- (d) Wiring shall be fully concealed.

(13) ADDITIONAL REPORTING REQUIRED – SPORT & RECREATIONAL CENTRE NOISE IMPACT ASSESSMENT

The operational noise impact of the sports and recreational centre and grounds to the north of the development (henceforth referred to as “The Site”) are to be assessed to ensure the amenity of internal spaces of the future use are not compromised. The below requirements will form part of this consent.

A suitably qualified acoustic consultant* is to be engaged to undertake and provide a written report to Council on the following scope of work, prior to the issue of a CONSTRUCTION CERTIFICATE and prior to the satisfaction of the COMPLIANCE WITH THE ACOUSTIC REPORT condition:

- (a) Noise emissions and impact from The Site are to be suitably approximated by the acoustic consultant from a worst case perspective. The report will address the following:
 - (i) Noise emissions sources from crowd noise, whistles, shouts, relevant team sport, and, entry and egress noise from persons, car parking and other activities deemed to be relevant and held at the grounds. Written guidance is to be sought to this effect from the Area Planning Manager – South as to what activities are required for assessment prior to this being undertaken. Mechanical noise and such noise sources from fixed plant and equipment liable to be on The Site are not required to be assessed.

- (ii) With regard to (i) above, noise emissions are to be quantified as:
 - a. L_{A1} 15 Minute,
 - b. L_{Aeq} 15 Minute, and
 - c. L_{Aeq} 1 hour.
 - (iii) Operational hours to be covered by the assessment will be at a minimum, 5:00am to 10:00pm for operational activities with shoulder period assessments for site entry and egress, or to terms given in writing by the Area Planning Manager – South.
 - (iv) L_{Aeq} 15 minute and L_{Aeq} 1 hour noise emissions are to be assessed to the lesser determinant factor of the following criteria, considering the acoustic performance requirements for the construction methodology given in the COMPLIANCE WITH THE ACOUSTIC REPORT condition:
 - a. Section 4.3.2.11, relevant parts of (7) and (8) for residential uses and AS2107 for commercial uses, and
 - b. The NOISE – GENERAL condition as given in this consent, with noise planning performance parameters determined on using the environmental baseline noise levels presented in the Acoustic Logic Report outlined in part (a) of the COMPLIANCE WITH THE ACOUSTIC REPORT condition.
 - (v) L_{A1} , 15 minute noise emissions are to be assessed against relevant NSW EPA sleep disturbance metrics.
 - (vi) Where the relevant criteria outlined in (iv) and (v) above is exceeded, the consultant will report on updated building construction methodologies and give correlating acoustic performance to satisfy compliance with the above criteria.
- (b) The requirements in (vi) and will be implemented in the consent in accordance with the COMPLIANCE WITH THE ACOUSTIC REPORT CONDITION.
 - (c) This condition is not satisfied until the certifying authority receives written advice as such from the Area Planning Manager – South.

***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.

(14) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION AND OR OCCUPATION CERTIFICATES – ALL USES

- (a) All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report prepared by Acoustic Logic, dated 11 February 2015, Revision 2, reference 20140791.1/1102A/R2/TA, titled Development Application Acoustic Report, Council Ref TRIM 2015/060202 (The Report) must be implemented as part of the detailed design assessment and implemented into the design drawings prior to the commencement of the use of the premises in accordance with the requirements of (b) and (c) below and to the satisfaction of the Principal Certifying Authority (PCA).
- (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 acoustic report set out below. Specifically, the consultant will prepare a written Acoustic Certification Report with reference to drawings, to the satisfaction of the Health and Building Area Manager South, which addresses the following requirements:
- (i) *Section 4* – The construction methodology will be in accordance with the following performance specifications at a minimum and to the satisfaction of the consultant and in agreement with the PCA with reference to the following sections of The Report:
- a. *Section 4.1 and 4.1.4 External Walls* – To be of Heavy Masonry Elements and or to the satisfaction of the consultant and in accordance with the written requirements.
- b. *Section 4.1.1 & 4.1.2 Glazing & Operable Façade Elements:*
- i. All external windows, doors and operable façade elements are to be to the satisfaction of the consultant and consistent with the performance requirements given in the report (Q-Lon type seal, non-Mohair).
- ii. The acoustic performance requirements of Tables 3 – 5 are to be complied with and the design to be to the satisfaction of the consultant and in accordance with the written requirements.
- c. *Section 4.1.3, Roof Ceiling Construction* – To be in accordance with the written construction requirements and to the satisfaction of the consultant.

- (ii) *Section 5.1* – The validated long-term background and ambient noise levels are to be used for the purpose of establishing planning noise performance parameters and consequent noise limits (through substitution into the NOISE GENERAL and NOISE ENTERTAINMENT conditions), for:
 - a. The certification of design and verification of operation, to the satisfaction of the consultant and PCA, prior issue of construction (and operation) certificates And,
 - b. Specifically, Tables 7, 8, 9 and 10 will formulate relevant determinant criteria for relevant cumulative noise emissions assessed against the NOISE – GENERAL and NOISE – ENTERTAINMENT conditions.
 - c. Table 10 – This will be the maximum allowable noise emissions criteria relevant at the nearest residential receiver boundary.
 - d. Table 8 – Intrusiveness criteria for mechanical plant and equipment are not to exceed the allowable intrusive noise levels.
- (iii) *Section 6* – Communal Gym Recommendations will be to the written performance and design specifications at a minimum and to the satisfaction of the consultant in in agreement with the PCA.
- (iv) *ADDITIONAL REPORTING REQUIRED – SPORT & RECREATIONAL CENTRE NOISE IMPACT ASSESSMENT:*
 - a. The Building will at a minimum, be designed, constructed and built to operate in accordance with the performance requirements determined in Parts (b(i) to (b(iii)) of this condition.
 - b. Where an additional requirement or a superior performance specification or construction requirement is determined in accordance with the *ADDITIONAL REPORTING REQUIRED – SPORT & RECREATIONAL CENTRE NOISE IMPACT ASSESSMENT* condition, it will form part of this consent.
 - c. This will be in accordance with the written approval given by The Area Planning Manager – South.
- (c) Prior to the issue of an Occupation Certificate, a suitable qualified acoustic consultant is to provide a written Acoustic Verification Report to the satisfaction of the Health and Building Area Manager South 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.

(15) NOISE - GENERAL

- (a) The emission of noise associated with the use of the premises including the cumulative operation of any mechanical plant and equipment, and air conditioning shall comply with the following:
- (i) The $L_{Aeq, 15 \text{ minute}}$ noise level emitted from the use must not exceed the project specific noise level for that receiver as determined in accordance with the *NSW EPA Industrial Noise Policy*. Noise must be measured in accordance with the Industrial Noise Policy and relevant requirements of Australian Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
 - (ii) Project specific noise levels shall be determined by establishing the existing environmental noise levels, in complete accordance with the assessment $LA_{90, 15 \text{ minute}}$ / rating $LA_{90, 15 \text{ minute}}$ process to be in accordance with the requirements for noise monitoring listed in the NSW EPA Industrial Noise Policy and relevant requirements of Australian Standard AS1055-1997 Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
 - (iii) Modifying factors in Table 4.1 of the NSW EPA Industrial Noise Policy are applicable.
- (b) 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 noise sensitive commercial premises provided that:
- (i) Where the $L_{A90, 15 \text{ minute}}$ noise level is below the threshold of hearing, T_f at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of T_f corresponding to that Octave Band Centre Frequency shall be used instead.
 - (ii) The $L_{Aeq, 15 \text{ minute}}$ noise level and the $L_{A90, 15 \text{ minute}}$ noise level shall both be measured with all external doors and windows of the affected residence closed;
 - (iii) The relevant background noise level ($L_{A90, 15 \text{ minute}}$) is taken to mean the day, evening or night rating background noise level determined in complete accordance with the methodology outlined in the *NSW EPA Industrial Noise Policy* and Australian Standard AS1055.1997 Acoustics – Description and measurement of environmental noise.

- (iv) Background noise shall be established in the absence of all noise emitted from the use but with the ventilation equipment normally servicing the affected residence operating. Background noise measurements are to be representative of the environmental noise levels at the affected location.
- (v) Modifying factors in Table 4.1 of the *NSW EPA Industrial Noise Policy* are applicable. Internal Noise measurements are not to be corrected for duration.

(16) NOISE - ENTERTAINMENT VENUES (NON-RESIDENTIAL USES)

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

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

(17) NOISE - OUTDOOR RECREATIONAL AREAS, LIMITATIONS OF USE (ALL USES)

The outdoor recreational areas associated with all uses and restricted to public access, are subject to the operational terms of this condition. These areas are:

- (a) To be for the private recreational use of residents of the building and their visitors;
- (b) Are not to be used for holding commercial functions unless lawfully approved; and
- (c) To not emit a noise level in excess of the NOISE ENTERTAINMENT CONDITION at any time, and not to create an audible noise within a habitable room in any neighbouring residential site (not within the development itself) on any day after 10.00pm and before 7.00am.

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

A site specific noise management plan shall be submitted to the Council for comment and approval prior to issue of any Construction Certificate.

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

The plan must include but not be limited to the following:

- (a) Identification of noise sensitive receivers near to the site.
- (b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours /Noise Code of Practice 1992* for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
- (c) A representative background noise measurement ($L_{A90, 15 \text{ minute}}$) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (d) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.

- (e) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.
- (f) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- (h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

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

- (a) All works conducted on site which form part of this development must be carried out in accordance with the submitted Demolition, Excavation and Construction Management Plan.
- (b) Where all such control measures have been implemented and the resultant noise and/ or vibration levels at any sensitive receiver still exceed the council's applicable criteria stated in the Construction Hours/Noise Code 1992 and are giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building Unit. Approval to vary the authorised noise and vibration levels must be received in writing by the proponent from Council prior to activities being undertaken that exceed sanctioned emission levels. (Use where respite periods not specified under the approved DEC NMP).

Such periods must be set and agreed to by Council's Health and Building Unit.

(20) USE OF INTRUSIVE APPLIANCES

A report detailing the use of appliances which emit noise of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992", is to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

As a minimum, the report must specify:

- (a) Specific the proposed hours and days of operation;
- (b) The tasks that the equipment will be used for;

- (c) Justify in writing why the intrusive appliance cannot be substituted for a lower impact apparatus;
- (d) Provide for how noise will be managed to comply with the above code, and if cannot provide for the above code, how it will be managed to the lowest reasonable and feasible levels;
- (e) Indicate a timeframe for completion the associated task;
- (f) Such periods must be set and agreed to by Council's Health and Building Unit and will be set on a temporary basis with terms and conditions referencing permitted activities and limiting periods which the activity may occur. These parameters will form part of this consent, and the temporary approval may be revoked should substantiated complaints occur including breach of the terms given.

(21) RESTRICTION ON RESIDENTIAL DEVELOPMENT

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the buildings must be used as permanent residential accommodation only and not for the purpose of a hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with the *Sydney Local Environmental Plan 2012*.
- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from residential flat building as defined in *Sydney Local Environmental Plan 2012*. The covenant is to be registered on title prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.
- (c) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (d) An owner, tenant or Owners Corporation shall not permit a Building Manager or agent to advertise or organise for short term accommodation or share accommodation in the building.

(22) NUMBER OF ADULTS PER ROOM

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

(23) NO SPEAKERS OR MUSIC OUTSIDE – RESIDENTIAL RECREATIONAL SPACES

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

(24) NOISE - NO SPEAKERS OR MUSIC OUTSIDE (NON-RESIDENTIAL USE)

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

(25) NOISE FROM GLASS REMOVAL (NON-RESIDENTIAL USE)

Glass must not be emptied or transferred from one receptacle to another anywhere in a public place. All glass must be emptied / transferred inside of the building on the premises and removed in containers.

(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) 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.

(28) 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.

(29) 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.

(30) ALLOCATION OF PARKING

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

Car Parking Type – At completion of stage 1 (Buildings B/C/D)	Number
Residential spaces	94
Accessible residential spaces	26
Residential visitor spaces	15
Accessible residential visitor spaces	1
Retail parking	3
Accessible retail parking	1
Subtotal	140
Service vehicle parking	3
Car share parking (minimum)	2
Total	145

Car Parking Type – At completion of stage 2 (Buildings A/B/C/D)	Number
Residential spaces	150
Accessible residential spaces	33
Residential visitor spaces	19
Accessible residential visitor spaces	2
Retail parking	11
Accessible retail parking	1
Subtotal	216
Service vehicle parking	5
Car share parking (minimum)	2
Total	223

(31) BICYCLE PARKING AND END OF TRIP FACILITIES

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

Bicycle Parking Type	Number	Requirements
Residential	215	Spaces must be a class 1 bicycle locker [1] or class 2 facilities.
Non-residential	3	Spaces must be Class 2 bicycle facilities
Visitors (residential and non-residential)	30	Spaces must be Class 3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	1	
Personal lockers	3	

Notes:

- (i) If a basement storage area on title that is large enough to store a bike and is no smaller than a class 1 bike locker this can be counted as a space.
- (b) All visitor bicycle parking is to be provided at ground floor level in a highly visible and easily accessible location. Some visitor bicycle parking should be provided in close proximity to each main lobby area. Visitor bicycle parking is not to be located in the car parking area.
- (c) All resident bicycle parking for Building A occupants (65 spaces) is to be located within the Building A footprint in the form of either class 1 or class 2 facilities.
- (d) 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.

(32) 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.

(33) 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.

(34) 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.*

(35) 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.

(36) 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.

(37) 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.

(38) 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.

(39) 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.

(40) 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***.

(41) STACKED PARKING EMPLOYEES OR TENANTS ONLY

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

(42) 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.

(43) 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.

(44) ACCESSIBLE VISITOR PARKING BUILDING A

A minimum of 1 accessible visitor parking space is to be provided in the basement parking area under Building A.

(45) SERVICE VEHICLE PARKING BUILDING A

A minimum of 2 service vehicle bays are to be provided in the basement parking area under Building A.

(46) INTERCOM SYSTEM AND VISITOR PARKING REQUIREMENTS

The intercom system for the parking area under Buildings B/C/D must enable access for all residents and visitors of Building A.

Should the intercom system not enable access to the visitors of Building A residents, a minimum of 5 visitor parking spaces are to be accommodated within the basement parking area under Building A.

(47) LEFT IN/LEFT OUT

The intersection of Fuse Street and Epsom Road must be restricted to a left in/left out arrangement.

(48) SECTION 116 OF THE ROADS ACT

- (a) The proposed median on Epsom Road will prohibit existing traffic movements to/from driveways on the south side of Epsom Road. This requires section 116 of the Roads Act to be satisfied.
- (b) Section 116 requires public consultation, a referral to the Local Pedestrian, Cycling and Traffic Calming Committee, a Traffic Management Plan to be approved by the Roads and Maritime Services and a report to be put before Council.
- (c) The developer is required to contact Council when they wish to begin this process. They will need to discuss with the Traffic Operations team what documentation they need to submit.
- (d) Any additional information or design amendments required as part of this process must be provided by the developer at no cost to Council.
- (e) This process must be completed prior to any approval for the construction of the median being granted.
- (f) The Section 116 process can take up to 12 months from the Council Officer being satisfied with the proposal.
- (g) The Section 116 process can happen concurrently with the process to approve the road closure design.
- (h) All fees and costs associated with the approval of a Section 116 application are to be borne by the developer.

(49) CAR SHARE SPACES

- (a) A minimum of 2 car parking spaces for the exclusive use of car share scheme vehicles are to be provided as shown in plan DA-00-2100-G.
- (b) The spaces must be retained as common property of the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time.
- (c) The spaces must be made available to car share operators without a fee or charge.

- (d) The spaces must be sign posted for use only by car share vehicles and well lit.
- (e) The spaces must be publicly accessible at all times.
- (f) The car share spaces are to be available at the same time that the car park commences operation.

[Note: It is recommended that the applicant discuss the proposed location of car share parking spaces with car share operators prior to the issue of a construction certificate to ensure the commercial requirements of the operator can be accommodated.]

(50) SHARED ZONE

- (a) The proposed shared zone on Fuse Street is not approved as part of this development consent.
- (b) The design of the shared zone will require a referral to the Local Pedestrian, Cycling and Traffic Calming Committee (LPCTCC) for endorsement and then a referral to the Roads and Maritime Services for final approval.
- (c) Additional reports, information or design changes may be required by Council officers, the LPCTCC or the RMS during the approvals process. The cost for these changes must be undertaken by the applicant at their own cost.
- (d) The plan must be approved as part of the in conjunction with the Public Domain Plan prior to the issuing of the Construction Certificate.
- (e) If a shared zone on Fuse Street is not approved an alternative design must be undertaken and submitted to Council for approval.

[Note: The process of gaining a shared zone approval can take a number of months. It is recommended the applicant begin the process as soon as practical to avoid holding up the issuing of the Construction Certificate.]

[Note: RMS shared zone policy and guidelines can be found on the RMS website]

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

In accordance with Clause 7.13 of *Sydney Local Environmental Plan 2012* and prior to a Construction Certificate being issued, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid at the office of the Department of Planning and Environment or a bank guarantee in favour of The Department of Planning and Environment to the value of the required contribution has been lodged. The contribution is \$4,672,167.38 based on the in lieu monetary contribution rate for non-residential development at \$58.04 per square metre of total non-residential floor area 637sqm, and for residential development at \$174.19 per square metre of total residential floor area 26,610sqm. Contributions will be indexed in accordance with the formula set out below.

Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the applicant must provide evidence that the bank guarantee referred to above has been redeemed as payment of this contribution. If the contribution is paid after the indexation period in which the consent is granted (1 March 2015 to 28 February 2016), the amount of the contribution will be indexed in accordance with the formula set out below.

Notes:

- (a) Applicants have two payment options:

Option 1 is payment by bank cheque using "Form B - Receipt to Release Certificate of Construction after payment by Bank Cheque". Form B must be obtained from the Green Square Project Team in the City Strategy and Design Unit at the City of Sydney, and then must be lodged with a bank cheque with the Department of Planning and Environment.

Option 2 is lodgement of a bank guarantee using "Form A - Receipt to Release Certificate of Construction after lodgement of Bank Guarantee". Form A must be obtained from the Green Square Project Team GSPT@cityofsydney.nsw.gov.au in the City Strategy and Design Unit at the City of Sydney, and then must be lodged with a Bank Guarantee with the Department of Planning and Environment.

Where Form A has been used, an occupation certificate will not be released until payment by bank cheque using "Form C - Receipt to Release Certificate of Occupancy after payment by Bank Cheque". Form C must be obtained from the Green Square Project Team GSPT@cityofsydney.nsw.gov.au in the City Strategy and Design Unit at the City of Sydney and then must be lodged with a bank cheque with the Department of Planning and Environment.

- (b) Applicants are made aware that the contribution amount quoted in this condition may not be final and that a correct indexed affordable housing contribution amount can be obtained from the relevant Form A, B or C at time of payment.
- (c) Forms A, B or C for payment of the affordable housing contribution can only be obtained from the City of Sydney, 456 Kent Street Sydney. Quote the development application number and the relevant Council officer will provide the applicant with an indexed contribution amount which must be paid at the Department of Planning and Environment. To arrange payment, contact the Housing Policy Team, NSW Department of Planning on Ph: 9228 6111 or Fax: 9228 6455 to arrange a time for payment.
- (d) The contribution will be indexed on the basis of the Established House Price Index for Sydney as published by the Australian Bureau of Statistics.

- (e) Contributions at Time of Payment = $C \times \text{HPI2} / \text{HPI1}$, where:
- (i) C is the original contribution amount as shown above;
 - (ii) HPI2 is the Established House Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the time of the payment; and
 - (iii) HPI1 is the Established House Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics that applied at the date of the consent (1 March 2015 to 28 February 2016).

The amount of the monetary contribution is calculated on the total floor area (not a percentage of it). Contribution = (total residential floor area sqm) x residential rate (\$) + (total non-residential floor area (sqm) x non-residential rate (\$) + (total non-residential floor area (sqm) x non-residential rate (\$)

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

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

<u>Contribution Category</u>	<u>Amount</u>
Community Facilities	\$516,128.93
Public Domain	\$317,905.65
New Open Space	\$2,477,047.63
New Roads	\$629,100.23
Accessibility	\$26,092.52
Management	\$28,212.03
Total	\$3,994,486.99

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

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

where:

C is the original contribution amount as shown above;

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

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

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

Please contact Council's Planning Administration staff at planningsystemsadmin@cityofsydney.nsw.gov.au to confirm the amount payable, prior to payment.

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

- (b) The Section 94 contributions payable as set out above may be offset in accordance with the terms of the Planning Agreement required to satisfy Deferred Commencement Condition (2).

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.

(53) LAND REMEDIATION (Where Site Auditor engaged)

The site is to be remediated and validated in accordance with the Remedial Action Plan prepared by AD Envirotech Pty Ltd dated 5 May 2015 reference 8816/RAP1/v1, the Addendum Letter prepared by AD Envirotech Pty Ltd dated 15 May 2015 reference 9097/SAQP Letter/v2 and the Letter of Interim Advice No. 4 prepared by Rod Harwood dated 18 May 2015 and referenced 14180_L04_interimAuditAdvice4. All remediation work carried out shall be conducted in accordance with the guidelines in force under the Contaminated Land Management Act 1997.

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

(54) 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.

(55) 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.

(56) STOCKPILES

- (a) Stockpiles of soil or other materials shall be placed on footpaths or nature strips unless prior approval has been obtained from the City's Construction Regulation Unit.
- (b) All stockpiles of soil or other materials shall be placed away from drainage lines, gutters or stormwater pits or inlets.

- (c) All stockpiles of soil or other materials likely to generate dust or odours shall be covered.
- (d) All stockpiles of contaminated soil shall be stored in a secure area and be covered if remaining more than 24 hours

(57) UNDERGROUND STORAGE TANK REMOVAL

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

(58) 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.

(59) IMPORTED FILL MATERIALS

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

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

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

(60) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

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

(61) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT

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

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

(62) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of neighbouring properties are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Certifying Authority and the Council prior to the issue of a Construction Certificate.

UPON COMPLETION OF EXCAVATION/DEMOLITION

- (b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifying Authority and the Council prior to the issue of an Occupation Certificate.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.

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

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

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

(64) EMISSIONS

- (a) The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.
- (b) Gaseous emissions from the development must comply with the requirements of the Protection of the *Environment Operations Act, 1997* and Regulations. Uses that produce airborne particulate matter must incorporate a dust collection system.

(65) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

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

(66) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

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

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

(67) ACCESS FOR PERSONS WITH DISABILITIES – RETAIL PREMISES / COMMERCIAL PREMISES

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

(68) DISCHARGE OF CONTAMINATED GROUNDWATER

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

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

(69) 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.

(70) AIR HANDLING

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

(71) 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.

(72) CONTINUED PERFORMANCE OF MECHANICAL VENTILATION

The required operation and performance of any mechanical ventilation, air pressurisation or other smoke control system must not be impaired by the proposed partitioning layout.

(73) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION

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

(74) 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.

(75) 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.

(76) ACOUSTIC PRIVACY BETWEEN UNITS

- (a) The development must be designed and constructed to satisfy the requirements of the *Sydney DCP 2012* acoustic privacy requirements. A report prepared by a suitable qualified acoustic professional must be prepared and submitted to the Certifying Authority prior to the issue of a Construction Certificate, and must be suitably referenced in the Construction Certificate documentation.
- (b) The report must:
 - (i) quantify the level of impact (noise at the exposed facades) from the normal noise of the area on the development; and

- (ii) identify acoustic mitigation measures to be incorporated into the building design to ensure compliance with the design goals contained within the *Sydney DCP 2012*.
- (c) The Certifying Authority (PCA) must ensure that the acoustic mitigation measures identified in the subject report are suitable incorporated into the development as erected prior to the issue of an Occupation Certificate.

(77) FLOOR TO CEILING HEIGHT

Prior to a Construction Certificate being issued, the Certifying Authority must ensure that all living rooms and bedrooms in sole occupancy units must have a minimum finished floor to ceiling height of not less than 2.7 metres.

(78) SYDNEY AIRPORT CORPORATION APPROVAL

An approval for the proposed height of the development shall be obtained from Sydney Airport Corporation Limited in accordance with the Civil Aviation (Building Control) Regulations 1988 prior to the issue of a Construction Certificate.

(79) WASTE AND RECYCLING COLLECTION CONTRACT

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

(80) 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.

(81) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

- (a) The Waste Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste Management Plan is to be approved by the Certifying Authority 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 Building Waste Management Plan must be implemented during construction of the development.

UPON COMPLETION OF THE DEVELOPMENT

- (c) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must ensure that waste handling works have been completed in accordance with: the Waste Management Plan; other relevant development consent conditions; and Council's *Policy for Waste Minimisation in New Developments 2005*.

(82) WASTE/RECYCLING COLLECTION

- (a) The collection of waste and recycling must only occur between 7.00am and 8.00pm weekdays and 9.00am and 5.00pm weekends and public holidays, to avoid noise disruption to the surrounding area.
- (b) Garbage and recycling must not be placed on the street for collection more than half an hour before the scheduled collection time. Bins and containers are to be removed from the street within half an hour of collection.

(83) 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.

(84) DEWATERING

- (a) If any dewatering of the site is to be undertaken, a bore licence may be required from the NSW Office of Water (NOW) under the provisions of Part V of the Water Act 1912. The NOW licences dewatering to allow excavation for construction for a temporary period, usually 12 months.
- (b) All conditions within the NOW licence will form part of this consent.
- (c) Note: The Department's instructions to Council are that they will not endorse the extraction of groundwater in perpetuity i.e. permanent dewatering around a development site, because it considers such development unsustainable. For this reason any proposed basement or other area that requires dewatering on an on-going basis will be fully tanked.

(85) STRUCTURAL CERTIFICATION FOR DESIGN - BCA (ALL BUILDING CLASSES)

Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to class 2-9 building) and Clause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of Council (where Council is the Certifying Authority).

(86) FIRE SAFETY CERTIFICATE TO BE SUBMITTED

A Fire Safety Certificate must be submitted to the Principal Certifying Authority for all of the items listed in the Fire Safety Schedule prior to an Occupation Certificate being issued. A copy of the Fire Safety Certificate must be submitted to Council if it is not the Principal Certifying Authority.

(87) ANNUAL FIRE SAFETY STATEMENT FORM

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

(88) LANDSCAPED (GREEN) ROOFS

- (a) A detailed plan of the green roofs, 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. The Plan must address the following issues:
- (i) The boundary between private terraces and common open space on level 1/podium should allow for a balance of privacy and overlooking. The heavy planting design and level changes impede any casual surveillance between the two spaces on level 1 – reduce finished soil levels and/or ensure lower planting to enable casual surveillance between private terraces and common open space, particularly to units 150 and 157;
 - (ii) The arrangement of tables, benches and gathering spaces creates some small, secluded pockets for gathering directly adjacent to a private terrace, particularly outside units 150, 156 and 157. Anti-social behaviour in these common areas could have a significant effect on nearby residents - remove tables from 'bench seating areas' and relocate to near BBQ area and open lawn. Within small seating areas, locate bench seating only to facilitate individuals, couples and small groups only;
 - (iii) Positioning of outdoor BBQ area is disconnected from larger lawn area, but en route to private residences. The BBQ should be co-located with the lawn to ensure large gatherings are concentrated together, with good separation from adjacent residences and their access paths;

- (iv) Soil depths on slab appear to be too shallow to support the tree planting illustrated. Slab soil depths meet the following minimum requirements:
 - a. Trees: 1m
 - b. Shrubs: 450mm
 - c. Lawn: 200mm
 - (v) The plans do not include any locally indigenous tree species and approximately 50% of tree species selected are prone to drop fruit, seedpods, gumnuts (not encouraged). The proposed tree planting shown on the Landscape Plan will not achieve the requirements of the DCP for locally indigenous species and should be amended.
- (b) The plan must include:
- (i) A Design Statement that includes details of proposed use of the green roof, general accessibility, a description of the environmental parameters it sets out to address, including noise and privacy treatment and performance specification.
 - (ii) Survey Plans showing existing and proposed services and engineering details of existing roofs proposed to be retrofitted.
 - (iii) Location of existing and proposed structures and hard landscaping on the rooftop, retaining walls, and roof fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components.
 - (iv) Details of the location, sizes and numbers of plants used with reference to NATSPEC (if applicable), with preference for drought resistant species and those specified for use by the City of Sydney.
 - (v) Details of installation methodology including structural reinforcement or retention structures for sloping roofs, including details of prevention of slippage.
 - (vi) Details of accessible and inaccessible areas on the Green Roof. Where proposed to be inaccessible, Green Roofs are required to remain such during occupation of the property.
 - (vii) Details of drainage and irrigation systems, including overflow provisions.
- (c) Prior to the issue of a Construction Certificate, a Maintenance Manual is to be submitted and approved by the Principal Certifying Authority. A copy of the Maintenance Manual is to be kept on site at all times during construction and shall be produced to Council on request. The Maintenance Manual shall include as a minimum:

- (i) Frequency and methodology of different maintenance requirements.
- (ii) Details of safety procedures.
- (iii) Laminated copies of 'As Built' drawings.
- (iv) Manufacturer's contact details and copies of manufacturers' typical details and specification; and
- (v) Copies of warranties and guarantees relating to all materials and plant used in construction.

The owner of the premises shall at all times comply with the on going maintenance requirements of the Maintenance Manual and shall promptly upon request produce a copy of the Manual to Council.

- (d) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued for the relevant stage.
- (e) Prior to the issue of a Construction Certificate for the relevant stage, the Certifying Authority must assess and approve the proposed design of the waterproofing system against the relevant performance provisions of the *Building Code of Australia* as required by Clause A0.5 of the Code and ensure the following is satisfied:
 - (i) report from a structural engineer confirming the adequacy of the structure to support the saturated weight-bearing capacity of the green roof; and
 - (ii) A report from a hydraulic engineer certifying the drainage overflow provisions and water retention cells in the drainage layer used to facilitate self-watering for the plants.

(89) 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 address the following:
 - (i) The plans do not include any locally indigenous tree species and approximately 50% of tree species selected are prone to drop fruit, seedpods, gumnuts (not encouraged). The proposed tree planting shown on the Landscape Plan will not achieve the requirements of the DCP for locally indigenous species and should be amended.
- (b) The plan must include:
 - (i) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;

- (ii) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers;
 - (iii) Location, numbers, type and supply of plant species, with reference to NATSPEC (if applicable);
 - (iv) Details of planting procedure and maintenance;
 - (v) Details of drainage, waterproofing and watering systems.
- (c) Prior to the issue of a Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property.
- (d) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

(90) STREET TREE PLANTING AND MAINTENANCE

- (a) A Landscape Plan indicating the location of the street trees to be planted in association with the development must be submitted to and approved by Council prior to the issue of the Construction Certificate. Street trees must be located and planted in accordance with the City's Street Tree Master Plan, and the following:
- (b) The plan shall reflect the following species for each street:
- (i) Pony Race Street – Ginkgo biloba (Maidenhair Tree)
 - (ii) Fuse Link – Pistacia chinensis (Chinese Pistachio)
 - (iii) Rose Valley Way – Waterhousia floribunda 'Green Avenue'
 - (iv) Epsom Road – no additional street trees required.
- (c) 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 for the relevant stage.
- (d) The tree pits must be inspected by Council's Contract Coordinator – Street Trees, before and after planting.
- (e) 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.

- (f) At the end of the twelve (12) month maintenance period, written approval must be obtained from Council before hand-over of any street tree to Council.
- (g) 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.

(91) 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.

(92) 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).

(93) BARRICADE PERMIT

Where construction/building works require the use of a public place including a road or footpath, approval under Section 138 of the *Roads Act 1993* for a Barricade Permit is to be obtained from Council prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

(94) ELECTRICITY SUBSTATION

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

(95) 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.

(96) 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.

(97) 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.

(98) 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".

(99) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN

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

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

The form of the recording is to be as follows:

- (a) A PDF format report containing all images at a scale that clearly demonstrates the existing site conditions;
- (b) Each image is to be labelled to identify the elements depicted, the direction that the image is viewed towards, and include the name of the relevant street frontage;
- (c) Each image is to be numbered and cross referenced to a site location plan;
- (d) A summary report, prepared by a suitable qualified professional, must be submitted in conjunction with the images detailing the project description, identifying any apparent existing defects, detailing the date and authorship of the photographic record, the method of documentation and limitations of the photographic record;
- (e) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

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

(100) 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).

(101) 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*.

(102) PUBLIC DOMAIN PLAN

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

- (a) An amended, detailed Public Domain Plan must be prepared by an architect, urban designer, landscape architect or engineer to document all works required to ensure that the public domain complies with the City of Sydney's Public Domain Manual, Sydney Streets Design Code and Sydney Streets Technical Specification, including 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. The plan must be submitted with a completed Public Domain Plan checklist (available in the City of Sydney's Public Domain Manual) and must show the following information as a minimum:
- (i) Epsom Road footpath paving in accordance with Sydney Street Code, concrete footway with verge treatment
 - (ii) Kerb and Gutter renewal as required and subsequent road reinstatements
 - (iii) Pedestrian kerb ramps and driveways
 - (iv) Lighting Detail, inclusive of new lighting and removal of redundant infrastructure.
 - (v) Street Furniture and Signage – Inclusive of proposed parking restrictions changes
 - (vi) Street trees and other planting in the public domain as specified in the Epsom Park Precinct public domain requirements – existing trees on Epsom Road to be maintained where possible and integrated into the public domain improvements
 - (vii) City of Sydney Standard detailing
- (b) The Public Domain Plan 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.
- (c) The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual and Sydney Streets Technical Specification. 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.
- (d) 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.

- (e) A Public Domain Works Deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the *Public Domain Manual*. The Public Domain Works Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.

Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Road Opening Permit for works on the public way being issued.

The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as-executed documentation are submitted and approved by Council in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

(103) PARKING PLAN

The applicant must undertake a review of the on-street parking restrictions on the developments frontages.

Two plans must be prepared, one showing the existing parking restrictions, and one showing the proposed parking restrictions. Both plans must include the parking restrictions and the locations of all parking signs and stems, and their chainages from the nearest intersection.

The plans must be submitted with the public domain plan. The plan must be approved by Council, and receive concurrence from the Pedestrian Cycling and Traffic Calming Committee.

All parking signs are to be installed at no cost to Council and must be installed prior to an Occupation Certificate being issued.

[Note: The process of reporting an item to the Local Pedestrian, Cycling and Traffic Calming Committee takes approximately 8 weeks from the relevant Council officer being satisfied with the proposal.]

(104) 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.

(105) PUBLIC ART

Details of the a public art work must be submitted to and approved by Council's Director, Planning, Development and Transport prior to issue of a Construction Certificate. The public artwork must be in accordance with the *Sydney DCP 2012* and the *Public Art Policy*. Installation of the art work must be completed to Council's satisfaction prior to the issue of an Occupation Certificate.

(106) 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.

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.

(107) 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.

(108) DRAINAGE AND SERVICE PIT LIDS

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

(109) NOMINATED ENGINEERING WORKS SUPERVISOR – MAJOR INFRASTRUCTURE

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

- (a) A Chartered Civil Engineer, with National Professional Engineering Registration (NPER 3) in the construction of civil works, or

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

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

(110) PUBLIC DOMAIN DAMAGE DEPOSIT

A Public Domain Damage Deposit calculated on the basis of 4m lineal metres of concrete site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Public Domain Damage Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

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

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

(111) PUBLIC DOMAIN LIGHTING

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

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

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(112) ROAD NETWORK AND GEOMETRIC ROAD DESIGN

- (a) Preparation of the detailed design and construction documentation for the proposed public road system shall include all necessary liaison with and requirements of all relevant public utility authorities, Roads and Maritime Services, Council, the Local Pedestrian Cycling and Traffic Calming Committee and its nominated consultants in order to achieve design approvals and construction compliance. Written evidence of approval from relevant authorities must be submitted to Council with the road design submission.
- (b) The design and construction of all road works shall be undertaken in accordance with City of Sydney's *Sydney Streets Technical Specification* and the *Public Domain Manual*. Detailed plans, construction details and specifications for the works shall be prepared and submitted to Council for approval prior to issue of a Construction Certificate, excluding for approved preparatory or demolition work, or before issue of an approval under Section 138 of the *Roads Act 1993* for the road and drainage, infrastructure work. The detailed plans and supporting documentation shall include as a minimum the following information:
- (i) General subdivision plan with contour details, clearly indicating the extent of work;
 - (ii) Road cross sections showing road and footway widths, existing levels, design levels, cross fall grade pavement configuration, batter slopes, engineered retaining walls, kerb returns, kerb and gutter, vehicle crossovers, pedestrian ramps the location of public utility services and 900mm minimum road restoration to match smoothly into the existing road levels;
 - (iii) Plan drawing and longitudinal section showing gutter invert, kerb and boundary alignments with design grades of the existing and proposed future public road network including public utility services;
 - (iv) Road design and drainage plans showing the following:
 - a. road pavement structure and design;
 - b. kerb, gutter and building alignment;
 - c. traffic management structures / measures;
 - d. traffic, pedestrian and parking signage;
 - e. details of intersections with existing roads including line-marking, pavement marking, sign-posting, swept paths for the largest expected vehicle;
 - f. on-road bicycle route infrastructure and facilities;
 - g. Details of design and specifications for footpaths, retaining walls, pedestrian and associated verge works,

- h. Details of structures and conduits for the provision and installation of any public utility services and any adjustment to existing services required;
- i. Geometric and hydraulic design of all stormwater drainage structures and systems including temporary drainage, if required, and specifications and materials and details of connections into Council's and/or Sydney Water stormwater systems.
- j. 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 lan;
 - 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.

- (k) 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.

(113) ROAD AND PUBLIC DOMAIN INFRASTRUCTURE

Road and public domain infrastructure must be designed and constructed in accordance with the Epsom Park Precinct design documentation undertaken by the City.

(114) RAIN GARDENS AND LANDSCAPED VERGE

Opportunities for additional rain gardens and landscaped verges are to be investigated and incorporated into the design where appropriate. Final locations and design of the raingardens and landscaped verge is to consider the following;

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

The design and construction of the rain gardens and landscaped verge is to be undertaken in accordance with the City's Green Square Town Centre Public Domain Strategy, Sydney Streets Technical Specification and submitted concurrently with the Public Domain Plans and Essential Infrastructure Plans for approval. The submission shall include as a minimum the following information:

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

(115) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION

- (a) Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the *Heritage Act 1977*.
- (b) Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974*
- (c) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the Occupational Certificate;
- (d) If the discovery is on Council's land, Council must be informed.

(116) ADAPTABLE HOUSING

Prior to a Construction Certificate being issued, information from an appropriately qualified access consultant:

- (a) Confirming that the required number of residential units are able to be adapted for people with a disability in accordance with the *Building Code of Australia*.
- (b) Demonstrating (in a checklist) compliance with Australian Standard AS4299

is to be submitted to the Certifying Authority.

(117) SWIMMING POOL - WASTE AND OVERFLOW WATERS

Swimming pool waste and overflow waters must be collected and directed to the sewer in accordance with the requirements of Sydney Water, and details are to be submitted with the application for a Construction Certificate for any building containing a swimming pool to the satisfaction of Council or the accredited certifier and approved by the Certifying Authority.

(118) SWIMMING POOL/SPA

Swimming and/or spa pool/s and pool surrounds must be maintained in accordance with the *Public Health (General) Regulation 2012*. Note: Guidance may also be obtained from the NSW Health Department's *Public Swimming Pool and Spa Pool Guidelines*.

(119) PHYSICAL MODELS

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

Note:

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

(120) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO OCCUPATION CERTIFICATE

- (a) Prior to an Occupation Certificate being issued for the final building, an accurate 1:1 electronic CAD model of the completed development must be submitted to Council for the electronic Visualisation City Model.
- (b) The data required to be submitted within the surveyed location must include and identify:
 - (i) building design above and below ground in accordance with the development consent;
 - (ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;
 - (iii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

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

- (c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements> Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.

SCHEDULE 1C**During Construction/Prior to Occupation/Completion****(121) BASIX**

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

(122) 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*.

(123) 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.

(124) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS

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

- (a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (b) The notice is to be durable and weatherproof and is to be displayed throughout the construction period;

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

(125) 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 (EHO to specify hours)
- (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*.

(126) ENCROACHMENTS – NEIGHBOURING PROPERTIES

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

(127) SURVEY

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

(128) 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.

(129) 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.

(130) 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.

(131) HAZARDOUS AND INDUSTRIAL WASTE

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

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

(132) 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.

(133) SHOP NUMBERING

Shops not having a direct street frontage, such as individual food businesses within a food court must have their shop number clearly displayed and visible at all times on the shop front.

(134) 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.

(135) 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.

(136) 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.

(137) 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.

(138) 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.

(139) 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.

(140) LOADING MANAGEMENT PLAN

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

The Plan should identify how the loading dock will be managed and used by all retail tenants and residents in all buildings. The Plan should detail how loading for Building A will occur without being dependent on on-street parking provisions.

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

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

(141) TRANSPORT ACCESS GUIDE

A Transport Access Guide, including a strategy for the future availability of the Guide to all residents, employees and/or visitors to the site, must be submitted to and approved by Council prior to the Occupation Certificate for the site/use being granted.

[Note: Transport Access Guide requirements are detailed in section 7.7 of the DCP. Information about preparing Travel Plans is also available on Council's website. Prior to submission, the applicant can contact a member of the Transport and Access Unit to discuss the Guide or Plan]

(142) WATER POLLUTION

No wastewater, chemicals or other substances harmful to the environment shall be permitted to discharge to Council's stormwater system. Only clean, unpolluted water is permitted to discharge into the stormwater system.

(143) 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.

(144) 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.

(145) REMOVAL OF FUSE STREET TEMPORARY ACCESS DRIVEWAY

- (a) Prior to the issue of an Occupation Certificate for Stage 2 / Building A the temporary access drive-way on Fuse Street South must be removed with the Fuse Street footpath reinstated and made-good and the part of the building comprising Unit G22 constructed as shown on approved drawing DA-00-2100-G issue 12 prepared by Allen Jack & Cottier.
- (b) Prior to the issue of an Occupation Certificate for Stage 2 / Building A the temporary barrier to the car parking access to Building B, C and D (on Lot 121) on Rose Valley Way must be removed and the permanent access reinstated/opened to the carparking for those buildings as shown on approved drawing DA-00-2100-G issue 12 prepared by Allen Jack & Cottier.

(146) STRATUM SUBDIVISION OF LOT 121

A separate application is to be made to Council to obtain Development Consent for the Stratum subdivision of Lot 121 in the Stage 1 subdivision of the site to separate in Title the component of the building comprising the vehicle driveway entry, ramp and aisle providing temporary access from Fuse Street into the building's basement car park, from the residue of that building and the site. The lot comprising the 'temporary driveway' is to include the stratum to be occupied by the full extent of approved Unit G22 and the subdivision is to provide for the creation of all easements, Rights of Way and covenants required as a consequence of the stratum subdivision.

The stratum subdivision is to be registered at the NSW Office of Land and Property Information **prior to issue of an Occupation Certificate for the building(s) occupying Lot 121 in the Stage 1 subdivision.**

- (a) The 'temporary driveway' lot is to be retained in the ownership of the developer until condition (145) of this consent has been complied with in order to facilitate compliance with the requirements of condition (145).
- (b) Any subsequent Strata subdivision of the residue Lot is to include the creation of a documentary Positive Covenant, pursuant to Section 88B of the *Conveyancing Act 1919*, in terms requiring the Owners Corporation of such scheme to allow the temporary barrier to the vehicle driveway entry into the basement car park in Rose Valley Way to be removed and the permanent driveway access to the car park to be reinstated/opened in compliance with condition (140) of this consent. The terms are to include a Sunset Clause to provide for the covenant's release and cancellation upon compliance with those requirements and the covenant is to be created to Council's satisfaction.

SCHEDULE 1D – SUBDIVISION**STAGE 1 SUBDIVISION****(147) SUBDIVISION CERTIFICATE**

A separate application is to be made to Council to obtain approval of the final Plan of Subdivision of Lot 12 in DP594967 and issue of the Subdivision Certificate under Part 4A of the *Environmental Planning and Assessment Act 1979*.

(148) 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 the Sydney Water Corporation and submitted to Council.

Application must be made through an authorised Water Servicing Coordinator. 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 132092 for assistance. Following application, a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. It is advised to make early contact with the Coordinator, since the construction of sewer/water infrastructure can be time consuming and may impact upon **other services and building works**.

(149) FUTURE PUBLIC ROAD DEDICATIONS

The final Stage 1 Plan of Subdivision is to include appropriate notation to the effect that Lots 123, 124 and 125 are reserved for future dedication as Public Road.

(150) EASEMENT FOR GARBAGE STORAGE AND USE

A documentary Easement for Garbage Storage is to be created over the part(s) of Lot 121 to be occupied by the residential/commercial Garbage Room of the building approved by this consent and the part(s) of that building providing access to the Garbage Room from the public way, pursuant to Section 88B of the Conveyancing Act 1919. The easement is to burden the affected part(s) of Lot 121, defined in stratum, appurtenant to Lot 122 and in terms granting rights of use of the Garbage Room for the storage of Garbage receptacles and management of domestic and commercial waste and access to the Garbage Room by the owners, occupiers and residents of the building occupying Lot 122 approved by this consent, including terms to protect the interests of the owners of the building occupying Lot 121 and created to Council's satisfaction

(151) EASEMENTS FOR USE OF SHARED FACILITIES

Documentary Easements for the use of the Community Room, car parking, bicycle parking, communal open space, lounge, gym and pool area are to be created over the part(s) of Lot 121 occupied by the those shared facilities within the building approved by this consent and the part(s) of that building providing access to those shared facilities from the public way, pursuant to Section 88B of the *Conveyancing Act 1919*. The easements are to burden the affected part(s) of Lot 121, defined in stratum, appurtenant to Lot 122 and in terms granting rights of use of the shared facilities for that purpose and rights of access thereto by the owners, occupiers and residents of the building occupying Lot 122 approved by this consent, including terms to protect the interests of the owners of the building occupying Lot 121 and created to Council's satisfaction.

(152) EASEMENTS AND COVENANTS

Any easements, Rights of Way and positive or 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.

(153) RESTRICTION ON USE OF LAND

The final Plan of Subdivision is to include the creation of a documentary Restriction on Use of Land over the car parking spaces in the building occupying Lot 121 that are to be allocated for use in conjunction with the building to occupy Lot 122, pursuant to Section 88B of the *Conveyancing Act 1919*. The covenant is to burden the affected part of lot 121, defined in stratum, appurtenant to Council, created in terms requiring the exclusive use of those spaces by the owners, residents or occupiers of the building to occupy Lot 122 and to Council's satisfaction.

(154) RESTRICTIONS ON USE OF LAND

The final Plan of Subdivision is to include the creation of documentary Restrictions on Use of Land over Lots 121 and 122, pursuant to Section 88B of the *Conveyancing Act 1919*. The Restrictions are to be in terms prohibiting the use of residential apartments for short-term rental accommodation such as back-packer, boarding house or the like and created appurtenant to and to the satisfaction of Council.

(155) STREET ADDRESSES OF LOTS

In accordance with Clause 60(c) of the *Surveying and Spatial Information Regulation 2012*, the street addresses for each lot, must be shown on the final Plan of Subdivision. An application should be made to Council to obtain the correct street address for each lot.

(156) STRATA SUBDIVISION

Any proposal to Strata subdivide a lot(s) in the subdivision will require separate applications to obtain Development Consent from Council or a Complying Development Certificate from an accredited certifier and subsequent approval of the Strata Plan and issue of the Strata Certificate by Council or an accredited Strata Certifier under the *Strata Schemes (Freehold Development) Act 1973*.

Any such Strata subdivision is to include the creation of appropriate Restrictions on Use of Land, pursuant to Section 88B of the *Conveyancing Act 1919*, to address prohibitions on use of car parking spaces and inappropriate use of basement level common areas, in accordance with the requirements and to the satisfaction of Council.

STAGE 2 SUBDIVISION**(157) SUBDIVISION CERTIFICATE**

A separate application is to be made to Council to obtain approval of the final Plan of Subdivision and issue of the Subdivision Certificate under Part 4A of the *Environmental Planning and Assessment Act 1979*

(158) ROAD DEDICATIONS

The final Plan of Subdivision of Lots 123 and 124 in the Stage 1 Plan of Subdivision is to provide for the dedication as Public Road, free of cost to Council, of:

- (a) Lot 124, as the 1.4m widening of Epsom Road, referred to as “Road Widening (1.4 Wide)” in the Stage 2 approved drawing.
- (b) Lot 123 as Fuse Street (12 Wide).

The dedications are to be in accordance with the registered Planning Agreement for the development.

(159) RIGHT OF FOOTWAY

A documentary Right of Footway (2m Wide) is to be created over the part of Lot 125 in the subdivision to be temporarily used for emergency egress from the Fire Stairs in the building occupying Lot 121 to Fuse Street, pursuant to Section 88B of the *Conveyancing Act 1919*. The Right of Footway is to be created along the western boundary of Lot 125, appurtenant to Lot 121, in terms granting unrestricted rights of emergency pedestrian egress from the fire-stairs to Fuse Street, and created to Council’s satisfaction.

The Right of Footway is to include a Sunset Clause requiring the owner(s) of the Lot benefited to take all necessary action to allow the cancellation and extinguishment of the encumbrance, including appropriate execution of any associated Cancellation of Easement instrument, upon dedication of lot 125 as Public Road.

(160) DESIGN AND CONSTRUCTION OF DEDICATIONS

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

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

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

(161) PRINCIPAL CERTIFYING AUTHORITY (PCA) FOR SUBDIVISION WORK

A separate application is to be made to Council for appointment as Principal Certifying Authority for the Subdivision Work under Section 109E of *the Act*, and Council's appointment is to be obtained prior to the commencement of any such work on the site.

(162) CONSTRUCTION CERTIFICATE FOR SUBDIVISION WORK

A Construction Certificate is to be obtained from Council or an accredited certifier for the above Subdivision Work in accordance with Section 109C of *the Act* and submitted to Council prior to its appointment as the Principal Certifying Authority.

(163) COMPLETION OF SUBDIVISION WORK & PUBLIC DOMAIN WORK

Prior to the issue of the Stage 2 Subdivision Certificate, all associated Subdivision Work 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's Area Planning Manager to exercise the provisions of Section 109J(2) of *the Act* with regard to any incomplete works.

Prior to the issue of an Occupation Certificate for the component of the development occupying Lot 121 in the Stage 1 subdivision, all Stage 2 Subdivision Work, including any such work subject to a bond under Section 109J(2) of *the Act*, is to be completed in accordance with the requirements and to the satisfaction of Council as the PCA.

(164) SECTION 138 APPROVAL

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

(165) PUBLIC UTILITY SERVICE AUTHORITIES

- (a) Prior to the commencement of any Subdivision Work on the site, or public domain work, evidence is to be submitted to Council that the requirements of all public utility service authorities with services installed or to be installed in the new roads have been satisfied with regard to the design of those services.
- (b) **Prior to the issue of the Stage 2 Subdivision Certificate**, evidence is to be submitted to Council that the requirements of those public utility service authorities have been satisfied with regard to the completion of construction/installation of those services.

(166) EASEMENTS AND COVENANTS

The final Stage 2 Plan of Subdivision is to include the creation of appropriate easements and Rights of Way to address any rights of access, services, drainage, etc. and any positive and/or restrictive covenants, required as a consequence of the subdivision, pursuant to Section 88B of the *Conveyancing Act 1919*. The easements are to be created in appropriate terms and to the satisfaction of Council.

STAGE 3 SUBDIVISION**(167) SUBDIVISION CERTIFICATE**

A separate application is to be made to Council to obtain approval of the final Stage 3 Plan of Subdivision of Lot 125 in the Stage 1 subdivision and issue of the Subdivision Certificate under Part 4A of the *Environmental Planning and Assessment Act 1979*.

(168) ROAD DEDICATION

The final Stage 3 Plan of Subdivision is to provide for the dedication as Public Road, of Rose Valley Way (15 Wide and Var.), free of cost to Council and in accordance with the registered Planning Agreement for the development.

(169) DESIGN AND CONSTRUCTION OF ROAD DEDICATION

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

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

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

(170) PRINCIPAL CERTIFYING AUTHORITY (PCA) FOR SUBDIVISION WORK

A separate application is to be made to Council for appointment as Principal Certifying Authority for the Subdivision Work under Section 109E of *the Act*, and Council's appointment is to be obtained prior to the commencement of any such work on the site.

(171) CONSTRUCTION CERTIFICATE FOR SUBDIVISION WORK

A Construction Certificate is to be obtained from Council or an accredited certifier for the above Subdivision Work in accordance with Section 109C of *the Act* and submitted to Council prior to its appointment as the Principal Certifying Authority.

(172) COMPLETION OF SUBDIVISION WORK & PUBLIC DOMAIN WORK

Prior to the issue of the Stage 3 Subdivision Certificate, all associated Subdivision Work 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's Area Planning Manager to exercise the provisions of Section 109J(2) of *the Act* with regard to any incomplete works.

Prior to the issue of an Occupation Certificate for the component of the development occupying Lot 122 in the Stage 1 subdivision, all Stage 3 Subdivision Work, including any such work subject to a bond under Section 109J(2) of *the Act*, is to be completed in accordance with the requirements and to the satisfaction of Council as the PCA.

(173) SECTION 138 APPROVAL

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

(174) PUBLIC UTILITY SERVICE AUTHORITIES

Prior to the commencement of any Subdivision Work on the site, or public domain work, evidence is to be submitted to Council that the requirements of all public utility service authorities with services installed or to be installed in the new roads have been satisfied with regard to the design of those services.

Prior to the issue of the Stage 3 Subdivision Certificate, evidence is to be submitted to Council that the requirements of those public utility service authorities have been satisfied with regard to the completion of construction/installation of those services.

(175) EASEMENTS FOR PUBLIC ACCESS

The final Stage 3 Plan of Subdivision is to include the creation, pursuant to Section 88B of the *Conveyancing Act 1919*, of:

- (a) A documentary Easement for Public Access (9 Wide) over the part of Lot 122 in the Stage 1 subdivision occupied by the Cycleway/Through Site Link from Rose Valley Way to the future Gunyama Park. The easement is to burden the affected part of Lot 122 in the Stage 1 subdivision, appurtenant to Council, defined in stratum as limited in depth to the upper surface of the roof of the Basement car park structure below and in terms granting appropriate public pedestrian access and to the satisfaction of Council.
- (b) A documentary Easement for Public Access (3 Wide) along the northern boundary of Lot 122 in the Stage 1 subdivision. The easement is to burden the affected part of Lot 122 in the Stage 1 subdivision, appurtenant to Council, defined in stratum if so desired by Council, and granting appropriate public pedestrian access and to the satisfaction of Council.

(176) EASEMENTS AND COVENANTS

The final Stage 3 Plan of Subdivision is to include the creation of appropriate easements to address any rights of access, services, drainage, etc. and any positive and/or restrictive covenants, required as a consequence of the subdivision, pursuant to Section 88B of the *Conveyancing Act 1919*. The easements are to be created in appropriate terms and to the satisfaction of Council.

SCHEDULE 2

PRESCRIBED CONDITIONS

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

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

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

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

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

NSW Office of Water General Terms of Approval**General**

- (177) 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.
- (178) 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.
- (179) 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

- (180) 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.
- (181) 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.
- (182) A copy of a valid development consent for the project shall be provided in the report to the NSW Office of Water.

- (183) 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.
- (184) 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.
- (185) 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

- (186) 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.
- (187) 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.
- (188) 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.
- (189) 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.

- (190)** 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.
- (191)** 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.
- (192)** 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

- (193)** 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. A site visit was carried out on 12 April 2015.
2. The site is generally rectangular in shape with an irregular frontage to Epsom Road of 82.6m; a 80m rear boundary; a 140m western side boundary; and a 120.8m eastern side boundary. The total site area is 10,330sqm.

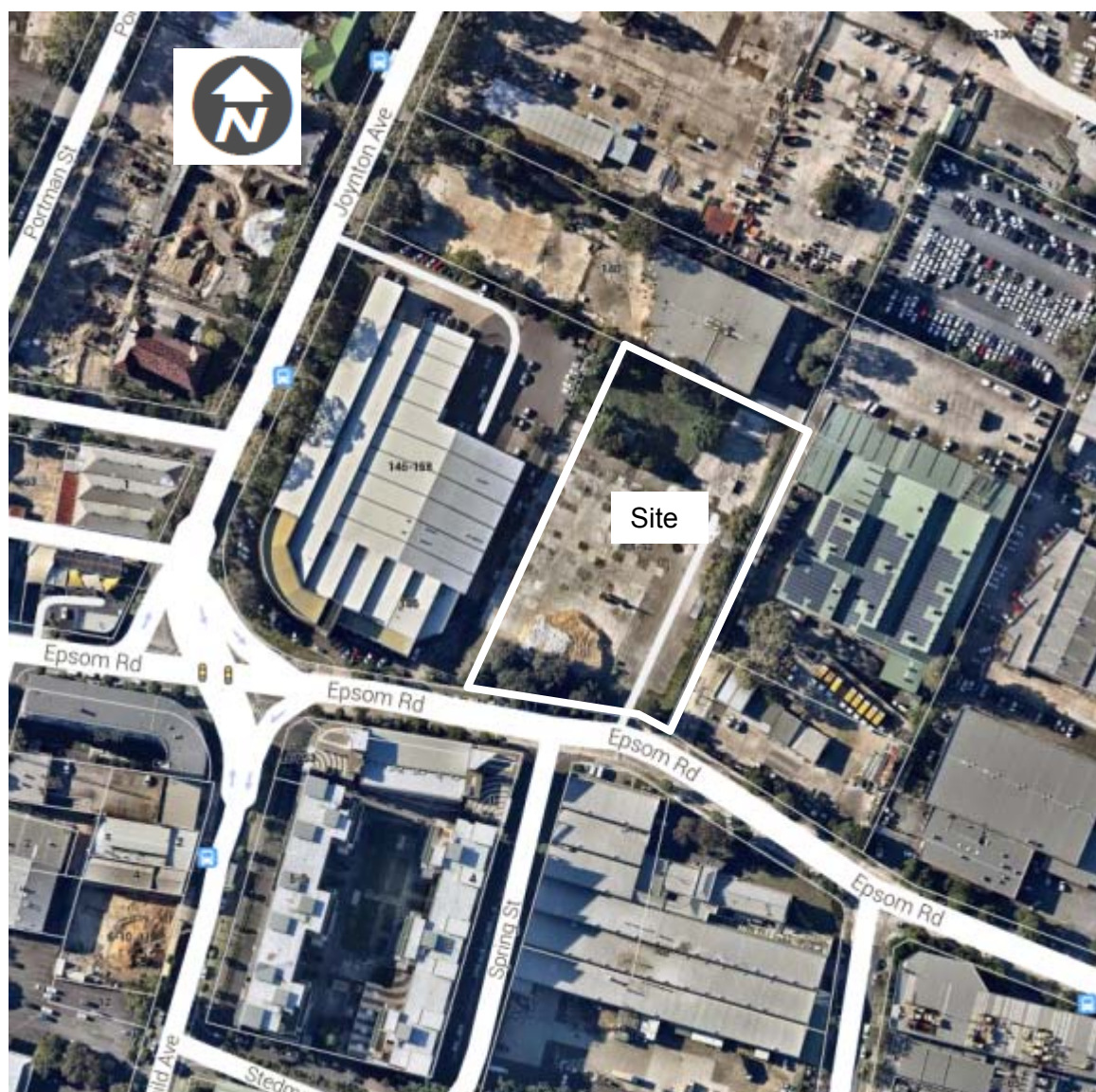


Figure 1: Aerial image of subject site and surrounding area

3. The site is mostly flat but has a slight fall towards the north. Its highest point is in the south eastern corner (RL 20.45) and its lowest point is at the north western corner (RL 18.32).
4. The site previously accommodated commercial/light industrial buildings, which have recently been demolished via a Complying Development Certificate. The site is now free from structures and consists of hardstand areas with some vegetation and trees on the southern, northern and eastern boundaries.

5. The surrounding context is mixed use, including industrial, commercial and residential uses. The site is located between the City of Sydney Depot to the east and a Honda car dealership to the west. Industrial developments are located to the north. Commercial premises and residential flat buildings are located on the southern side of Epsom Road.
6. The site is part of the identified Epsom Park urban renewal precinct, which will see the area transition from light industrial to mixed use residential area. The site is located directly south of the proposed Gunyama Park which will include sporting fields and an aquatic centre.
7. The site does not contain a heritage item, is not in a conservation area and is not in the vicinity of a heritage item.
8. Photos of the site and surrounds are provided below:



Figure 2: Site viewed from Epsom Road facing north west



Figure 3: Site viewed from Epsom Road facing north east



Figure 4: Sites Epsom Road frontage facing east



Figure 5: Site viewed from Epsom Road facing north east



Figure 6: Site viewed from Epsom Road facing north west



Figure 7: Commercial and residential uses located opposite the site, facing south down Spring Street

PROPOSAL

9. The proposal seeks consent for the staged construction of a mixed use development comprising 4 residential flat buildings between 2 and 11 storeys with 215 apartments and 620sqm of retail premises / commercial premises. The proposal includes 1 level of basement parking with a total of 223 vehicle car parking spaces over basement and ground floor level. Landscaping, public domain and infrastructure works are also proposed. The application involves the construction of a portion of Rose Valley Way and Fuse Street, subdivision of development lots and road dedication. A site layout plan is included at **Figure 8**:

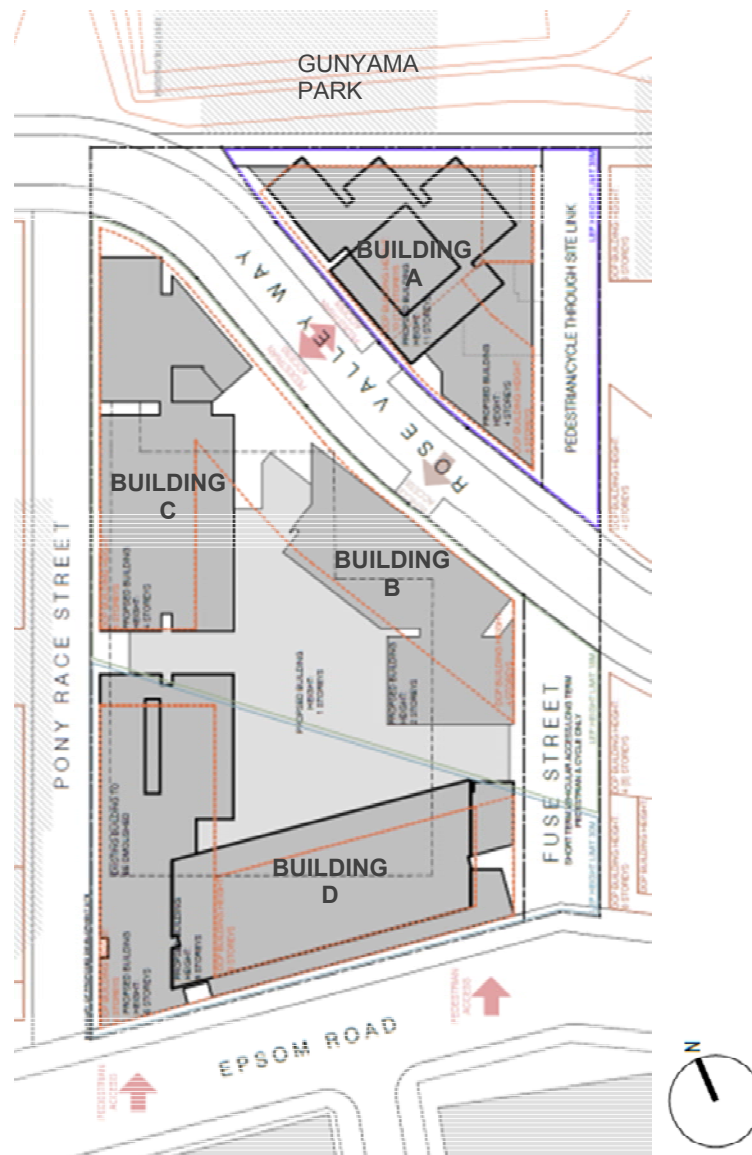


Figure 8: Site layout plan

Stage 1

(a) Building B

- (i) A 2 storey building containing 8 maisonette apartments;
 - a. Units G12, G13, G15 and G16 will have interim access from the car park and via the upper level communal space, with direct access to Rose Valley Way at Stage 2;
 - b. Units G17-21 have direct access from Fuse Street;
- (ii) Community room; and
- (iii) Future location of main vehicular access point from Rose Valley Way (provided at Stage 2).

(b) Building C

- (i) A 4 storey building containing 36 residential apartments;
- (ii) Four of the apartments within Building C are maisonettes, which will be internally accessed from level 1, via the lobby and lift, but will have access from the public domain once the adjoining site to the west is developed and Pony Race Street is constructed; and
- (iii) Rooftop green roof landscaping.

(c) Building D

- (i) Part 6 and part 9 storey building containing;
 - a. 106 residential apartments;
 - b. 226sqm of retail premises /commercial premises at ground floor fronting Epsom Road;
- (ii) 23 of the apartments are maisonettes;
- (iii) Four of the maisonettes at ground / level 1 will be internally accessed from level 1, via the lobby and lift, but will have access from the public domain once the adjoining site to the west is developed and Pony Race Street is constructed;
- (iv) This building will incorporate a temporary vehicle access point from Fuse Street. This will be closed on the completion of the Stage 2 works and replaced with a 1 bedroom apartment;
- (v) Rooftop landscaping and communal opens space; and
- (vi) Recreational facilities including swimming pool, gym and lounge area.

(d) Landscaping

- (i) Podium communal landscape space between buildings B, C and D at level 1 of 1,229sqm (11.9% of site);
- (ii) Rooftop garden / communal open space to Building D of 777sqm (7.5% of the site) (19.4% total);
- (iii) Landscaped/green roofs on Buildings A and C;
- (iv) Street setback landscaping and deep soil zones around the perimeter of the site and new streets; and
- (v) 678sqm deep soil is provided with a dimension of 2m or more, which is 6.6% of the site. A further 387sqm of deep soil with a dimension of less than 2m is provided, which is 3.7% of the site (10.3% total).

(e) **Car Parking and Servicing**

- (i) Ground floor parking area for 59 vehicles, including 2 car share spaces. This ground floor parking area, is centrally located and is surrounded by ground floor commercial and residential uses to all site boundaries, so as not to be visible from the public domain;
- (ii) 1 level of basement parking for 131 vehicles, 5 motorbike spaces and 1 car wash bay; and
- (iii) Central waste collection room located behind Building B at ground floor.

(f) **Public Domain Works**

- (i) Construction of Fuse Street – south section; and
- (ii) Epsom Road 1.4m wide footpath widening.

Stage 2

(g) **Building A**

- (i) An 11 storey building comprising;
 - a. 65 residential apartments;
 - b. 394sqm of retail premises/ commercial premises at ground floor primarily fronting the future Gunyama Park to the north;
- (ii) Basement parking for 33 vehicles, accessed off Rose Valley Way;
- (iii) 3m public access easement to the northern, Gunyama park elevation;
- (h) Construction of Rose Valley Way;
- (i) New driveway to car parking on southern part of the site provided at Stage 1 on southern side of Rose Valley Way;
- (j) Closing of Fuse Street temporary access driveway and construction of unit G22 in its place; and
- (k) Construction of Fuse Street – north section as a pedestrian and cycle through site link with public access easement;

Subdivision

- (l) It is proposed to undertake a staged subdivision of existing Lot 12 in Deposited Plan 594967. A description of each of these stages is as follows:
 - (i) **Stage 1:** Subdivision of Lot 12 in Deposited Plan 594967 to create five new lots being:
 - a. Lot 121: Comprising the land area for the southern development lot;

- b. Lot 122: Comprising the land area for the northern development lot;
 - c. Lot 123: Comprising the land area for the southern part of Fuse Street;
 - d. Lot 124: Comprising the land area for footpath widening along Epsom Road; and
 - e. Lot 125: Comprising the land area for Rose Valley Way.
- (ii) **Stage 2:** Subdivision of Lots 123 and 124 to dedicate to Council
 - (iii) **Stage 3:** Subdivision of Lot 125 to dedicate to Council and create an access easement over the northern end of Fuse Street and a public access easement along the northern edge of the site
10. Selected photomontages of the proposed development are provided in **Figures 9 - 12** below and a full set of architectural drawings (plans and elevations) are provided at **Attachment A** and schedule of colours and materials and photomontages at **Attachment B**.



Figure 9: Photomontage of Building D as viewed from Epsom Road facing north east (Stage 1)



Figure 10: Photomontage of Building D as viewed from corner of Epsom Road and proposed Fuse Street facing west (Stage 1)



Figure 11: Photomontage of Building B to the left and Building C to the right, with Building D in the distance, as viewed from proposed Rose Valley Way facing south (Stage 1)



Figure 12: Photomontage of Building A to the left (Stage 2) and Building C to the right (Stage 1), as viewed from proposed Gunyama Park facing south

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

The Site

11. The following development applications and competitive design process are relevant to the proposed development:
 - (a) **P/2014/2530** – a complying development certificate (CDC: 142637) for the demolition of the existing industrial warehouse buildings and associated structures was approved by an accredited Certifier on 31 October 2014. These works have been completed.
 - (b) **D/2014/1988** – On 14 April 2015 consent was granted for the excavation and remediation of the subject site and the removal of 35 trees.

- (c) **CMP/2014/12** – In June 2014 a Competitive Design Alternatives process commenced where 4 invited architects designed schemes for the redevelopment of the site.

The architects included A+ Architecture, Crone, Allen Jack & Cottier (AJC) and Hassell. The selected winner of the process was AJC. **Figures 13 to 15** illustrate the winning scheme.

The Selection Panel included Peter John Cantrill (Independent Panel Member), Robert Nation (Independent Panel Member), Peter Spira (General Manager, Meriton Apartments) and Graham Jahn (Independent Observer).

The competition was based on the, Draft Sydney LEP 2012 Amendment No. 13 and Draft Sydney DCP 2012 controls which have subsequently come into force on 19 December 2014.



Figure 13: Winning design scheme - northern elevation of Building A as it presents to future Gunyama Park



Figure 14: Winning design scheme - looking south into entry area on Rose Valley Way



Figure 15: Winning design scheme - looking northwest along Rose Valley Way at intersection with Fuse Street

Planning controls

12. History relating to relevant planning controls:

- (a) Sydney LEP 2012 amendment No. 13 (Green Square Aquatic Centre and Gunyama Park, Epsom Park and Kellick Street, Waterloo) was gazetted on 19 December 2014, 4 days after the subject application was lodged.
- (b) Sydney LEP Amendment No. 13 insofar as it relates to the subject site, amends the Height of Building Map shown in **Figure 16** below. This reason for this amendment was to correspond with the changes to the proposed street layout needed to accommodate the future stormwater network

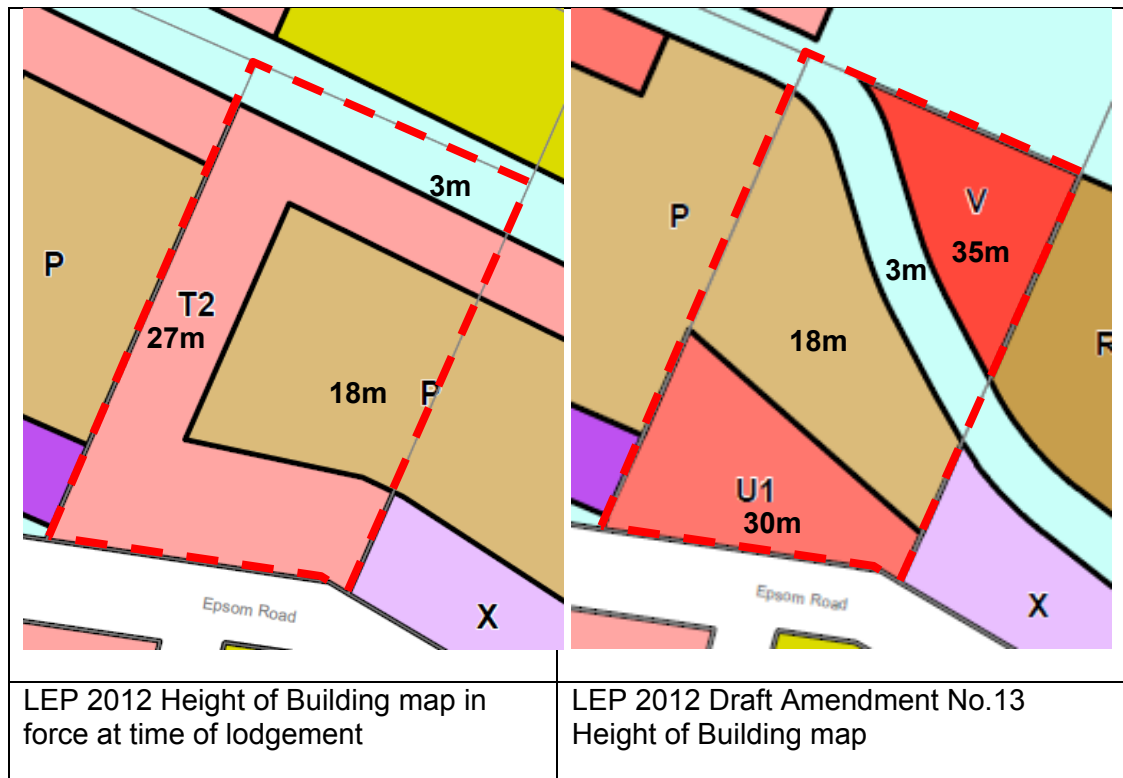


Figure 16 – Amendment to Building Height map

- (c) Amendments to the Sydney DCP 2012 accompanied the Sydney LEP Amendment No.13 to amend the proposed street layout and building envelopes for the subject site. The Sydney DCP 2012 amendment also came into force on 19 December 2014.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

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

Integrated Development – Section 91 EP&A Act

14. The application was referred to the NSW Office of Water as the proposal constitutes Integrated Development under Section 91 of the EP&A Act.

15. Preliminary assessment indicates that the groundwater table will be intercepted as a result of the excavation for the proposed basement car park. The construction dewatering proposed for the project is deemed to be an aquifer interference activity. The excavation and construction at the property will need to be conducted in accordance with the principles of the Aquifer Interference Policy as set out by the NSW Office of Water.
16. The NSW Office of Water have provided General Terms of Approval (“GTA”) appropriate to the proposed aquifer interference activity, and these have been incorporated into Schedule 3 of the recommendation.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

State Environmental Planning Policy No 55—Remediation of Land

17. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
18. The land has previously been used for industrial purposes. The site is identified as containing contaminated soil and WorkCover Dangerous Goods records indicate there were several Underground Storage Tanks (USTs). The application proposes to change the use of the land to residential which is a more sensitive land use. Given this, Council must be satisfied that through appropriate remediation, the site is capable of being made suitable for the proposed use.
19. Excavation and remediation of the subject site is proposed under the deferred commencement approval D/2014/1988. The deferred commencement condition required the submission of a Site Audit Statement (SAS), and Remediation Action Plan (RAP) if required.
20. A SAS and RAP with a letter of Interim Advice from a NSW EPA Accredited Site Auditor were submitted by the applicant. However, the City’s Health and Building unit require that a Section B SAS is issued by that auditor certifying that the RAP is practical and the site will be suitable after remediation for the proposed use.
21. Given this, subject to a deferred commencement condition requiring the submission of the Section B Site Audit Statement, Council can be satisfied that the site can be made suitable for the proposed residential/commercial use, in accordance with SEPP 55. Appropriate conditions have been recommended to ensure the site is remediated prior to the construction of the subject development.

State Environmental Planning Policy No. 64 – Advertising and Signage

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

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (“Codes SEPP”)

23. The subject application seeks consent for 3 x retail premises / commercial premises with no specific fit out or operational details. Council would ordinarily condition that these tenancies require a future first use DA. However, recent changes to SEPP E&C provides that a number of first uses can be approved under a complying development certificate (CDC), thus overriding Council standard condition for a first use DA.
24. In the proposed development, the retail premises / commercial are classified as Class 6 under the Building Code of Australia (BCA). Examples of the likely uses that could be approved under a CDC pursuant to the Codes SEPP could be a shop or food and drink premises with a capacity of up to 50 seats. Schedule 8 of the Codes SEPP also outlines condition that would apply to any CDC's. Under this Schedule the hours of operation are limited to either those specified in any development consent applying to the site, or otherwise 7.00 am to 7.00 pm Monday to Saturday and 9.00 am to 6.00 pm on a Sunday or a public holiday. It also requires that the development must comply with the requirements for industrial premises contained in the NSW Industrial Noise Policy.
25. Future uses of this nature are consistent with the desired future character of the area, with active frontages required to Epsom Road and the Gunyama Park interface. The requirement and conditions included in the Codes SEPP set appropriate hours of operation so as not to have a negative amenity impact on the residential apartments located immediately above within the same building. Therefore generic approval of indicative retail premises / commercial premises is acceptable in this instance.

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

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

(a) **Principle 1: Context**

The subject site is located in the Epsom Park Precinct of the Green Square redevelopment area. The locality comprises a number of industrial, commercial and residential uses. It is in a period of transition to a desired character of a new neighbourhood of primarily medium density residential and mixed uses. The new neighbourhood aims to have good transport links, open parklands, recreational opportunities and specialty retail activities. It is to have a strong urban character and identity, built on the quality of the streets and architecture. The locality statement highlights the need for a variety of dwelling types, and for buildings to be at a human scale, with streets providing permeability and maximising pedestrian and cycle movement.

The proposal is predominately residential, with 620sqm of retail premises / commercial premises to the Epsom Road and Gunyama Park frontages and is consistent with the desired uses anticipated for the area. The development addresses the need for public domain upgrades by proposing to construct and dedicate parts of Fuse Street and Rose Valley, as well as widening the Epsom Road footpath. An access easement over the northern part of Fuse Street and a public access easement along the northern edge of the site are also proposed.

The proposed buildings generally comply with the built form controls and adopt a scale and expression that appropriately addresses the street frontages and adjoining sites.

(b) **Principle 2: Scale**

The scale of the proposed buildings is generally consistent with the planning controls for the site and will contribute to the desired future character of the area which is transitioning from industrial and warehouse uses to a higher density mixed use residential area.

Exceptions to the controls are considered as part of this report. While the proposed buildings are of a higher scale than the existing warehouses in the vicinity of the site, this is considered appropriate given that the area is in a period of planned transition.

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

The development includes a variety of built forms. Building B, C and D are located on the larger, southern, portion of the site and are 2, 4 and 6-9 storeys respectively. These buildings present to the various existing and future street frontages and surround and screen the at grade parking and the central podium communal courtyard at level 1.

Building A is located on the smaller, northern, portion of the site and is a larger 11 storey tower form over 4 store podium.

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

The building form and separation is generally consistent with the building footprints envisaged within the Sydney DCP 2012. The building mass is articulated into smaller elements to create a variety of facades, articulation, massing & architectural character, representing a group of buildings rather than a single building.

(d) **Principle 4: Density**

The development has been designed to maximise the allowable density on the site. The density of 2.19:1 the community infrastructure Floor Space Ratio (FSR) provisions and incorporates the design excellence bonus of 10%.

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

The proposal incorporates environmentally sustainable design including natural ventilation and solar access to apartments, deep soil planting, and installation of water and energy efficient appliances. A BASIX Certificate has been submitted with the proposal indicating a commitment to achieving environmentally sustainable outcomes.

(f) **Principle 6: Landscape**

A central landscaped courtyard is provided between buildings B, C and D. This courtyard is located on a podium above the ground and basement parking levels and provides a variety of recreational uses and includes a communal BBQ area, open turf, seating nook and area of dense planting. The courtyard also provides the interface with the communal recreational facilities including the gym, pool and lounge area.

A landscape communal rooftop garden is provided on the roof of Building D and is accessible from that building. In addition green roofs are proposed on Buildings A and C.

These landscaped areas achieve the minimum levels of open space for the development. The communal areas do not contain deep soil, however, deep soil landscaping has been achieved by the landscaped setbacks around the perimeter of the site. This will be consistent with the site and locality which has characteristic landscaped setbacks.

(g) **Principle 7: Amenity**

The proposed apartments are provided with satisfactory levels of amenity as follows:

- (i) SEPP 65 requires that a minimum of 70% of units receive 2 hours of direct sunlight to living rooms. The proposal complies with 70% of apartments and their private open space will receive 2 hours of midwinter sunlight between 9am and 3pm;
- (ii) the residential levels of the development provide a minimum of 3.1 metres floor to floor heights to enable delivery of a 2.7 metre floor to ceiling height for habitable rooms;

- (iii) the vast majority of apartments within the development will enjoy northerly, easterly or westerly aspects;
- (iv) the majority of apartments have kitchens that are located no more than 8m from a window. The remaining units have windows located less than 9m;
- (v) all but 8 of the 215 proposed apartments meet or exceed the minimum apartment sizes;
- (vi) each apartment has been provided with a private balcony area with the vast majority having a minimum depth of 2m;
- (vii) the design of the units and the relationship to surrounding buildings ensures that occupants will have acceptable levels of privacy;
- (viii) a secure basement storage area for each apartment is provided in addition to internal storage within each unit. Some apartments have internal utility/study areas which also provide supplementary storage space.

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

The proposed retail/commercial premises within Building D to Epsom Road and to Gunyama Park within Building A will activate the streets and frontages and provide opportunities for casual surveillance.

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

Residential lobby entrances to the development are proposed on Epsom Road, Pony Race Street and Rose Valley Way. Gates are proposed to be placed across entry points, and access to the building and the communal courtyard will be controlled by electronic security devices. The extensive provision of communal open space within the development, and its connection with Gunyama Park to the north will facilitate a cohesive social environment.

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

The proposed dwelling mix is detailed in the table below:

Apartment type	No.	Percentage
Studio	0	0
1 bed	77	35.8%
2 bed	104	48.4%
3 bed	34	15.8%
Total	215	

The proposal provides a mix of studio, one, two and three bedroom dwellings that can cater for a range of lifestyles, budgets and housing needs. The development suits the anticipated social mix for the neighbourhood noting that every residential lobby entrance includes an integrated ramp to provide access for all age groups and degrees of mobility.

(j) **Principle 10: Aesthetics**

The development has been the subject of a design competition.

The development provides a range of building types and architectural treatments to create diversity and visual interest. The primary building material is precast concrete with a variety of applied coloured accents. Buildings B, C and D have a more solid character while Building A is intentionally lighter and with the use of more glass

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

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

Residential Flat Design Code (RFDC)

30. Clause 30 of SEPP 65 requires consideration of the 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. Amenity concerns with regard to specific apartments are discussed further in the Issues section.

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
Building Depth 10-18m (glass to glass)	Partial	The building envelope depth of both Buildings B and C are approximately 20m and do not comply. However, these non-compliances are considered acceptable as these proposed buildings achieve satisfactory daylight access and natural ventilation (see below).

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
<p>Building Separation Up to four storeys/up to 12 metres:</p> <ul style="list-style-type: none"> • 12m between habitable rooms/ balconies • 9m between habitable/ balconies and non-habitable rooms • 6m between non-habitable rooms <p>Five to eight storeys/up to 25 metres:</p> <ul style="list-style-type: none"> • 18m between habitable rooms/ balconies • 13m between habitable/ balconies and non-habitable rooms • 9m between non-habitable Rooms 	Partial	<p>The building separation distances recommended in the RFDC are generally achieved, with the exception of the northern end of building D & the southern end of building C which is 6.7m. However, the arrangement of the buildings is generally consistent with the building footprints set out in the Sydney DCP 2012. Appropriate design measures are proposed (offset and high levels windows openings, privacy screening etc.) to reduce potential impacts.</p>
<p>Deep Soil Zone A minimum of 25% of the open space area of the site should be a deep soil zone.</p>	No	<p>678sqm deep soil is provided with a dimension of 2m or more, which is 6.6% of the site. A further 387sqm of deep soil with a dimension of less than 2m is provided, which is 3.7% of the site (10.3% total).</p> <p>While this does not meet the RFDC requirement of 25%, it does comply with the Sydney DCP 2012 requirement, which is 10%.</p>

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
<p>Communal Open Space Communal open space to be 25- 30% of site area.</p> <p>Private Open Space 25sqm at ground level with minimum preferred dimension in one direction of 4m.</p>	Partial	<p><u>Communal open space</u> Two main areas of communal open space will be provided in the development:</p> <ul style="list-style-type: none"> • Podium communal landscape space between buildings B, C and D at level 1 of 1,229sqm (11.9% of site); and • Rooftop garden / communal open space is to Building D of 777sqm (7.5% of the site). <p>This equates to 19.4% of the existing site area (10,330sqm). However, if taking into account the new roads and footpath widening and dedication of this land, the site area is reduced by 2,214sqm and the percentage of communal open space increases to 24.7% of the site.</p> <p>In addition to this indoor communal facilities are provided:</p> <ul style="list-style-type: none"> • Community room located within Building B at ground floor of 67sqm (0.6% of site); and • Recreational facilities including swimming pool, gym and lounge area are provided directly off the podium communal landscape area at level 1, which is 375sqm (3.6% of the site). <p>Coupled with the communal open space this equates to 23.7% of the total site area or 30.2% of the adjusted site area, after dedications.</p> <p>In addition to this:</p> <ul style="list-style-type: none"> • A 3m wide public access easement is provided on the northern boundary to Building A to provide an contiguous interface with Gunyama Park to the north;

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
		<ul style="list-style-type: none"> • A 9m wide public access easement is to be placed on the northern part of Fuse Street. This is a through site link for pedestrian and cycle access to Gunyama Park to the north, and will not accommodate cars, this area will be paved and landscaped with trees and seating; and • The site is located directly adjacent to the planned Gunyama Park to the north. <p>Given the particulars of the site, the communal open space provision meets the intent of the RFDC and is acceptable.</p> <p><u>Private open space</u></p> <p>All apartments have private courtyards and/or balconies and 212 of the 215 apartments (99%) achieve the minimum depth of 2m which meets the RFDC rules of thumb.</p> <p>The ground level apartments have private gardens, but do not meet the 25sqm requirement of the RFDC.</p> <p>The proposal's lack of private open space for a small number of apartments and non-compliance with the minimum size for ground floor gardens is considered acceptable in this instance because of the development's generous provision of communal open space which all residents will be able to access.</p>
Safety	Yes	A CPTED statement was prepared identifying areas within the development that required appropriate design and security management.
Visual Privacy	Yes	The proposal largely achieves acceptable separation to maintain visual privacy for future occupants and those of adjoining buildings.

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
<p>Single Aspect Apartments Single aspect apartments should be limited in depth to 8m from a window. Limit single aspect apartments with a southerly aspect (SW-SE) to max.10% of total units.</p>	Yes	The vast majority of apartments within the development will enjoy northerly, easterly or westerly aspects. Some of the apartments will be dual aspect. Only 8% of apartments within the development are single aspect with a southerly aspect, therefore complying with the maximum 10% recommended in the RFDC.
<p>Apartment Layout (Kitchen) The back of a kitchen should be no more than 8m from a window.</p>	Partial	The back of the majority of kitchens are no more than 8m from a window. The back of a minor portion of kitchens are no more than 9m from a window.
<p>Apartment Layout (Unit Sizes) Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 38.5sqm • 1 bed: 50sqm • 2 bed: 70sqm • 3 bed: 95sqm 	Partial	<p>All but 8 of the 215 proposed apartments meet or exceed the minimum apartment sizes set out in the RFDC with the following ranges:</p> <ul style="list-style-type: none"> • 1 bedroom range 52.2sqm - 87.6sqm • 2 bedroom range 66.5sqm - 109.9sqm • 3 bedroom range 93.4sqm – 126.9sqm <p>One 2 bedroom apartment (G21) sits slightly below the 70sqm RFDC rule of thumb at 66.5sqm. Seven of the 3 bedroom apartments (405, 505, 605, 705, 805, 905 and 1005) sit slightly below the 95sqm RFDC rule of thumb at 93.4m².</p> <p>The apartment layouts are reasonably efficient and functional. Given the range of apartment sizes for 1, 2 and 3 bedroom apartments these minor non-compliances are considered acceptable in this instance.</p>
<p>Balconies 2m min balcony width</p>	Yes	All apartments have private courtyards or balconies and 212 of 215 apartments (99%) meet the minimum depth requirements of 2m.

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
<p>Ceiling Heights 2.7m min ceiling height in habitable areas. 2.25-2.4m ceiling height in non-habitable areas.</p>	Yes	The residential levels of the development provide a minimum of 3.1 metres floor to floor heights to enable delivery of a 2.7 metre floor to ceiling height for habitable rooms, to comply with the RFDC.
<p>Ground Floor Apartments Optimise the number of ground level units with separate entries. Provide ground floor apartments with access to private open space.</p>	Partial	<p>Ground floor apartments have been provided with separate entries from the public domain.</p> <p>The ground floor dwellings that address the street frontages adopt a 3.2m setback from the site boundary to the glass line. Each dwelling has a 1-2m deep deck and private garden area.</p> <p>Each dwelling is elevated up to a maximum of 1.2m above adjacent footpath level, which is marginally above the 1m maximum allowed.</p>
<p>Internal Circulation The number of units accessible from a single core/corridor should be limited to eight.</p>	No	<p>Two lifts will serve Building D, at each end of the building fronting onto Epsom Road. A single core is provided to building C. Building A provides 2 centrally located lifts with the corridors running around the central core.</p> <p>The number of apartments accessible from a single core/corridor exceeds the maximum of 8 recommend within the RFDC with cores/corridors servicing 2 to 11 apartments. This internal configuration of these cores are acceptable as the they have access to natural light and serve 2 storey cross-over apartments in some cases.</p>

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
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	All apartments meet the minimum storage requirements. The proposal provides individual storage facilities within the basement of the development for each apartment. Some apartments also provide a study/utility area which also provides supplementary storage space for those apartments. It is recommended that a condition is incorporated into the consent to ensure that the utilities areas are designated for storage and study purposes and shall not be converted to separate habitable bedroom.
Daylight Access 70% of units to receive 3 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	70% of apartments and their private open space will receive 2 hours of midwinter sunlight between 9am and 3pm.
Natural Ventilation 60% of units to be cross ventilated. 25% of kitchens within a development should have access to natural ventilation.	Partial	Cross ventilation is achieved in 57.2% of apartments. A further 9 units benefit from alternative aspect windows, with the windows located within building slots in both Buildings C and A. The slots within these buildings are approximately 2m wide and while this width was not considered to achieve true cross ventilation, they do improve the amenity to these units. If these units were included 60.5% cross ventilation would be achieved. This small non-compliance is considered acceptable in this instance.

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

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

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

33. The provisions of ISEPP have been considered in the assessment of the development application.

Clause 45

34. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the ISEPP as the development is likely to affect an electricity transmission or distribution network. The application was referred to Ausgrid who advised that an electricity substation will be required to be accommodated within the development. A substation chamber has been incorporated into Building D. Notwithstanding this, it is recommended the standard Electricity Substation condition be incorporated in the consent.

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

35. The BASIX Certificate has been submitted with the development application.
36. The BASIX certificate lists measures to satisfy SEPP 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 70 Affordable Housing (Revised Schemes) (SEPP 70)

37. SEPP 70 relates to Section 94F of the EP&A Act and provides that where the consent authority is satisfied that the development meets certain criteria and a Local Environmental Plan (LEP) authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
38. Clause 7.13 - Contribution for purpose of affordable housing of the Sydney LEP 2012 authorises that an affordable housing contribution may be levied for development in land in Green Square.
39. It is recommended that a condition imposing an affordable housing contribution to aid in the delivery of affordable housing in accordance with the principles in Schedule 2 of SEPP 70.

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

40. 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.
41. The proposed development of the site is consistent with the aims and objectives of SEPP 32 in that the development increases the housing stock and provides a mix of apartment types to meet the demand generated by urban renewal within Green Square.

Sydney Local Environmental Plan 2012 (Sydney LEP 2012)

42. The site is located within the B4 Mixed Use zone in the Sydney LEP 2012. The proposed use is defined as residential flat building and commercial premises / retail premises. All uses are permissible with development consent in the zone and are consistent with the zone objectives.
43. The relevant matters to be considered under Sydney Local Environmental Plan 2012 (prior to amendment) for the proposed development are outlined below.

Development Control	Compliance	Comment
4.3 Height of Buildings	Partial	<p>The site contains 3 separate height limits of 3m, 18m, and 27m.</p> <p>Building A is affected by the 3m and 27m height control, and has a maximum height of 39.8m. This represents an exceedance of 36.8m and 12.8m respectively.</p> <p>Building B is affected by the 18m height control and at 9.96m high complies with this control.</p> <p>Building C is affected by the 27m height control and at 16.95m complies with this control.</p> <p>Building D is affected by the 27m height control and with a maximum height of 30.4m, exceeds the control by 3.4m. Refer to Issues section.</p>
4.4 Floor Space Ratio	Yes	<p>A maximum FSR of 1.5:1 is permitted. An additional FSR of 0.5:1 is available on the site subject to the provision of community infrastructure.</p> <p>An additional amount up to 10% FSR can be awarded subject to meeting the design excellence provisions and undertaking a competitive design process.</p> <p>A FSR of 2.2:1 is permitted.</p> <p>A FSR of 2.19 is proposed and complies with this control.</p> <p>Refer to Issues section.</p>

Development Control	Compliance	Comment
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standard prescribed under Clause 4.3 Height of Buildings.</p> <p>The additional height above the controls is considered acceptable in this instance as they largely comply with the amended height controls under Sydney LEP 2012 amendment No. 13 (Green Square Aquatic Centre and Gunyama Park, Epsom Park and Kellick Street, Waterloo), which was gazetted on 19 December 2014, 4 days after the lodgement of this application. This is discussed further below.</p> <p>There will be no unreasonable amenity impact on existing or intended occupants as a result of the non-compliance with the height control.</p> <p>Refer to Issues section.</p>
5.9 Preservation of trees or vegetation	Yes	The removal of 35 trees was assessed and approved under D/2014/1988. No tree removal is proposed under this application.
5.10 Heritage conservation	Yes	The site is not listed as a heritage item and is not within the vicinity of a heritage item or conservation area.
Part 6 Local provisions - height and floor space		
Division 2 Additional floor space outside Central Sydney Community Infrastructure floor space at Green Square	Yes	<p>The site is within area identified as 'Area 6', which permits an additional FSR of 0.5:1 subject to the provision of community infrastructure.</p> <p>Refer to Issues section.</p>

Development Control	Compliance	Comment
Division 4 Design excellence	Yes	<p>The size of the site is such that a site specific development control plan is required to be prepared under Clause 7.20 of SLEP. This requirement, in turn, triggers the need for a competitive design process to be undertaken under clause 6.21 of SLEP.</p> <p>Under this provision, the winning design of a competitive design process, subject to Council being satisfied that the building exhibits design excellence, an amount of floor space that exceeds the amount permitted may be granted consent.</p> <p>The subject application is based on the design of the winner of a competitive design process and seeks 10% additional FSR.</p> <p>The assessment of the subject application finds that the development meets the objectives of this provision and performs when tested against the matters to be considered under this provision.</p> <p>Refer to Issues section.</p>
Part 7 Local provisions—general		
Division 1 Car parking ancillary to other development	Yes	<p>A total of 223 parking spaces are proposed including 5 service spaces and 2 car share spaces.</p> <p>A total of 216 spaces are permissible – 184 for residents, 21 for resident visitors and 11 for the retail use. Servicing vehicles spaces are not included in LEP maximums and the car share spaces are not expressly ancillary to the land uses on the site and are therefore also not included.</p> <p>As such the proposal complies with this control.</p>

Development Control	Compliance	Comment
Division 3 Affordable housing	Yes	The site is located in Green Square and subject to an affordable housing contribution, which has been included as a consent condition.
7.16 Acid Sulphate Soils	Yes	The site is located within class 5 ASS areas, which is 600m from a class 3 area and is 19m above sea level height datum. The site is located within an area of no known occurrence of acid sulphate soils and no further information is required.
7.17 Flood planning	No	<p>The site and surrounding area is subject to flooding. At the request of the City's Public Domain unit the applicant is preparing flood modelling including various stages and scenarios. At the time of writing this report these models have not been completed and Council cannot be satisfied that the provision of Clause 7.15 (Flood Planning) of the Sydney LEP 2012 have been satisfied, particularly as it relates to impacts on neighbouring properties.</p> <p>As such, the recommendation is for CSPC to consider the merits of the proposal and delegate the decision to determine the development application to the Chief Executive Officer once the flood modelling is completed to satisfy Clause 7.15 (Flood Planning) of the Sydney LEP 2012.</p>
7.18 Airspace operations	Yes	The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport. Sydney Airport has confirmed they have no objection to the proposal in this regard.
7.19 Development in areas subject to airport noise	Yes	The land is not identified as being in an area sensitive to aircraft noise.

Development Control	Compliance	Comment
7.21 Demolition must not result in long term adverse visual impact	Yes	A CDC for the demolition of the existing industrial warehouse buildings and associated structures was issued on 31 October 2014 and these works have now been completed.
7.22 Development requiring preparation of a development control plan	Yes	<p>The site area for the development is more than 5,000sqm and triggers the requirement for a site specific Development Control Plan to be prepared.</p> <p>Sufficient justification as to why preparation of a site specific DCP is unnecessary in this circumstance has been provided and it is recommended that the DCP requirement be waived in this instance.</p> <p>Refer to Issues section.</p>
7.23 Large retail development outside of Green Square Town Centre and other planned centres	Yes	The proposal included 620sqm of commercial floor area, in 2 separate buildings, below the 1000sqm maximum. This amount of commercial space will not have a negative impact on the viability and economic role of the Green Square Town Centre.

Sydney LEP 2012 amendment No. 13 (Green Square Aquatic Centre and Gunyama Park, Epsom Park and Kellick Street, Waterloo) and amendment to the Epsom Park provision of the Sydney DCP 2012 (Sydney LEP 2012 amendment No. 13)

44. Sydney LEP 2012 Amendment No. 13 was gazetted on 19 December 2014, 4 days after the subject application was lodged.
45. This Amendment, insofar as it relates to the subject site, amends the Height of Building Map only. The reason for this amendment is to correspond with the changes to the proposed street layout, needed to accommodate the new trunk drainage system.
46. Amendments to the Sydney DCP 2012 accompanied the Sydney LEP Amendment No.13 to amend the proposed street layout and building envelopes for the subject site. The DCP amendment also came into force on 19 December 2014.
47. As there was no transitional provision in the Amendment No. 13 the application is to be assessed under the new controls.
48. As the only change relevant to the subject site was to the height of buildings control, an assessment against the amended controls is included below.

Draft Provision in Sydney LEP 2012	Compliance	Comment
4.3 Height of Buildings	Partial	<p>The site contains 4 separate height limits of 3m, 18m, 30m and 35m.</p> <p>Building A is affected by the 35m height control and has a maximum height of 39.8m. This represents an exceedance of 4.8m or 13.7%, if taken from existing ground levels, or 3.3m and 9.4% if taken from the future Gunyama Park levels.</p> <p>Building B and C are affected by the 18m height control and comply with heights at 9.96m and 16.95m respectively.</p> <p>Building D is affected by the 30m height control and has a maximum height of 30.4m. This represents an exceedance of 0.4m or 1.3%</p> <p>See discussion under the heading Issues.</p>

Sydney Development Control Plan 2012 (Sydney DCP 2012)

49. Amendments to the Sydney DCP 2012 came into force on 19 December 2014 as detailed above. There were no savings provisions for the Sydney DCP 2012 controls at the time of lodgement and proposal is assessed against the current Sydney DCP 2012 controls.
50. The relevant matters to be considered under Sydney DCP 2012 for the proposed development are outlined below.

2. Locality Statements – Epsom Park – Green Square

The subject site is located in the Epsom Park Locality.

The neighbourhood is in transition from traditional industrial land uses to a mix of uses including medium density residential development and commercial and retail uses. New development in the area is to have a strong urban character and identity built on the quality of the streets and architecture and is to provide a variety of dwelling types and provide equity of access for pedestrians, cyclists and vehicles.

The proposed mixed use development includes several portions of new road as part of the street network including the northern part of Fuse Street which provide a publically accessible through site link for cycle and pedestrian access to Gunyama Park to the north.

The scale of buildings facing the existing and new roads and cycle and pedestrian ways and Gunyama Park are considered appropriate at the pedestrian level and will encourage casual surveillance and a sense of security.

For these reasons, the development is considered to be consistent with the desired future character principles for the locality.

3. General Provisions		
Development Control	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>Streets, lanes and footpaths The proposed development will make a positive contribution to the public domain.</p> <p>Fuse Street south and part of Rose Valley Way will be constructed and dedicated to Council as part of the development in accordance with the requirements of the site specific DCP requirements. The footpath to Epsom will be widened by 1.4m. A public access easement along Fuse Street north and a 3m public access easement at the ground floor northern elevation of Building A are also included.</p> <p>Pedestrian and Bike Network The northern section of Fuse Street provides a 9m wide pedestrian and cycle through site link to Gunyama Park to the north. The southern section of Fuse Street will provide short term vehicle access but in the long term will provide a shared pedestrian and cycle zone.</p> <p>This interim measure is consistent with the site specific Sydney DCP 2012 provisions that have been adopted by Council.</p> <p>Public art No public art is proposed as part of the subject application. A detailed Public Art Strategy and provision of public art is recommended given the site contains a number of public areas.</p> <p>Sites greater than 5,000sqm The development provides a range of house types, including single storey apartments, garden apartments and maisonette apartments. Specifically, 16% or 35 of the apartments are maisonette style and complies with the minimum 5% control.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.2 Defining the Public Domain	Yes	<p>Improving the public domain Sun access and views to the public domain will not be adversely affected as a result of the development.</p> <p>Addressing the street and public domain The residential dwellings at ground level are slightly above footpath level and have individual entries from Fuse Street, Rose Valley Way and the future Pony Race Street. Acceptable privacy and security to each ground floor apartment is maintained through appropriate fencing and landscaping.</p> <p>The commercial/retail premises provide an appropriate address and active frontage to the Epsom Road and the northern Gunyama Park interface. The majority of the development addresses the street and the buildings have been designed to maximise the number of entries at ground level.</p> <p>The proposed materials and finishes will not result in an unreasonable level of solar glare when viewed from the public domain.</p> <p>Overall the development is considered to result in a desirable level of street activation and a positive relationship with the public domain.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The control provides detail and guidance where a development is the subject of a competitive design process and specifically awarding additional floor space and height. A competitive design process was undertaken in accordance with the City of Sydney Competitive Design Policy and using the Model Competitive Processes Brief on this site.</p> <p>Refer to Issues section.</p>


3. General Provisions		
Development Control	Compliance	Comment
3.4 Hierarchy of Centres, City South	Yes	The site is within the Green Square Town Centre Primary Trade Area and proposes 620sqm of retail floor area over 2 separate buildings and frontages. This amount of retail space will not have a negative impact on the viability and economic role of the Green Square Town Centre and other planned centres.
3.5 Urban Ecology	Capable of complying	<p>Urban Vegetation A landscape concept plan was submitted showing areas of planting large enough to support some biodiversity and some substantial tree planting.</p> <p>Soil depths on slab appear to be too shallow to support some of the tree planting illustrated. The plans do not include any locally indigenous tree species, which are encouraged. Approximately 50% of tree species selected are prone to drop fruit, seedpods etc. which are discouraged.</p> <p>It is recommended that detailed landscape plans are required to be submitted and approved prior to issue of a construction certificate.</p> <p>Tree Management The removal of 35 trees was assessed and approved under D/2014/1988.</p>
3.6 Ecologically Sustainable Development	Yes	<p>In addition to energy and water efficiency commitments required under SEPP BASIX, Council encourages all applicants to implement the principles of ecologically sustainable development (ESD) in the proposed development.</p> <p>The Selected Design Architect addresses sustainability through the implementation of use of low embodied energy materials (precast concrete), a robust construction system and efficient floor plans.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. A site specific flood study has been provided and further modelling is being undertaken.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	Lands subdivision is proposed. Appropriate conditions are Recommended.
3.9 Heritage	Yes	The site is not a heritage item or located within a heritage conservation area.
3.11 Transport and Parking	Able to comply	<p>Managing transport demand A Traffic Impact Assessment was submitted with the application which concludes that the generated volumes of traffic will not unreasonably impact on the local road network.</p> <p>Car share scheme parking spaces 2 car share spaces are proposed at ground level. The applicant has not provided details as to how users will access the car share system. It is recommended as a condition of consent that these details are provided prior to the issue of a construction certificate as it may affect the layout of parking plan.</p> <p>Bike parking and associated facilities A total of 215 bike parking spaces are proposed for residents.</p> <p>Bike parking (and storage) for a lot of residents in Building A will be provided in the basement under building B/C/D. This is not convenient and it discourages cycling by making it less convenient</p> <p>Staff bike parking is shown in the parking area under Building B, C and D however most of the retail/commercial floor space is in Building A. This is a poor outcome. Adequate facilities should be provided within close proximity to retail areas.</p>

3. General Provisions		
Development Control	Compliance	Comment
		<p>Visitor bike parking shown in the parking area is not supported as it won't be used by visitors. Bike parking for visitors is to be provided in an accessible on-grade location near a major public entrance.</p> <p>A minimum of 30 visitor bike parking spaces should be provided at-grade and not within car parking areas</p> <p>A condition has been recommend to address the issues outlined above and required a relocation of bike parking spaces.</p> <p>Vehicle Parking A total of 223 parking spaces are proposed including 5 service spaces and 2 car share spaces.</p> <p>Under Sydney LEP 2012 a total of 216 spaces are permissible for the residential and retail uses – 183 for residents, 21 for resident visitors and 12 for the retail use. Servicing and car share provisions are not included in Sydney LEP 2012 maximums.</p> <p>Due to the limited basement area under Building A, some parking spaces for this building are located in the basement area under Buildings B/C/D. This means that some residents in building A would not have direct access to their apartment and would have to cross the street to access their apartments. While not ideal, a consolidated basement is not possible at the site given the requirements of the trunk drain infrastructure running under Rose Valley Way which divides the site.</p> <p>Section 3.11.4 (2) requires parking spaces to be a part lot to a dwelling unit in a strata plan so that they remain connected to a dwelling. The City's Specialist Surveyor has confirmed that strata subdivision of the parking spaces would be possible across the site.</p>

3. General Provisions		
Development Control	Compliance	Comment
		<p>A condition has also been recommended to limit the number of car parking spaces to be used at Stage 1 given these car parking spaces will be constructed as part of the Stage 1 works, however only permissible for use pending the construction of Stage 2.</p> <p>Service vehicle parking 5 service vehicle spaces have been provided which is considered sufficient for the proposed development.</p> <p>Motorbike parking A total of 5 motorcycle spaces are provided in the basement. This does not comply with the controls, which require a minimum of 18 spaces. A condition requiring a minimum of 18 motorbike spaces is recommended.</p> <p>Accessible parking In accordance with Council's controls, 33 accessible parking spaces are required for the 33 adaptable units. The parking spaces are to be assigned to these apartments and reflected in any strata subdivision of the development.</p> <p>Vehicle access for developments greater than 1000sqm GFA The two separate basement are individually accessed via a single (two way) driveways in locations consistent with the area specific DCP controls.</p> <p>Design and location of waste collection points and loading areas Waste is proposed to be collected within the ground level parking area within Buildings B, C and D, from a central garbage collection room and the manoeuvring area for Council's standard garbage truck is acceptable.</p> <p>Parking area design The proposed car parking area is capable of being well lit and sufficiently visible and safe.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.12 Accessible Design	Yes	<p>General Equitable access is provided to each residential lobby and from the accessible car parking spaces to the apartments.</p> <p>Access for pedestrians and vehicles is clearly separated with a single vehicle entry to each basement and a number of level or ramped entries at ground level to the building lobbies.</p> <p>Adaptable dwelling mix The development proposes a total of 33 adaptable apartments (15%), in a range of apartment sizes and configurations. It is considered that the adaptable apartments are sufficiently spread amongst unit sizes and throughout the development.</p>
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	<p>All waste is to be collected from the common ground floor parking area between Buildings B, C and D. The waste from Building A will be transferred to the main basement on collection day by the building caretaker.</p> <p>The entrance has been designed to accommodate Council waste vehicles.</p> <p>The waste management on the site can be provided in accordance with the City of Sydney Policy for Waste Minimisation in New Developments 2005 subject to recommended conditions.</p>

4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.1 Building height	Partial	<p>The Sydney DCP 2012 has specific area controls for Epsom Park including building height in storeys and street frontage height in storeys.</p>  <p>Height in Storeys and Street frontage height</p> <p>Building A has a height in storeys control of 4 and 10 storeys, with the 10 storey control allowing 11 storeys subject to design excellence and a competitive design process. Building A complies with the design competition 'bonus' 11-storey height limit. The lower part of Building A complies with the 4 storey height limit.</p> <p>Buildings B and C are required to be a maximum of 4 storeys. Building B is 2 storeys and Building C is 4 storeys and complies with these controls.</p> <p>Building D has a 6 storey control to Pony Race Street, a 6 storey street frontage height to Epsom Road and Fuse Street and an 8 storey control for the part of the building fronting Epsom Road. The parts of Building D subject to the 6 storey height and street frontage height controls comply, however the part subject to an 8 storey control proposes 9 storeys.</p>

4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
		<p>This additional storey has been justified as being 'transferred' from Building B, which is only 2 storeys despite its 4 storey allowance.</p> <p>The additional storey is acceptable in this location as the additional height will not have a negative impact on its presentation to Epsom Road and will result in an improved amenity impact to the wider site, particularly to the communal courtyard. The additional storey will not have any unreasonable impacts on existing or expected future occupants within the area.</p> <p>Floor to ceiling heights The control requires a minimum of 3.1m floor to floor for residential floor and 3.6m floor to floor for non-residential ground floor uses. Each building complies with these controls.</p> <p>The control also requires 3.6m floor to floors for parking levels above ground, to allow for future conversions. 3.6m is not achieved in all locations, however given the parking is sleeved by the residential with podium landscaping above, the car parking area is not likely to be converted to retail or other commercial uses and this is acceptable in this instance.</p>
4.2.2 Building setbacks	Yes	<p>A 1.5m landscape setback applies to Rose Valley Way, Fuse Street and Pony Race Street frontages. A 3m active setback is required to the northern boundary interface with Gunyama Park. A 1.4m setback for road widening is required to Epsom Road. An upper level additional setback above street frontage height of 6m is required on the corner of Building D fronting Fuse Street.</p> <p>The proposal meets these controls and balconies and car parking does not encroach into the setback areas by more than 1 metre.</p>

4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.3 Amenity	Partial	<p>Internal solar access The RFDC and Sydney DCP 2012 require 70% of dwellings in a development to achieve a minimum of 2 hours of direct sunlight to living areas between 9.00am and 3.00pm on June 21 onto at least 1sqm of living room windows and a minimum 50% of each balcony.</p> <p>The proposal complies with this control, with 70.2% of apartments receiving the required sun access.</p> <p>Overshadowing to adjoining properties The proposal will not reduce solar access to less than 2 hours on any adjoining residential properties.</p> <p>Lightwells It is not proposed to rely on lightwells for daylight to the apartments.</p> <p>Internal common areas The common corridors have a minimum width of 1.5m – 2.8m. The internal common areas, lift lobbies and majority of corridors have access to daylight and outlook.</p> <p>Design features to manage solar access Shading devices will not substantially restrict access to natural daylight or outlook. Extensive areas of glazing subject to mid-summer sun have been appropriately screened to minimise heat gain. Glazing is integrated into all elevations and selected habitable room windows are protected by shading devices.</p>

4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
		<p>Landscaping A landscape concept plan was submitted showing areas of planting large enough to support some biodiversity and some substantial tree planting. Landscaping is proposed within the deep soil areas to the street frontages and within podium communal open space. A rooftop communal garden is also proposed on Building D.</p> <p>It is recommended that detailed landscape plans are required to be submitted and approved prior to issue of a construction certificate.</p> <p>Deep Soil 678sqm deep soil is provided with a dimension of 2m or more, which is 6.6% of the site. A further 387sqm of deep soil with a dimension of less than 2m is provided, which is 3.7% of the site (10.3% total).</p> <p>The deep soil doesn't technically comply with the requirements in terms of dimensions and consolidation, which on sites over 1,000sqm is a consolidated area with a minimum dimension of 10m. However, the deep soil is largely in response to the building footprints as set out in the SYDNEY DCP 2012</p> <p>The podium communal landscaped courtyard and green roofs will also allow for further planting and some water infiltration and is therefore acceptable in this instance.</p> <p>Private open space and balconies All apartments have private courtyards or balconies and 212 of 215 apartments (99%) meet the minimum depth requirements of 2m, well in excess of the 75% requirement. North east to north western aspects has been maximised.</p>

4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
		<p>The ground level apartments have private gardens, but the majority do not meet the 25sqm area requirement of the RFDC.</p> <p>The proposal's non-compliance with the minimum size for ground floor gardens is considered acceptable in this instance because of the development's generous provision of communal open space which all residents will be able to access.</p> <p>Common open space Two main areas of communal open space will be provided in the development:</p> <ul style="list-style-type: none"> • Podium communal landscape space between buildings B, C and D at level 1 of 1,229sqm (11.9% of site) • Rooftop garden / communal open space is to Building D of 777sqm (7.5% of the site) <p>This equates to 19.4% of the exiting site area (10,330sqm). However, if taking into account the new roads and footpath widening and dedication of this land the site area is reduced by 2,214sqm and the percentage of communal open space increases to 24.7% of the site, which is close to achieving the 25% requirement.</p> <p>In addition to this indoor communal facilities are provided as follows:</p> <ul style="list-style-type: none"> • Community room located within Building B at ground floor of 67sqm (0.6% of site) • Recreational facilities including swimming pool, gym and lounge area are provided directly off the podium communal landscape area at level 1, which is 375sqm (3.6% of the site)

4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
		<p>Coupled with the communal open space this equates to 23.7% of the total site area or 30.2% of the adjusted site area, after dedications.</p> <p>At least 30% of the common open space area receives a minimum 2 hours of direct sunlight between 9am and 3pm on 21 June and complies with the control. No more than 50% of the common open space area is paved.</p> <p>Ventilation The RFDC recommends 60% of dwellings in a development should be naturally cross ventilated. Cross ventilation is achieved in 57.2% of apartments. A further 9 units benefit from alternative aspect windows, with the windows located within building slots in both Buildings C and A. The slots within these buildings are approximately 2m wide and while this width was not considered to achieve true cross ventilation, they do improve the amenity to these units. If these units were included 60.5% cross ventilation would be achieved. This small non-compliance is considered acceptable in this instance.</p> <p>Outlook Each apartment will benefit from district outlooks or an outlook over the communal open space or the future Gunyama Park.</p> <p>The proposed buildings are unlikely to unreasonably affect significant views to the City skyline from surrounding residences.</p>

4.2 Residential Flat, Commercial and Mixed Use Developments														
Development Control	Compliance	Comment												
		<p>Acoustic privacy An Acoustic Assessment was submitted with the application which assesses the external noise impact on the future residential occupants and is generally acceptable. Appropriate conditions of consent have been recommended and include some additional testing to occur to further address the interface with Gunyama Park and the aquatic facility to the north.</p> <p>Construction Noise Given there are sensitive receivers in proximity to the site and it is likely that noise disturbances will occur during excavation and construction stages, it is recommended that a Construction Noise and Vibration Management Plan is submitted and approved prior to a Construction Certificate being issued.</p> <p>It is recommended that the Plan include noise measurements to determine the effect on residential receivers and detail the stages of development along with the equipment to be used.</p> <p>Flexible housing and dwelling mix The development proposes a dwelling mix of:</p> <table border="1"> <thead> <tr> <th>Type</th> <th>Control</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>Studio and 1 bed</td> <td>15-40% max</td> <td>35.8%</td> </tr> <tr> <td>2 bed</td> <td>40-75% max</td> <td>48.4%</td> </tr> <tr> <td>3 bed</td> <td>10 % min</td> <td>15.8%</td> </tr> </tbody> </table> <p>The proposal fully complies with the above unit mix requirement and will provide a variety of different unit types.</p>	Type	Control	Percentage	Studio and 1 bed	15-40% max	35.8%	2 bed	40-75% max	48.4%	3 bed	10 % min	15.8%
Type	Control	Percentage												
Studio and 1 bed	15-40% max	35.8%												
2 bed	40-75% max	48.4%												
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4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
		It is noted that a number of apartments have a study room with a door and are large enough to contain a bed. It is recommended that a condition is imposed to ensure that the designs of these apartments are modified to remove the doors and require the subject rooms to be a contiguous part of the surrounding space.
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>Epsom Road has a width of more than 18m. Building D, facing Epsom Road has a length of 65m, not exceeding the maximum 65m requirement.</p> <p>The other buildings on the site face streets with less than 18m widths. All those buildings have lengths of 40m or less.</p> <p>The proposal is assessed as achieving an acceptable level of architectural diversity and fine grain articulation through suitable massing, composition of building elements and fenestration and the varied use of materials and finishes.</p>

4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.5 Types of development	Yes	<p>Courtyard buildings and perimeter street block buildings The proposal will facilitate the long term vision of Fuse Street to provide a pedestrian and cycle link through to Gunyama Park to the north of the site.</p> <p>The proposal is broken into components that allow visual permeability into the courtyard spaces at the centre of the site.</p> <p>Residential uses on the ground floor The ground floor dwellings that address the street frontages adopt a 3.2m setback from the site boundary to the glass line. Each dwelling has a 1-2m deep deck and private garden area.</p> <p>Each dwelling is elevated up to a maximum of 1.2m above adjacent footpath level, which is marginally above the 1m maximum allowed. Each ground floor dwelling has an individual entry from the street.</p> <p>Further details of the proposed fencing will be required as part of the detailed landscaping plan.</p>
4.2.6 Waste minimisation	Yes	<p>All waste is to be collected from the common ground floor parking area between Buildings B, C and D. The waste from Building A will be transferred to the main basement on collection day by the building caretaker. The entrance has been designed to accommodate Council waste vehicles.</p> <p>The waste management on the site can be provided in accordance with the City of Sydney Policy for Waste Minimisation in New Developments 2005 subject to recommended conditions.</p>

4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.7 Heating and Cooling Infrastructure	Yes	There is capacity in the basement to enable infrastructure upgrades and heating and cooling infrastructure. Air-conditioning condenser units will be grouped in allocated plant rooms throughout the development.
4.2.8 Letterboxes	Yes	A standard condition relating to letter boxes is recommended as a condition of consent.

5. Specific areas - Green Square – Epsom Park		
Development Control	Compliance	Comment
5.2.1 Green Square Urban Strategy 5.2.2 Objectives for Green Square		The proposal is considered to satisfy the relevant objectives and is consistent with the planning strategy envisaged for the area in that it contributes to the housing stock and includes building types and forms appropriate in the streetscape.
5.2.3 Community infrastructure		The application seeks consent for the maximum GFA permitted under clause 6.12 and clause 6.14 of Sydney LEP 2012 which can only be achieved where a development provides community infrastructure to the satisfaction of the consent authority. The application was accompanied by a public benefit offer which has been reviewed by Council and it is considered that there are sufficient reasons for consent to be granted for the maximum gross floor area achievable under clause 6.12 and clause 6.14 of Sydney LEP 2012. Refer to Issues section.

5. Specific areas - Green Square – Epsom Park		
Development Control	Compliance	Comment
5.2.4 Local Infrastructure		The proposal includes new roads and shareways and is consistent with the site specific DCP provisions.
5.2.5 Pedestrian and bike networks		The site includes a through site link along the northern part of Fuse Street, consistent with the site specific DCP provisions.
5.2.6 Public Open Space	Yes	The site is not identified as requiring the provision of public open space, noting that the future Gunyama Park is located to the north of the site.
5.2.7 Stormwater management and waterways	Yes	Flood planning levels have been agreed and incorporated in the design development to ensure that there is adequate flood protection for the proposed development. The proposal will allow for the future construction of the trunk drain stormwater system underneath the proposed Rose Valley Way.
5.2.8 Highly Visible Sites	Yes	The site is not identified as a Highly Visible Site.

5. Specific areas - Green Square – Epsom Park		
Development Control	Compliance	Comment
5.2.9 Building Design	Yes	<p>The development performs against the controls in this section for the following reasons:</p> <ul style="list-style-type: none"> • The buildings are aligned to the streets, consistent with the controls, to define and frame the street edge and provide clear delineation between the public and private domain. • It is unlikely that the buildings will affect significant views to the City skyline from surrounding residences. • The development includes the provision of new street tree plantings and landscaping along footpaths to enhance the quality of the streetscape and maximise pedestrian amenity. • The building facades incorporate a variety of finishes and colours. • Lobbies have been provided from the street to the residential interiors and are clearly defined. • In addition to the building entrances, every ground floor apartment incorporates a courtyard entrance from either the street, communal open space or the through site link. • Two vehicular entries are proposed, which is consistent with the SYDNEY DCP 2012 controls. A temporary access is proposed on Fuse Street until Stage 2 and Rose Valley Way is completed.

5. Specific areas - Green Square – Epsom Park		
Development Control	Compliance	Comment
5.2.10 Setbacks	Yes	<p>Dedicated Setbacks The control requires a dedicated 1.4m setback at to Epsom Road for road widening. The proposal is consistent with this control.</p> <p>Building Setbacks A minimum 3.2m glass line setback and 2m landscape setback is proposed to all frontage apart from Epsom Road and is consistent with this control.</p>
5.2.11 Carparks under the public domain	Yes	No part of the basement car park is located below the land to be dedicated as public domain.
5.2.12 Above ground and adaptable car parking spaces	Yes	The proposal includes one level of below ground parking and one level of above ground parking that is proposed to be fully screened/sleeved. 65% of the parking spaces above ground have the capability of being converted for other uses in the future and is consistent with this control.
5.3.1 Epsom Park Urban Strategy	Yes	The proposal complies with the objectives of the Epsom Park Urban Strategy. The proposal development represent a high quality architectural outcome, introduces a range of dwelling types, responds to height controls and provides appropriate transitions, introduces new street, and cycle/shareways to improve walking and cycling opportunities, improves the public domain and includes street trees, included quality landscape setbacks and introduces a mix of active commercial/retail uses as well as residential

5. Specific areas - Green Square – Epsom Park		
Development Control	Compliance	Comment
5.3.2 Urban Design Principles	Yes	<p>Principle 1 Transition of Building Heights The development has a street wall height along each frontage that falls within the 4-7 storey requirement. The building along Epsom Road has a street wall height of 6 storeys. The upper levels of each building have been set back 3 metres. The taller buildings on the site are proposed along Epsom Road and towards the future public domain area of Gunyama Park to the north.</p> <p>Principle 2 Land Use The proposal includes commercial/retail premises at ground floor level along Epsom Road and at the interface with future Gunyama Park and residential uses on the upper levels and quieter street interfaces in accordance with the requirements of the SYDNEY DCP.</p> <p>Principle 3 Public Domain The development incorporates landscaped setbacks from the public domain to ensure an appropriate interface of the development and the public domain.</p>

5. Specific areas - Green Square – Epsom Park		
Development Control	Compliance	Comment
5.3.3 Local infrastructure and public domain	Yes	<p>The subject site provides for the following in accordance with the Sydney DCP:</p> <ul style="list-style-type: none"> • 3m easement public access along the northern edge of the site; • 9m easement for northern end of Fuse Street; • 1.4m dedication along Epsom Road for footpath widening; • 12m dedication for the southern end of Fuse Street; • 15m dedication for portion of Rose Valley Way. <p>Streets and cycle access ways have been designed in accordance with the Sydney DCP 2012. The southern end of Fuse Street is proposed to be a temporary vehicle access for the subject site. Once access is possible via Rose Valley Way, vehicular access via Fuse Street will not be necessary and will be removed. The DCP envisages Fuse Street to remain as a shared, cycle and pedestrian way in the long term.</p>
5.3.4 Building form and design	Generally complies	<p>Building heights and street frontage heights</p> <p>As detailed above under Section 4.2.1 Building height, the buildings generally comply with the specific street frontage heights and height in stories. The exception to this is Building D, which is in part 9 stories, where an 8 storey control applies.</p> <p>This additional storey has been justified as being ‘transferred’ from Building B, which is only 2 storeys despite its 4 storey allowance. The additional storey is acceptable in this location as the additional height will not have a negative impact on its presentation to Epsom Road and will result in an improved amenity impact to the wider site, particularly to the communal courtyard.</p>

5. Specific areas - Green Square – Epsom Park		
Development Control	Compliance	Comment
		<p>Dwelling Types The Sydney DCP 2012 specifies commercial/retail at ground floor and apartments above to building A, maisonette/duplex style dwelling to Buildings C and D and retail/commercial uses to Epsom Road, with apartment above the Building D.</p> <p>The proposal is generally consistent with these requirements with the exception of Building C, which provided a mix of maisonettes and apartments. This minor variation is acceptable in this instance.</p> <p>Ground floor dwellings All private open spaces at ground floor level are accessible directly from the public domain. One exception to this exists along the western boundary until the adjoining site is redeveloped and allows access to the courtyards via Pony Race Street. Individual entries are provided to all ground floor units.</p> <p>Building Setbacks A 1.5m landscape setback requirement applies to Rose Valley Way, Fuse Street and Pony Race Street frontages. A 3m active setback is required to the northern boundary interface with Gunyama Park. A 1.4m setback for road widening is required to Epsom Road. An upper level additional setback above street frontage height of 6m is required on the corner of building D fronting Fuse Street. The proposal meets these controls.</p>

5. Specific areas - Green Square – Epsom Park		
Development Control	Compliance	Comment
		<p>Ground floor units are to be setback a minimum of 3.2m, with a 2m deep soil landscape area and up to 1m above the street, and are to be designed in a manner similar to a two storey terrace house or maisonette. The proposal generally complies with these controls with the exception of the 3 single level units at the ground floor of Building A.</p> <p>All levels above street frontage height are to be setback a minimum of 3 metres from the primary building line. The proposal complies with this control.</p> <p>Splay Corner Splay corner are provides in accordance with the identified locations.</p> <p>Fences Front fences facing the public domain include a suitable mix of solid and transparent to provide for a balance between privacy and streetscape amenity. The fences are generally a maximum of 1.4m high from the footpath in accordance with the control.</p> <p>Other Development - Active frontages Active frontages are proposed along Epsom Road and the future interface with Gunyama Park, in accordance with the DCP.</p> <p>Deep soil planting The 2m landscape setback provides deep soil in accordance with the DCP.</p>
5.3.5 Staging and implementation		<p>The development is to be provided in 2 stages as detailed in this report. The southern end of Fuse Street is proposed to be a temporary vehicle access for the subject site. Once access is possible via Rose Valley Way, Vehicular access via Fuse Street will not be necessary.</p>

ISSUES***Community Infrastructure - Public Benefit Offer***

51. The development application seeks consent for the maximum amount of GFA permitted under Clause 6.12 and Clause 6.14 of Sydney LEP 2012 which can only be achieved where a development provides community infrastructure to the satisfaction of the consent authority.
52. The application was accompanied by a public benefit offer for land dedication and embellishment of the dedicated land. The total package value is calculated on the basis of the additional floor space amount and the adopted residential and commercial rates.
53. Council reviewed the offer and is satisfied that it is consistent with the examples of community infrastructure identified in the Sydney LEP 2012, in that it comprises of:
 - (a) The dedication and embellishment for the purposes of two public roads including:
 - (i) 649.4sqm for Fuse Street south (shared zone)
 - (ii) 1,564sqm for Rose Valley Way;
 - (b) The dedication and embellishment of 1.45m of road widening to Epsom Road;
 - (c) The provision of a 9m wide public access easement along Fuse Street north; and
 - (d) The provision of a 3m wide public access easement along the northern boundary interface with Gunyama Park
54. An extract of the civil plans at **Figure 17** below shows the location of the dedications, embellishments and easements
55. It is noted that these works are separate to the Green Square trunk drain stormwater project, which is being led by Sydney Water in alliance with City of Sydney. The proposed staging of this development does however facilitate the timely and orderly construction of the subject development as well as the trunk drain infrastructure through appropriate staging of works.

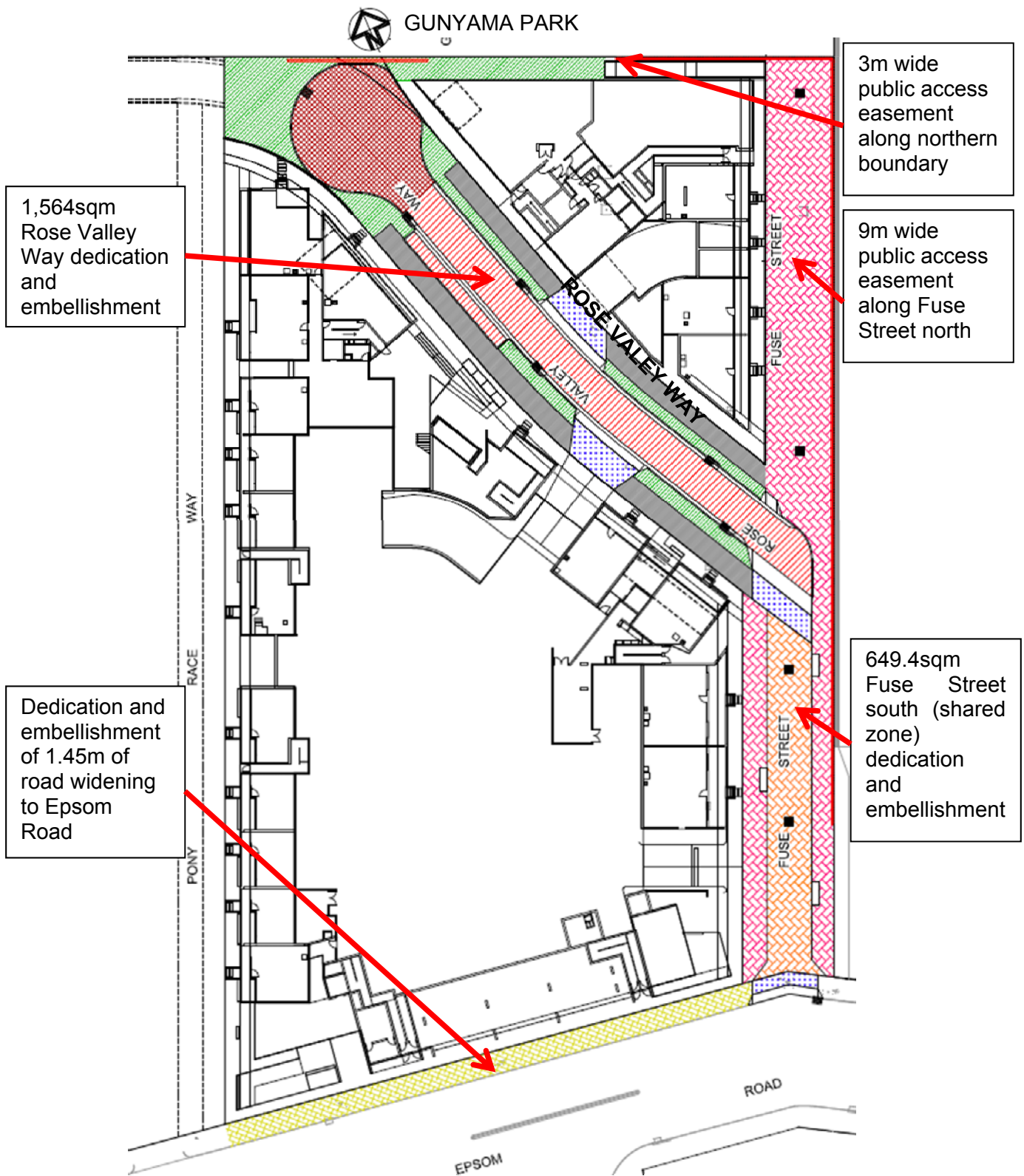


Figure 17 – Public domain works

56. The cost to deliver and dedicate the roads will exceed the community infrastructure floor space obligation. No offset has been proposed at this time but the applicant may apply for an offset against the Section 94 Developer Contributions generated by the development in accordance with Section 93F of the EP&A Act, once the figures have been confirmed.
57. The construction and dedication of the subject sections of future Rose Valley Way, Fuse Street and footpath widening of Epsom Road are not identified in the City of Sydney Development Contributions Plan 2006.
58. Where a developer proposed to undertake works that are not specifically listed in the plan, these works are defined as a “material public benefit” and must be the subject of a formal Planning Agreement.
59. Prior to the formal Planning Agreement being drafted, pursuant to part 2.5 of the City of Sydney Development Contributions Plan 2006, Council considered and acknowledged that the diversion of contributions from adopted works to non-identified works may threaten the achievement of the adopted works programme and any such work would have to be of a truly exceptional relevance, quality and scale to be considered eligible for acceptance as a material public benefit. The proposed material public benefit is considered to meet this test for the following reasons:
 - (a) The works are of truly exceptional relevance as the construction and dedication of future Rose Valley Way and Fuse Street and footpath widening of Epsom Road are an identified material benefit in the Sydney DCP 2012;
 - (b) The road construction works will be delivered to a quality required by Council, and to Council’s standards; and
 - (c) The scale of the works is consistent with the scope and detailed identified in the Sydney DCP 2012.
60. A draft Planning Agreement was prepared to secure the public benefit offer in connection with the Development Application for the site. At the time of writing this report, the Planning Agreement was in the process of being placed on public exhibition.
61. It is considered that there are sufficient reasons for consent to be granted for the maximum GFA achievable under Clause 6.12 and Clause 6.14 of the Sydney LEP 2012.
62. Pursuant to Section 93F Planning Agreements of the EP&A Act, Section 94 does not apply to the extent of the value of the material public benefit as provided for in the Planning Agreement. The draft Planning Agreement will set out a specific monetary amount that can be excluded from Section 94 and, as such, the works can be accepted as a material public benefit and this amount can be excluded from the total developer contributions generated by the proposal.

Request to waive preparation of a site specific development control plan

63. Pursuant to clause 7.20 of Sydney LEP 2012, development consent must not be granted to development on the subject site (as it is greater than 5000sqm) unless a site specific development control plan has been prepared.

64. Clause 7.20(3) provides that a site specific DCP is not required to be prepared if the consent authority is satisfied that such a plan would be unreasonable or unnecessary in the circumstances.
65. It is considered that a site specific DCP would be unreasonable or unnecessary in these circumstances, which are outlined below:
66. The site is identified as a specific area, Epsom Park, within the Sydney DCP 2012. The area has been subject to a master planning exercise to develop planning controls for the precinct and subject site that address:
 - (a) Stormwater management;
 - (b) Ownership and development stages;
 - (c) Location and design of new roads and open public spaces; and
 - (d) Built form massing including setbacks, building height in stories and street wall heights.
67. As these controls have been recently developed and adopted and relate to the site, an additional DCP that would reflect much of what is in these documents is unnecessary. As such the preparation of a site specific DCP in this circumstance is considered unnecessary and recommend that the consent authority waive this requirement pursuant to clause 7.20(3) of Sydney LEP 2012.

Competitive Design Process, Design Improvements and Design Excellence

68. The size of the site is such that a site specific development control plan is required to be prepared under Clause 7.20 of the Sydney LEP 2012 as detailed above. This requirement in turn triggers the need for a competitive design process to be undertaken under Clause 6.21 of Sydney LEP 2012.
69. A competitive design process was undertaken in June 2014 and Allen Jack & Cottiers (AJC) design (the subject of this application) was the winner of the competitive design process. In accordance with Clause 6.21 (7) of Sydney LEP 2012, the consent authority may grant up to 10% additional floor space where design excellence is achieved through a competitive design process.
70. The application seeks consent for 10% additional FSR. The full 10% is permitted to be awarded under Clause 3.3.5 of the Sydney DCP 2012, as the entire site was the subject of the competitive design process.
71. In selecting AJC as the preferred proposal, the Competitive Design Process Judging Panel recommended that the following should be explored:
 - (a) Loading issues need to be resolved in relation to the building in the northern block and to ensure there is adequate manoeuvring space for trucks in the basement of the southern block;
 - (b) Solar access needs to be examined to ensure a minimum 2 hours for at least 70% of the units is provided as required by the RFDC. This needs to include an allowance for the potential future development to the west of the site;

- (c) Ground floor apartments need to be carefully designed to ensure privacy and an appropriate edge to the public space of the surrounding streets are provided; and
 - (d) Privacy at ground floor level along northern facing units needs to be looked at to ensure resident privacy from pedestrians using the easement along the northern edge of the site.
72. The design was amended in part in response to the Panel's recommendations by:
- (a) The redesign of Basement to Building B, C, D to ensure there is adequate manoeuvring space for trucks in the basement;
 - (b) Design amendments to apartments - 70.2% of units achieved the minimum 2 hours of sunlight;
 - (c) Designing the ground floor units to have floor levels slightly above the adjoining public domain and including landscaping and fencing at the front to ensure that privacy is provided to those units; and
 - (d) In the design competition dual use (residential / commercial) spaces were proposed along the northern edge of Building A. This space is now occupied as commercial premises only which removed the privacy issue.
73. Upon review of the detailed application, Council's Urban Designer made some recommendations to improve the design. The applicant provided further information and amended plans to address these issues as outlined below:
- (a) **Issue:** Improvement to the Building A facade at ground level – introduction of shopfront openings to Rose Valley Way frontage to reduce blank façade and a more residential treatment to unit G03 with windows with a sill rather than floor to ceiling slot windows should be considered:
 - (i) **Applicant Response:** The corner of the commercial premises to Building A has been amended to include full height glazing in-between the structural blades. Unit G03 has been replanned to allow for more window treatment to this façade.
 - (b) **Issue:** Potential for Lift Core C to provide a secondary entry point from Pony Race Street:
 - (i) **Applicant Response:** This area has been amended to include a stair only secondary access to this lobby for use once Pony Race Street is constructed.
 - (c) **Issue:** Consideration to been given to communal open space to level 4 of Building A:
 - (i) **Applicant Response:** Consideration was given communal open space to level 4 of Building A. However, this space is substantially overshadowed by the tower. Also, access to this space would create privacy issues to Unit 402's private open space. Instead the communal open space provisions to both Level 1 of Buildings B/C/D and to Level 6 of Building D are considered better outcomes to the development due to excellent solar access. These spaces will be available to the occupants of Building A.

- (d) **Issue:** Building D, Level 6 (and up) western wall is blank and will be visible - consider planting (green wall) in front of the plant and garbage rooms to conceal the blank wall:
- (i) **Applicant Response:** Building D's western wall is an articulated wall element with large picture windows to the upper level lift lobbies. A fine grain pattern of grooves is present to this solid element to create fine shadows to this wall and to form a solid backdrop to the provision of landscaping to Level 6 to the communal open space.
- (e) **Issue:** Include fanlights where glass doors are the only source of ventilation to habitable rooms to avoid conflict between safety and ventilation:
- (i) **Applicant Response:** The ground floor glazing has been amended to include fanlights above sliding doors to ground floor units across the development.
- (f) **Issue:** Sliding screens and more solid balustrades should be provided along the lower levels (1-3) of Building A to provide privacy to the residents and to screen any urban storage when viewed from Gunyama Park.
- (i) **Applicant Response:** Given the Architectural expression and intention of Building A to be light and glass like in contrast to Building B/C/D's more mass character, the architect's preference is for retaining a glass treatment to levels 1-3 facing Gunyama Park but in an opaque finish. In regard to sliding screens – the blade language of the architectural expression will make the operability & sliding of perforated screens difficult.
74. These responses are generally acceptable, with the exception of the lack of screens to the lower levels of Building A facing onto Gunyama Park. This issue is related more to amenity than design and is discussed further below.
75. In considering whether development exhibits design excellence, the consent authority must have regard and be satisfied that the development achieves this criteria. Each criterion is addressed below:
- (a) **A high standard of architectural design, materials and detailing appropriate to the building type and location**
- The development is considered to represent a well resolved architectural design with a clear concept relating to the use of precast panels to create a robust yet differentiated facade. The use of various applied finishes, and colours introduces a fine grain to the facades.
- (b) **A form and external appearance of the proposed development will improve the quality and amenity of the public domain**
- The bulk, massing and modulation of the buildings are suitable for the street block, ensuring that the form presents as four separate buildings with meaningful breaks and recesses in the facade. The buildings adopt deep soil setbacks supplementing the public domain, allow for a wide verge of tree planting and vegetation to enhance the appearance and setting of the buildings.

(c) **Does the proposed development detrimentally impact on view corridors**

The proposal is unlikely to detrimentally impacts on view corridors to significant city skyline views.

(d) **Does the proposed development address site suitability, use, constraints, environmental impacts, ESD, pedestrian, cycle, vehicular and service access and circulation, public domain improvements, and interface, landscape design**

As addressed elsewhere in this assessment, the proposal satisfactorily addresses each of these matters in accordance with the relevant Sydney DCP 2012 and RFDC controls.

76. The assessment of the subject application finds that the development meets the design excellence objectives and, as such, it is recommended that in accordance with Clause 6.21(7) of Sydney LEP 2012, the consent authority award 10% additional floor space to the development.

Building Height – Exception to Development Standard

77. Clause 4.3 of the Sydney LEP 2012 provides three different heights (3m, 18m and 27m) for the subject site which are illustrated in **Figure 18** below.

78. Sydney LEP 2012 Amendment No. 13 was gazetted on 19 December 2014, 4 days after the subject application was lodged.

79. This amendment, insofar as it relates to the subject site, amends the Height of Building Map and shown in **Figure 18** below:

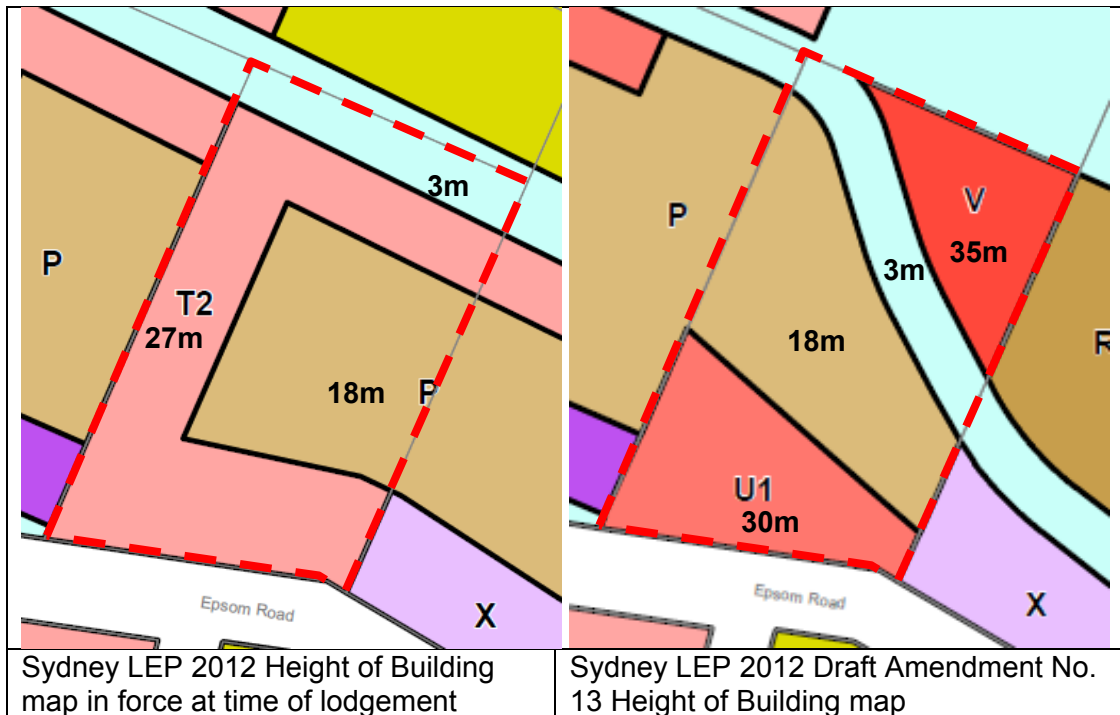


Figure 18 – Building Heights and Amendment to Building Height maps

80. Under the Sydney LEP 2012, the site contained 3 separate height limits of 3m, 18m, and 27m. Building A was affected by the 3m and 27m height control, and has a maximum height of 39.8m. This represents an exceedance of 36.8m and 12.8m respectively. Building B was affected by the 18m height control and at 9.96m high complies with this control. Building C was affected by the 27m height control and at 16.95m complies with this control. Building D is affected by the 27m height control and with a maximum height of 30.4m, exceeds the control by 3.4m.
81. Under the Sydney LEP 2012 Amendment No. 13, the site contains 4 separate height limits as shown on the map extract above, of 3m, 18m, 30m and 35m. Building A is affected by the 35m height control and does not comply with a maximum height of 39.8m. Building B and C are affected by the 18m height control and comply with heights at 9.96m and 16.95m respectively. Building D is affected by the 30m height control and does not comply with a maximum height of 30.4m.
82. With respect to Building A, the proposal has a maximum height of approximately 39.8m to the top of the lift overrun and roof plant. The proposal is shown in Figure 19.

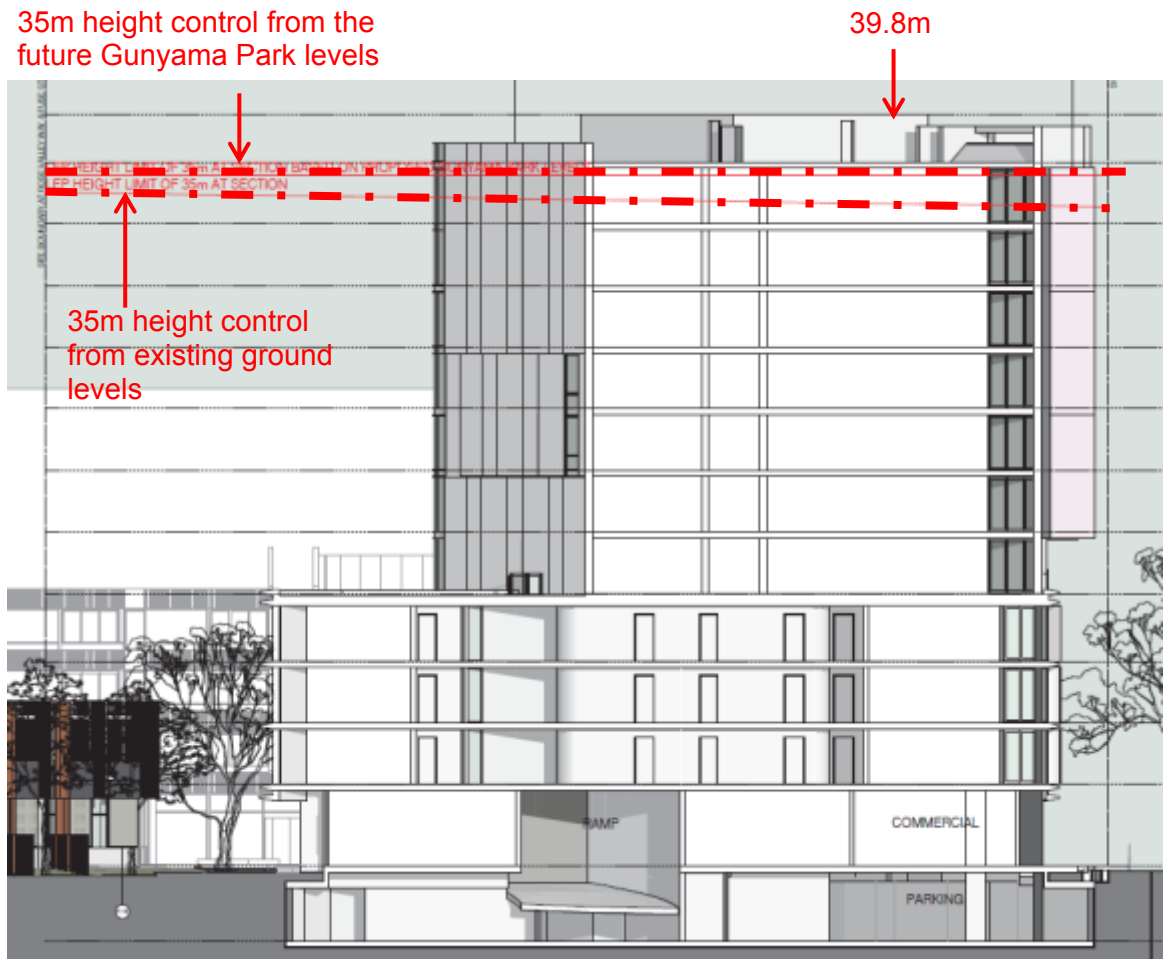


Figure 19 – Proposed Building A demonstrating breach of 35m height control

83. With respect to Building D, the proposal has a maximum height of approximately 30.4m. The proposal is shown in Figure 20.

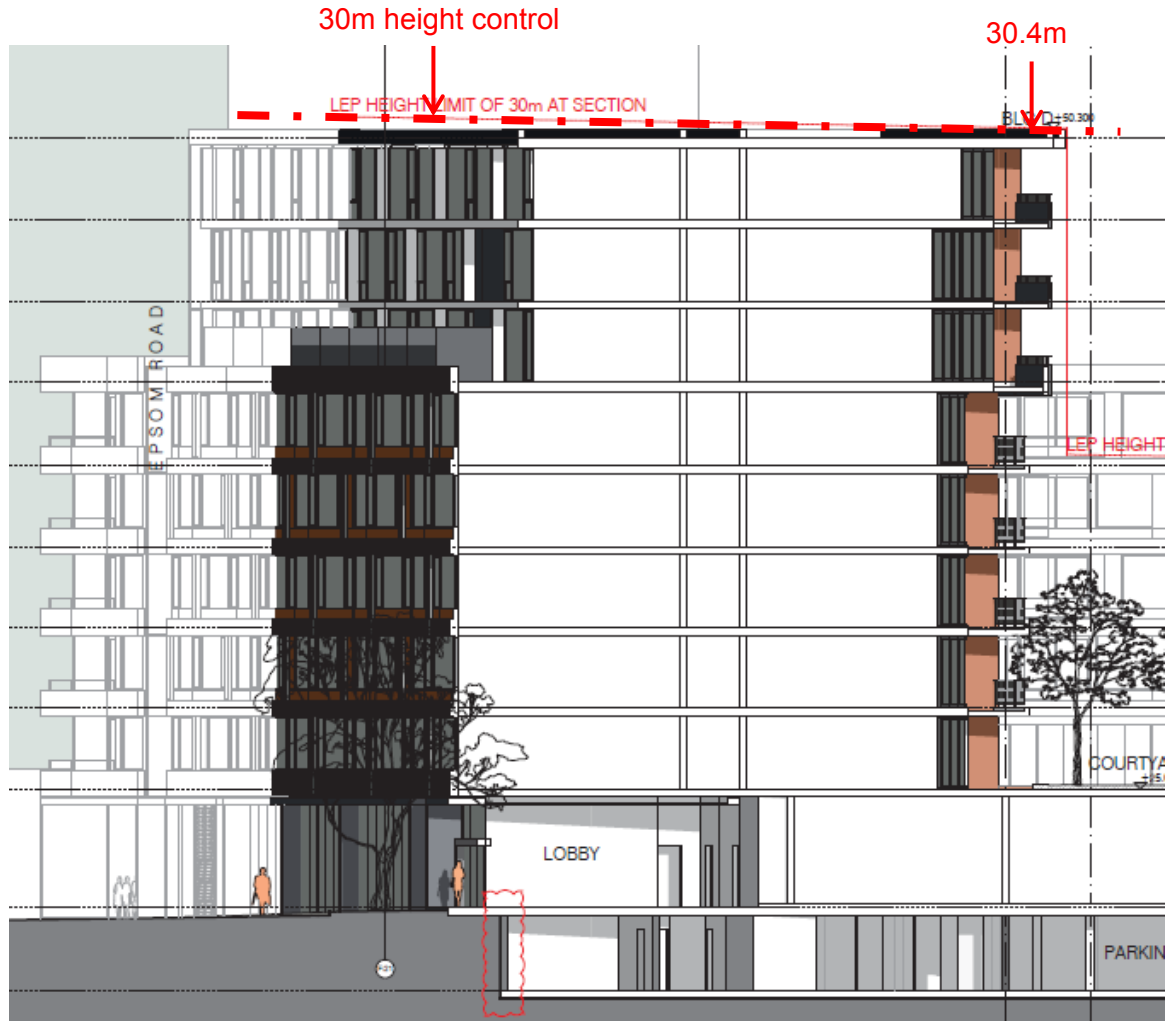


Figure 20 – Proposed Building D demonstrating breach of 30m height control

84. The applicant is relying on the provisions of Clause 4.6 of the Sydney LEP 2012 to seek exception to the height development standard by:
- (a) in respect of Building A, 4.8m (if taken from existing ground levels) or 3.3m (if taken from the future Gunyama Park levels); which represent a 13.7% and a 9.4% exceedance of the height control in Sydney LEP Amendment No. 13 respectively; and
 - (b) in respect to Building D, 0.4m. This represents a 1.3% exceedance of the height control in the Sydney LEP Amendment No.13.
85. Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The Council may grant the exception as the concurrence of the Director-General of the Department of Planning and Environment can be assumed where Clause 4.6 is adopted as per Department of Planning Circular PS 08–003 dated 9 May 2008.
86. In order to demonstrate whether strict numeric compliance is unreasonable or unnecessary in this instance, the proposed exception to the height development standard has been considered against the objectives and provisions of Clause 4.6 in the following table:

Clause 4.6 Requirement	Assessment
<p>4.6(4)(a)(i)</p> <p>The applicant must submit a written request to vary the development standard</p>	<p>A written request has been submitted to Council justifying the proposed contravention of the height development standard on the following basis:</p> <ul style="list-style-type: none"> • The proposed heights are consistent with the heights in Sydney LEP 2012 Amendment No. 13 except for a minor variation for Building A and D. Under the Sydney LEP 2012 Amendment No. 13 the degree of non-compliance for Building A for is minimal at 13.1-13.7% above the existing ground level, or 8.9-9.4% above the future Gunyama Park levels. The degree of non-compliance for Building D is 0.4m or 1.3%; • The proposed height of Building A complies with the design competition bonus 11-storey height limit under the Sydney DCP 2012 controls for the site. The lower part of Building A complies with the 4 storey height limit; • In respect of the Gunyama Park levels, the rooftop structures of Building A are generally the only part of the building that is above the LEP Amendment No. 13 height control and are integrated with the overall appearance of the building; • The proposal complies with the floor space ratio development standard; • The development displays minimal bulk and scale characteristics. The visual bulk is greatly reduced by the fine grain character of the buildings and the broken roof profile; • The proposal will result in in no adverse impacts such as unreasonable overlooking and overshadowing; and • The proposal is entirely consistent with the objectives of the land use zone and the height development standard, which is addressed below. <p>The applicant's written rational satisfactorily addresses the objectives associated with contravening the development standard and is considered to be well founded.</p>

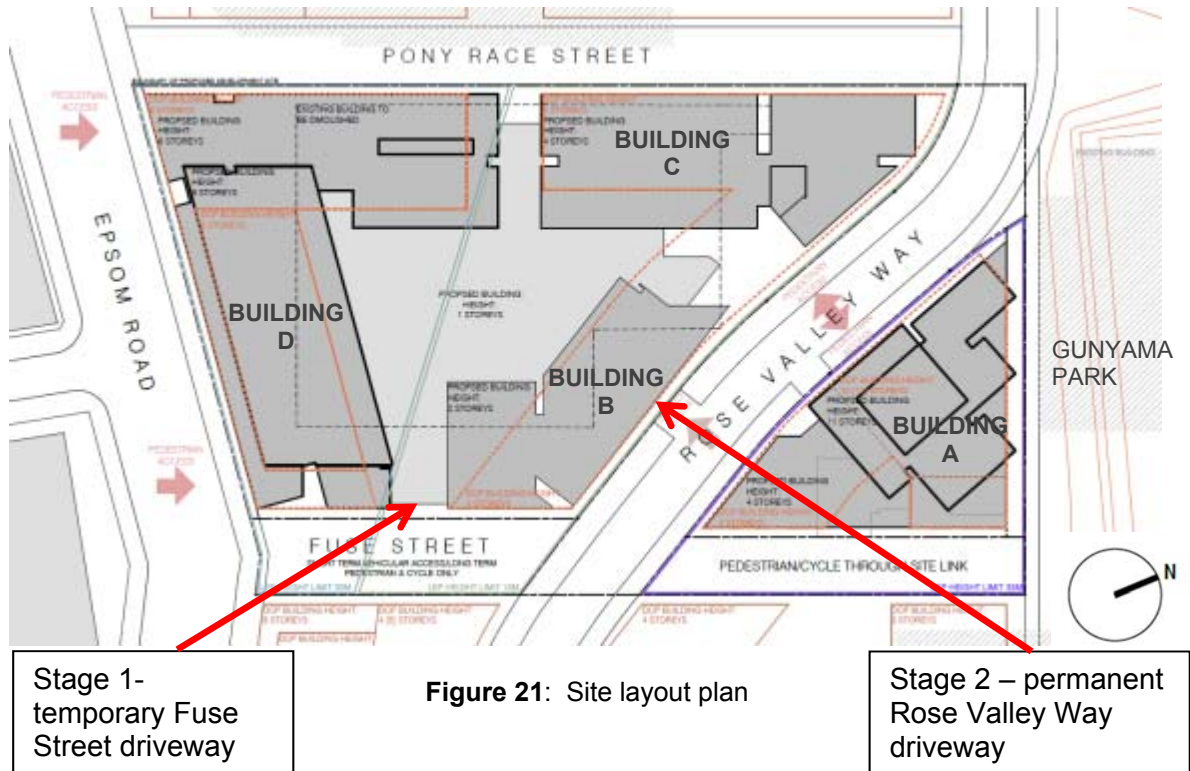
Clause 4.6 Requirement	Assessment
<p>4.6(4)(a)(ii)</p> <p>Council must be satisfied that the proposed development is consistent with the objectives of the development standard and the objectives for development within the zone</p>	<p>The objectives of the zone are:</p> <ul style="list-style-type: none"> • To provide a mixture of compatible land uses. • To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling. • To ensure uses support the viability of centres. <p>The objectives of the development standard are:</p> <ol style="list-style-type: none"> a) to ensure the height of development is appropriate to the condition of the site and its context, b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas, c) to promote the sharing of views, d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas, e) in respect of Green Square: <ol style="list-style-type: none"> i. to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and ii. to ensure the built form contributes to the physical definition of the street network and public spaces. <p>Comment:</p> <p>The proposed development is consistent with the objectives for Height of Buildings provided under Clause 4.3 of Sydney LEP 2012 for the following reasons:</p> <ul style="list-style-type: none"> • The proposed development is based on the winning competition scheme, including the proposed height; • The site is not within a conservation area or proximity to a heritage item; • It is unlikely that views will be unreasonably impacted by the additional height; and • The amenity of the public domain is not impacted by the additional height as the lift overruns are setback from the street edge.

Clause 4.6 Requirement	Assessment
	<p>The proposed development is consistent with the objectives of the B4 Mixed Use Zone in which it is located. Specifically:</p> <ul style="list-style-type: none"> • The proposal includes a mixture of compatible uses being retail and residential dwellings; • The site is in close proximity to existing public transport and a future public transport corridor; and • The proposal will not compromise the viability of centres.

87. It is considered that the written statement provided by the applicant has sufficiently justified that strict numeric compliance with the development standard is unreasonable and unnecessary in this instance. The proposal largely meets the building height control within the Sydney LEP 2012 Amendment No. 13 and it is appropriate to give these controls significant weight in the assessment of this application.
88. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the height development standard and it is recommended that a Clause 4.6 exception be granted.

Transport and Parking

89. Stage 1 of the development involves the excavation of 1 level of basement parking under Buildings B, C and D for 131 spaces, plus a ground floor sleeved car parking area with 59 spaces (190 total). This parking area will have temporary vehicular access off Fuse Street as shown in **Figure 21**.
90. This temporary driveway on Fuse Street will be closed and the space filled in with a single level ground floor unit (G22) (shown in **Figure 22**) when Rose Valley Way is constructed as part of the Stage 2 works. A condition of consent requiring its completion prior to the issue of an occupation certificate for Building A is recommended. The new, permanent, entry will be located on Rose Valley Way, shown in **Figure 21**.



Stage 1 - temporary Fuse Street driveway

Figure 21: Site layout plan

Stage 2 - permanent Rose Valley Way driveway

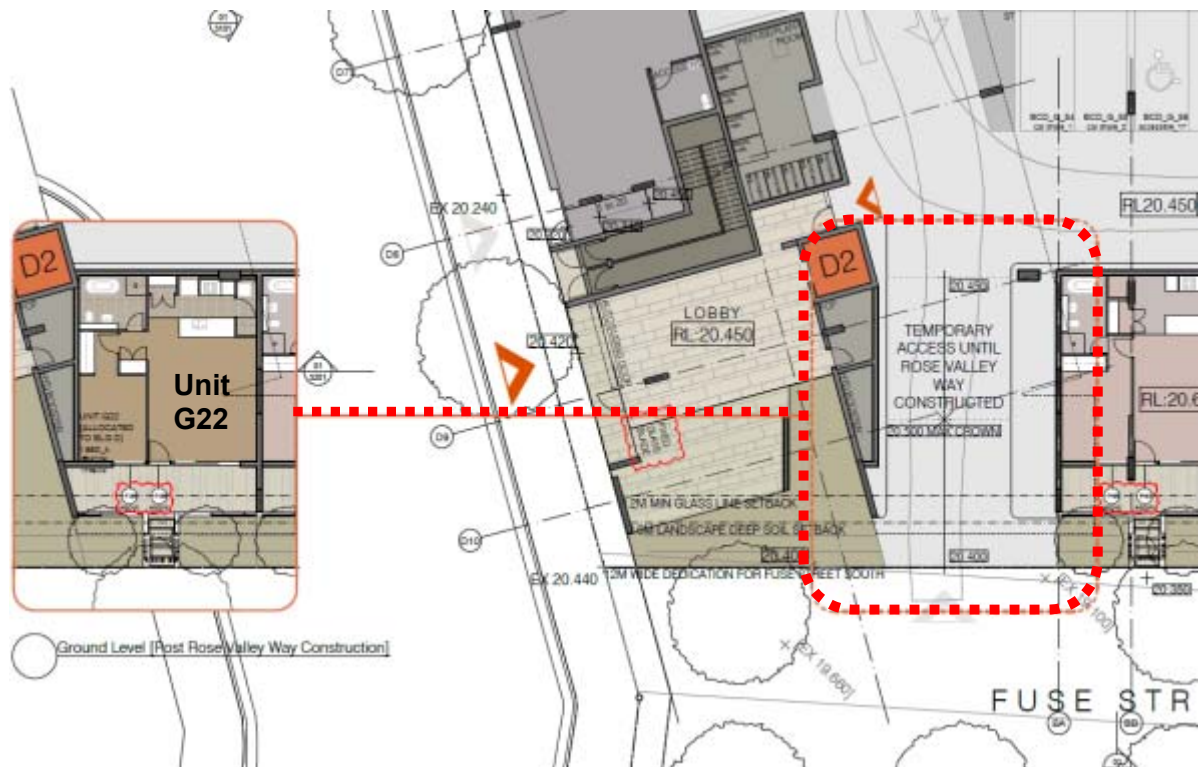


Figure 22: Temporary Fuse Street Driveway at Stage 1 - to be in filled with unit G22 at Stage 2

91. Stage 2 of the development comprises the excavation of 1 level of basement under Building A to provide a further 33 car parking spaces. This basement will have access off Rose Valley Way.
92. The driveway locations are consistent with site specific Sydney DCP 2012 provisions and the winning scheme of the competitive design process.
93. The proposal provides a total of total of 223 parking spaces are proposed including 5 service spaces and 2 car share spaces.
94. Due to the limited basement area under Building A, some parking spaces for this building are located in the basement area under Buildings B/C/D. This means that some residents in Building A would not have direct access to their apartment (i.e. they would need to come up to street level and cross the road to access their apartment).
95. Section 3.11.4 (2) of the Sydney DCP 2012 requires parking spaces to be a part lot to a dwelling unit in a strata plan so that they remain connected to a dwelling. The City's Specialist Surveyor has confirmed that strata subdivision of the parking spaces would be possible across the site and the future public road (Rose valley Way) which divides the site. While a consolidated basement would be a preferable solution, the requirements for Rose Valley Way and the trunk drain stormwater infrastructure below it, do not allow for it. As such this arrangement is considered acceptable in this instance.
96. 145 parking spaces are permitted in connection with the uses associated with the stage 1 works, however 190 spaces are proposed, with the intention for a proportion of these spaces to serve Building A at stage 2. A condition is recommended to limit the allocation of car parking spaces at Stage 1, in line with the maximum number of parking spaces permissible at this stage. The remainder will be released for allocation at the completion of Stage 2.
97. The distribution of car parking spaces between the two basements allows for only residential parking under Building A, with 1 resident visitor space and all parking associated with the retail use and the remainder of visitor parking provided under Buildings B/C/D.
98. The applicant has indicated that visitors to Building A will have access to the visitor parking under Buildings B/C/D via the intercom. In the case where an adequate intercom system is not possible, a condition is recommended that requires a minimum of 5 visitor spaces to be accommodated in the Building A basement. A condition is also recommended that requires a minimum of 2 service vehicle bays to be provided in the Building A basement to serve the retail tenancies at ground floor.

Bicycle Parking

99. A total of 215 bicycle parking spaces are proposed for residents. A large proportion of bicycle parking and storage for residents in Building A will be provided in the basement under building B/C/D. This is not convenient and may discourage cycling by making it less convenient. An alternative arrangement would be to have a class 2 facility (bicycle rack) accessible from ground floor level.

100. Staff bicycle parking is shown in the parking area under the main building however most of the retail/commercial floor space is in Building A. This is a poor outcome. Adequate facilities should be provided within close proximity to retail areas.
101. Visitor bicycle parking shown in the parking area is not supported as it would not be convenient or likely to be used by visitors. As per section 3.11.3(7) of Sydney DCP 2012, bicycle parking for visitors is to be provided in an accessible on-grade location near a major public entrance. A minimum of 30 visitor bike parking spaces should be provided at-grade and not within car parking areas.
102. It is noted that some visitor bicycle parking is shown adjacent to the Building A driveway, which is supported.
103. These issues have been discussed with the applicant, who advised that the bicycle parking provision would be reviewed. Appropriate conditions of consent have been recommended to ensure these issues are addressed.

Landscaping

104. While the overall landscape concept for the site is considered acceptable the City's Landscape Architect and Tree Management Officer raised some concerns with the details of the proposed landscaping plans:
 - (a) The boundary between private terraces and common open space on level 1/podium of Buildings B/C/D should allow for a balance of privacy and overlooking. The heavy planting design and level changes impede any casual surveillance. A reduction in finished soil levels and/or ensure lower planting would enable casual surveillance between private terraces and common open space, particularly to units 150 and 157 of Building D;
 - (b) The arrangement of tables, benches and gathering spaces creates some small, secluded pockets for gathering directly adjacent to a private terrace, particularly outside units 150, 156 and 157. Anti-social behaviour in these common areas could have a significant effect on nearby residents. The tables should be removed from 'bench seating areas' and relocated to near BBQ area and open lawn. Within small seating areas, bench seating should facilitate individuals, couples and small groups only;
 - (c) Positioning of outdoor BBQ area is disconnected from larger lawn area, but en route to private residences. The BBQ should be co-located with the lawn to ensure large gatherings are concentrated together, with good separation from adjacent residences and their access paths;
 - (d) Soil depths on slab appear to be too shallow to support the tree planting illustrated. Slab soil depths need to meet the following minimum requirements:
 - (i) Trees: 1m
 - (ii) Shrubs: 450mm
 - (iii) Lawn: 200mm
 - (e) The plans do not include any locally indigenous tree species and approximately 50% of tree species selected are prone to drop fruit, seedpods or gumnuts (not encouraged). The proposed tree planting shown on the

Landscape Plan will not achieve the requirements of the Sydney DCP 2012 for locally indigenous species and should be amended.



Figure 23: Podium landscaped area

105. A condition of consent is recommended that requires the submission of detailed landscape plans, which are to address the above issues. The issues have been discussed with the applicant, who have acknowledged the comments and have accepted that the changes be required via the landscaping condition of consent.

Future Impact of Gunyama Park and Aquatic Centre on north facing residential units in Building A

106. The applicant was asked to consider including sliding screens and more solid balustrades to the lower levels (1-3) of Building A to provide privacy to the residents and to screen any urban storage when viewed from Gunyama Park.

107. Amended plans were received that introduced opaque glass to the glazed balcony balustrades, however did not incorporate any sliding screens. The applicant stated that

- (a) *“the Architectural expression and intention of Building A to be light & glass like in contrast to Building B/C/D’s more mass character... In regard to sliding screens – the blade language of the architectural expression will make the operability & sliding of perforated screens difficult.”*



Figure 24: Photomontage of Building A, as viewed from proposed Gunyama Park facing south

108. While the architectural intent of Building A is noted, due consideration must be given to the amenity of the future occupants. Gunyama Park will be an active park, with playing fields, floodlights, skate park, playgrounds and activities from early morning and through the evenings. As such it is considered important that an adequate level of privacy be afforded to these occupants. Further investigation onto potential screening systems, which are operable and maintain the integrity of the design must be explored.
109. A deferred commencement condition of consent is recommended to require design modifications to include some form of sliding screen to these lower levels of Building A.

110. Gunyama Park and the aquatic centre are identified in the Sydney DCP 2012. It is detailed that Gunyama Park it is to provide both active and passive recreation as well as a sports pitch. The noise impacts of the future Gunyama Park and aquatic centre have not been fully considered as part of the development application or acoustic report. A deferred commencement condition is recommended to require further reporting to assess the impact of Gunyama Park and the aquatic centre and how the units will achieve acceptable acoustic conditions and to confirm the appropriate glazing type to ensure this.

Public access easement and interface with Gunyama Park to the north

111. The Sydney DCP 2012 requires a 3m public easement for public access (outdoor dining) along the northern façade of Building A, at its interface with Gunyama Park. This easement is proposed and the area provides a series of ‘terrace’ areas, accessed from the commercial/retail space and bordered by planters as shown in **Figure 25**.
112. This arrangement has been reviewed by the City’s Public Domain unit as well as the City’s Design Managers involved in the delivery of Gunyama Park. They have noted that this proposal uses the setback space to rationalise the level changes between Gunyama Park and the floor levels of Building A and level public access is only possible from Gunyama Park. Given this easement for public access, the area should provide as level and contiguous space, without the raised terrace areas. Smaller raised terrace areas may be achievable in the 1.5m between the glass line and where the easement begins.
113. A deferred commencement condition is recommended that details that the terraces shown on the plans at the Gunyama Park/Building A interface are not approved. It will require the 3m easement area along the building frontage to be designed to allow a continuous path of travel along the facade and be aligned with the park boundary. The condition will require the design of the interface to be developed in consultation with the City’s Public Domain unit.

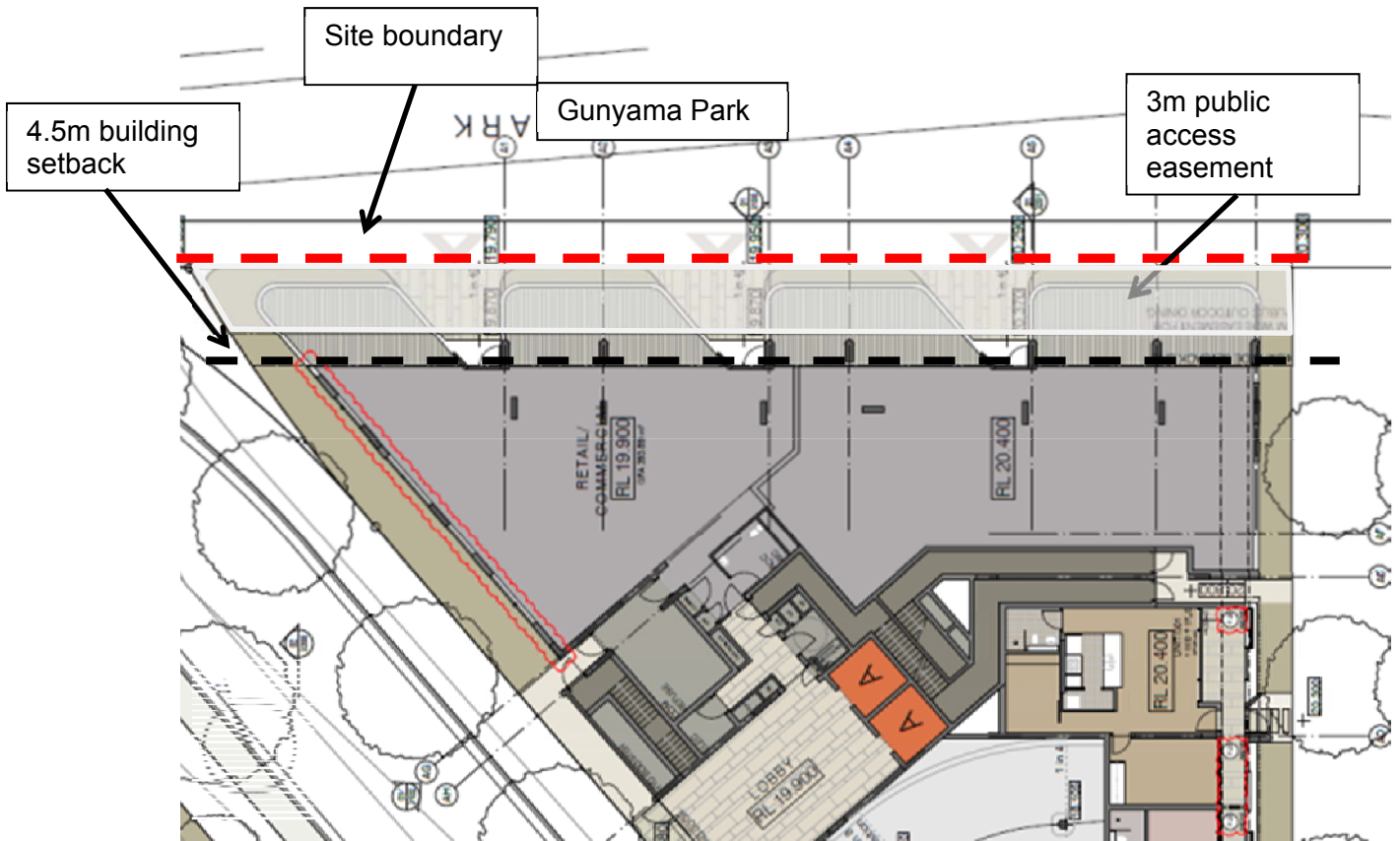


Figure 25 – Building A ground floor interface with Gunyama Park

Access

114. Access for disabled persons can be provided to each building within the development. A Building Code of Australia report addressing accessibility was submitted with the application and appropriate conditions have been included in the recommendation.

Other Impacts of the Development

115. The proposed development is capable of complying with the BCA.

116. 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

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

INTERNAL REFERRALS

118. The application was referred to Council's:

- (a) Heritage and Urban Design Specialists;
- (b) Building Approvals Unit;

- (c) Environmental Health Specialists;
- (d) Public Domain Unit;
- (e) Specialist Surveyor;
- (f) Transport and Access Unit;
- (g) Tree Management Unit; and
- (h) Waste Management Unit.

119. Where relevant the conditions of other sections of Council have been included in the proposed conditions.

EXTERNAL REFERRALS

Sydney Airport

120. The application was referred to Sydney Airport Corporation Ltd (SACL) as the Building A tower will intrude into prescribed airspace for Sydney Airport. Council received correspondence dated 6 May 2015 from Sydney Airport confirming that that there was no objection to the proposal.

Ausgrid

121. The application was referred to Ausgrid. Ausgrid identified several existing substations and assess within the site that would be affected by the proposal. The applicant has subsequently confirmed that Ausgrid have granted approval to decommission substations.

122. Given the scale of the development, a substation is proposed to be accommodated on the Epsom Road frontage of the new site. It is recommended that the standard Electricity Substation condition be incorporated into any consent.

Sydney Water

123. The application was referred to Sydney Water. Sydney Water responded on 14 January 2015 confirming that authorisation for dewatering of the site is required and relevant General Terms of Approval have been provided.

Roads and Maritime Services (RMS)

124. The application was referred to RMS. No comments were received from RMS.

NOTIFICATION AND ADVERTISING

125. The application constitutes integrated development and as such the application was notified and advertised for 30 days in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this one submission was received.

126. The submission objected to the number of car parking spaces proposed, stating that the number was insufficient and would further impact on the pressure on street car parking within the area.

127. The site is close to existing public transport and a future public transport corridor. The applicant is seeking consent for the maximum permissible car parking under the Sydney LEP 2012. No additional car parking will be permitted.

PUBLIC INTEREST

128. 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

129. The development is subject to the following Section 94 Contributions:

Community Facilities	\$	516,128.93
Public Domain	\$	317,905.65
New Open Space	\$	2,477,047.63
New Roads	\$	629,100.23
Accessibility	\$	26,092.52
Management	\$	28,212.03
Total	\$	3,994,486.99

130. The contribution is calculated based on a total of 215 new dwellings and 28 workers based on employee density for shops with a frontage to the street (1 per 22.3sqm). No credits have been applied for past uses of the site.
131. Pursuant to Section 93F Planning Agreements in the EP&A Act, Section 94 of the EP&A Act does not apply to the extent of the value of the material public benefit as provided for in the Planning Agreement.
132. The value of the material public benefit as provided for will be specified in the Planning Agreement, and as such, the applicable Section 94 contribution can be reduced to exclude the material public benefit.
133. For transparency reasons and future reference, it is recommended that the Section 94 condition is divided into the following two parts:
- Total Section 94 amount generated by proposal (including amount that will subsequently be excluded): \$3,994,486.99; and
 - A condition stating that the Section 94 contributions payable as per (a) may be offset in accordance with the terms of the Planning Agreement.

Affordable Housing Contributions

134. The development is subject to the affordable housing contribution under clause 7.13 of the Sydney LEP 2012. The contribution is calculated based on:
- (a) \$174.19 per square metre of the total residential floor area (26,610sqm); plus
 - (b) \$58.04 per square metre of the non-residential floor area (637sqm).
135. The total contribution required is **\$4,672,167.38** (this will be indexed according to time of payment). The contribution is payable to the Department of Planning and Environment prior to issue of a Construction Certificate.

RELEVANT LEGISLATION

136. The Environmental Planning and Assessment Act 1979.
137. Water Management Act 2000.
138. Airports Act 1996.

CONCLUSION

139. The proposed development is generally consistent with the core development standards and zone objectives contained in Sydney LEP 201(as amended by) Sydney LEP 2012 Amendment No. 13 with the exception of the Height of Buildings control. The development will provide ground level retail/commercial premises, new roads, footpaths and a through site link and contributes 215 residential apartments to the housing stock required for the incoming population anticipated for the Green Square locality.
140. The building has been suitably designed and represents a well resolved architectural design that adopts an appropriate form, scale and expression. The design provides active frontages to Epsom Road and Gunyama Park to the north and enhances the public domain.
141. The development performs well against the relevant built form controls in Sydney DCP 2012 and design principles in SEPP 65 (and its draft amendments). An acceptable level of internal amenity is afforded to future residents and the built form will not unreasonably preclude achievement of internal amenity to future redevelopment schemes on adjoining sites.
142. The proposal seeks to maximise the permitted floor space and exceeds the height of building and height in storeys controls on parts of the site. The exception to the height development standard and height in storeys control is assessed to be acceptable in this circumstance as the development represents a preferable outcome with increased amenity and is generally consistent with the height objectives.

143. The development application was accompanied by a public benefit offer for construction of portions of two roads, footpath widening and for public land dedication and also included public access easements. A draft Planning Agreement has been prepared to secure provision of the material public benefit and the terms are currently being finalised. The draft Planning Agreement is expected to be placed on public exhibition in the near future.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Erin Murphy, Specialist Planner)