

ITEM 5. DEVELOPMENT APPLICATION: 1-15/1A COULSON STREET  
ERSKINEVILLE

FILE NO: D/2015/865

DEVELOPMENT APPLICATION NO: D/2015/865

#### SUMMARY

**Date of Submission:** 25 June 2015 (Amended plans received on 22 September 2015 and 3 November 2015)

**Applicant:** ABLIN ERSKINEVILLE PTY LTD

**Architect:** KANFINCH & BREAKSPEAR ARCHITECTS

**Developer:** ABLIN ERSKINEVILLE PTY LTD

**Owner:** STRATA PLAN 36415

**Cost of Works:** \$81,730,000

**Proposal Summary:** Demolition of existing industrial buildings and construction of an 8 storey residential flat building and a 4 storey residential flat building, containing a total of 172 dwelling and 2 levels of basement car parking containing 120 car spaces.

The application is Integrated Development, requiring the approval of the NSW Office of Water under Section 91 of the *Water Management Act 2000*.

The site is located within the Ashmore Neighbourhood planning precinct, which already contains specific designed envelope and built forms controls for the site. As such, the Sydney LEP 2012 requirement for a specific DCP be prepared for this site has been assessed as unnecessary in this instance.

The application has been amended a number of times and performs well against the relevant built form and amenity controls in the Sydney DCP 2012 and SEPP 65. Where the proposal varies from the controls, it is considered that urban design and amenity objectives have been achieved and addressed.

The proposed development was the subject of a Competitive Design Alternative process that took place between October 2014 and January 2015. Subject to some post-competition revisions, the scheme that was the preferred design of that process is the subject of this application.

**Proposal Summary  
(continued):**

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

The application was accompanied by a public benefit offer for land dedication for the purpose of public roads, the construction of Hadfields Street and a monetary contribution towards the construction of Macdonald Street. A draft Voluntary Planning Agreement has been prepared to secure the provision of the public benefit package and is expected to be placed on public exhibition in the near future.

The application results in a departure with the building height development standard contained within Clause 4.3 of Sydney LEP 2012 and the height in storeys control in Part 5.5 of Sydney DCP 2012. Despite these departures, it is considered that the development is consistent with the desired future character of the area and will not result in any unreasonable impacts on adjoining development.

The application was notified in accordance with Council's notification policy, which resulted in a total of 24 submissions being received. A summary of the concerns raised in those submissions is provided below:

- privacy impacts
- strain on existing infrastructure
- departures with envelope and height controls
- bulk and scale
- parking impacts
- flooding
- overshadowing
- view loss

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 Voluntary Planning Agreement has been exhibited for 28 days and any submissions received have been considered.

**Summary Recommendation:**

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

**Development Controls:**

- (i) State Environmental Planning Policy No 55 - Remediation of Land
- (ii) State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development ("SEPP 65")
- (iii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX")
- (iv) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (v) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

**Attachments:**

- A - Architectural Drawings
- B - Landscaping Plans
- C - Shadow Diagrams

**RECOMMENDATION**

It is resolved that:

- (A) the variation sought to Clause 4.3 building height in accordance with Clause 4.6 of Sydney Local Environmental Plan 2012 be supported;
- (B) the requirement for the preparation of a Development Control Plan under Clause 7.20 of Sydney Local Environmental Plan 2012 is waived as it is unnecessary in the circumstances. The recent Sydney Development Control Plan 2012 contains Part 5.5, which has detailed controls which specifically addressed the environmental concerns for the site as raised by Sydney Local Environmental Plan 2012;
- (C) authority be delegated to the Chief Executive Officer (CEO) to determine the application after the Voluntary Planning Agreement (VPA) is publicly exhibited and any submissions considered;
- (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 and Part B below; and
- (E) if the CEO determines the application, then notice be given to the NSW Office of Water of the determination in accordance with Section 91A(6) of the *Environmental Planning and Assessment Act 1979*.

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

- the consent is not to operate until the following conditions are satisfied, within **24 months** of the date of this determination:
  - (1) PLANNING AGREEMENT**
    - (a) That a Voluntary Planning Agreement in accordance with the public benefit offer made by Ablin Erskineville Pty Ltd and dated 27 October 2015 be executed and submitted to Council; and
    - (b) The guarantee must be provided to Council in accordance with the Voluntary Planning Agreement at the time of execution; and
    - (c) The Voluntary Planning Agreement, as executed, must be registered on the Title of the land in accordance with the Voluntary Planning Agreement.

**(2) DESIGN MODIFICATIONS**

The design of the development must be modified as follows:

- (a) The glass louvres serving the internal corridors on all floors, detailed on the western, eastern and southern elevation plans must be removed or revised so that the space is not enclosed.

- (b) The kitchens within Units B206-B208, C206, B306-B308, C306, B406-B408, C406, B506-B508, C506, B606-B608 and C604 must be setback from the eastern elevation by an additional 1 metre and the doors serving the room behind the kitchen must be deleted.
  - (c) The internal walls separating the bedroom from the living area and entrance foyer of Units A207, A307, A407, A507 and A607 must be deleted.
  - (d) The kitchen within Units A103, A203, A303, A403, A503 and A603 must be relocated to the eastern side of dwelling and the internal wall separating the study and the living area must be deleted.
  - (e) The window on the northern elevation, adjacent to the bathroom of Units A102, A202, A302, A402, A502 and A602 must be a highlight window with a minimum sill height of 1.6 metres.
  - (f) The bicycle parking spaces located at the southwest corner of the site are to be relocated to the basement and the subject area being entirely landscaped with the exception of an access path adjacent to the new building.
  - (g) Redesign the basement parking levels to ensure that a maximum of 133 car spaces (119 residential and 14 visitor car spaces) are provided.
  - (h) Detailed plans and elevations of the driveway and security door/gate to the basement, including materials, landscaping and fencing, to demonstrate design excellence acceptable to the Director City Planning, Development and Transport must be submitted.
- 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/2015/544, dated 25 June 2015, and the following drawings:

<b>Drawing Number</b>	<b>Drawing Title</b>	<b>Architect</b>	<b>Dated</b>
DA3.11 Rev. G	Basement 2 Plan	Kannfinch & Breakspear Architects	30/10/2015
DA3.10 Rev. G	Basement 1 Plan	Kannfinch & Breakspear Architects	30/10/2015
DA3.01 Rev. G	Level 1 Plan	Kannfinch & Breakspear Architects	30/10/2015
DA3.02 Rev. G	Level 2 Plan	Kannfinch & Breakspear Architects	30/10/2015
DA3.03 Rev. G	Level 3 Plan	Kannfinch & Breakspear Architects	30/10/2015
DA3.04 Rev. G	Level 4 Plan	Kannfinch & Breakspear Architects	30/10/2015
DA3.05 Rev. G	Level 5 Plan	Kannfinch & Breakspear Architects	30/10/2015
DA3.06 Rev. G	Level 6 Plan	Kannfinch & Breakspear Architects	30/10/2015
DA3.07 Rev. G	Level 7 Plan	Kannfinch & Breakspear Architects	30/10/2015
DA3.08 Rev. G	Level 7 Upper Plan	Kannfinch & Breakspear Architects	30/10/2015
DA3.09 Rev. E	Roof Plan	Kannfinch & Breakspear Architects	30/10/2015
DA4.01 Rev. F	North and East Elevations	Kannfinch & Breakspear Architects	30/10/2015
DA4.02 Rev. F	South and West Elevations	Kannfinch & Breakspear Architects	30/10/2015
DA5.01 Rev. F	Section	Kannfinch & Breakspear Architects	30/10/2015
DA5.02 Rev. F	Section	Kannfinch & Breakspear Architects	30/10/2015
SK2	Design Statement	360	12.06.15
SK3	Design Statement	360	12.06.15
SK4	Landscape Plan	360	12.06.15
SK5	Landscape Plan Communal Courtyard	360	12.06.15

Drawing Number	Drawing Title	Architect	Dated
SK6	Soil Profile	360	12.06.15
SK7	Landscape Elevations	360	12.06.15
SK8	Landscape Elevations	360	12.06.15
SK9	Landscape Elevations	360	12.06.15
SK10	Vertical Gardens	360	12.06.15
SK11	Planting Palette	360	12.06.15
Sheet 1 of 1 Sheets	Plan of Proposed Subdivision	LTS Lockley	07/10/15

and as amended by the conditions of this consent.

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

**(2) COMPLIANCE WITH SUBMITTED MATERIALS AND SAMPLES BOARD**

The design of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board, the specifications prepared by Kannfinch & Breakspear Architects and dated 9 June 2015.

**(3) APPROVED DESIGN ROOF - TOP PLANT**

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

**(4) DESIGN QUALITY EXCELLENCE**

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

**(5) GROSS FLOOR AREA**

The following applies:

- (a) The total Gross Floor Area of the development is **13,733sqm** as calculated in accordance with the definition contained within the Sydney Local Environmental Plan 2012.
- (b) Prior to final Occupation Certificate being issued, a registered Surveyor must provide certification of the total Gross Floor Area in the development utilising the definition under the Sydney Local Environmental Plan 2012, applicable at the time of development consent to the satisfaction of the Principal Certifying Authority.

**(6) BUILDING HEIGHT**

- (a) The height of the buildings fronting Macdonald Street and Hadfields Streets must not exceed **RL 36.00** (RL) to the top of the building.
- (b) The height of the building adjacent to the western boundary must not exceed **RL 24.20** (RL) to the top of the building.
- (c) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifying Authority.

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

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

**(8) 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.

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

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



<u>Contribution Category</u>	<u>Amount</u>
Community Facilities	\$391,189.55
Public Domain	\$240,950.20
New Open Space	\$1,877,428.48
New Roads	\$476,813.87
Accessibility	\$19,776.30
Management	\$21,382.74
<b>Total</b>	<b>\$3,027,541.14</b>

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

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

where:

C is the original contribution amount as shown above;

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

CPI1 is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the date of calculation being – **September 2015**.

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

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

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

**(10) POSITIVE COVENANT**

- (a) Prior to the issue of the first Occupation Certificate, the owner of the site is to obtain registration of a documentary Positive Covenant on the Title to the subject land, appurtenant to Council, and to Council's satisfaction. The Positive Covenant is to be created in terms requiring the Registered Proprietor of the land, and upon request by Council, to do all things necessary (including execution of all relevant documents and instruments) to obtain termination and extinguishment of the rights currently possessed over the existing Rights of Carriageway and Easements for Services, created by the registration of DP 788543 in favour of Lot 7 in DP 788543 (the subject land), within the adjoining lots within DP 788543 (or whatever subdivided land succeeds them);
- (b) The action/request in (a) above cannot be initiated by Council until such time as the construction of the full width of Macdonald Street and Hadfields Street has been completed and dedicated as public road, for its full frontage to the subject site.

**(11) RESTRICTION ON RESIDENTIAL DEVELOPMENT**

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the proposed residential flat buildings to be erected upon Lot 100 (from Level 1 (ground floor) to level 7) 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 Lot 100 within the development site in the above terms and restricting any change of use of those levels from permanent residential accommodation as referred to above. 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) No person can advertise or organise the use of residential apartments approved under this consent for short term accommodation or share accommodation.

**(12) 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.

**(13) RESTRICTION ON USE OF CAR SPACES AND STORAGE SPACES**

The following conditions apply to car parking:

- (a) The on-site car parking spaces and storage spaces within the basement parking areas of the proposed residential flat buildings to be erected upon Lot 100, exclusive of service and visitor car spaces, are not to be used other than by an occupant, tenant or resident of the subject building.
- (b) Prior to an Occupation Certificate being issued, a documentary restrictive covenant, is to be registered on the Title of the development site pursuant to section 88E of the Conveyancing Act 1919, to the effect of (a) above. The covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
- (c) Any strata subdivision of the site is to include a restriction on User pursuant to section 39 of the Strata Titles (Freehold Development) Act 1973, as amended, burdening all utility car parking and storage allotments in the Strata Plan and/or an appropriate restrictive covenant pursuant to section 88B of the Conveyancing Act 1919 burdening all car parking part-lots in the strata scheme.

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

The internal courtyard, common room and music room must be available for the use of all residents of the building, and must be designated as common property on any strata subdivision of the site, with no exclusive use rights.

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

No part of the common areas within the basement parking areas of the proposed residential flat building to be erected upon Lot 101, 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. Any 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.

**(16) ALLOCATION OF PARKING**

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

<b>Car Parking Type</b>	<b>Number</b>
Residential spaces	93
Accessible residential spaces	26
Residential visitor spaces	13
Accessible residential visitor spaces	1
<b>Total</b>	<b>133</b>

**(17) ALLOCATION FOR CAR WASH BAYS**

If car wash bays are provided, spaces must not at any time be allocated, sold or leased to an individual owner/occupier and must be strictly retained as common property by the Owners Corporation for use by all tenants.

**(18) ALLOCATION FOR VISITOR PARKING**

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

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

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

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

**(20) 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".

**(21) BICYCLE PARKING**

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

Bicycle Parking Type	Number	Requirements
Residential	172	Spaces must be a class 1 bicycle locker
Residential visitor	17	Spaces must be Class 3 bicycle rails

Notes:

If a basement storage area on title that is large enough to store a bike and is no smaller than a class 1 bike locker this can be counted as a space.

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

**(22) INTERCOM FOR VISITORS**

Where a boom gate or security control measures are 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 4 metres 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.

**(23) 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.

**(24) 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.

**(25) 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.

**(26) VEHICLES ACCESS**

All vehicles must enter and depart the site in a forward direction.

**(27) SIGNS AT EGRESS**

Sign/s compelling drivers to stop before proceeding across the footpath must be installed and maintained within the site and in prominent location/s that is/are visible to departing drivers at the point of vehicle egress.

**(28) 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.

**(29) VEHICLE FOOTWAY CROSSING**

A separate application is to be made to and approved by Council for the construction of any proposed vehicle footway crossing. In all cases the construction materials should reinforce the priority of pedestrian movement over that of the crossing vehicle.

**(30) 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.

**(31) 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 they are not eligible to participate in any existing or proposed Council on-street resident parking schemes. The owners of the dwellings must advise all intending owners, tenants and occupiers of the dwellings of this prohibition in writing at the time of entering into a purchase / lease / occupancy agreement.

**(32) 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**.

**(33) ABORICULTURAL IMPACT ASSESSMENT**

- (a) An Arboricultural Impact Assessment (AIA) prepared by a qualified Arborist with a minimum Australian Qualification Framework (AQF) of Level 5 must be submitted to and approved by Council prior to the issuing of the Construction Certificate. The report must reflect current industry practices, with particular reference to the Australian Standard 'Protection of trees on development site' (AS4970-2009) and must include;
  - (i) Identify and include correct botanical and common names of all trees within neighbouring properties (within a 5 metres radius) that are likely to be affected by the development;
  - (ii) An assessment of all trees health, vigour and structural condition.
  - (iii) Provide an assessment detailed in a tree schedule / table for each tree surveyed. The tree assessment should be conducted and recorded in accordance with industry best practice;
  - (iv) Include a suitably scaled plan of the site showing the location of all trees assessed in the report;
  - (v) Identify all trees to be retained and removed during construction and development;
  - (vi) A discussion of all options available, including reasons as to why trees are, or are not being recommended for removal or retention;

- (vii) Recommendations of any design modifications, construction techniques and/or other protection methods required to minimise adverse impact on trees that should be retained during the demolition & construction works, and into the long term;
- (viii) Details of the tree protection measures in accordance with AS4970-2009 Protection of trees on development site;
- (ix) Details on the trunk protection (method / materials/ duration);
- (x) Details of any pruning required for construction and development. This must include number of branches and orientation, branch diameter, percentage of live canopy to be removed. This information must also be detailed on either a diagram or photograph of the tree;
- (xi) Information on the Arborist's involvement during the works is also required, and
- (xii) Any other works that must be prohibited throughout construction and development on site.

**(34) COMPLIANCE WITH ARBORICULTURAL IMPACT ASSESSMENT**

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

**(35) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION AND OR OCCUPATION CERTIFICATES**

- (a) All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report prepared by Acoustic logic, dated 11th February 2015, project no 20150179.1 must be implemented as part of the detailed design assessment and implemented into the design drawings prior to the commencement of the use of the premises in accordance with the requirements of (b) and (c) below and to the satisfaction of the certifying authority.
- (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 PCA
- (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 PCA 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.

**(36) 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 LAeq, 15 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 LA90, 15 minute / rating LA90, 15 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 LAeq,15 minute noise level emitted from the use must not exceed the LA90, 15 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 LA90, 15 minute noise level is below the threshold of hearing, Tf at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.
  - (ii) The LAeq,15 minute noise level and the LA90,15 minute noise level shall both be measured with all external doors and windows of the affected residence closed;
  - (iii) The relevant background noise level (LA90, 15 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.

### **(37) 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.

### **(38) SITE MANAGEMENT**

- (a) The development must incorporate CCTV within the communal areas of the site. In particular, within the basement levels, main entrances to the site and letterbox area.
- (b) Design and management of the communal courtyard garden will need to ensure the use of the space will not cause detrimental acoustic impacts particularly at night;
- (c) The development must incorporate an internal sound-proof multi-purpose room / music room with a noticeboard for body corporate/ strata management meetings, sharing information and other recreational events for residents and their guests. This room is to remain common property of the owners' corporation at all times and is to be available for the use of all residents;
- (d) The development should ensure that communal areas such as garbage storage areas, parking and recreation areas are situated along well used clearly defined routes, are observable from private and semi-private areas, and do not provide potential entrapment spots;
- (e) The development must ensure that letterboxes, intercom switches, fencing, bin storage areas, drainpipes, landscaping and facade treatments do not facilitate unauthorized access;
- (f) The development must ensure dwellings incorporate solid core doors, security locks and one-way viewers; and
- (g) The development must ensure that unit numbers are clearly visible from stairwells and lifts and names of buildings, maps and facilities are clearly signposted.

**(39) LOADING DOCK SCHEDULE/REGISTER**

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

**SCHEDULE 1B****PRIOR TO CONSTRUCTION CERTIFICATE/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.

**(40) CONSTRUCTION LIASION COMMITTEE**

- (a) Prior to the commencement of any work, a Construction Liaison Committee or an alternative approved in writing by Council's Director City Planning, Development and Transport, is to be established by the developer to ensure that demolition and construction related impacts (including construction noise and vibration, loading, issues associated with construction workers and vehicles, traffic issues and management of the construction site) can be dealt with expeditiously and cooperatively.
- (b) The Committee is to be comprised of interested parties representing potentially affected properties adjacent to and surrounding the site and any interested group. A nominated representative of the Council may be an observer from time to time.
- (c) The Committee shall meet prior to the commencement of works on the site and prior to the submission of the final Construction Management Plan to Council to address initial areas of concern, and then at monthly intervals or as considered appropriate by the Committee throughout the construction process.
- (d) Prior to the commencement of work, the Site Manager is to provide the members of the Committee and Council with 24 hour contact details (including location of site offices and a 24 hour phone number) to ensure that any matters which arise during the construction process are addressed immediately. The Site Manager shall be available during normal business hours to provide information to the public about activities on site and to bring any complaints to the attention of the Applicant.
- (e) A register of all complaints shall be kept by the Applicant throughout the duration of the project and shall be made available to Council Officers on request.

- (f) The Committee meetings are to be recorded/minuted and such records/minutes are to be provided to Council within 14 days of the meeting.
- (g) The first Committee meeting should establish Terms of Reference, including purpose, size and membership, quorum, meeting frequency and duration, procedures for meetings, recording/distribution of comments and outcomes and the like.
- (h) The initial call for resident/worker nominations to be sent to the adjacent and adjoining property owners and tenants must be submitted to and approved by the Director City Planning, Development and Transport prior to sending.
- (i) The Site Manager is to inform each Committee meeting about the construction program, progress reports and impending work.

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

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

**IMPORTANT NOTE:**

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

**(42) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

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

**(43) ADAPTABLE HOUSING**

Prior to a Construction Certificate being issued, information from an appropriately qualified access consultant must be submitted to and approved by the Certifying Authority:

- (a) Confirming that 26 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.

**(44) 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.

**(45) TACTILE GROUND SURFACE INDICATORS AND HANDRAILS**

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

**(46) 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.
- (j) 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.*

**(47) STRUCTURAL CERTIFICATION FOR DESIGN – BCA (ALL BUILDING CLASSES)**

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

**(48) CERTIFICATION OF GEOTECHNICAL INSPECTION**

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

**(49) GEOTECHNICAL REPORT AND CERTIFICATION**

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

**(50) BCA - NEW BUILDINGS WORKS - CLASS 2-9 BUILDINGS**

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

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

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

#### **(51) 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.

#### **(52) 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.

#### **(53) 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.

#### **(54) 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.

**(55) GARBAGE ROOM**

The garbage rooms are 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 rooms are 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.

**(56) WASTE AND RECYCLING MANAGEMENT - MINOR**

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

**(57) WASTE AND RECYCLING**

- (a) Waste and recycling receptacles to be stored on property at all times with Council access key for servicing, if required; and
- (b) A storage area for discarded bulky items must be provided per block of residential units.

**(58) WASTE AND RECYCLING COLLECTION**

- (a) Clearance height for access by collection vehicle must be no less than 3.6 metres at any point;
- (b) The maximum travel distance between the storage point and collection point for all waste and recycling receptacles shall be no more than 10 meters.
- (c) Unimpeded access shall be provided for collection vehicles between 6.00am and 6.00pm on collection days.
- (d) Waste and recycling containers will not be supplied until construction in developments is completed unless otherwise organised with waste services.
- (e) The development must have a residential rating or apply for a residential rating prior to a City of Sydney waste service.

**(59) 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.

### **(60) WASTE MANAGEMENT FACILITIES**

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

- (a) The residential garbage room to be designed in accordance with Council's "Policy for Waste Minimisation in New Developments 2005" to allow for cleaning, draining and management of the room.
- (b) All areas accessed by Council's waste collection vehicles must be provided with a minimum vertical clearance of 3.6 metres, taking such items as pipes, ducts and the like into account.
- (c) The residential garbage room servicing the proposed building to include adequate space for the separation of putrescible waste from waste suitable for recycling.

### **(61) 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.

## **(62) 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).

## **(63) 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.

## **(64) PUBLIC DOMAIN PLAN**

- (a) A detailed Public Domain Plan must be prepared by a suitably qualified architect, urban designer, landscape architect or engineer and must be lodged with Council's Public Domain Section and be approved by Council prior to a Construction Certificate being issued for public domain work or above ground building work, whichever is later. The Public Domain Plan must be submitted with a completed Public Domain Plan checklist (available in the City of Sydney's Public Domain Manual).

- (b) The Public Domain Plan must document all works required to ensure that the public domain complies with the City of Sydney's Public Domain Manual, Sydney Streets Design Code and Sydney Streets Technical Specification, including requirements for road pavement, traffic measures, footway pavement, kerb and gutter, drainage, vehicle crossovers, pedestrian ramps, lighting, street trees and landscaping, signage and other public domain elements. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must incorporate the approved Alignment Levels. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.
- (c) The works to the public domain are to be completed in accordance with the approved Public Domain Plan and Alignment Levels plans and the Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.
- (d) A Public Domain Works Deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual. The Public Domain Works Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.
- (e) Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Construction Certificate being issued.
- (f) The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as-executed documentation are submitted and approved by Council in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

**(65) 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.

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

- (a) Prior to a Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work, details of the proposed stormwater disposal and drainage from the development including a system of on-site stormwater detention in accordance with Council's standard requirements and details of the provision and maintenance of overland flow paths must be submitted to and approved by Council. All approved details for the disposal of stormwater and drainage are to be implemented in the development.
- (b) The requirements of Sydney Water with regard to the on site detention of stormwater must be ascertained and complied with. Evidence of the approval of Sydney Water to the on-site detention must be submitted prior to a Construction Certificate being issued excluding any approved preparatory, demolition or excavation works.
- (c) Prior to the issue of any Occupation Certificate, a Positive Covenant must be registered on the title for all drainage systems involving On-Site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection.
- (d) Any proposed connection to the Council's underground drainage system will require the owner to enter into a Deed of Agreement with the Council and obtain registration on Title of a Positive Covenant prior to Construction Certificate being issued for public domain works or above ground building works, whichever is earlier, and prior to the commencement of any work within the public way.
- (e) An "Application for Approval of Stormwater Drainage Connections" must be submitted to the Council with the appropriate fee at the time of lodgement of the proposal for connection of stormwater to the Council's drainage system.
- (f) Prior to a Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), but excluding approved preparatory or demolition work, a stormwater quality assessment must be undertaken and must be approved by Council.

The stormwater quality assessment must:

- (i) be prepared by a suitably qualified drainage engineer with experience in Water Sensitive Urban Design;

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

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

#### **(67) 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.

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

A Public Domain Damage Deposit calculated on the basis of 10 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.

**(69) PUBLIC DOMAIN LIGHTING**

- (a) Prior to a Construction Certificate for public domain works or above ground building works being issued, whichever is later, a detailed Public Domain Lighting Plan for pedestrian and street lighting in the public domain must be prepared by a suitably qualified, practicing lighting engineer or lighting designer and must be submitted to and approved by Council. The Lighting Plan must be prepared in accordance with the City of Sydney's Interim Draft Sydney Lights Design Code, Sydney Streets Design Code, Sydney Streets Technical Specification and Public Domain Manual and must include the following:
- (i) Vertical and horizontal illuminance plots for the public domain lighting design to demonstrate compliance with all relevant Australian Standards and to meet the lighting categories and requirements specified by the City;
  - (ii) The location, type and category of existing and proposed lights, including details of luminaire specifications, required to ensure compliance with City policies and Australian Standards;
  - (iii) Footing locations and structural details;
  - (iv) Location and details of underground electrical reticulation, connections and conduits;
  - (v) Certification by a suitably qualified, practicing lighting engineer or lighting designer to certify that the design complies with City policies and all relevant Australian Standards including AS 1158, AS 3000 and AS4282;
  - (vi) Structural certification for footing designs by a suitably qualified, practicing engineer to certify that the design complies with City of Sydney policies and Australian Standards.
- (b) The public domain lighting works are to be completed in accordance with the approved plans and the City of Sydney's Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

**(70) 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 Ashmore Public Domain Strategy concept drawings, City of Sydney's Sydney Streets Technical Specification and the Public Domain Manual. Detailed plans, construction details and specifications for the works shall be prepared and submitted to Council for approval prior to issue of a Construction Certificate, excluding for approved preparatory or demolition work, or before issue of an approval under Section 138 of the Roads Act 1993 for the road and drainage, infrastructure work. The detailed plans and supporting documentation shall include as a minimum the following information;
- (i) General subdivision plan with contour details, clearly indicating the extent of work;
  - (ii) Road cross sections showing road and footway widths, existing levels, design levels, cross fall grade pavement configuration, batter slopes, engineered retaining walls, kerb returns, kerb and gutter, vehicle crossovers, pedestrian ramps the location of public utility services and 900mm minimum road restoration to match smoothly into the existing road levels;
  - (iii) Plan drawing and longitudinal section showing gutter invert, kerb and boundary alignments with design grades of the existing and proposed future public road network including public utility services;
  - (iv) Road design and drainage plans showing the following:
    - a. road pavement structure and design;
    - b. kerb, gutter and building alignment;
    - c. traffic management structures / measures;
    - d. traffic, pedestrian and parking signage;
    - e. details of intersections with existing roads including line-marking, pavement marking, sign-posting, swept paths for the largest expected vehicle;
    - f. on-road bicycle route infrastructure and facilities;
    - g. drainage plans and schedule of drainage elements, showing the following:
      - i. The proposed location of all subsoil drains and sub-pavement drains, including the nominal width and depth of trenches, pipe diameters and materials, longitudinal design grades, and the locations of outlets and cleanouts;
      - ii. The location of public utility services;
      - iii. Details and specifications for the construction of all components of the system in accordance with the *City of Sydney's Sydney Streets Technical Specification*;

- iv. All assumptions and/or calculations made in the determination of the need or otherwise for subsurface drainage, including requirements of broader stormwater catchment analysis to undertaken beyond the site boundary;
  - v. Drainage details and longitudinal sections with hydraulic grade lines for the design storm and other standard features such as flow rates, pipe class, pipe grade and velocity;
  - vi. Adjustments/upgrades to utility services as required;
  - vii. Standard engineering and structural details plan;
  - viii. Erosion and sedimentation control plans;
  - ix. A design certification report for the road works prepared by an appropriately qualified civil engineer certifying that the design complies with the City of Sydney's policies, standards and specifications and those of all other relevant authorities as applicable. All design documentation shall be completed in accordance with the relevant standards and specifications as adopted by Council from time to time. All engineering plans and calculations shall be checked, signed and certified by a suitably qualified practicing professional engineer.
- (c) The road and drainage works are to be completed in accordance with the approved plans and the City of Sydney's *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

#### **(71) TEMPORARY VEHICULAR AND PEDESTRIAN ACCESS**

Vehicular and pedestrian access from the existing driveway (Hadfield Street) will continue throughout the construction process. All costs associated with the continuing the right of way for the remaining units shall be borne by the Developer.

Detailed construction plans, drawn to scale, by suitably qualified engineers and landscape architects, 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 plans must show sufficient detail of:

- (a) location of existing and proposed services on the site;
- (b) 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;
- (c) vehicle turning movements to and from Hadfield Street. All temporary access must be designed to accommodate a Council waste collection vehicle as a minimum.

- (d) the separated pedestrian access into the development including any temporary fencing or barricades;
- (e) pavement design including vehicular crossings;
- (f) street lighting including footings and below ground conduits;
- (g) 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;
- (h) location, numbers, type and supply of plant species, with reference to NATSPEC (if applicable);
- (i) planting procedure and maintenance (if applicable);
- (j) drainage, waterproofing and watering systems (if applicable).
- (k) The detailed plans should demonstrate the permanent and temporary works in the affected areas including those to the newly dedicated road works.

All works in the approved plan are to be completed prior to an Occupation Certificate being issued.

#### **(72) PAVING MATERIALS**

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

#### **(73) 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.

#### **(74) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN**

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

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

The form of the recording is to be as follows:

- (a) A PDF format report containing all images at a scale that clearly demonstrates the existing site conditions;



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

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

#### **(75) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION**

- (a) Subject to the receipt of permission of the affected landowner/s, dilapidation report/s, including a photographic survey of all structures adjoining the site 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.

**(76) 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).

**(77) 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.

**(78) 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.

#### **(79) 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.

#### **(80) 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.

#### **(81) 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.

#### **(82) 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.

**(83) 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; and*
- (e) *Work Health and Safety Regulation 2011.*

**(84) LAND REMEDIATION**

The site is to be remediated and validated in accordance with the Remedial Action Plan prepared by Environmental Investigations Australia Pty Ltd, Report 22273 AC\_Rev1, 19 June 2015 and the Letter of Interim Advice prepared by Jason Clay, dated 3 November 2015. 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.

**(85) NOTIFICATION – NEW CONTAMINATION EVIDENCE**

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

**(86) REGISTRATION OF COVENANT**

A covenant shall be registered on the title of the land and a copy of the title submitted to the City's Area Planning Manager and the Principal Certifying Authority prior to the issue of an Occupation Certificate, giving notice of the former land use and contamination of the site and the existence of any remaining encapsulated contaminated material which are subject to ongoing environmental management.

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

**(87) 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.

**(88) 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.

**(89) STOCKPILES**

- (a) No stockpiles of soil or other materials shall be placed on footpaths or nature strips unless prior approval has been obtained from the City's Construction Regulation Unit.
- (b) All stockpiles of soil or other materials shall be placed away from drainage lines, gutters or stormwater pits or inlets.
- (c) All stockpiles of soil or other materials likely to generate dust or odours shall be covered.

- (d) All stockpiles of contaminated soil shall be stored in a secure area and be covered if remaining more than 24 hours.

**(90) 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.

**SCHEDULE 1C**

**DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION**

**(91) 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.

**(92) PHYSICAL MODELS**

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:

- (a) The models must be constructed in accordance with the Model Specifications available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements> Council's modellers must be consulted prior to construction of the model.
- (b) The models are to comply with all of the conditions of the Development Consent.
- (c) 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.

**(93) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO OCCUPATION CERTIFICATE**

- (a) Prior to an Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development must be submitted to Council for the electronic Visualisation City Model.

- (b) The data required to be submitted within the surveyed location must include and identify:
- (i) Building design above and below ground in accordance with the development consent;
  - (ii) All underground services and utilities, underground structures and basements, known archaeological structures and artefacts;
  - (iii) A current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

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

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

#### **(94) BASIX**

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

#### **(95) 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*.



**(96) 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.

**(97) 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.

**(98) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

**(99) ENCROACHMENTS – PUBLIC WAY**

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

**(100) 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.

**(101) 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.

**(102) 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.

#### **(103) 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.

#### **(104) 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.

#### **(105) 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.

**(106) 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.

**(107) 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.

**(108) 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.

**SCHEDULE 1D****Subdivision Conditions****(109) LAND SUBDIVISION – SUBDIVISION CERTIFICATE**

A separate application is to be made to Council to obtain permission for the termination of the existing Strata Scheme (numbered SP 36415) and the endorsement of the "Termination of Strata Scheme" instrument by Council under Section 51A of the Strata Schemes (Freehold Development) Act 1973.

**(110) LAND SUBDIVISION – SUBDIVISION CERTIFICATE**

A separate application must be made to Council to obtain the approval of the final Plan of Subdivision of SP 36416 and issue of a Subdivision Certificate under Section 109J of the *Environmental Planning and Assessment Act 1979*.

**(111) SYDNEY WATER CERTIFICATE - SUBDIVISION**

Prior to the issue of a Subdivision Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

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

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

The Section 73 Certificate must be submitted to Council or the Principal Certifying Authority prior to a Subdivision Certificate being issued.

#### **(112) STORMWATER DRAINAGE EASEMENT**

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

#### **(113) EASEMENTS AND COVENANTS**

Any easements, rights of way, restrictions or positive 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.

#### **(114) PUBLIC ROAD DEDICATIONS**

The owner must dedicate for road purposes, free of cost to Council, the following new roads within the site:

- (a) That part of Macdonald Street, nominally of variable width, adjoining to the northern boundary of the site, between the current eastern termination of Macdonald Street and the eastern boundary of the site;
- (b) Hadfield Street, nominally of variable width, adjoining the eastern boundary of the site, between Coulson Street and the extension of Macdonald Street referred to in (a) above;
- (c) All as shown on the approved plan entitled "Plan of Proposed Subdivision of Lot 7 in DP 788543 (currently SP36415) at 1A Coulson Street, Erskineville" prepared by LTS Lockley, reference number 42201PS Revision B (dated 15 December 2015). The dedicated roads are to be detailed in a plan of subdivision of the land which is to be registered at the Land and Property Information office prior to an Occupation Certificate being issued.

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

#### **(115) PUBLIC ROAD**

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

Detailed engineering, road, drainage and infrastructure works, design and construction plans for the construction of the roads to be dedicated as Public Road are to be submitted to Council and approval gained prior to the issue of a Construction Certificate for those works. The design and documentation is to include any requirements and approvals from external parties such as public utility service authorities, if required, and is to be in accordance with Council's civil works specifications and Public Domain Manual current at the time, and is to be in accordance with any approved flood analysis and assessment report for the site and is to be consistent with Water Sensitive Urban Design principles.

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

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

#### **(116) CONSTRUCTION CERTIFICATE – SUBDIVISION WORKS**

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

#### **(117) PRINCIPAL CERTIFYING AUTHORITY**

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

#### **(118) COMPLETION OF SUBDIVISION WORK AND PUBLIC DOMAIN WORK**

- (a) Prior to the issue of the Subdivision Certificate for the Plan of Subdivision of Lot 7 in DP 788543, all subdivision work on the site is to be completed in accordance with the requirements and to the satisfaction of Council as the Principal Certifying Authority. A separate application can be made to Council to exercise the provisions of Section 109C(2) of the Act with regard to any incomplete works.

- (b) Prior to the issue of the Subdivision Certificate for the Plan of Subdivision of Lot 7 in DP 788543, any public domain works on the site, considered to be associated with the subject subdivision works, are to be completed in accordance with the requirements and to the satisfaction of Council.
- (c) Prior to the issue of an Occupation Certificate for the development, all subdivision work and public domain 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.

#### **(119) STREET ADDRESSES OF LOTS**

In accordance with Clause 60(c) of the *Surveying and Spatial Information Regulation 2012*, the street address for Lot 100 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.

#### **(120) STRATA SUBDIVISION – DEVELOPMENT CONSENT**

Any proposal for strata subdivision of Lot 100 of the approved subdivision will require development consent and therefore the lodgement of a separate development application or complying development application and subsequent approval from Council, or an accredited certifier, of the Strata Plan and issue of a Strata Certificate, under the *Strata Schemes (Freehold Development) Act 1973*.

#### **(121) LAND SUBDIVISION – DEVELOPMENT CONSENT**

Any proposal for land subdivision of Lot 100 to stratum subdivide components of the residential apartment building will require a separate application to Council to obtain development consent and the subsequent approval of the plan of subdivision and issue of a Subdivision Certificate under Section 109J of the *Environmental Planning and Assessment Act 1979*.

### **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

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

##### General

1. An authorisation shall be obtained from NSW Office of Water for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified in the authorisation.
2. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be in contact with groundwater watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for reasonably foreseeable high water table elevations to prevent potential future inundation.
3. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

##### Prior to excavation

4. Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken. These measurements should be included in a report provided to the NSW Office of Water in support of the dewatering licence application, along with a schedule and indicative level predictions for the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.
5. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the parameters (e.g. permeability predicted by slug-testing, pump-testing or other means) and calculation method shall be included in the report submitted to the NSW Office of Water in support of the dewatering licence.
6. A copy of a valid development consent for the project shall be provided in the report to the NSW Office of Water.

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

#### During excavation

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



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

Following excavation

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

#### **SCHEDULE 4**

**The Terms of Approval under the Airport (Protection of Airspace) Regulations 1996 as advised by Sydney Airport are as follows:**

1. Pursuant to Section 183 of Airports Act 1996 and Clause 7 of Airports (Protection of Airspace) Regulations 1996, the Proponent must apply through Sydney Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("controlled activity").
2. An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
3. The operation must not commence without approval, and must only proceed in compliance with any conditions imposed on such approval.
4. Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
5. The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
6. The Secretary and the Airport, as applicable, may request further information before determining an application.

## BACKGROUND

### The Site

1. The site is legally described as SP 36415 and is commonly known as Units 1-15, 1A Coulson Street, Erskineville ('the site').
2. The site has a battle-axe shape, with the axe handle providing vehicle access from Coulson Street. Rights of Carriageway exist over the battle axe handle driveway providing vehicle access to a number of adjoining sites to the north.
3. The site has a total area of 8,323sqm and is relatively level, with a gradual fall from the northern boundary to the southern boundary (Coulson Street boundary) of approximately 1 metre.
4. The site currently contains 2 industrial buildings, which consist of a series of individual factory units. The remainder of the site is predominately occupied by hardstand driveway and parking areas, with the exception of a small landscaped area located at the northern end of the eastern industrial building and a verge along the eastern boundary, which contain a number of trees of varying size and species. There is also a small amount of vegetation in garden beds at the entrance to the units in the eastern building.
5. The site has been identified as containing contaminated soil, which will be remediated as part of the proposed development.
6. The site is not occupied by a heritage item nor located within a heritage conservation area.
7. Photos of the site and surrounds are provided below:



**Figure 1:** Looking north along driveway from Coulson Street (Site in the distance)



**Figure 2:** Looking north towards Site from existing driveway



**Figure 3:** Southern boundary of Site (Nassau Lane dwellings behind wall)





**Figure 4:** Western boundary wall of Site (adjacent to 'Motto' driveway)



**Figure 5:** Looking east along Macdonald Street (view of existing 'Motto' development)

### Surrounding Development

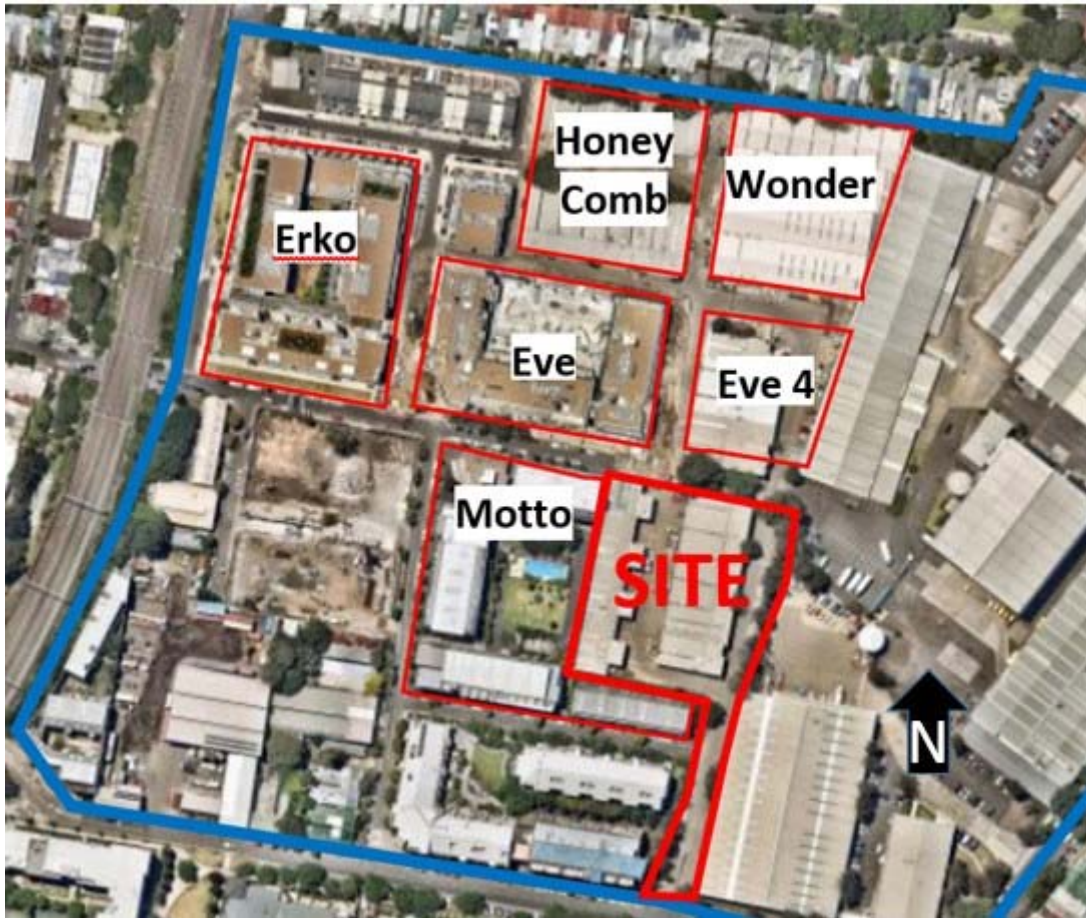
8. The site forms part of the Ashmore Neighbourhood planning precinct, within Erskineville. The precinct is bounded by Ashmore Street to the north, Mitchell Road to the east, Coulson Street to the south and the Illawarra rail line to the west.
9. Below is an Aerial photograph of the Site within the Ashmore Neighbourhood:



**Figure 6:** Aerial image of subject Ashmore Precinct and Site

10. The Ashmore Neighbourhood is a large, predominantly light industrial precinct that is presently undergoing re-development into a mixed use, commercial and residential precinct. Renewal of the precinct will assist in delivering the City's Sustainable Sydney 2030 vision and targets through the provision of new residential and commercial development, and public infrastructure, such as open space, stormwater management and cycle lanes.
11. Below is an aerial photograph illustrating the location of the site in relation with the previous approved and existing development within the Ashmore Neighbourhood precinct:





**Figure 7:** Site in relation to other developments in the Ashmore Precinct

12. To the north and northeast of the site are the Erko, Eve, Honey Comb, Wonder and Eve 4 development sites. Erko has recently been completed and is occupied by residents, while the construction of Eve is nearing completion. The Honey Comb and Wonder development sites have both received development consent, while Eve 4 is currently under assessment (D/2015/562). Directly to the west and south of the site is the existing Motto residential development. To the east of the site are a number of existing industrial units. Council is currently assessing a Stage 1 application for the redevelopment of the industrial units (D/2015/966).

## PROPOSAL

13. The application seeks consent for the demolition of the existing industrial buildings occupying the site, the construction of 2 residential flat buildings connected by a shared basement and the subdivision and dedication of land to Council for the purposes of new public roads.
14. The residential flat buildings consist of an 8 storey 'L' shaped building adjacent to the future public roads, being Macdonald Street and Hadfields Street, and a 4 storey rectangular building adjacent to the western (side) boundary.
15. The proposed residential buildings results in a total of 172 dwellings, consisting of:
  - (a) 5 x Studio Dwellings;
  - (b) 58 x 1 Bedroom Dwellings;

- (c) 84 x 2 Bedroom Dwellings; and
  - (d) 25 x 3 Bedroom Dwellings.
16. The 2 basement levels are proposed to contain 120 residential car parking spaces, 14 visitor car parking spaces and 12 motorcycle parking spaces. Provision for on-site waste collection is proposed to be incorporated within the basement design.
  17. The application includes a central landscaped communal open space, which accommodates deep soil planting and additional bicycle storage.
  18. The application was accompanied by a public benefit offer, which includes the subdivision of the site for the dedication of land, construction of new roads and public domain works, including street tree planting. The offer also includes a monetary contribution for the future construction of the extension of Macdonald Street. At the time of the preparation of this report, the offer was in the process of being documented into a voluntary planning agreement for public exhibition.
  19. Amended plans were submitted to Council on 3 November 2015, which included a number of modifications to improve natural cross-ventilation of the proposed dwellings. These modifications included the addition of cross-through dwellings and additional windows along the southern elevation of the Hadfields Street building..
  20. Photomontages of the proposal are provided below and a full set of architectural plans are provided in Attachment A:



**Figure 8:** Photomontage 1 (Corner of Macdonald Street and Hadfields Street)





**Figure 9:** Photomontage 2 (central communal open space)

**HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION**

***16-20/1A Coulson Street, Erskineville (commonly known as Eve 4)***



**Figure 10:** Photomontage of D/2015/562 (aka Eve 4)



21. On 30 April 2015, Development Application D/2015/562 was lodged with Council proposing the demolition of the existing warehouse and construction of residential flat building, containing of 93 dwellings with basement parking for 70 cars, landscaping and public domain works, including pedestrian walkway and pocket park. The application is still under assessment.

**21-34/1A Coulson Street, Erskineville (commonly known as Honey Comb)**



**Figure 11:** Photomontage of D/2015/154 (aka Honey Comb)

22. On 24 September 2015, Development Application D/2015/154 was approved via a Deferred Commencement consent for the demolition of the existing industrial buildings on site, removal of trees, excavation of 2 levels of basement car parking, construction of a 7 storey residential flat building comprising 109 units, 79 car spaces, landscaping, construction of 18 three bedroom terraces, land dedication, construction of new roads and pedestrian links, public domain works. The conditions of the Deferred Commencement consent were satisfied on 11 January 2016 and the consent is now operative.

**35-35B/1A Coulson Street, Erskineville (commonly known as Eve)**

**Figure 12:** Photomontage of D/2014/912 (aka Eve)

23. On 13 March 2014, Development Application D/2012/1823 granted approval for the Stage 1 concept proposal (site layout, street network and building envelopes) comprising 3 residential apartment buildings between 3 storeys and 6 storeys with a maximum building height of 22m, a residential gross floor area of approximately 13,982sqm and 2 levels of basement car parking. Works include the demolition of all structures on site and site remediation. This consent has since been the subject of a modification approval.
24. Following approval of the Stage 1, a competitive design process was undertaken. The entries utilised the development standards and controls contained in SLEP 2012 and SDCP 2012. Woods Bagot, SJB and dKO architects participated in the competition. A design excellence jury, Council representatives and client representatives met on 8 April 2014 to review the submitted architectural schemes. The jury unanimously selected dKO Architecture as the winner.
25. On 4 December 2014, Development Application D/2014/912 was approved via a Deferred Commencement consent for the construction of residential flat buildings (between 3 and 6 storeys) containing 197 apartments, basement parking for 142 cars and associated landscaping. The construction of the development is nearing completion.

**39-41/1A Coulson Street, Erskineville (commonly known as Wonder)**

**Figure 13:** Photomontage of D/2014/1703 (aka Wonder)

26. On 4 December 2015, Development Application D/2014/1703 was approved for the demolition of an existing warehouse and the construction of 7 storey residential flat building and terraces, including public domain works involving new roads, footpaths, pedestrian link and landscaping.

***Display Suite***

27. On 3 July 2015, Complying Development Certification 15/123012-1 granted approval for the fitout and use of a tenancy within the site as a temporary marketing and display suite for the subject development.

***Competitive Design Process***

28. Between October 2014 and January 2015, a competitive design process was undertaken for the subject site. The entries utilised the development standards and controls contained in Sydney LEP 2012 and Sydney DCP 2012. Architects from APlus, Kann Finch and Breakspear Architects and JPRA participated in the competitive process. A design excellence jury, Council representatives and client representatives met to review the submitted architectural schemes. After a number of design modifications a decision was made on 13 January 2015 and Kann Finch and Breakspear Architects were selected.

***Voluntary Planning Agreement***

29. A public offer has been made by the land owner to enter into a Voluntary Planning Agreement ('VPA') for the dedication of land within the subject site for the purpose of public roads, including associated works and a monetary contribution towards future works to be undertaken by Council. The land dedication and associated works are consistent with the Sydney DCP 2012 (Ashmore Neighbourhood) and the Draft Ashmore Public Domain Strategy.
30. At the time of the preparation of this report, the offer was in the process of being documented into a VPA for public exhibition. Following the completion of the exhibition period, the VPA will be executed. As such, it is recommended that delegation be granted to the CEO to determine the application.

**ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS**

31. The application has been assessed under Section 79C of the *Environmental Planning and Assessment Act 1979*, including consideration of the following matters:
  - (a) Environmental Planning Instruments and DCPs.

**Water Management Act 2000*****Aquifer Interference Approval***

32. The application was referred to the NSW Office of Water as the proposal constitutes Integrated Development under Section 91 of the *Environmental Planning and Assessment Act 1979*.
33. A preliminary assessment indicates that the groundwater table will be intercepted as a result of the excavation for the proposed basement carpark levels. The proposed dewatering required for the project is deemed to be an aquifer interference activity. The proposed excavation and construction will need to be conducted in accordance with the principles of the Aquifer Interference Policy as set out by the NSW Office of Water.
34. An authorisation for the take of groundwater as part of the proposed dewatering and remediation of the site is required. The NSW Office of Water have provided General Terms of Approval ('GTA') appropriate to the proposed aquifer interference activity, and these have been incorporated into Schedule 3 of the recommendation.

**State Environmental Planning Policy No 55 - Remediation of Land**

35. The State Environmental Planning Policy No 55 – Remediation of Land ('SEPP 55') requires the consent authority to consider whether the land is contaminated prior to consenting to the carrying out of development. If the land is contaminated, the consent authority must be satisfied that the land is suitable for its intended use in its present state, or that it will be suitable after remediation.
36. The application was accompanied by a Detail Site Investigation report, which identified the site as being contaminated. The report has stated that the site can be made suitable subject to a Remediation Action Plan ('RAP') and site validation works being carried out. The applicant submitted a RAP, reviewed by a Site Auditor, which outlines appropriate remediation works required for the site.

37. The application was referred to Council's Health and Building Unit, who are satisfied that the site can be made suitable for the proposed uses subject to the imposition of appropriate conditions. As such, those conditions are recommended for imposition and the application satisfies the requirements of SEPP 55.

### **State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development**

38. The State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development ('SEPP 65') was amended on 19 June 2015 and replaced the Residential Flat Development Code ('RFDC') with the new Apartment Design Guide ('ADG'). The subject application was submitted to Council on 25 June 2015, 6 days after SEPP 65 was amended.
39. It should be noted that the Ashmore envelope controls, the competitive design process and the subsequent design of the development for this application were all undertaken against the provisions of the RFDC, which has now been superseded by the ADG. The amended SEPP did not contain any transitional provisions for developments designed under the RFDC, but lodged after 19 June 2015. There was also no prior warning of the gazettal of the amended SEPP. The application results in some departures from the ADG, which would not have necessarily occurred if the application was assessed under the superseded RFDC. As such, appropriate consideration of those departures, in light of the differences between the RFDC and the ADG, has been given in this instance.
40. In determining an application for a residential apartment development, SEPP 65 requires the consent authority to take into consideration a number of matters relating to the design quality of the development when evaluated in accordance with the design quality principles contained in Schedule 1 of the SEPP. As such, the application has been considered in accordance with the design quality principles as follows:

(a) **Principle 1: Context and Neighbourhood Character**

**Comment:** The proposal is permissible within the B4 – Mixed Use zone and is consistent with the objectives of the zone. The Ashmore Neighbourhood is also undergoing a transition from a predominately light industrial area to a medium to high density residential neighbourhood. The application for the redevelopment of the site is considered to be appropriate within the context of the site and the desired future character of the Ashmore Neighbourhood.

(b) **Principle 2: Built Form and Scale**

**Comment:** The built form and scale of the proposed development is generally in accordance with the building envelope provisions contained within Part 5.5 of Sydney DCP 2012. Despite the building height and setback departures, the proposed form is considered appropriate for the site and the surrounding area. Having regard to the existing, approved and future development within the Ashmore Neighbourhood, the proposed built form and scale is supported.



(c) **Principle 3: Density**

**Comment:** The proposal complies with the maximum permitted floor space ratio allowable for the site and is appropriate in the Ashmore Neighbourhood given its proximity to the established and proposed infrastructure, public transport, community and recreational facilities. The proposed density responds well to the existing and future context of the area, and does not result in any unreasonable impacts on existing or future adjoining properties.

(d) **Principle 4: Sustainability**

**Comment:** The proposal is compliant with the requirements of BASIX and appropriate conditions are recommended to ensure that the development complies with those requirements.

The design provides for sustainable development, utilising passive solar design principles, thermal massing and achieves natural cross ventilation to an acceptable number of dwellings within the development.

(e) **Principle 5: Landscape**

**Comment:** The development provides approximately 23% of the site as communal open space and approximately 8% of the site as deep soil landscaping. Whilst the communal open space is slightly below the minimum 25% required by Council's and the Apartment Design Guide provisions, the proposal is considered acceptable. The proposed communal open space area will be embellished with soft landscaping and will provide a high level of amenity for the residents. The area provides separation and screening between the 2 residential flat buildings and features a series of garden spaces with fixed seating, as well as a communal BBQ and seating area in the building undercroft. Whilst the deep soil component does not achieve a minimum dimension of 10 metres, the deep soil area is used to facilitate large tree planting consistent with the objectives of the control. The proposed site landscaping is supported in this regard.

(f) **Principle 6: Amenity**

**Comment:** A particularly high level of amenity is provided for the occupants of the development with the development providing a generous range of dwelling sizes and practical room dimensions and shapes, storage space, indoor and outdoor space. Compliance with amenity controls of the Apartment Design Guide are detailed in the table below. In summary, the proposal presents a high level of residential amenity for the future occupants.

(g) **Principle 7: Safety**

**Comment:** The safety and security of the public domain is enhanced by increased activity on the site and the casual surveillance of all surrounding streets from the ground floor dwellings. A number of conditions have been recommended for imposition to ensure the proposal complies with the requirements of Crime Prevention Through Environmental Design ('CPTED').

(h) **Principle 8: Housing Diversity and Social Interaction**

**Comment:** The development provides a generous mix of Studio (3%), 1 Bedroom (33.7%), 2 Bedroom (48.8%) and 3 Bedroom (14.5%) dwellings, which complies with the dwelling mix provisions within Part 4.2 of Sydney DCP 2012. The application was also accompanied by an extract from the 'New South Wales Household and Dwelling Projections, 2008-2036: 2008 Release' prepared by the Department of Planning which indicates that the average household size in Sydney is expected to continue its decline from 2.61 in 2006 to 2.49 by 2036. In addition, the population projections indicate that the lone person household is the type of household expected to experience the greatest percentage increase between 2006 and 2036 (69%).

The proposed range of dwellings is considered to be consistent with the expected increase in smaller households. In addition the proposed mix is similar to other recent approvals within the Ashmore Neighbourhood by the Central Sydney Planning Committee.

For these reasons it is considered that the development responds positively to the housing needs of the local community.

(i) **Principle 9: Aesthetics**

**Comment:** The proposed development provides for a contemporary and attractive development which is compatible with the emerging character within the area. The design of the development was the subject of a competitive design process, which was subjected to a number of design changes before being awarded the winner.

The proposed development introduces a variety of building elements and utilises a visually engaging architectural language with a selection of appropriate materials and finishes. The proposed built form and composition of the new building responds to the desired future character of the Ashmore Neighbourhood and is considered to positively contribute to the visual quality of the area.

41. The development is considered generally acceptable when assessed against the above principles.
42. SEPP 65 also requires the consent authority to take into consideration the design guidelines contained in the ADG. An assessment against the relevant guidelines of the ADG is provided below:

Apartment Design Guide		
Control	Compliance	Comment
<b>2E Building Depth</b>		
12-18 metres (max.) (glass to glass)	Acceptable	<p>The proposal results in glass to glass depth ranging between 8.5 metres and 18.65 metres. Despite the minor departure with the building depth control, the design of the development still ensures that adequate light and ventilation is achieved for each dwelling.</p> <p>The design incorporates a number of wide, shallow dwellings to ensure adequate light and ventilation is achieved within those dwellings. The development is considered acceptable in this regard.</p>
<b>2F Building Separation</b>		
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> <li>• 12 metres between habitable rooms / balconies</li> <li>• 9 metres between habitable and non-habitable rooms</li> <li>• 6 metres between non-habitable rooms</li> </ul>	Yes	<p>Where building separation is being measured between buildings on an adjoining site, the separation distance required is halved and then measured to the boundary of the site.</p> <p>The proposal provides a building separation to the southern boundary for the 4 storey residential flat building of 7 metres and setback from the western boundary of 6 metres, which complies with the minimum 6 metres required under the ADG.</p>



Apartment Design Guide		
Control	Compliance	Comment
<p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> <li>• 18 metres between habitable rooms / balconies</li> <li>• 12 metres between habitable and non-habitable rooms</li> <li>• 9 metres between non-habitable Rooms</li> </ul>	Acceptable	<p>The 5 storey component of the building adjacent to the future Hadfields Street has a setback from the southern boundary ranging between 8.35 metres and 10.58 metres.</p> <p>In accordance with the ADG, this component of the development is required to have a minimum setback of 9 metres. Whilst a portion of the development is not setback 9 metres from the southern boundary, the proposed south facing windows and the majority of the development exceed the 9 metre setback. As the elements of the building which breach the 9 metre setback consist of a blank wall, the application is supported in this regard.</p> <p>The 6-8 storey component of the development has a southern boundary setback ranging between 16.2 metres and 17.9 metres, which well exceeds the minimum 9 metre building separation control.</p> <p>It is noted that the nil side setback along the western edge of the building fronting Macdonald Street adjoins an existing blank wall of the Motto development and is acceptable in this instance.</p>

Apartment Design Guide		
Control	Compliance	Comment
<b>3C Public Domain Interface</b>		
Transition between private and public domain is achieved without compromising safety and security.	Yes	<p>The proposal includes the provision of direct access of the ground floor terraces which front the public domain. The private open space and internal living areas of the ground floor dwellings are also raised above the footpath levels, and incorporate landscaping and built form treatments to protect the privacy of those dwellings.</p> <p>The development also includes a large number of upper floor balconies and windows which will overlook the future public domain, aiding in passive surveillance and a sense of security for the area.</p> <p>The development incorporates low height palisade style fencing along the street boundaries, allowing for the casual interaction between future residential and the public domain.</p> <p>The design has also limited areas within the site for concealment and the location of the mailboxes behind a secure entrance further improves the security and sense of safety within the development.</p>
<b>3D Communal and Public Open Space</b>		
Communal open space has a minimum area equal to 25% of the site.	Acceptable	The proposal provides approximately 23% of the development site as communal open space in accordance with the ADG.

Apartment Design Guide		
Control	Compliance	Comment
		<p>Whilst the area is below the minimum 25% required by the ADG, the development provides a number of additional communal spaces which whilst technically not 'open space' contribute to the enjoyment and amenity of the future residents. As such, the minor departure with the minimum communal open space is supported.</p>
<p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9.00am and 3.00pm on 21 June (midwinter).</p>	<p>Acceptable</p>	<p>The proposal has been designed having regard to the building envelopes prescribed within Part 5.5 of Sydney DCP 2012. Given the orientation of the site and the desired building envelopes, achieving adequate solar access to 50% of the communal open space is not achieved. However, approximately 350sqm of the proposed communal open space will achieve several hours of solar access during midwinter for the enjoyment of the future residents. It should also be noted that solar access to the communal open space will be enjoyed at other times of the year.</p> <p>Despite the departure with this provision, the proposal is considered to be designed in accordance with desired built form and the majority of the dwellings receive adequate solar access to their private open space.</p>

Apartment Design Guide		
Control	Compliance	Comment
<b>3E Deep Soil Zones</b>		
Sites with an area greater than 1,500sqm are required to provide a deep soil area of 7%, with a minimum dimension of 6 metres.	Yes  Acceptable	The proposal provides approximately 7% of the site as deep soil landscaping, consistent with the requirements of the ADG.  Whilst the proposed deep soil area does not have a minimum dimension of 6 metres for the entire area, the application was referred to Council's Landscape Design Specialist who supported the proposed landscape design.
<b>3F Visual Privacy</b>		
Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum separation distances from buildings to the side and rear boundaries are outlined below.		
Up to 12 metres (4 storeys):  <ul style="list-style-type: none"> <li>• 6 metres between habitable rooms / balconies</li> <li>• 3 metres between non-habitable rooms</li> </ul>	Yes	The proposal provide adequate side boundary setbacks, in excess of the requirements of the ADG.

Apartment Design Guide		
Control	Compliance	Comment
<p>Up to 25 metres (5-8 Storeys):</p> <ul style="list-style-type: none"> <li>• 9 metres between habitable rooms / balconies</li> <li>• 4.5 metres between non-habitable rooms</li> </ul>	Yes	<p>The proposal provides an internal separation between the separate residential flat buildings in excess of 18 metres and the setback to the southern boundary exceeds the minimum setback required under the ADG.</p> <p>The development has been designed to ensure adequate visual privacy is provided for new dwellings.</p> <p>However, the separation and window location for the 2 dwellings at the western end of the building fronting Macdonald Street are considered to impact on the visual privacy of those dwellings. As such, a condition has been recommended requiring the window of one of the dwellings, serving the robe area to be made a highlight window.</p>
<b>3G Pedestrian Access and Entries</b>		
<p>Building entries and pedestrian access connects to and addresses the public domain.</p> <p>Access, entries and pathways are accessible and easy to identify.</p>	Yes	<p>The proposal provides a highly visible and secure main entrance from the northeast corner of the site. This entrance provides equitable access to the site, which flows into the communal open space. Equitable access is then provided throughout the entire development.</p> <p>The ground floor dwellings have their own separate entrances to the street, which aids in activating the street frontage.</p> <p>Appropriate conditions have been recommended requiring electronic access and audio/visual intercoms to assist visitors and residents.</p>

Apartment Design Guide		
Control	Compliance	Comment
<b>4A Solar and Daylight Access</b>		
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Acceptable	<p>Due to the orientation of the site and the desired building envelopes, the development does not achieve 2 hours of solar to 70% of the dwellings between 9.00am and 3.00pm, midwinter. This was identified during the design competition stage.</p> <p>The proposal achieves 2 hours of solar access to approximately 67% of the dwellings between 9.00am and 3.00pm, and to 69% of the dwellings between 8.00am and 3.00pm, during midwinter.</p> <p>Given the orientation of the site and the desired envelopes of the development, the proposed non-compliance with the solar access provision of the ADG is supported. The development still provides a high level of residential amenity to the dwellings.</p>
Maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at midwinter.	Acceptable	<p>The proposal result in approximately 28 dwellings (16%) of the proposed 172, which will not receive direct solar access between 9.00am and 3.00pm, during midwinter.</p> <p>The non-compliance of 2 dwellings is considered acceptable in this instance, given the orientation of the site, the desired built form and the location of adjoining development.</p> <p>A number of these will received solar access after 3.00pm during midwinter and at other times of the year.</p>

Apartment Design Guide		
Control	Compliance	Comment
<b>4B Natural Ventilation</b>		
All habitable rooms are naturally ventilated.	No	<p>A number of the 1 Bedroom dwellings within the building fronting the future Hadfields Street include rooms which have no access to light or ventilation. These rooms are approximately 6.5sqm and represent 12% of the entire dwelling size.</p> <p>A condition has been recommended for imposition requiring the internal layout of these dwellings to be modified to ensure all habitable rooms have access to natural ventilation.</p> <p>Subject to the imposition of the above condition, the proposal will comply with this provision of the ADG.</p>
Minimum 60% of apartments in the first 9 storeys of the building are naturally cross ventilated.	Acceptable	<p>The applicant has amended the proposal a number of times since the design competition to address the issue of natural cross ventilation.</p> <p>The amended design now achieves natural cross ventilation to 51% of the dwellings and well ventilation to 18%, resulting in a total of 69% of the dwellings receive good ventilation.</p> <p>Despite the departure within the minimum naturally cross ventilation apartments, the development is still considered to achieve a high level of amenity to the future occupants of the development and is supported in this regard.</p> <p>In addition to the 69% of the dwellings receiving good ventilation, a number of other dwellings receive cross ventilation via plenums designed into the rear of a number of single aspect dwellings.</p>

<b>Apartment Design Guide</b>		
<b>Control</b>	<b>Compliance</b>	<b>Comment</b>
Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.	Yes	The maximum overall depth of the proposed cross-through dwellings is 16.2 metres, which complies with the provisions of the ADG.
<b>4C Ceiling Heights</b>		
Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows:		
Habitable rooms: 2.7 metres	Yes	The development provides a minimum floor to floor height of 3.1 metres for levels 1 - 7, which ensures that each dwelling has a minimum floor to ceiling height of 2.7 metres. The upper floors of the 2 storey dwellings on level 7 provide for a 2.5 metre ceiling height, which increases to approximately 3.5 metres. The proposed ceiling heights for all dwellings is acceptable.
Two-storey apartments: 2.7 metres for main living area floor, 2.4 metres for second floor, where it does not exceed 50% of the apartment area.	Yes	
If located in mixed use areas – 3.3 metres for ground and first floor to promote future flexibility of use.	Yes	The site is located within an area of the Ashmore Neighbourhood that is not proposed to contain non-residential uses.  However, the proposal provides a floor to floor height for the ground floor dwellings fronting the public domain of 4.3 metres, which provides flexibility for future uses.



Apartment Design Guide		
Control	Compliance	Comment
<b>4D Apartment Size and Layout</b>		
<p>Minimum dwelling sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35sqm</li> <li>• 1 Bed: 50sqm</li> <li>• 2 Bed: 70sqm</li> <li>• 3 Bed: 90sqm</li> </ul> <p>The minimum internal areas include only 1 bathroom. Additional bathrooms increase the minimum internal area by 5sqm each.</p>	No	<p>The proposal includes a range of dwelling types and sizes. However, a number of the proposed dwellings fail to comply with the minimum internal sizes prescribed by the ADG.</p> <p>The proposed studio dwellings have been designed as 1 Bedroom dwellings, which are approximately 41sqm. The bedrooms of these dwellings are completely enclosed and separated from the living areas, inconsistent with the definition of a studio dwelling. As such, a condition has been recommended requiring the redesign of the apartments to ensure they are genuine studios to comply with the ADG.</p> <p>The proposal also includes a number of 1 Bedroom + 'study' dwellings, which are approximately 66sqm. The 'study' have been designed to meet the minimum bedroom size and include on some plans, built-in wardrobes. These dwellings includes a second bathroom, requiring a minimum dwelling size of 75sqm. As such, a condition has been recommended requiring the redesign of these dwellings to ensure they are genuine 1 bedroom apartments and comply with the ADG.</p> <p>The remainder of the proposed dwellings comply or exceed the minimum internal dwelling sizes prescribed by the ADG.</p> <p>Subject to the imposition of the above conditions, the application is considered acceptable in this regard.</p>

Apartment Design Guide		
Control	Compliance	Comment
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Acceptable	<p>As discussed previously under the ventilation section of this report, a number of the 1 Bedroom dwellings within the building fronting the future Hadfields Street include rooms which have no access to a window. An appropriate condition has been recommended requiring the modification of these dwellings to ensure that the subject room cannot be used as a habitable space.</p> <p>The development also includes a number of 'snorkel' dwellings within the building fronting Macdonald Street. The master bedrooms within these dwellings have a curved wall which results in a minor portion of the room where the window cannot be seen. However, the area of the room which cannot see the window is minor and the departure is considered acceptable in this instance.</p>
In open plan layouts the maximum habitable room depth is 8 metres from a window.	Yes	The development consists of open plan dwellings. These have been designed so that the rear walls of the kitchens are located within 8 metres of a window.

Apartment Design Guide		
Control	Compliance	Comment
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• master bedroom: 10sqm</li> <li>• all other bedrooms: 9sqm</li> </ul> <p>Minimum dimension of any bedroom is 3 metres (excluding wardrobes).</p>	Acceptable	<p>The superstructure and initial design and layout of the development was done in accordance with the Residential Flat Design Code, which did not stipulate minimum bedroom sizes. As such, a number of the dwellings do not provide a master bedroom with an area of 10sqm or more. However, all bedrooms have a minimum dimensions of 3 metres and comply with the 9sqm provision within the ADG.</p> <p>All dwellings are provided with either wardrobes within each bedroom or within a walk-in robe.</p> <p>Despite the non-compliance the proposal is considered acceptable in this regard.</p>
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6 metres</li> <li>• Two-bedroom or more: 4 metres</li> </ul>	Yes	<p>The development results in all dwellings having a living area with a minimum width of 4 metres, consistent with the provisions of the ADG.</p>
<p>4 metres minimum width for cross over and cross through apartments.</p>	Yes	

Apartment Design Guide		
Control	Compliance	Comment
<b>4E Private Open Space and Balconies</b>		
<p>All apartments required to have primary balconies as follows:</p> <ul style="list-style-type: none"> <li>• Studio: 4sqm</li> <li>• 1 Bed: 8sqm (2 metre min. depth)</li> <li>• 2 Bed: 10sqm (2 metre min. depth)</li> <li>• 3 Bed: 12sqm (2.4 metre min. depth)</li> </ul>	Acceptable	<p>All dwellings are provided with individual private open space in the form of either a balconies or ground floor terrace. The majority of the balconies comply with the minimum depth and size requirements prescribed within the ADG. However, a number of the 2 Bedroom 'snorkel' dwellings within the building fronting Macdonald Street and the upper 2 Bedroom dwelling in the building adjacent to the western boundary don't meet this requirement.</p> <p>Despite the non-compliance the proposed balconies are still functional, with minimum dimension of 2 metres, and are designed to become an extension of the internal living areas. As such, the proposal is considered to be acceptable in this regard.</p>
<b>4F Common Circulation and Spaces</b>		
<p>The maximum number of apartments off a circulation core on a single level is 8.</p> <p>NB: A maximum of 12 dwellings is permitted where 8 cannot be achieved.</p>	Acceptable	<p>The maximum number of dwellings served by a single lift core is 11 dwellings. Whilst the proposal does not complies with the design criteria with the ADG, there is a provision which permits a maximum of 12 dwellings for a single lift core. As such, the proposal is considered acceptable in this regard.</p> <p>The design also includes the provision of generous corridor widths and openings for light and ventilation.</p>

Apartment Design Guide		
Control	Compliance	Comment
<b>4G Storage</b>		
Minimum storage provision facilities: <ul style="list-style-type: none"> <li>• Studio: 4sqm</li> <li>• 1 bed: 6sqm</li> <li>• 2 bed: 8sqm</li> <li>• 3 bed: 10sqm</li> </ul> (Minimum 50% storage area located within unit)	Yes	The application was accompanied by a storage schedule which indicated that each dwelling is provided with sufficient storage, with 50% or more provided within each dwelling.
<b>4H Acoustic Privacy</b>		
Noise impacts are mitigated within apartments through layout and acoustic treatments	Yes	The design of the development groups similar uses and services together to ensure the acoustic privacy of the dwellings are maintained.  The application was also accompanied by an Acoustic Report, which states that the proposal would achieve acceptable levels of residential amenity within each dwelling. As such, the application is considered acceptable in this regard subject to the incorporation of the recommendations contained in the acoustic report.

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

43. A BASIX Certificate was submitted with the application, which lists measures to satisfy BASIX requirements that have been incorporated into the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

#### Sydney LEP 2012

44. The site is located within the B4 – Mixed Use zone and development for the purposes of demolition, remediation works and construction of a residential flat building are permissible with consent from Council within the zone.

45. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below:

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.3 Height of Buildings	No	<p>The site is subject to 3 building height controls, resulting in a maximum building height of 25 metres being permitted along the Macdonald Street frontage, 22 metres being permitted along the future Hadfields Street frontage and 12 metres being permitted for the southern end of the building adjacent to the western boundary.</p> <p>The development results in a maximum building height of 27.5 metres for the buildings fronting Macdonald Street and Hadfields Street, and a building height of 15.7 metres for the building adjacent to the western site boundary.</p> <p>The application therefore results in a departure with the maximum building height permitted for the site.</p> <p>Please refer to the Issues discussion section for further details.</p>
4.4 Floor Space Ratio	Conditioned	<p>A maximum FSR of 1.65:1 is permitted for the site, which includes the 10% bonus awarded for design excellence under Clause 6.21 of Sydney LEP 2012.</p> <p>The development will result in a FSR of 1.65:1, subject to the imposition of a condition removing the louvres at the end of the internal corridors and ensuring they are open.</p>

Compliance Table		
Development Control	Compliance	Comment
4.6 Exceptions to Development Standards	Supported	<p>The proposal seeks to vary the development standard prescribed under Clause 4.3 – Height of Buildings.</p> <p>The application was accompanied by a written objection pursuant to Clause 4.6, requesting to vary the development standard.</p> <p>Please refer to the Issues discussion section for further details.</p>
5.9 Preservation of Trees or Vegetation	Acceptable	<p>The proposal involves the removal of approximately 35 trees. However, these trees are located within areas of the site which are identified within Part 5.5 of Sydney DCP 2012 for future public roads to be dedicated to Council.</p> <p>As part of the subject application the proposal includes the provision for approximately 24 future street trees in accordance with the Street Tree Masterplan and in excess of 30 trees within the site, which is considered to compensate for the loss of any existing vegetation. Furthermore, the proposed landscaping plan was generally supported by Council's Landscaping officer.</p> <p>As such, despite the loss of the existing vegetation the proposal will adequately compensate by providing additional on site and future street tree planting.</p>

Compliance Table		
Development Control	Compliance	Comment
6.21 Design Excellence	Yes	<p>The development is the result of a competitive design process and considered to exhibit design excellence. The design has since been improved to increase the internal amenity of the proposed dwellings, whilst remaining consistent with the architectural design from the winning scheme.</p> <p>The proposal incorporates high quality finishes and architectural design, which provides visual interest and improves the quality of the public domain.</p> <p>To ensure the proposal achieves design excellence, a condition has been recommended requiring further details of the proposed vehicle access security door and driveway treatment. Subject to the submission of this information, the proposal is considered consistent with the objectives and provisions of Clause 6.21 of Sydney LEP 2012 and is supported.</p>
7.5 Car Parking	Conditioned	<p>A maximum of 119 residential car parking spaces and 14 visitor car parking spaces are permitted for the development.</p> <p>The proposal includes the provision of 120 residential car parking spaces and 14 visitor car parking spaces.</p> <p>As such, a condition has been recommended requiring the deletion of a car parking space to comply with Clause 7.5 of Sydney LEP 2012.</p>
7.14 Acid Sulfate Soils	Yes	<p>The site is identified as containing Class 3 Acid Sulfate Soils. The application was accompanied by a Remediation Action Plan, which contains measures and recommendations in the event Acid Sulfate Soils are discovered during excavation. As such, appropriate conditions have been recommended for imposition.</p>



Compliance Table		
Development Control	Compliance	Comment
7.15 Flood Planning	Yes	The site is identified as being flood prone. The application was accompanied by a Flood Study which including flood planning levels that have been incorporated into the design of the proposal. The application is considered acceptable in this regard.
7.20 Development requiring preparation of a development control plan	Acceptable	<p>The subject site is greater than 5,000sqm, which requires the creation of a site specific Development Control Plan.</p> <p>However, Part 5.5 of the Sydney DCP 2012 provides a detailed site specific plan which addresses the requirements of Clause 7.20 (4) of Sydney LEP 2012.</p> <p>Therefore, in accordance with Clause 7.20(3), Council officers are <i>'satisfied that such a plan would be unreasonable and unnecessary in the circumstances'</i> and recommend that the requirement for a site specific DCP be waived. See Issues section.</p>

### Sydney DCP 2012

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

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

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.1 Public Domain Elements	Yes	<p>The proposed development will contribute positively to the future public domain of the Ashmore Neighbourhood.</p> <p>The application is accompanied by a public benefit offer, which includes the provision of new public domain works in accordance with the Ashmore Public Domain Strategy.</p>
3.2 Defining the Public Domain	Yes	<p>The proposed development will enhance the public domain by providing for landscaped ground floor entries to private residences, which will activate the future streets and provide opportunities for passive surveillance, while maintaining visual privacy for residents.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The proposal was subject to a competitive design process, which resulted in the development being awarded a bonus FSR of 10% over the site.</p> <p>In distributing the additional FSR, the applicant has demonstrated that the additional massing will not unreasonably impact on the amenity that the adjoining dwellings would have enjoyed had the proposal strictly complied with the envelope controls contained within Part 5.5 of Sydney DCP 2012. As such, the application is considered acceptable in this regard.</p>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.5 Urban Ecology	Acceptable	<p>As discussed previously, the proposal involves the removal of a number of trees. However, these trees are located within areas of the site being dedicated to Council for the purpose of future public roads.</p> <p>The application also includes future street tree planting and deep soil landscaping. The application is therefore considered acceptable in regards to the relevant objectives and provisions within Part 3.5 of Sydney DCP 2012.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal will not have unacceptable impacts on the environment and satisfies BASIX requirements.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. The proposal has been designed to adequately minimise flood risks.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>The proposal involves subdivision to facilitate the dedication and transfer of land to the City in accordance with the associated VPA for the purposes of public road.</p> <p>Any proposed strata subdivision of the development is subject to a separate approval. An appropriate condition has been recommended to this effect.</p>
3.11 Transport and Parking	Conditioned	The proposal includes an exceedance of 1 car parking space. As such a condition has been recommended deleting the space in order to comply with Clause 7.5 of Sydney LEP 2012.

3. General Provisions		
Development Control	Compliance	Comment
3.12 Accessible Design	Yes	<p>The proposal includes the provision of 26 adaptable dwellings (15%), which consist of a mix of 1 and 2 Bedroom dwellings.</p> <p>A BCA and accessibility statement was submitted with the application, which stated that the proposal is capable of providing appropriate access and facilities for persons with disabilities in accordance with Sydney DCP 2012 and the BCA.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the Crime prevention through environmental design (CPTED) principles.</p>
3.14 Waste	Yes	<p>The development includes the provision of waste chutes serving each floor and provides bulky storage areas within the basement level. The proposal also includes the provision for on-site waste collection in accordance with Council's controls.</p> <p>The application was referred to Council's Waste Management Officer, who raised no objection to the proposed development subject to the imposition of appropriate conditions.</p>

<b>5.5 Ashmore Neighbourhood</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
<b>5.5.1 Ashmore Urban Strategy</b>		
Objectives	Yes	<p>The proposed development is consistent with the relevant objectives of the Ashmore urban strategy.</p> <p>The development includes an architectural design that incorporates high quality finishes and materials, a mix of dwelling types and sizes, and contributes to the future network of streets and public domain within the Ashmore Neighbourhood.</p>
<b>5.5.2 Urban Design Principles</b>		
5.5.2 Urban Design Principles	Acceptable	<p>The development incorporates a 5 storey street wall along both the Macdonald Street and Hadfields Street frontage, with the upper 3 storeys stepping back from the building line. The DCP controls require any floors above 5 storeys to be setback 4 metres from the street wall.</p> <p>The sixth storey along the Macdonald Street and Hadfields Street is proposed to be setback approximately 1 metre behind the street wall, with the upper 2 storeys stepping back to 2.5 metres and then 3.5 metres respectively. Whilst the proposal does not comply with 4 metre setback controls, this stepping is considered to emphasize the street wall and still reduce the visibility and massing of the upper 2 floors. The proposal is still considered to achieve the objectives of the urban design provisions within the DCP.</p> <p>The proposal also incorporates a landscaped setback along the ground floor frontages to Macdonald Street and Hadfields Street consistent with the controls.</p>

<b>5.5 Ashmore Neighbourhood</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
<b>5.5.3 Local Infrastructure and Public Domain</b>		
5.5.3.1 Street Network	Yes	<p>The proposal includes the provision of new streets in accordance with DCP and the Ashmore Public Domain Strategy. The application was referred to Council's Public Domain division, who subject to the imposition of appropriate conditions raise no objection to the proposed works.</p> <p>The application is accompanied by a public benefit offer, which includes the provision of public domain works and a monetary contribution. These works include the construction and dedication of new streets, footways and street tree planting.</p>
5.5.3.2 Movement and Connectivity	Acceptable	<p>The proposal includes the provision of a single vehicle access point at the southern end of the site, via Hadfields Street. Whilst the location of the access point is not in accordance with the DCP, which required it closer to the intersection of Macdonald Street, the proposed alternative location was supported by Council's Public Domain and Traffic Management units.</p> <p>The proposed location ensures that access point does not compromise the ground floor frontage. The development proposes a continuous active frontage along Hadfields Street, and the access point does not conflict with the proposed main pedestrian entrance to the development. The alternative access point is supported in this regard.</p>

<b>5.5 Ashmore Neighbourhood</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
5.5.3.3 Bike Routes and Facilities	Yes	<p>The development includes the provision of on-site bicycle storage within the basement parking level and the main pedestrian entrance of the site.</p> <p>The proposal also includes a public benefit offer which will contribute towards the extension of Macdonald Street and the future cycleway. The application is considered acceptable in this regard.</p>
<b>5.5.4 Accessibility and Amenity in the Public Domain</b>		
5.5.4.1 Solar Access	Yes	The proposal will not overshadow the public square within the Sydney Park Village development or the future McPherson Park.
5.5.4.2 Quality of Landscaping and Landscaped Setbacks	Yes	<p>The development includes deep soil zones and landscaped setbacks in accordance with Figure 5.119 of the DCP</p> <p>The landscape plan was referred to Council's Landscape Assessment Officer, who generally supported the proposed landscaping.</p> <p>The planting will be maintained as part of the strata management program to ensure consistent maintenance.</p>
5.5.4.3 Stormwater Management	Yes	<p>The development includes a public benefit offer, which contributes towards the construction of Macdonald Street and Hadfields Street.</p> <p>The site also provides deep soil landscaping, which will contribute to the retention of stormwater on site.</p>

<b>5.5 Ashmore Neighbourhood</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
<b>5.5.8 Building Layout, Form and Design</b>		
5.5.8.1 Height of Buildings	Acceptable	<p>The proposal results in an additional storey above the height in storeys limit for both residential flat buildings.</p> <p>The DCP specifies a height of 7 storeys along Macdonald Street and Hadfields Street, stepping down to 4 storeys at the southern end of the Hadfields Street building. The DCP specifies a height of 3 storeys for the building adjacent to the western boundary.</p> <p>The proposal results in an 8 storey building along Macdonald Street and Hadfields Street, stepping down to 5 storeys and a 4 storey building adjacent to the western boundary.</p> <p>Building height is assessed in more detail below under the Issues discussion section.</p>
5.5.8.2 Views	Yes	<p>The proposal retains important views to the CBD and the district skylines from the eastern knoll at Sydney Park.</p> <p>Views are assessed in more detail below under the Issues discussion section.</p>
5.5.8.3 Dwelling Type and Location	Yes	<p>The proposal results in a range of dwelling types and sizes, consistent with Council's dwelling mix provisions.</p> <p>The application was accompanied by statistical data supporting the proposed dwelling mix. The application is consistent with the desired dwelling type prescribed within the DCP.</p>



5.5 Ashmore Neighbourhood		
Development Control	Compliance	Comment
5.5.8.4 Building Form and Design	Yes	<p>The proposal incorporates an architectural design which differs from the existing and approved development within the Ashmore Neighbourhood. The alternative design is considered to positively contribute to the unique emerging character of the area and will improve the quality of the public domain.</p> <p>The development incorporates individual entrances for the ground floor dwellings fronting the public domain to activate the street and allow for public engagement.</p> <p>The proposal involves a strong 5 storey street wall along the Macdonald Street and Hadfields Street frontage, with the upper 3 storeys stepping back from the street wall. The design ensures that the massing of the building reads appropriately from the street, without creating the sense of a 'top heavy' building.</p> <p>Despite the upper levels above the street wall not achieving the 4 metre setback prescribed within the DCP, the development is still considered to achieve the objectives of the control. The upper levels are not considered to unreasonably impact on the visual scale of the development and the design of the proposal ensures that the upper levels are not readily visible from the street frontages, which is supported.</p>

5.5 Ashmore Neighbourhood		
Development Control	Compliance	Comment
5.5.8.5 Typical Ground Floor Condition for Residential Flat Buildings	Acceptable	<p>The DCP requires a 2.5 metre setback from the street boundaries for the full height of the development. The proposal includes a setback along the Hadfields Street frontage of 2.5 metres for the full height of the building, with the exception of the northeast corner and a setback of 2.25 metres along the Macdonald Street frontage.</p> <p>The northeast corner of the development has a street setback of approximately 1 metre, which is designed to emphasize the intersection between Macdonald Street and Hadfields Street. The reduced setback is considered acceptable as it appropriately addresses the street corner. The departure of 250mm along the Macdonald Street frontage is not considered to compromise the intention of the setback control and is supported in this instance.</p> <p>The proposal incorporates deep soil planting areas within landscaped setbacks along the ground floor frontages with the future public domain, including the provision of private open space consistent with control.</p> <p>Due to flooding within the area the finished floor levels of the development have been raised above the existing ground levels. As a result, the ground floor dwellings adjacent to the street have been raised approximately 750mm above existing ground level, which complies with the maximum 1 metre requirement.</p>
5.5.8.7 Fences	Yes	<p>The development includes the provision of a low height palisade fence along the Macdonald Street and Hadfields Street frontages. The low fencing allows for definition between public and private space, whilst retaining passive surveillance of the public domain.</p>

<b>5.5 Ashmore Neighbourhood</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
5.5.8.8 Building Materials	Yes	<p>The development incorporates the use of anodised aluminium panels, metal screens, stone paving and concrete finishes, which are softened by the use of retractable fabric awnings and landscaping.</p> <p>The proposed concrete walls will create a raw, authentic exterior, suggestive of the industrial warehouses previously located in the vicinity. The stone paving and fabric awnings complete the materials and finishes palette, providing a simplicity that supports the architectural form of the buildings.</p> <p>The proposed selection of materials and finishes are considered appropriate for the character of the area and exhibits design excellence.</p>
<b>5.5.10 Biodiversity</b>		
<p>Ensure the protection of existing habitat features within and adjacent to development.</p> <p>Improve the diversity and abundance of locally indigenous flora and fauna species across the LGA.</p>	Yes	<p>The development does require the removal of a number of existing trees, however, these trees are all located within land being dedicated to Council for the purpose of public roads.</p> <p>The application includes the provision of significant on-site planting and street planting consistent with the Street Tree Master Plan and Ashmore Public Domain Strategy. The submitted landscape plan was referred to Council's Landscape Assessment Officer, who raised no objection to the proposed planting schedule.</p>

## ISSUES

### Public Benefit Offer

47. A public offer has been made by the land owner to enter into a VPA for the dedication of land for the purpose of future public roads, including associated works, and a monetary contribution towards works to be undertaken by Council. The land dedication and associated works are consistent with the Sydney DCP 2012 (Ashmore Neighbourhood) and the Draft Ashmore Public Domain Strategy.
48. At the time that this report was prepared, a draft VPA had been prepared to secure the provision of the public benefit offer and is expected to be placed on public exhibition in the near future.

### Building Height

49. The site is subject to a number of different building height development standards, however, only 3 height limits apply to the developable site after dedication. The maximum permitted height for the building fronting Macdonald Street is 25 metres, the maximum permitted height for the building fronting Hadfields Street is 22 metres and the southern end of the building adjacent to the western boundary has a maximum building height of 12 metres.
50. The following figure illustrates the different height controls which apply to the site and the location of the buildings in relation to those controls. For the purpose of referencing the different buildings, the building fronting Macdonald Street will be Building A, the building fronting Hadfields Street will be Building B, and the building adjacent to the western (side) boundary will be Building C.



**Figure 14:** Height Control Map and Site Plan

51. The following table details the height control which applies to each building and the proposed height of those buildings, including the extent of the departures.

Building	Control	Proposed	Departure
Building A	25 metres	27.5 metres	2.5 metres (10%)
Building B	22 metres	27.5 metres	5.5 metres (25%)
Building C	22 metres / 12 metres	15.8 metres	3.8 metres (31.6%)

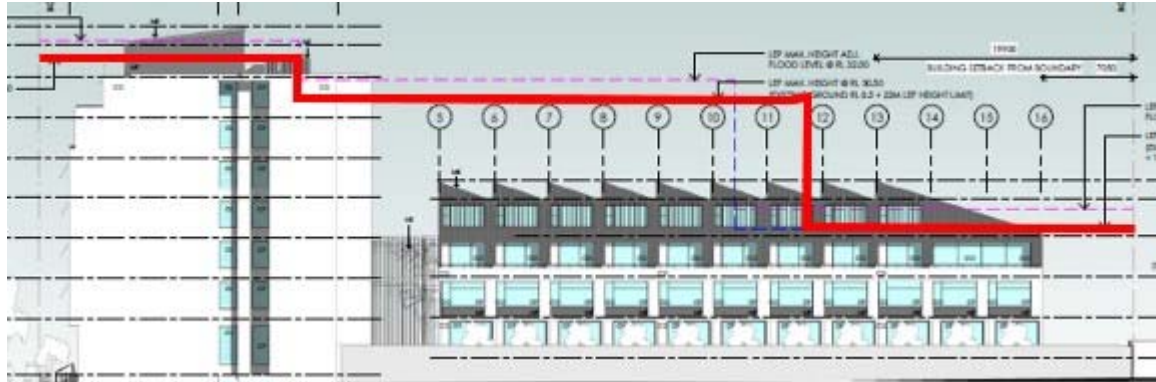
52. The following elevations identify the areas of the proposed development which breach the LEP height standard. The solid red line on each elevation represents the LEP building height standard.



Macdonald Street (north) Elevation (Building A)



Hadfields Street (east) Elevation (Building B)



West Elevation (Building A & C)

53. The applicant is relying on the provisions of Clause 4.6 of Sydney LEP 2012 to seek a variation of the height of buildings development standard by a maximum of 31.6%. Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.
54. In order to demonstrate whether strict compliance is unreasonable and unnecessary in this instance, the proposed exception to the height of buildings development standard has been considered against the objectives and provisions of Clause 4.6 in the following table:

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 development standard. The applicant argues that compliance with the development standard is unreasonable and unnecessary in this instance and has provided a number of environmental planning grounds to justify contravening the development standards, as following:</p> <ul style="list-style-type: none"> <li>• The proposal provides a range of heights which are generally consistent with the principles behind the arrangement of heights depicted for the site in the LEP and DCP to provide a street wall height to Macdonald Street and Hadfields Street, additional storeys above, and a smaller internal building.</li> <li>• The areas of non-compliance in height are offset by a reduction in building envelopes when compared to the DCP envelopes and the additional height is recessive and does not result in any significant difference to the perceived scale of the development as viewed from the public domain.</li> <li>• The heights are compatible with the existing and emerging scale of development within the visual catchment of the site and will sit comfortably with the context of the site with no significant adverse impacts to adjacent properties.</li> <li>• Strict compliance with the height control would likely lead to a less satisfactory outcome as it would require wider buildings which would result in an increased bulk for the development and increased shadow impacts to the southern site.</li> </ul>



Requirement	Assessment
	<ul style="list-style-type: none"> <li>• The height control has been consistently varied for other development in the Ashmore Estate.</li> <li>• There is a disparity between the height controls in the LEP and DCP which mean that an envelope which is entirely compliant with the DCP would still result in variations to the LEP height controls.</li> <li>• Most observers would not find the proposed development offensive, jarring or unsympathetic to its location in the Ashmore Estate.</li> <li>• The variation to the height of buildings control does not result in any privacy, view loss or unreasonable overshadowing impacts on the adjoining properties.</li> <li>• The proposed variation to the height does not give rise to any other issues of non-compliance and the proposal complies with the maximum permitted density for the site under the LEP.</li> </ul>
<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 and is in the public interest</p>	<p><b><i>Council's Assessment:</i></b></p> <p>The applicant's written rationale is considered to sufficiently address the requirements of Clause 4.6(3), and overall there are sufficient environmental planning grounds to justify the contravention with the standard for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposed development is consistent with the objectives of the B4 – Mixed Use zone and the building height standard.</li> <li>• The development will comply with the FSR development standard and is consistent with the objectives of the standard.</li> <li>• The departures result from the redistribution of mass from narrowing the building along Hadfields Street to improve the overshadowing impacts and internal separation; and providing the open pedestrian entrance at the northeast corner of the site.</li> <li>• The upper floors are setback behind the facade of the floors below and will not be readily visible from the adjoining public domain.</li> <li>• The elements of the building which breach the building height standard do not unreasonably impact on the amenity of adjoining properties.</li> <li>• The building height is considered compatible and consistent with the desired future character for the Ashmore Neighbourhood.</li> </ul> <p>The proposal is considered to be appropriate in the context of the site and surrounding area, and will not result in any unreasonable impacts on the amenity of the neighbouring properties.</p>

### Height in Storeys

55. The site is located within the Ashmore Neighbourhood and is subject to the storey height limits prescribed within Part 5.5 of Sydney DCP 2012. The following figure illustrates the desired building envelope for the subject site:



**Figure 15:** DCP Height in Storeys Map

56. The DCP height in storeys map calls for a 5 storey built form along Macdonald Street, with an additional 2 storeys setback, and a 4 storey form along Hadfields Street, with an additional 3 storeys setback from the street frontage. The additional 3 storeys above the Hadfields Street street wall is also required to be setback from the southern boundary. The internal building adjacent to the western (side) boundary calls for a height of 3 storeys.
57. The proposed 5 storey street wall along both Macdonald Street and Hadfields Street is considered an appropriate response to the context of the site and the architectural form of the building. The proposed stepping of the upper floors, rather than a uniform setback, reduces the visibility of the upper levels from the public domain and moderates the perceived visual bulk of the development.
58. The height in storeys departure results from the redistribution of mass to reduce the overshadowing of the adjoining dwellings to the south, provide the open pedestrian entrance to the development and to accommodate the bonus FSR awarded for design excellence. The development improves amenity for the development by providing a greater internal separation between the building fronting Hadfields Street and the internal building, and by reducing the depth of the Hadfields Street building. This also results in reduced overshadowing of the adjoining attached (terrace style) dwellings to the south within the Motto development.



59. Due to the orientation and layout of the adjoining dwellings, the overshadowing impact results from a complying built form. Whether the development is 4 or 5 storeys at the southern end of the Hadfields Street building, the internal and external living areas of the adjoining properties to the south are overshadowed. The proposal results in an improved overshadowing impact than a compliant built form. This is evident in the shadow diagrams which form Attachment C to this report.
60. The proposed height in storey departures are considered to result in an improved development without unreasonably impacting on the amenity of adjoining dwellings. The development is considered to exhibit design excellence and is supported in this regard.

### **Overshadowing**

61. As discussed previously, the proposed development is considered acceptable having regard to the number of dwellings that receive adequate solar access and the extent of overshadowing of the central communal open space.
62. The application was accompanied by shadow diagrams which illustrated the overshadowing impacts from the proposed development and from a compliant DCP envelope. Due to the reduction in the depth of the Hadfields Street building, the eastern dwellings of the development to the south (the attached (terrace style) dwellings which form part of the Motto development) begin to receive solar access earlier in the afternoon than had the proposal complied with the DCP envelope controls. This ensures that additional dwellings within the adjoining development receive their 2 hours of solar access to internal living areas.
63. Approximately 9 of the 11 attached dwellings to the south maintain at least 2 hours of solar access to windows serving internal living area between 9.00am and 3.00pm, during midwinter. The remaining 2 appear to maintain between 1 to 2 hours of solar access during this period.
64. Both the proposed envelope and the DCP envelope overshadow the courtyards of the adjoining attached dwellings to the south. The majority of the overshadowing to these courtyards is caused by the existing boundary fence. The additional overshadowing beyond the DCP envelope is caused by the building adjacent to the western (side) boundary. The area of the building which causes the overshadowing complies with the 12 metre building height limit and 3 storeys height in storeys control. The subject building is also setback approximately 7 metres from the southern boundary, which exceeds the 6 metre separation requirement of the ADG.
65. Given the desired future character for the Ashmore Neighbourhood, the additional overshadowing to the adjoining development is considered acceptable. The existing dwellings currently enjoy the benefit of having a 2 storey industrial development next door and the majority will still maintain an acceptable level of solar access.

### **Visual Privacy**

66. The application includes the provision of on-site garbage collection within the basement level, at the southwest corner of the site. Due to flooding constraints and the clearance requirements for on-site collection, the finished floor level of the area above will be raised to RL 10.60. The proposed finished level results in the existing southern boundary wall, between the existing Motto terraces and the subject site, having a height above this area of only 1.33 metres. The application proposes to use this area for the purpose of bicycle parking for 35 spaces.

67. To ensure the privacy of the existing Motto terraces is maintained, a condition has been recommended to relocate the bicycle parking spaces at the southwest (rear) corner of the site to the basement and requiring the area to be appropriately landscaped. Subject to the above condition, the proposed change in finished ground levels is considered acceptable.
68. The proposed buildings have been designed to ensure that a high level of residential amenity is provided to the future occupants of the development and the existing residents of adjoining sites. The proposal generally complies with the building separation controls and any openings on the side elevation meeting the requirements of the ADG.
69. The windows proposed within the southern elevation of the building fronting Hadfields Street serve studies and corridors off a bathroom on levels 1 – 5, and bedrooms on levels 6 - 7. Furthermore, these openings comply with the minimum separation requirement prescribed within the ADG.
70. Figure 16 illustrates the south elevation of the Hadfields Street building and a typical floor plan for levels 1 to 5. These openings exceed the minimum 9 metre separation requirement of the ADG and are not considered to unreasonably impact on the amenity of the adjoining dwellings.



**Figure 16:** Windows on south elevation of the Hadfields Street building

71. Subject to the imposition of appropriate conditions previously discussed in this report, the proposed development is considered acceptable having regard to visual privacy.

### Views

72. The proposal results in a departure with the building height and height in storeys controls. To ensure that the non-compliance does not unreasonably impact on views currently enjoyed by adjoining properties or from the public domain, a view loss analysis has been undertaken.

73. Part 5.5 of Sydney DCP 2012 requires the protection of views from the eastern and western knoll of the CBD skyline and views from Sydney Park of the King Street ridgeline, the saw tooth roofline of the Eveleigh Rail Sheds and district views towards the eastern suburbs.
74. The following figures illustrate the existing views taken from the top of the eastern and western knolls within Sydney Park, which is located to south of the site. The figures also illustrates the approximate location and massing of the proposed development.



**Figure 17:** View from eastern knoll in Sydney Park



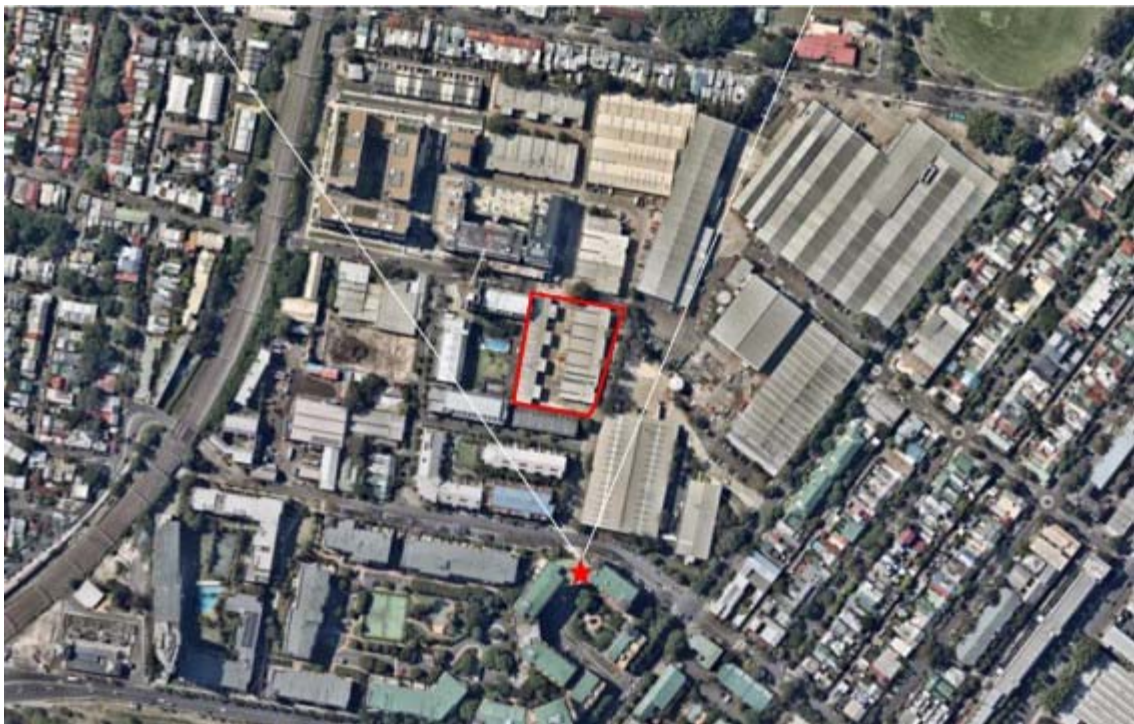
**Figure 18:** View from the western knoll



75. The red box in Figures 17 and 18 above is an approximate indication of the proposed development. As illustrated in the photographs, the views towards the CBD skyline will not be unreasonably obscured by the proposed development.
76. Views of the King Street ridgeline, the saw tooth roofline of the Eveleigh Rail Sheds and district views towards the eastern suburbs will be maintain from various location within Sydney Park. Whilst views of the saw tooth roofline of the Eveleigh Rail Shed will be lost from the eastern knoll, they are retained from a number of other areas including the western knoll within Sydney Park. It is also noted that a development which complies with the building height and height in storeys would obscure views of the subject roofline.



**Figure 19:** View from upper floor dwelling in Sydney Park Village development



**Figure 20:** Location of dwelling within the Sydney Park Village development

77. Figures 19 and 20 above are an approximate indication of the proposed development when viewed from an upper floor dwelling in Building 8 of the Sydney Park Village development. The proposal is not considered to impact on views to the CBD or result in the loss of any significant district views from the subject dwelling.
78. The views currently enjoyed by the 3 storey terraces adjoining the southern boundary of the site will be lost as a result of the development. However, the DCP envelope controls envisage a 7 storey built form which would remove any views currently enjoyed by these dwellings. Therefore, despite the additional storey and building height departure the proposal will not result in any additional view loss that would otherwise occur from a complying development.

### **Easements Burdening the Site**

79. The site is burdened by several easements providing right of carriageway and easements for services, sewage and stormwater that benefit a number of sites to the north.
80. The application was accompanied by a public benefit offer, which included the provision for future public roads and associated services. The sites who benefit from the easements have also proposed public benefit offers for the provision of future public roads and associated services, ultimately removing the requirement for the subject easements. However, until such time that those future public roads and associated services are constructed, the easements are required to remain in place to ensure appropriate access and services are provided to those sites who benefit from the easements.
81. As such, an appropriate condition is recommended that requires the formal extinguishment of the easements upon the completion of all future roads and associated services.

### **Other Impacts of the Development**

82. The proposed development is capable of complying with the BCA and is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to the imposition of appropriate conditions.

### **Suitability of the site for the Development**

83. The proposal is of a nature in keeping with the overall function of the site and the emerging character of the Ashmore Neighbourhood. The site is located amongst similar residential buildings and is considered suitable for the proposed development.

### **INTERNAL REFERRALS**

84. The application was referred to Council's:
  - (a) Urban Design Specialist;
  - (b) Building Services Unit;
  - (c) Environmental Health Officer;
  - (d) Public Domain Unit;

- (e) Safe City Unit;
  - (f) Surveyor;
  - (g) Transport and Access Unit;
  - (h) Tree Management Officer; and
  - (i) Waste Management Officer.
85. The applicant has submitted amended plans and additional information which has addressed a number of initial concerns raised by Council's internal referral bodies. As such, no objection was raised to the proposed development, subject to the imposition of a number of conditions relating to security measures, remediation, landscaping and compliance with submitted consultant reports. As such, where relevant those conditions recommended by other sections of Council have been included in the recommendation of this report.
86. Council's Tree Management Officer requested the submission of an Arborist Report. However, as all trees proposed for removal are located within land being dedicated to Council for the purpose of public road, as identified in Part 5.5 of Sydney DCP 2012, the request for an Arborist Report at the development application stage was considered unnecessary. A condition has been recommended for imposition requiring an Arborist to be engaged during the construction process to ensure that all works do not impact on any trees located on adjoining properties. It should also be noted that these trees will require removal to accommodate the envisaged development to the property to the east.
87. Despite the removal of trees to accommodate the future road works, the application also involves significant replacement planting in the form of street trees and on-site planting within the central courtyard. The street tree planting will be undertaken in accordance with any approved VPA and no objection was raised by Council's Landscape Officer over the selection of on-site planting. As such, the application was considered acceptable in this regard.

#### EXTERNAL REFERRALS

88. The application was referred to the following external authorities for comments:
- (a) NSW Police – Redfern LAC;
  - (b) Sydney Airport;
  - (c) Sydney Water;
89. NSW Police recommended the installation of CCTV within the basement parking areas, entrances and surrounding the proposed letterboxes. Subject to the imposition of CCTV within these area no further concerns were raised.
90. The application was referred to Sydney Airport in accordance with the *Civil Aviation (Buildings Control) Regulations 1988*, as the proposed development exceeds a building height of 15.24 metres above existing ground level and requires approval of the Civil Aviation Safety Authority. Approval was granted, in correspondence dated 25 September 2015, for the erection of the development to a maximum RL 36.00 subject to the imposition of condition requiring the applicant to apply for a 'controlled activity' approval prior to the erection of any cranes on site.

91. The application was referred to Sydney Water, who objected to the construction of the development over an existing stormwater culvert. Following subsequent meetings between Sydney Water, Council's Public Domain unit and the applicant, amended plans were submitted proposal the diversion of the existing stormwater culvert. In correspondence, dated 30 October 2015, Sydney Water raised no objection in principle to the diversion of the existing stormwater culvert subject to final design details beginning provided to Sydney Water prior to construction.

#### **Notification, Advertising and Delegation (Submission(s) Received)**

92. The application constitutes Integrated Development and was notified and advertised for a period of 30 days in accordance with the provisions of *Environmental Planning and Assessment Regulations 2000*. The applicant submitted amended plans, which resulted in the re-notification of the application to affected properties.
93. As a result of the notifications, a total of 24 submissions were received by Council.
94. Many of the concerns raised in the submissions have been previously addressed under various sections of this report, such as view loss, overshadowing, DCP envelope departures and building height non-compliances. The following responses relate to specific concerns raised in the submissions that have not been previously addressed within this report or warrant further comments:

- (a) The development will be detrimental to the community.

**Response** – The proposed development will result in a built form and use that is generally consistent with the desired future character of the Ashmore Neighbourhood. The Sydney LEP 2012 and area specific Sydney DCP 2012 (Part 5.5) significantly uplifted the development potential of the site to provide additional housing for the area. The Sydney DCP 2012 incorporates the construction of new public roads, open space and a small-scale neighbourhood retail/commercial centre. Once the Ashmore Neighbourhood Precinct has been completed in its entirety, the development as a whole is considered to positively contribute to the community.

- (b) The development will impact on parking within the area.

**Response** – The development is subject to a maximum parking limit prescribed within Sydney LEP 2012, which actively discourages excessive parking within developments. As currently proposed, the development exceeds the maximum car parking provisions by 1 space. As such, a condition has been recommended requiring the deletion of the additional parking space. Furthermore, residents of the proposed development will not be eligible to participate in Council's resident parking scheme and are therefore unlikely to increase long-term demand for street parking. The proposal incorporates the provision of sufficient bicycle parking and storage, and is located within the close proximity to existing public transport services.

- (c) There is insufficient public transport to accommodate the increase in population. There is insufficient accessible access to both St Peters and Erskineville train stations.

**Response** – The public transport network is managed and controlled by various NSW Government agencies. The initial planning process for the Ashmore precinct included the preparation and endorsement of an Infrastructure Plan for Ashmore, which involves Council's working with these agencies to improve services within the area. Council has been updating this plan to reflect the pace of development within the precinct. The proposal is consistent with the density provisions contained in the Ashmore Neighbourhood controls, which has been accommodated for in the Infrastructure Plan. Council continue to advocate for additional transport services for the area.

- (d) The development will impact on the acoustic privacy of adjoining dwellings, in particular from the location of the new driveway.

**Response** – The driveway is proposed to be located adjacent to the southern boundary, which consists of a high masonry wall. The proposal will retain the existing boundary wall and includes the provision of landscaping and a semi-enclosed structure to reduce noise impact on adjoining properties. Furthermore, appropriate conditions have been recommended to ensure that the operation of the site and waste collection services do not impact on the amenity of adjoining dwellings.

- (e) The development will allow for direct overlooking into the courtyard and balconies of the dwellings to the south.

**Response** – The proposal has been designed so that the majority of the dwellings, which are not orientated towards the street, will overlook the internal communal courtyard and have been setback from the site boundaries in accordance with the requirements of the ADG. The openings within the southern elevation of the building fronting Hadfields Street serve either studies, bedrooms or corridors located off bathrooms. These openings also exceed the separation requirements prescribed within the ADG. As such, the proposal is not considered to unreasonably impact on the privacy of adjoining dwellings.

- (f) The submitted shadow diagrams are misleading and inaccurate, and fail to take into consideration the Apartment Design Guide minimum building separation criteria.

**Response** – A solar analysis was undertaken which considered the overshadowing impacts caused by the development on adjoining properties, which concluded that the proposal was acceptable in this regard. The submitted shadows were deemed to accurately reflect the overshadowing caused by the proposed development and included the overshadowing of the DCP envelope. As discussed previously within this report, the proposal complies with the minimum building separation required under the ADG.



- (g) The proposal lacks details of the treatment along the southern boundary.

**Response** – The proposal maintains the existing boundary wall separating the site and the dwellings to the south and includes the provision for landscaping, as per the submitted landscape plan. However, the proposal includes a change to the finish ground level of the site within the southwest corner, which results in the ground area surrounding the proposed bicycle storage area being only 1.33 metres below the top of the existing boundary wall.

To ensure the development does not impact on the visual privacy of the adjoining terrace style dwellings to the south, a condition has been recommended requiring the bicycle storage to be relocated to the basement and the subject area being landscaped. The condition is considered to protect the visual privacy of the adjoining properties.

- (h) Any landscaping along the southern boundary should be done in consultation with the adjoining property owners.

**Response** – The landscaping along the southern boundary will remain behind the existing boundary wall and will generally consist of low ground covering species, with the exception of 4 '*tall native planting*' along the southern boundary adjacent to the bicycle storage area. The proposed landscaping was generally supported by Council's Landscaping Officer.

- (i) Measures must be incorporated into any consent to protect the amenity of adjoining properties, such as hours of construction, noise, vibration, dust etc...

**Response** – A condition is recommended for the creation of a construction liaison group. This condition has been used successfully for private developers in the Green Square Town Centre. The condition requires a proactive approach for developers working with their neighbours, including providing advanced notifications of works, and hosting regular meetings to discuss issues. It also requires an effective enquiry and complaint management process.

In addition to the above, appropriate conditions have been recommended for imposition to ensure that the amenity of adjoining properties are not unreasonably affected during the demolition, excavation or construction stages of the development, such as construction hours, noise, vibration and dust control.

- (j) Request for Council to undertake an independent traffic study and a full Social Impact Assessment.

**Response** – The proposed development is generally in accordance with envisaged massing and density permitted under the Ashmore Neighbourhood controls. During the preparation of the Ashmore Neighbourhood controls, Council considered a Social Sustainability study and a Traffic and Transport study. These studies contained a number recommendations that will be implemented over time for the area to accommodate the envisaged development.

- (k) There are inadequate services, such as schools and childcare within the area to accommodate the increase in population.

**Response** – These matters were taken into consideration in the preparation of the Ashmore Neighbourhood masterplan. The later stages of the Ashmore Precinct require the provision for a number of community services, such as childcare services and the like. Council is also working to meet Ashmore's needs by building three new childcare facilities within the area, as well as a new library, aquatic centre and creative hub at Green Square. Council is also advocating for the increased school places to meet the needs of the growing community.

- (l) The development will result in the removal of a number of existing established trees.

**Response** – The trees required for removal are all located on land being dedicated to Council for the provision of public road and cycleway, in accordance with Part 5.5 of Sydney DCP 2012. The application involves replacement planting within the central courtyard and the provision for future street trees in accordance with Council's Street Tree Masterplan, which result in a net gain of tree planting.

- (m) The development does not provide any provision for affordable housing.

**Response** – The site is not located within an area identified for the provision of affordable housing. As such, there is no obligation on the developer to provide for the provision of affordable housing.

- (n) It is requested that a special condition be imposed which restricts the erection of illuminated signage to any mobile crane associated with the development.

**Response** – Any signage associated with mobile cranes will require separate consent.

- (o) The proposed connection of Nassau Lane to Hadfields Street is not supported, as it will increase traffic along a private road.

**Response** – The connection of Nassau Lane and the future Hadfields Street is in accordance with the master plan for the Ashmore Neighbourhood. Council's Public Domain division are currently negotiation the transfer of Nassau Lane into Council ownership. The connection of Nassau Lane to Hadfields Street is not considered to unreasonably increase traffic impacts.

- (p) The proposed 'Music Room' identified on the plans on the ground floor adjacent to the Motto terraces should be made sound proof.

**Response** – Appropriate conditions have been recommended for imposition to ensure that the on-going operation of the development does not impact on the amenity of adjoining properties.

- (q) The proposed development would be safer if it provided two vehicle entry points, one entrance to the underground parking from Hadfields Street and a second entrance for rubbish collection on ground level on the southern boundary.

**Response** – The application was referred to Council’s Traffic Management Officer, who raised no objection to the single vehicle entry point. Furthermore, a single vehicle access point is in accordance with Council’s controls.

- (r) The proposed windows on the southern elevation of the Hadfields Street building should be obscure glazing.

**Response** – The subject windows serve studies and bathrooms, in addition to being setback from the boundary in accordance with the ADG. A condition requiring the windows to be obscure glazing is not considered necessary in this instance.

## **PUBLIC INTEREST**

95. 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**

96. The existing warehouse / industrial units have a total floor area of approximately 4,250sqm and in accordance with the City of Sydney Section 94 Contribution Plan 2006, the total floor area results in approximately 51 workers. As such, the development was credited 51 existing workers for the purpose of calculating the monetary contribution generated by the proposed development. The application will result in Section 94 Contribution of **\$3,027,541.14**. An appropriate condition has been included in the recommendation.

## **RELEVANT LEGISLATION**

97. *Environmental Planning and Assessment Act 1979*;  
98. *Water Management Act 2000*; and  
99. *Civil Aviation (Buildings Control) Regulations 1988*.

## **CONCLUSION**

100. The proposal was subject to a competitive design process, which established the potential for design excellence. It is considered that the design of the proposal has been improved over the course of the assessment and exhibits design excellence.
101. The proposal has improved on the winning competitive design scheme and is consistent with the objectives of the zone and the core development standards contained in Sydney LEP 2012.

102. The written objection pursuant to Clause 4.6 of Sydney LEP 2012 for building height departure is supported as the development results in a better outcome than a complying development, is of a high architectural quality, does not unreasonably detract from the amenity of the site or adjoining properties, and achieves the objectives of the standard and the zone.
103. It is recommended that the requirement for the preparation of a site specific DCP under Clause 7.20 of Sydney LEP 2012 be waived, noting that Part 5.5 of the Sydney DCP 2012 sets out site specific controls to address the environmental impact concerns as raised by the clause.
104. The Ashmore Precinct is undergoing transition from a predominately light industrial precinct to a mixed use, commercial and residential neighbourhood. The proposal will contribute substantially to the supply of housing in the Local Government Area and the revitalisation of the Ashmore Precinct, being a key objective of Sustainable Sydney 2030.
105. The development has been designed having regard to the relevant constraints of the site and controls, including the site specific Ashmore Neighbourhood provisions within DCP 2012. Whilst there are some numerical non-compliances, the proposal will result in a building form which provides a positive interface with the public domain and a reasonable level of amenity for future occupants and adjoining properties.
106. It is recommended that delegation should be granted to the CEO to determine the application upon the execution and registration on title of the accompanying VPA.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(James Groundwater, Specialist Planner)