

**ITEM 6. DEVELOPMENT APPLICATION: 66-77 EPSOM ROAD ROSEBERY**

**FILE NO: D/2015/624**

**DEVELOPMENT APPLICATION NO: D/2015/624**

**SUMMARY**

**Date of Submission:** 11 May 2015  
Amended plans received 16 October 2015 and 22 January 2016

**Applicant:** Toplace Pty Ltd

**Architect:** BVN

**Developer:** Toplace Pty Ltd

**Owner:** Jolyn Place Pty Ltd

**Cost of Works:** \$116,209,076

**Proposal Summary:** Stage 2 development application for the construction of a 6 to 13 storey mixed use building known as Building A, containing 268 residential apartments, 49 serviced apartments, 1,971sqm of ground floor retail tenancies and 2 levels of basement for 272 vehicles. Landscaping of communal open space and a through site link are also proposed.

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

In order to ensure consistency between the staged applications, as required by section 83D of the Environmental Planning and Assessment Act, it is necessary to vary the Stage 1 DA consent. As such, a concurrent Section 96 application (D/2008/102/E) has been lodged. The S96 application seeks to amend the original Stage 1 DA approval in the following manner:

**Proposal Summary  
(continued):**

Volumetric shifts and re-configuration of the massing across the proposed site:

- Removal of the 1 and 3 storey commercial buildings in the centre of the site to create a retail courtyard and through site link;
- Increased height to accommodate architectural treatments at the corner of Dalmeny Avenue and Epsom Road;
- Increased floor to floor heights of 3100mm; and
- Amendment to the proportions of residential, commercial and retail floorspace.

A Voluntary Planning Agreement (VPA) associated with the Stage 1 DA that provided for public benefit works, dedication and monetary contribution was executed on 28 September 2010. The proposed land use mix alters the public benefit obligations under the VPA. A revised public benefit offer, dated 17 February 2016, was made to reflect the changed proportions of residential and commercial floorspace and is acceptable. The subsequent amendments to and exhibition of the VPA are required prior to the activation of any consent.

The proposed development exceeds the 29m height standard in the Sydney Local Environmental Plan 2012 by 20.6m or 71%. It is noted that the approved Stage 1 DA provided for these heights that significantly exceeded the 29 metre height control, with a maximum height of 43.4m, which excluded services and lift over-runs, parapets or articulation elements. The proposed overall maximum height is generally consistent with the approved height under the Stage 1 DA, with the height of the tower (excluding the roof feature) at 43.52m, and the roof feature a maximum of 49.6m.

A request for a variation to the height development standard has been submitted under Clause 4.6 of the Sydney LEP 2012. The variation to the development standard is supported.

**Proposal Summary  
(continued):**

The proposal has been amended to address various issues including:

- Ground floor interface with the public domain;
- Driveway size, locations and alignments with surrounding future roads;
- Activation of the park and through site link;
- Length of the Epsom Road frontage and architectural articulation;
- Architectural treatment of southern facade—consistency with architectural design competition;
- ‘Slenderness’ of tower form;
- Plant and servicing – air conditioner on each balcony has been removed and provided in a consolidated areas in the basement, roof voids and roof; and
- Apartment layouts, privacy and cross ventilation.

The application was exhibited from 25 May 2015 to 23 June 2015. No submission were received.

The application was re-notified as Integrated Development from 21 January to 21 February 2016. At the time of writing this report, three submissions have been received raising concerns in relation to:

- Height;
- Overshadowing;
- Traffic and parking;
- Lack of swimming pool and other amenities;
- Flooding;
- Noise impacts; and
- Construction impacts.

These concerns have been considered and addressed within this report.

**Summary Recommendation:**

Council support the variations sought to Clause 4.3 Building Height of in accordance with Clause 4.6 of Sydney Local Environmental Plan 2012.

The proposal is recommended for Deferred Commencement approval, subject to conditions. The conditions include a requirement to execute the amended Voluntary Planning Agreement within 24 months of the application being determined.

- Development Controls:**
- (i) State Environmental Planning Policy No 55 – Remediation of Land
  - (ii) State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (“Codes SEPP”)
  - (iii) State Environmental Planning Policy 65 - Design Quality of Residential Flat Development (“SEPP 65”)
    - a. SEPP 65 (Amendment No. 3) published on 19 June 2015, commenced on 17 July 2015
  - (iv) State Environmental Planning Policy (Affordable Rental Housing) 2009
  - (v) State Environmental Planning Policy (Infrastructure) 2007 (“ISEPP”)
  - (vi) State Environmental Planning Policy No 32— Urban Consolidation (Redevelopment of Urban Land) (“SEPP 32”)
  - (vii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (“BASIX”)
  - (viii) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended) (“Sydney LEP 2012”)
  - (ix) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended) (“Sydney DCP 2012”)

**Developer Contributions**

- (x) City of Sydney Development Contributions Plan 2006

**Attachments:**

- A - Architectural Drawings

**RECOMMENDATION**

It is resolved that:

- (A) the variation sought to Clause 4.3 building height in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 be supported; and
- (B) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2015/624, subject to the following conditions:

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

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

**(1) PUBLIC BENEFIT OFFER AND PLANNING AGREEMENT**

- (a) The current Voluntary Planning Agreement titled Planning Agreement (67-77 Epsom Road and 95 Dalmeny Avenue Rosebery, executed on 28 September 2010 and entered into by Overland Consolidated Pty Limited (ACN 059 642 867) and signed by Nora Goodridge and Robert Magid) must be amended in accordance with the revised public benefit offer made on 17 February 2016 and signed by Mark Fitzpatrick of Toplace Pty Ltd, and must be exhibited, executed and submitted to Council;
  - (b) The payment of moneys and guarantees must be provided to Council in accordance with the Planning Agreement at the time of execution; and
  - (c) The Planning Agreement, as executed, must be registered on the Title of the land in accordance with the Planning Agreement.
- (C) 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;
  - (D) the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions as indicated above, have been satisfied; and
  - (E) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

**PART B****CONDITIONS OF CONSENT****(ONCE THE CONSENT IS IN OPERATION)**

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

**SCHEDULE 1A****Approved Development/Design Modifications/Covenants and Contributions/Use and Operation**

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

**(1) APPROVED DEVELOPMENT**

- (a) Development must be in accordance with Development Application No. D/2015/624 dated 11 May 2015 and the following drawings:

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
DA-1001 Issue 4	BVN	21/01/2016
DA-1002 Issue 4	BVN	21/01/2016
DA-1003 Issue 4	BVN	21/01/2016
DA-2101 Issue10	BVN	21/01/2016
DA-2102 Issue 10	BVN	21/01/2016
DA-2103 Issue 10	BVN	21/01/2016
DA-2104 Issue 9	BVN	21/01/2016
DA-2105 Issue 9	BVN	21/01/2016
DA-2106 Issue 9	BVN	21/01/2016
DA-2107 Issue 9	BVN	21/01/2016
DA-2108 Issue 9	BVN	21/01/2016
DA-2109 Issue 8	BVN	21/01/2016
DA-2110 Issue 8	BVN	21/01/2016
DA-2111 Issue 8	BVN	21/01/2016
DA-2112 Issue 8	BVN	21/01/2016
DA-2113 Issue 8	BVN	21/01/2016
DA-2114 Issue 8	BVN	21/01/2016
DA-2115 Issue 8	BVN	21/01/2016

Drawing Number	Architect	Date
DA-2116 Issue 8	BVN	21/01/2016
DA-2200 Issue 2	BVN	21/01/2016
DA-2201 Issue 2	BVN	21/01/2016
DA-3000 Issue 6	BVN	21/01/2016
DA-3001 Issue 5	BVN	21/01/2016
DA-3002 Issue 5	BVN	21/01/2016
DA-3003 Issue 5	BVN	21/01/2016
DA-3100 Issue 6	BVN	21/01/2016
DA-3101 Issue 6	BVN	21/01/2016
DA-3102 Issue 6	BVN	21/01/2016
DA-3103 Issue 6	BVN	21/01/2016

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) ROOF - TOP PLANT

Details of all roof-top plant, associated equipment, screening enclosure and integration with and impact on the rooftop communal open space must be submitted to and approved by Council's Director City Planning, Development and Transport prior to a Construction Certificate being issued

## (3) BUILDING HEIGHT

- (a) The height of the building must not exceed RL 72.15 to the top of the building, with each separate component of the building not exceeding:

Stage 2 DA Building No.	Proposed height to top of roof RL's	Proposed height to top of roof in meters
A1	65.87 - 72.15	49.6
A2	47.10 - 65.87	24.5
A3	47.10 - 53.70	24.5 – 31.1
A4	53.70	31.1
A5	47.10 - 53.70	31
A6	47.10	24.2
A7	44.00 - 51.19	20-27.9
A8	44.00 - 56.39	20
A9	56.39	33.3
A10	49.50 - 56.39	26.7-33

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

**(4) 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.

**(5) DESIGN QUALITY EXCELLENCE**

- (a) As the proposal has been awarded bonus floor space for achieving design excellence and in order to ensure the design quality excellence of the development is retained to completion:
  - (i) The design architect (BVN) 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.

**(6) FLOOR SPACE RATIO - ALL OTHER AREAS**

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the Stage 1 DA Masterplan site (site area 33,400sqm and including the approved GFA of buildings B-H) must not exceed 2.03:1. For the purposes of Building A, the Gross Floor Area of the commercial (serviced apartment) component is 3,715sqm, the retail component is 1,971sqm and the residential component is 22,466sqm (including garbage and loading dock area at ground floor). The total Gross Floor Area for Building A is 28,069sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under Sydney Environmental Plan 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.

**(7) MATERIALS AND SAMPLES BOARD**

A materials sample board detailing all proposed finishes must be submitted to and approved by Council's Director City Planning, Development and Transport prior to a Construction Certificate being issued.



**(8) USE - SEPARATE DA REQUIRED**

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

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

The podium and roof top terraces 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.

**(10) RESTRICTION ON RESIDENTIAL DEVELOPMENT**

The following restriction applies to buildings approved for residential use:

- (a) The residential accommodation portion of the building must be used as permanent residential accommodation only and not for the purpose of a hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with the *Sydney Local Environmental Plan 2012*.
- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from residential accommodation as defined in *Sydney Local Environmental Plan 2012*. The covenant is to be registered on title prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.
- (c) 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.

**(11) RESTRICTION ON SERVICED APARTMENTS**

The following restriction applies to buildings approved for serviced apartment use:

- (a) The serviced apartments accommodation portion of the building must be used as serviced apartment accommodation only and not for permanent residential purposes or any other use.

- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use from serviced apartment as defined in *Sydney Local Environmental Plan 2012*. The covenant is to be registered on title prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.

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

The following conditions apply to car parking:

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

**(13) 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.

**(14) ADAPTABLE HOUSING**

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

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

is to be submitted to the Certifying Authority.

**(15) 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, or 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.

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

In accordance with Clause 7.13 of *Sydney Local Environmental Plan 2012* and prior to a Construction Certificate being issued, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid at the office of the Department of Planning or a bank guarantee in favour of The Department of Planning to the value of the required contribution has been lodged. The contribution is **\$4,617,027.17** based on the in lieu monetary contribution rate for non-residential development at \$58.04 per square metre of total non-residential floor area 6,033sqm, and for residential development at \$174.19 per square metre of total residential floor area 24,505.5sqm. Contributions will be indexed in accordance with the formula set out below.

Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the applicant must provide evidence that the bank guarantee referred to above has been redeemed as payment of this contribution. If the contribution is paid after the indexation period in which the consent is granted 1 March 2015 to 29 February 2016, the amount of the contribution will be indexed in accordance with the formula set out below.

**Notes:**

- (a) Applicants have two payment options:

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

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

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

- (b) Applicants are made aware that the contribution amount quoted in this condition may not be final and that a correct indexed affordable housing contribution amount can be obtained from the relevant Form A, B or C at time of payment.
- (c) Forms A, B or C for payment of the affordable housing contribution can only be obtained from the City of Sydney, 456 Kent Street, Sydney. Quote the development application number and the relevant Council officer will provide the applicant with an indexed contribution amount which must be paid at the Department of Planning. To arrange payment, contact the Housing Policy Team, NSW Department of Planning on Ph: 9228 6111 or Fax: 9228 6455 to arrange a time for payment.
- (d) The contribution will be indexed on the basis of the Established House Price Index for Sydney as published by the Australian Bureau of Statistics.
- (e) Contributions at Time of Payment =  $C \times \text{HPI2} / \text{HPI1}$ , where:
  - (i) C is the original contribution amount as shown above;
  - (ii) HPI2 is the Established House Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the time of the payment; and
  - (iii) HPI1 is the Established House Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics that applied at the date of the consent 1 March 2015 to 29 February 2016.

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

**(17) 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	\$694,586.10
Public Domain	\$434,633.74
New Open Space	\$3,386,566.02
New Roads	\$860,092.24
Accessibility	\$35,673.13
Management	\$38,570.88
<b>Total</b>	<b>\$5,450,122.11</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 – February 2016

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.

#### **(18) VISITOR AND TOURIST ACCOMMODATION - PLAN OF MANAGEMENT**

A detailed Plan of Management relating to the use and operation of the serviced apartment component of the building must be submitted and approved by Council's Health and Building Unit prior to an Occupation Certificate being issued. The Plan of Management must include the minimum criteria as stipulated in Council's *Sydney Development Control Plan 2012 – 4.4.8* and any relevant requirement within the consent conditions.

**(19) VISITOR AND TOURIST ACCOMMODATION - USE AND OPERATION**

The use and operation of the of the serviced apartment component of the building must comply with the requirements of Schedule 2 (Standards for Places of Shared Accommodation) of the Local Government (General) Regulation, 2005 under the Local Government Act 1993, the Public Health Act, 2010 and regulations thereunder and *Sydney Development Control Plan 2012 – 4.4.8*.

**(20) SIGNAGE STRATEGY**

A separate development application is to be submitted seeking approval of a signage strategy for the building. The signage strategy development application must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

**(21) SIGNS - SEPARATE DA REQUIRED**

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

**(22) SIGNS/GOODS IN THE PUBLIC WAY**

No signs or goods are to be placed on the footway or roadway adjacent to the property.

**(23) PHYSICAL MODELS**

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

Note:

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

**(24) 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.

**(25) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION**

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

**(26) AIRSPACE PROTECTION**

- (a) The building must not exceed a maximum height of 72.15 AHD inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues, etc.
- (b) Building A must be obstacle lit by low intensity steady red lighting at the highest point of the building. Obstacle lights are to be arranged to ensure the building can be observed in a 360 degree radius as per subsection 9.4.3 of the Manual of Standards Part 139 – Aerodromes (MOS Part 139).
- (c) The proponent must ensure obstacle lighting arrangement have a remote monitoring capability, in lieu of observation every 24 hours, to alter SACL reporting staff of any outage. For detailed requirements for obstacle monitoring within the OLS of an aerodrome, refer to subsection 9.4.10 of MOS Part 139.
- (d) The proponent must ensure obstacle lighting is maintained in serviceable condition and any outage immediately reported to Sydney Airport Corporation Limited (SACL).
- (e) Separate approval must be sought under the Airports (Protection of Airspace) Regulations 1996 for any cranes required to construct the buildings. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations, therefore it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- (f) At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield design manager of the finished height of the building.

**(27) UPGRADE TO EPSOM ROAD / LINK ROAD INTERSECTION**

- (a) Confirmation must be sought from Council that the upgrade to the Epsom Road / Link Road intersection has been satisfactorily completed prior to the issue of any Occupation Certificate.
- (b) In the case that the upgrade of the Epsom Road / Link Road intersection has not occurred:
  - (i) Prior to the issue of any Occupation Certificate, a plan showing works to upgrade the intersection of Epsom Road / Link Road shall be submitted to and approved by the Director City Planning, Development and Transport.



- (ii) Detailed signal and road design plans of the proposed new traffic signals and interchange at Epsom Road/Link Road will need to be forwarded to the NSW Roads and Maritime Services for approval prior to the commencement of any roadworks. The plans must show all dimensions (e.g. lane width, kerb return radius), pavement marking, bike lane and logo, parking controls, bus zones, pedestrian crossing, median islands, signs and driveways. The NSW Roads and Maritime Services fees for administration, plan checking, signal works inspections and project management shall be paid for by the developer prior to the commencement of the works.
- (iii) Works to upgrade the intersection shall be completed prior to the issue of any Occupation Certificate for Building A.

#### **(28) GREEN TRAVEL PLAN**

- (a) A precinct-wide Green Travel Plan for the entire Overland Gardens development is to be implemented.
- (b) The “Green Travel Plan and Transport Access Guide” prepared in relation to Building D of the Overlands Gardens site, is to be updated and amended so as to also apply to Buildings A of the site.
- (c) Updates to the Plan are to be based on an assessment on the implementation of the Plan to date, by appropriate means including surveys, observations of travel patterns, and any design changes which may impact the infrastructure and facilities available to support the implementation of this Plan. These changes are to be clearly identified.
- (d) The updated Plan must be submitted to and approved by the Director City Planning, Development and Transport prior to the issue of an Occupation Certificate for each individual building.

Note: It is recommended the applicant review information on Council’s website about preparing Travel Plans. The applicant may also contact a member of the Transport and Access Unit, to discuss the Green Travel Plan prior to its submission.

#### **(29) SWEPT PATH ANALYSIS**

The applicant must submit a swept path analysis showing that the site can be serviced by Council’s Standard 9.25m Waste Vehicle. This analysis must be submitted to Council for review and approved prior to the Construction Certificate being granted.

If this analysis shows that the site cannot be adequately serviced, as determined by Council, amended plans are to be submitted for review and approved prior to the Construction Certificate being granted.

#### **(30) BASEMENT CAR PARK DRIVEWAY WIDTH**

The driveway crossover is to have a maximum width of 6.0 metres at the property boundary.

**(31) 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.

**(32) 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.

**(33) 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.

**(34) ALLOCATION OF PARKING**

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

Car Parking Type	Number
Residential spaces	Maximum of 175
Accessible residential spaces	38
Residential visitor spaces	22
Accessible residential visitor spaces	2
Retail parking	Maximum of 9
Accessible retail parking	2
Serviced apartment/hotel parking	Maximum of 10
Accessible serviced apartment/hotel parking	2
Car share parking	4
Service vehicle spaces	4
Medium Rigid Vehicle loading dock(s) - accommodates 9.25m council waste vehicle	3
Hotel/serviced apartment drop off and pick up	Maximum of 2
Motorcycle parking	58

**(35) CAR SHARE SPACES**

- (a) A minimum of 4 car parking spaces for the exclusive use of car share scheme vehicles are to be provided.

- (b) The spaces must be retained as common property of the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time.
- (c) The spaces must be made available to car share operators without a fee or charge.
- (d) The spaces must be sign posted for use only by car share vehicles and well lit.
- (e) The spaces must be publicly accessible at all times.

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

### (36) 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".

### (37) BICYCLE PARKING AND END OF TRIP FACILITIES

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

Bicycle Parking Type	Number	Requirements
Residential	268	Spaces must be a class 1 or class 2 bicycle facilities
Residential visitor	28	Spaces must be Class 3 bicycle rails
Non-residential (retail)	36	Spaces must be Class 2 bicycle facilities
Non-residential visitor (retail)	28	Spaces must be Class 3 bicycle rails
Non-residential (Serviced apartment/hotel)	2	Spaces must be Class 2 bicycle facilities
Non-residential visitor (Serviced apartment/hotel)	4	Spaces must be Class 3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	2	
Personal lockers	10	

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.

**(38) CHANGES TO KERB SIDE PARKING RESTRICTIONS**

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

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

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

Note: It is recommended that the applicant should approach the Area Traffic Engineer to discuss the proposal before making a submission.

**(39) COST OF SIGNPOSTING**

All costs associated with signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.

**(40) INTERCOM FOR VISITORS**

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

**(41) 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.

**(42) 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.

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

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

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

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

**(45) 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.

**(46) SERVICE VEHICLE SIZE LIMIT**

The size of vehicles servicing the property must be a maximum length of 9.25m.

**(47) 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**.

**(48) SIGNAL SYSTEM**

A system of traffic lights and/or mirrors must be installed at the ends of any single lane ramp(s), to indicate traffic movement on the ramp(s). This system must be detailed in the application for a construction certificate. Any system using traffic light signals must maintain a green signal to entering vehicles at the point of entry, and must maintain a red signal when an exiting vehicle is detected upon the ramp or driveway.

**(49) SIGNS AT EGRESS**

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

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

**(50) VEHICLE FOOTWAY CROSSING**

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

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

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

**(51) NO SPEAKERS OR MUSIC OUTSIDE**

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

**(52) 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 8 April 2015, ref 20150449, Council Ref 2015/221670 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 Area Manager Health and Building which addresses the following requirements:
- (i) Table 5 and 6 of Section 5.4.1 - Design specifications, including recommended glazing, shall comply with the recommendations to the satisfaction of the consultant and in agreement with the PCA.
  - (ii) Table 11 of Section 6 – The validated long-term background and ambient noise levels are to be used for the purpose of establishing planning noise performance parameters and consequent noise limits (through substitution into the NOISE GENERAL and NOISE ENTERTAINMENT conditions) for the certification of design and verification of operation, to the satisfaction of the consultant and PCA, prior issue of construction (and operation) certificates.
  - (iii) Table 12 of Section 6 – This will be the maximum allowable amenity noise emissions criteria relevant at the relevant receiver boundary.
  - (iv) Table 11 of Section 6 – Intrusiveness criteria for mechanical plant and equipment are not to exceed the allowable intrusive noise levels.
  - (v) Section 6.8 – The recommendations set out in this section shall form part of this consent, including:
    - a. The loading dock door shall be closed while rubbish is being removed
    - b. The ceiling of the dock shall be lined with a suitable absorptive material to the satisfaction of the consultant and in agreement with the PCA.
  - (vi) 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 Area Manager Health and Building 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.

**(53) NOISE - ENTERTAINMENT VENUES**

- (a) The LA<sub>10, 15 minute</sub> noise level emitted from the use must not exceed the background noise level (LA<sub>90, 15 minute</sub>) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence.
- (b) The LA<sub>10, 15 minute</sub> noise level emitted from the use must not exceed the background noise level (LA<sub>90, 15 minute</sub>) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, noise from the use when assessed as an LA<sub>10, 15 minute</sub> enters any residential use through an internal to internal transmission path is not to exceed the existing internal LA<sub>90, 15 minute</sub> (from external sources excluding the use) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed within a habitable room at any affected residential use between the hours of 7am and 12midnight. Where the LA<sub>10, 15 minute</sub> 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.
- (d) Notwithstanding compliance with (a), (b) and (c) above, the noise from the use must not be audible within any habitable room in any residential use between the hours of 12.00 midnight and 7.00am.
- (e) The LA<sub>10, 15 minute</sub> noise level emitted from the use must not exceed the background noise level (LA<sub>90, 15 minute</sub>) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises.

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

**(54) NOISE - GENERAL**

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



- (i) The  $L_{Aeq, 15 \text{ minute}}$  noise level emitted from the use must not exceed the project specific noise level for that receiver as determined in accordance with the *NSW EPA Industrial Noise Policy*. Noise must be measured in accordance with the Industrial Noise Policy and relevant requirements of Australian Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
  - (ii) Project specific noise levels shall be determined by establishing the existing environmental noise levels, in complete accordance with the assessment  $L_{A90, 15 \text{ minute}}$  / rating  $L_{A90, 15 \text{ minute}}$  process to be in accordance with the requirements for noise monitoring listed in the *NSW EPA Industrial Noise Policy* and relevant requirements of Australian Standard AS1055-1997 Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
  - (iii) Modifying factors in Table 4.1 of the *NSW EPA Industrial Noise Policy* are applicable.
- (b) An  $L_{Aeq, 15 \text{ minute}}$  noise level emitted from the use must not exceed the  $L_{A90, 15 \text{ minute}}$  noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence or noise sensitive commercial premises provided that;
- (i) Where the  $L_{A90, 15 \text{ minute}}$  noise level is below the threshold of hearing,  $T_f$  at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of  $T_f$  corresponding to that Octave Band Centre Frequency shall be used instead.
  - (ii) The  $L_{Aeq, 15 \text{ minute}}$  noise level and the  $L_{A90, 15 \text{ minute}}$  noise level shall both be measured with all external doors and windows of the affected residence closed;
  - (iii) The relevant background noise level ( $L_{A90, 15 \text{ minute}}$ ) is taken to mean the day, evening or night rating background noise level determined in complete accordance with the methodology outlined in the *NSW EPA Industrial Noise Policy* and Australian Standard AS1055.1997 Acoustics – Description and measurement of environmental noise.
  - (iv) Background noise shall be established in the absence of all noise emitted from the use but with the ventilation equipment normally servicing the affected residence operating. Background noise measurements are to be representative of the environmental noise levels at the affected location.
  - (v) Modifying factors in Table 4.1 of the *NSW EPA Industrial Noise Policy* are applicable. Internal Noise measurements are not to be corrected for duration.

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

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

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

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

- (a) Identification of noise sensitive receivers near to the site.
- (b) The proposed hours of all construction and work on the development including building / demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (e.g. loading and unloading of goods, transferring of tools etc), in connection with the proposed development.
- (c) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the City of Sydney Construction Hours / Noise Code of Practice 1992 for the typical construction hours of 7.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
- (d) A representative background noise measurement (LA90, 15 minute) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (e) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (f) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.
- (g) What course of action will be undertaken following receipt of a complaint concerning offensive noise.

- (h) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- (i) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

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

- (a) All works conducted on site which form part of this development must be carried out in accordance with the submitted Demolition, Excavation and Construction Management Plan prepared by Acoustic Logic dated 7 April 2015 reference 20141403.2/0704A/R0/HP.
- (b) Where all such control measures have been implemented and the resultant noise and/ or vibration levels at any sensitive receiver still exceed the council's applicable criteria stated in the Construction Hours/Noise Code 1992 and are giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building unit. Approval to vary the authorised noise and vibration levels must be received in writing by the proponent from Council prior to activities being undertaken that exceed sanctioned emission levels. (Use where respite periods not specified under the approved DEC NMP).

Such periods must be set and agreed to by Council's Area Manager, Health and Building.

**(57) USE OF INTRUSIVE APPLIANCES**

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

As a minimum, the report must specify:

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

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

## **SCHEDULE 1B**

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

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

#### **(58) LAND SUBDIVISION**

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

#### **(59) STRATA SUBDIVISION**

Any proposal for strata subdivision of the site will require development consent and therefore the lodgment 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*.

#### **(60) 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 Environmental Planning and Assessment Regulation, 2000.

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

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

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

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

**(63) 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.

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

- (a) Prior to the commencement of demolition and/or excavation work the following details must be submitted to and be approved by the Principal Certifying Authority:
  - (i) Plans and elevations showing distances of the subject building from the location of adjoining and common/party walls, and (where applicable) the proposed method of facade retention.
  - (ii) A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the WorkCover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted.)
  - (iii) An Excavation Work Method Statement prepared by an appropriately qualified person.
  - (iv) A Waste Management Plan for the demolition and or excavation of the proposed development.

- (b) Such statements must, where applicable, be in compliance with AS2601-2001 Demolition of Structures, the Work, Health and Safety Act 2011 and Regulation; Council's Policy for Waste Minimisation in New Developments 2005, the Waste Avoidance and Resource Recovery Act 2001, and all other relevant acts and regulations and must include provisions for:
- (i) A Materials Handling Statement for the removal of refuse from the site in accordance with the *Waste Avoidance and Resource Recovery Act 2001*.
  - (ii) The name and address of the company/contractor undertaking demolition/excavation works.
  - (iii) The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials.
  - (iv) The name and address of the transport contractor.
  - (v) The type and quantity of material to be removed from site.
  - (vi) Location and method of waste disposal and recycling.
  - (vii) Proposed truck routes, in accordance with this development consent.
  - (viii) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site).
  - (ix) Measures to control noise emissions from the site.
  - (x) Measures to suppress odours.
  - (xi) Enclosing and making the site safe.
  - (xii) Induction training for on-site personnel.
  - (xiii) Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to WorkCover Authority.
  - (xiv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the WorkCover Authority.
  - (xv) Disconnection of utilities.

- (xvi) Fire Fighting. (Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed).
  - (xvii) Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings).
  - (xviii) Waterproofing of any exposed surfaces of adjoining buildings.
  - (xix) Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the *Protection of the Environmental Operations Act 1997*).
  - (xx) Working hours, in accordance with this development consent.
  - (xxi) Any WorkCover Authority requirements.
- (c) The approved work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.

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

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

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

**(66) ROAD OPENING PERMIT**

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

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

**(67) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

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

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

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

**(69) 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).

**(70) BARRICADE PERMIT**

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



**(71) 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.

**(72) TREES APPROVED FOR REMOVAL**

Trees numbered 6 – 25 in the Tree Report and Arboricultural Development Impact Assessment prepared by Birds Tree Consultancy dated 31 March 2015 are approved for removal.

Tree removal shall not occur until the Construction Certificate has been issued.

**(73) TREES THAT MUST BE RETAINED**

Approval is NOT granted for the removal of any street trees, which Council has determined to be prominent landscape elements.

All street trees on Epsom Road and Dalmeny Avenue must be retained and protected throughout the proposed development.

**(74) STREET TREE PROTECTION**

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

- (a) Tree trunk and major limb protection must be undertaken prior to the issuing of the Construction Certificate. The protection must be installed by a qualified Arborist (AFQ 2 or 3) and must include:
  - (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunk at all times;
  - (ii) Tree trunk/s and/or major branches, located within 500mm of any hoarding or scaffolding structure, must be protected by wrapped hessian or similar material to limit damage; and
  - (iii) Timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion;
  - (iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project;

- (b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.
- (c) Materials or goods, including site sheds, must not be stored or placed:
  - (i) around or under the tree canopy; or
  - (ii) within two (2) metres of tree trunks or branches of any street trees.
- (d) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9333, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

#### **(75) STREET TREE PRUNING**

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

#### **(76) 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.

#### **(77) 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.

**(78) ASBESTOS REMOVAL WORKS**

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

The site notice board must include the following:

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

#### **(79) 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.

#### **(80) 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.

#### **(81) 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.

#### **(82) IMPORTED FILL MATERIALS**

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

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

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

**(83) LAND REMEDIATION (Where Site Auditor engaged)**

The site is to be remediated and validated in accordance with the Remedial Action Plan prepared by Environmental Investigations dated 30 April 2015 and referenced E22016.2AD and the Letter of Interim Advice No. 7 prepared by Kylie Lloyd dated 30 April 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

**(84) 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.

**(85) 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.

**(86) 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

**(87) 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.

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

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

**(89) 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.

**(90) MICROBIAL CONTROL IN WATER SYSTEMS**

- (a) Prior to the issue of a Construction Certificate detailed plans of any water cooling system (including cooling towers) as defined under the *Public Health Act 2010* must be prepared by a suitably qualified person and certified in accordance with AS3666: 1: 2011 Air handling and water systems of buildings – Microbial Control – Design, installation and commissioning and must be submitted to and approved by Council.
- (b) Water cooling system operation and maintenance manuals and maintenance service records shall be readily available at the premises for inspection by an authorised officer upon request. Such records must be kept on the premises in accordance with Clause 2.6 to AS/NZS 3666:2:2011 Air handling and water systems of buildings – Microbial control, operation and maintenance.
- (c) The installation, operation and maintenance of warm water systems and water cooling systems (as defined under the *Public Health Act 2010*) must comply with the following:
  - (i) *Public Health Act 2010*, Public Health Regulation 2012 and Parts 1 and 2 (or part 3 if a Performance-based water cooling system) of AS3666:2011 Air handling and water systems of buildings – Microbial Control and the NSW Health Code of Practice for the Control of Legionnaires Disease.
  - (ii) Prior to the issue of an Occupation Certificate or if non applicable, prior to commencement of the use, the owner or occupier of the premises at which any warm water system and/or water cooling system is installed must cause notice of such installation(s) by providing to Council's Environmental Health department, written notification by way of the prescribed form under Clause 12 to the Public Health Regulation 2012. Any changes to these particulars must be notified to Council's Environmental Health department in writing within 7 days of the change(s). Copies of the notification forms are available on the City of Sydney website.

**(91) ACOUSTIC PRIVACY BETWEEN UNITS**

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

- (c) The Certifying Authority (PCA) must ensure that the acoustic mitigation measures identified in the subject report are suitable incorporated into the development as erected prior to the issue of an Occupation Certificate.

**(92) REDUCTION OF NOISE FROM EXTERNAL SOURCES (RESIDENTIAL AND SERVICED APARTMENTS)**

- (a) Prior to a Construction Certificate being issued, an acoustic assessment report prepared by a suitably qualified acoustic consultant must be submitted to and approved by the Certifying Authority demonstrating compliance with the requirements of the *Sydney DCP 2012* in relation to acoustic privacy. The approved drawings and specifications for construction are to be in accordance with the requirements of the DCP.
- (b) In the preparation of the report:
  - (i) The environmental noise monitoring at the site of the proposed development must be undertaken for not less than 3 week days, or not less than 2 weeks where the site is affected by noise from part-time operations;
  - (ii) The repeatable maximum LAeq (1 hour) for the daytime period (0700-2200 hours) and for the night time period (2200-0700 hours) is to be identified; and
  - (iii) The LAeq (1 hour) noise levels within living rooms and bedrooms with windows and doors both open and closed must be shown.
- (c) Prior to an Occupation Certificate being issued, a Compliance Certificate from a qualified, practicing acoustic engineer must be submitted to the satisfaction of the Principal Certifying Authority, certifying compliance with the condition.

**(93) FLOOR TO CEILING HEIGHT**

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

**(94) WASTE/RECYCLING COLLECTION**

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



**(95) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL**

- (a) 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.
- (b) 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

- (c) 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.

**(96) 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.

**(97) 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".

**(98) 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).

**(99) PROTECTION OF SURVEY INFRASTRUCTURE**

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

**(100) 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 the Director City Planning, Development and Transport 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.

#### **(101) 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.

#### **(102) PUBLIC DOMAIN AND GROUND LEVEL SETBACK AREA**

The design of the developments interface and connection to the surrounding streets, and public domain infrastructure must be in accordance with the City of Sydney's *Public Domain Manual*, *Sydney Streets Design Code* and *Sydney Streets Technical Specification*,

Details of the developments interface to the public domain and the ground level setback area are to form part of the Alignment Level and Public Domain Plan submissions.

The detailed submission must address the following;

- (a) Demonstrate how the development integrates into the surrounding street network and adjoining properties including road and footway alignment levels, drainage system and pallet of material / paving.
- (b) Demonstrate that the palette of material, and alignment levels of the ground level setback area complement the public domain.
- (c) Detail all work including retaining walls, ramps, stairs and the like.
- (d) CEPTED principles and Design for Access standards are to be adhered to.

#### **(103) NEW ROAD DETAILED DESIGN**

The detailed design of the new Roads (Road 03, 04 and 05) and the Epsom Road footway widening area is to be submitted and approved by the City prior to an Alignment Level submission for this development.

#### **(104) NEW ROAD AND NEW PARK CONSTRUCTION AND DEDICATION**

Prior to the issue of an Occupation Certificate for the development, new Road 04, new Road 05, the Epsom Road footway widening and the new Public Park are to be constructed in accordance with the Planning Agreement requirements and to the satisfaction of Council and dedicated to Council.

#### **(105) ASSOCIATED ESSENTIAL INFRASTRUCTURE COSTS**

All costs associated with the construction of the stormwater diversion works including trenching, pipework, pit connections and reinstatement of infrastructure and utilities shall be borne by the developer.

**(106) STORMWATER AND DRAINAGE MANAGEMENT**

- (a) The existing stormwater management and drainage connections servicing the upper catchment areas are to be maintained at all times (during and after approved works). Where temporary or interim stormwater works are required, permission is to be sought from the relevant authority (Council or Sydney Water) prior to works commencing. If a drainage line is to be removed or altered, replacing drainage line must have similar or better capacity.
- (b) The design of all infrastructure that will be located in future road reserves is to be designed and constructed in accordance with the City's Sydney Streets Technical Specification, and the City's Public Domain Manual.
- (c) Detailed documentation of the proposed stormwater diversion is to be submitted and approved by Council prior to issue of a Construction Certificate. The detailed submission must:
  - (i) Demonstrate that the works proposed are in accordance with the City's Sydney Streets Technical Specification, Public Domain Manual.
  - (ii) Demonstrate that the works proposed are designed for the existing conditions of the site and its surrounds, and for the future infrastructure design including:
  - (iii) Road cross sections showing road and footway widths, existing levels and design levels. Plan drawings and longitudinal sections showing gutter invert, kerb and boundary alignments with design grades of the existing and proposed future public road network including utility services.
  - (iv) Drainage plans, specification, details, and longitudinal sections showing drainage pits and pipe locations, invert levels of pits, pipe sizes, hydraulic grade lines for the design storm and other standard features such as flow rates, pipe class, pipe grade, velocity and connections to the existing piped drainage system.
  - (v) Design certification report by an appropriately qualified 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. All engineering plans and calculations shall be checked, signed and certified by a suitably qualified practicing professional engineer.
- (d) Any permanent or temporary drainage system is to be constructed in accordance with Council's standard requirements as detailed in Council's 'Stormwater Drainage Connection Information' document dated July 2006. This information is available on Council's website - [www.cityofsydney.nsw.gov.au](http://www.cityofsydney.nsw.gov.au).
- (e) All stormwater easements are to be maintained and accessible throughout the works.

- (f) The drainage works are to be completed in accordance with the approved detailed design drawings 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.

**(107) HOLD POINTS AND HANDOVER FOR STORMWATER DIVERSION WORKS**

- (a) Prior to a Construction Certificate being issued, excluding approved preparatory, demolition and shoring work, a set of hold points for approved stormwater diversion work, sewer and mains water connection work is to be determined with and approved by the City's Public Domain section in accordance with the City's Public Domain Manual.
- (b) All work being carried out in the future road reserve area which is intended to be dedicated to Council are to be inspected by the City during construction in accordance with the approved hold points.
- (c) Completion and handover of the constructed stormwater diversion works is to be undertaken in accordance with the City's Public Domain Manual and current specification and standard details, including requirements for as-built documentation, certification and defects liability period.

**(108) 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.
- (g) 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.

#### **(109) 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.

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

All works to the City's public domain, including rectification of identified defects, are subject to a [insert time frame, typically 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.

**(111) PUBLIC DOMAIN DAMAGE DEPOSIT**

A Public Domain Damage Deposit calculated on the basis of 6 lineal metres of concrete material 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.

**(112) 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.

**(113) 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.

**(114) 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.

### **(115) LANDSCAPED (GREEN) ROOFS**

- (a) A detailed plan of the green roof, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by the Director City Planning, Development and Transport prior to the issue of a Construction Certificate. The plan must include:
- (i) A statement that includes details of proposed use of the green roof, general accessibility, as well as noise and privacy treatments.
  - (ii) Location of existing and proposed structures, services and hard landscaping on the rooftop, roof fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components.
  - (iii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable).
  - (iv) Details of the location, sizes and numbers of plants used with reference to NATSPEC (if applicable), with preference for drought resistant species.
  - (v) Details of the soil media/substrate type and depth.
  - (vi) Details of installation methodology e.g. safety considerations for working at height, location of maintenance hooks (if applicable) transport materials etc.
  - (vii) Details of accessible and inaccessible areas on the Green Roof. Where proposed to be inaccessible, Green Roofs are required to remain such during occupation of the property.
  - (viii) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer (if applicable).
  - (ix) A response to the site-specific wind conditions, ensuring the common roof terrace is safe and useable for recreational purposes.

- (b) Prior to the issue of a Construction Certificate, the following details are to be submitted to and approved by the Principal Certifying Authority:
  - (i) Evidence the green roof has been assessed as part of the structural certification provided for the development; and
  - (ii) Evidence the green roof has been assessed as part of the waterproofing certification provided for the development.
- (c) All landscaping in the approved plan is to be completed prior to the issue of an Occupation Certificate.
- (d) Prior to the issue of an Occupation Certificate, a maintenance plan is to be submitted and approved by the Principal Certifying Authority. A copy of the maintenance plan is to be kept on site at all times during construction and shall be produced to Council on request following completion. The Maintenance Manual shall include as a minimum:
  - (i) Frequency and methodology of different maintenance requirements including the removal of green waste;
  - (ii) Details of safety procedures;
  - (iii) Laminated copies of 'As Built' drawings;
  - (iv) Manufacturer's contact details and copies of manufacturers' typical details and specification;
  - (v) Copies of warranties and guarantees relating to all materials and plant used in construction; and
  - (vi) Decommissioning procedures.
- (e) Inaccessible green roofs are required to remain inaccessible during occupation of the property.

#### **(116) LANDSCAPING OF THE SITE**

- (a) A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by the Director City Planning, Development and Transport prior to the issue of a Construction Certificate for above ground building works. The plan must include:
  - (i) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;
  - (ii) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers;
  - (iii) Location, numbers, type and supply of plant species, with reference to NATSPEC (if applicable);

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

#### **(117) LANDSCAPE WORKS – THROUGH SITE LINK**

- (a) Detailed design of the Through Site Link is to be submitted and approved by the Director City Planning, Development and Transport prior construction of the landscape works. The detailed design submission is to include:
  - (i) Designed to consider Crime Prevention Through Environmental Design Principles.
  - (ii) Details of gates and fences to the link.
  - (iii) No obstructions relating to below ground car parks or adjacent buildings such as access ways or service vents are permitted within the path of travel in the Through Site Link.
  - (iv) The Through Site Link is to provide continuous accessible paths of travel in accordance with AS 1428-2009: Design for Access and Mobility. All continuous paths of travel shall be clearly indicated.
  - (v) The applicant shall include on the plans the extent of landscape areas on slab/planter boxes and provide details that include a cellular drainage system, water proofing, irrigation system, tanking and flushing tubes in accordance with relevant Council and Australian Standards. The minimum soil depths for planting on slab shall be 1000mm for trees, 600mm for shrubs and 300mm for groundcovers and turf.
  - (vi) Lighting design is to be submitted together with Certification from a suitably qualified Electrical/Lighting Engineer. The objectives of the lighting design shall be to provide an aesthetically pleasing, safe functional night time environment utilising variable high quality vandal resistant light fixtures.
  - (vii) Lighting of the through path shall comply with AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting. The lighting shall be designed in accordance with the appropriate P rating for the space as deemed necessary by the Electrical/ Lighting Engineer and in reference to AS1158.3.1 Road Lighting-Pedestrian Area Lighting.

**SCHEDULE 1C****During Construction/Prior to Occupation/Completion****(118) 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.

**(119) BASIX**

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

**(120) 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 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Unit, prior to works proceeding

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*.

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

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

**(122) 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.

**(123) USE OF HIGH NOISE EMISSION APPLIANCES / PLANT**

- (a) The operation of high noise emission appliances, plant and/or machinery such as pile – drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* is restricted to the hours of (EHO to specify hours).
- (b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436- 2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

**(124) 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.

**(125) 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 WorkCover Authority pursuant to the provisions of the following:

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

#### **(126) 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.

#### **(127) STREET NUMBERING – MAJOR DEVELOPMENT**

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

#### **(128) 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.

#### **(129) 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 Works 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.

### **(130) 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.

### **(131) 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.

### **(132) 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.

**(133) SYDNEY WATER CERTIFICATE**

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

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

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

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

**(134) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

**(135) 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.

**(136) SURVEY**

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

**(137) 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.

**(138) ENCROACHMENTS**

All parts of the proposed structure shall be confined within the boundaries of Lot 1 of a Stage 2 subdivision approved in Development Application D/2015/886, and shall not encroach beyond those boundaries unless prior approval is obtained.



**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 <i>Building Code of Australia</i> and insurance requirements under the <i>Home Building Act 1989</i> |
| Clause 98A | Erection of signs  |
| Clause 98B | Notification of <i>Home Building Act 1989</i> requirements   |
| Clause 98D | Conditions relating to maximum capacity signage  |
| Clause 98E | Conditions relating to shoring and adequacy of adjoining property  |

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

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

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

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

- (1) An authorisation shall be obtained 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.
- (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 impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
- (3) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:

- (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
  - (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
  - (c) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- (4) 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.
- (5) DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

**Prior to excavation**

- (6) The following shall be included in the initial report:
- (a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
  - (b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
  - (c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
  - (d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes].

- (7) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
- (8) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
- (9) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
- (10) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
- (11) A copy of a valid consent for the development shall be provided in the initial report.
- (12) 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 in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
- (13) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

#### **During excavation**

- (14) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

- (15) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off- site discharge.
- (16) Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
- (17) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. 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.
- (18) 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.
- (19) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
- (20) Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

**Following excavation**

- (21) Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:
  - (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
  - (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
  - (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and
- (22) The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

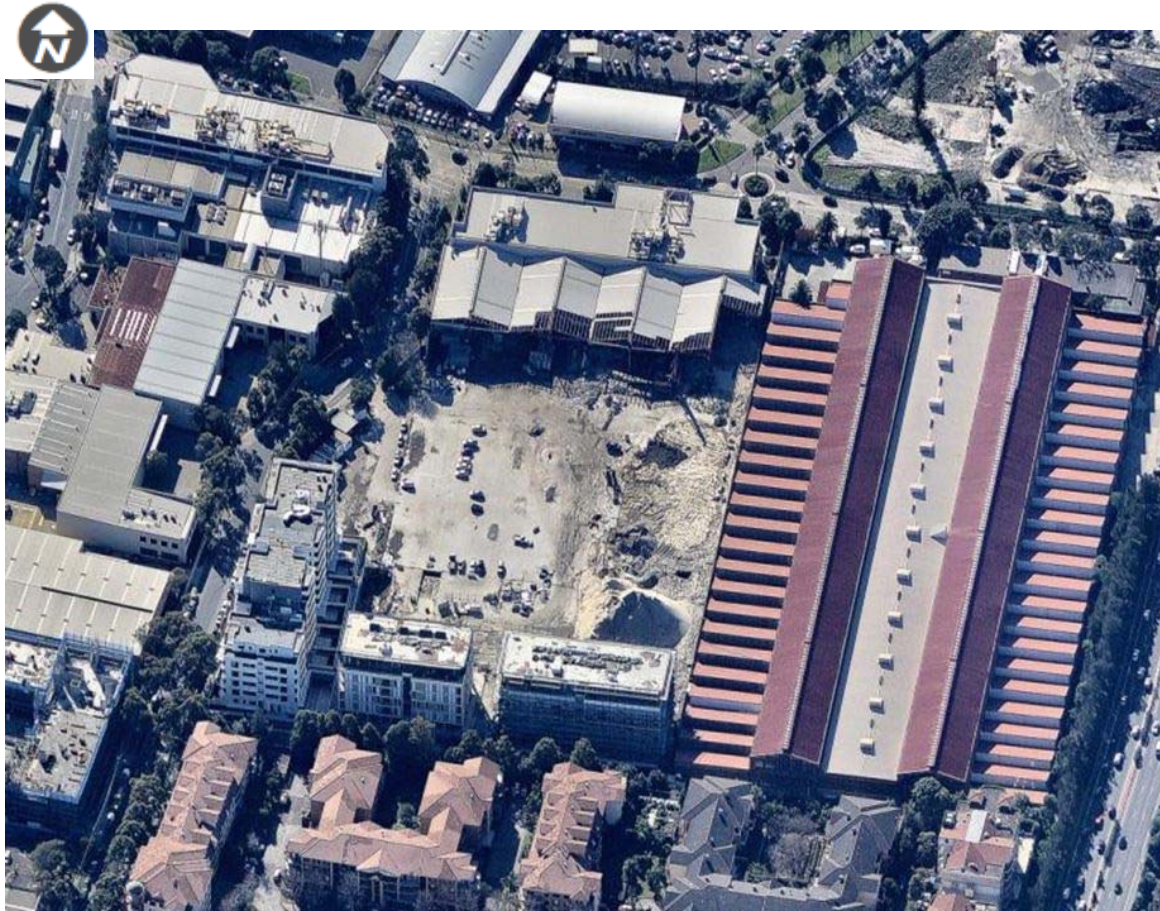
## BACKGROUND

### The Site and Surrounding Development

1. The site is located in the north eastern sector of Rosebery, an established suburb comprising a mix of commercial, industrial and residential uses. The area is currently undergoing a period of transition with a number of industrial sites recently being redeveloped as residential developments.
2. The application site forms part of a larger development site known as 'Overland Gardens' and is identified as Lot 3 DP 12089 03. The site is an irregularly shaped parcel and has an area approximately 23,760sqm. The overall Masterplan of the 'Overland Gardens ' site has an area of 33,400sqm The site is relatively flat and has a 103 metre frontage to Epsom Road.
3. Photos of the site and surrounds are provided below:



**Figure 1:** Aerial image of subject site, showing Stage Masterplan area, current Lot (Lot 3 DP 1208903) and Building A location



**Figure 2:** Aerial image of subject site and surrounding area.

4. The construction of the first stage of development is currently taking place at the southern end of the site, with Buildings D, G and H nearing completion. The majority of buildings have been demolished except for commercial and warehouse buildings at the northern end of the site which are currently vacant, which is the location of the proposed Building A.
5. There are a number of trees along the western and southern boundaries and the site is also bounded partly by an open metal mesh fence, and partly by the masonry wall of the northern warehouse building. Existing vehicular access points are located on both Epsom Road and Dalmeny Avenue.
6. To the south of the site is a relatively high density residential development known as 'Kimberley Grove', comprising a series of residential flat buildings ranging from 4 to 8 storeys in height set around a series of private roads and areas of open space.
7. Development to the north of the site includes a number of single storey car showrooms and commercial buildings, which are to be redeveloped as mixed use residential developments. To the west is a mix of small to medium scale industrial and commercial buildings. There are also residential properties approximately 350m to the west.
8. The 'Dolina' site is located immediately to the east of the site and comprises a number of warehouse storage units. This site is the subject of a Stage 1 development consent for a mixed use development which interacts with that of the subject site.

9. The site is located within close proximity of transport links and local amenities. The eastern distributor road is located approximately 150 metres to the east of the site and Green Square train station is approximately 1.4km to the north west, both providing direct access to Sydney CBD and Sydney airport. The site is also in close proximity to the future Green Square Town Centre, is served by a bus stop located directly adjacent to the site on Epsom Road as well as existing and proposed cycleways along Epsom Road.
10. Photographs of the site are provided below:



**Figure 3:** The northern end of the site viewed from the corner of Epsom Road and Dalmeny Avenue.



**Figure 4:** The site viewed from Dalmeny Avenue.



**Figure 5:** Looking east across the site.





**Figure 6:** Looking south across the site showing Buildings H, G and D nearing completion.



**Figure 7:** Building D viewed from Dalmeny Avenue.



**Figure 8:** The southern edge of the site showing Buildings D, G and H nearing completion.



**Figure 9:** Opposite side of Dalmeny Avenue

**HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION**

11. The following competitive design process is relevant to the proposal:

Competitive Design Process – CMP/2014/20

- (a) In June 2014, a Competitive Design Alternative Process commenced where three invited architects designed schemes for the redevelopment of the site. The selected winner of the process was BVN Architects. Figures 10 and 11 illustrate the winning scheme.



**Figure 10:** Winning design as viewed from corner of Epsom Road and Dalmeny Avenue facing south east



**Figure 11:** Southern elevation of winning design viewed from within the site facing north east

12. The following development applications are relevant to the site:

Stage 1 - D/2008/102

- (a) On 30 July 2010, the Central Sydney Planning Committee (CSPC) granted a Stage 1 development consent for the following development:
- (i) 5 residential flat buildings ranging in height from 4 to 8 storeys with associated basement levels (Building B-H).
  - (ii) **1 mixed use building ranging in height from 1 and 13 storeys with associated basement levels (Building A).**
  - (iii) Public domain works including:
    - a. A 3,260sqm public park
    - b. 4 new internal roads
    - c. The dedication and setback of a 1.4m strip of land along the Epsom Road boundary
    - d. The dedication and setback of two strips of land along the eastern boundary of the site for future footpaths or landscaping.

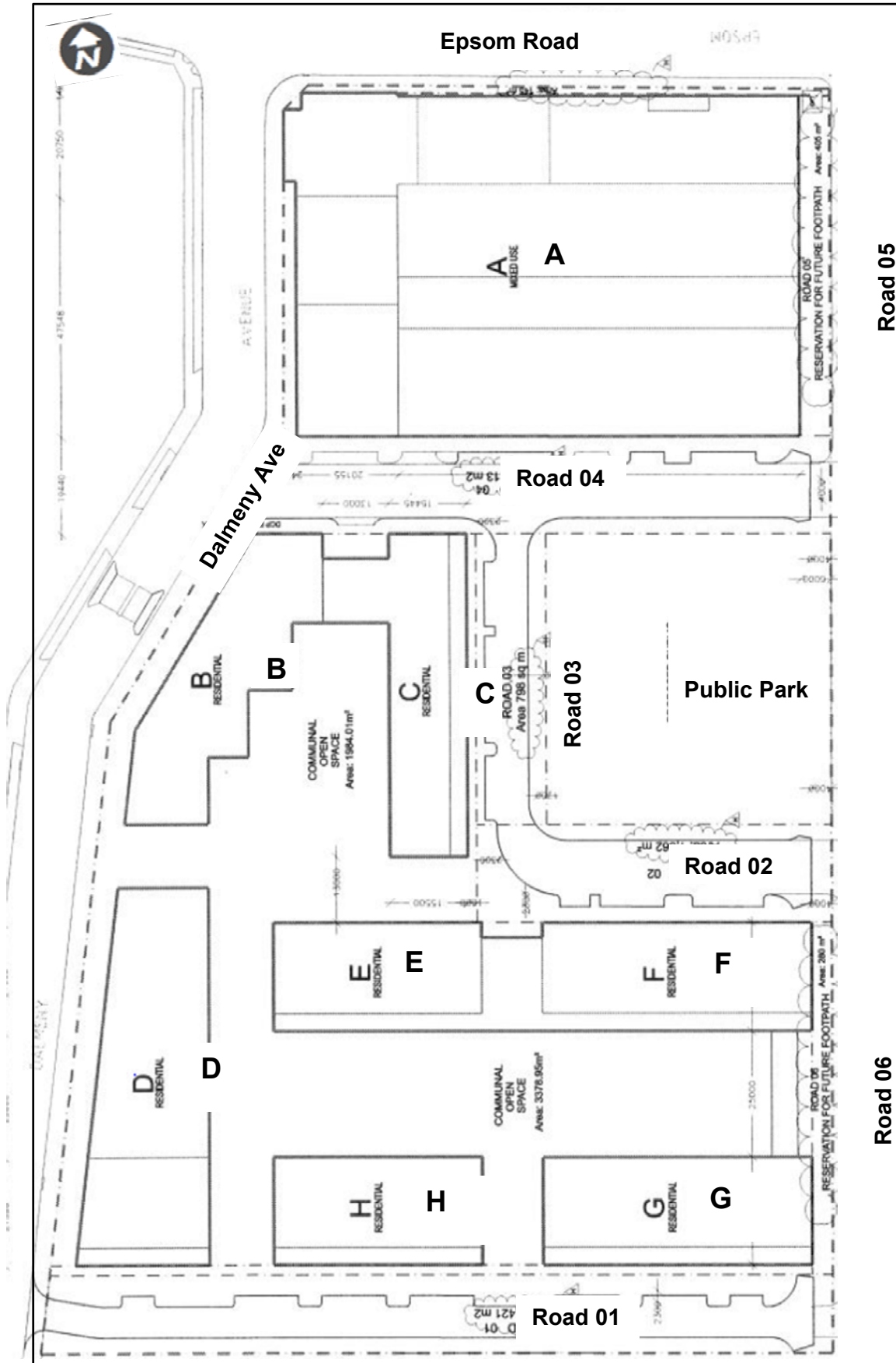


Figure 12: The Stage 1 DA location plan.

- (b) This application was modified as follows:
- (i) D/2008/102/A - to include a basement plan, amend the height, and alter the timing of delivery of the Epsom Road/ Link Road upgrade.
  - (ii) D/2008/102/B – to reference current planning controls.
  - (iii) D/2008/102/C:
    - a. Increased height of Building B (by 4.3m), C (by 1.7m), Building E-F (by 4.03m).
    - b. Shifted footprint of Building E to the north.
    - c. Included protrusions outside of the building envelopes on the eastern side of Building B and the western side of Building C.
    - d. Reduction in building envelope and the junction of Building B and C.
    - e. Amend Condition 17 (Upgrade to Epsom Road / Link Road Intersection) to amend the timing to complete the upgrade to prior to the Final Occupation Certificate for Building A.
- (c) A Section 96 application D/2008/102/E to the Stage 1 development application has been referred concurrently to the CSPC. The changes include:
- (i) Volumetric shifts re-configuration of the massing across the proposed site;
  - (ii) Removal of the 1 and 3 storey commercial buildings in the centre of the site to create a retail courtyard and through site link;
  - (iii) Increased height to accommodate architectural treatments at the corner of Dalmeny Avenue and Epsom Road; and
  - (iv) Increased floor to floor heights of 3100mm.

13. The following voluntary planning agreement is relevant to the proposal:

- (a) A Voluntary Planning Agreement (VPA) associated with the Stage 1 DA public benefit was executed on 28 September 2010. The agreement included the following public benefits:
- (i) Construction of Roads 01 (2,421sqm), 02 (1,362sqm), 03 (798sqm), 04 (2,215sqm), 05 (405sqm) and 06 (280sqm) and dedication to Council.
  - (ii) Construction of a public park (3,260sqm) and dedication to Council.
  - (iii) Footpath widening along Epsom Road (145sqm).
  - (iv) A contribution of \$1,670,000 for the purpose of infrastructure in or about the area known as “Green Square Town Centre”.
  - (v) A contribution of \$174,400 for the purpose of cycleway infrastructure in or about the area surrounding the site.

Stage 2 applications

- (b) D/2011/1202: On 2 April 2012, approval was granted for the Stage 2 DA for the construction of 'Building D', a 5 to 8 storey residential flat building with 2 basement levels comprising 105 apartments and 105 car spaces. A photomontage is shown in Figure 13.
- (c) D/2011/1203: On 5 March 2012, approval was granted for the Stage 2 DA for the construction of 'Road 01' along the southern boundary of the site, plus infrastructure and service works.
- (d) D/2011/1789: On 7 February 2012, approval was granted for use of part of the existing warehouse building fronting Dalmeny Avenue as a temporary display apartment and showroom, utilising the site's existing car parking, hard stand and landscaping.
- (e) D/2012/1422: On 26 February 2013, approval was granted for the Stage 2 DA for the construction of 'Buildings G and H' for 5 to 6 storey residential flat building with 2 basement levels comprising 118 apartments and 105 car spaces. A photomontage is shown in Figure 14 below.
- (f) D/2013/284: On 29 May 2013, approval was granted for the demolition of southern warehouse, northern warehouse and gatehouse building plus the temporary infilling of walls to ensure weatherproofing of the approved display suite adjacent to Dalmeny Avenue.
- (g) D/2015/287: On 4 May 2015, approval was granted for subdivision of the site, being Lots 1 and 2 in DP858174, into 3 new lots and dedication of Road 01 (Galara Street) and part of Road 06 (Gilbanung Street) as Public Road.
- (h) D/2014/1977: On 6 August 2015, approval was granted for the Stage 2 development application for the construction of four residential buildings known as buildings B, C, E and F containing 247 units and two levels of basement parking.
- (i) D/2015/886: On 1 September 2015, approval was granted for a Stage 2 development application was lodged for land subdivision and the construction of Roads 02, 03 and 04.



**Figure 13:** Building D photomontage viewed from Dalmeny Avenue.



**Figure 14:** Buildings G and H photomontage viewed from Road 01.





**Figure 15:** Building B photomontage viewed from Dalmeny Avenue



**Figure 16:** Photomontage of Buildings F, E and C viewed from future Public Park.

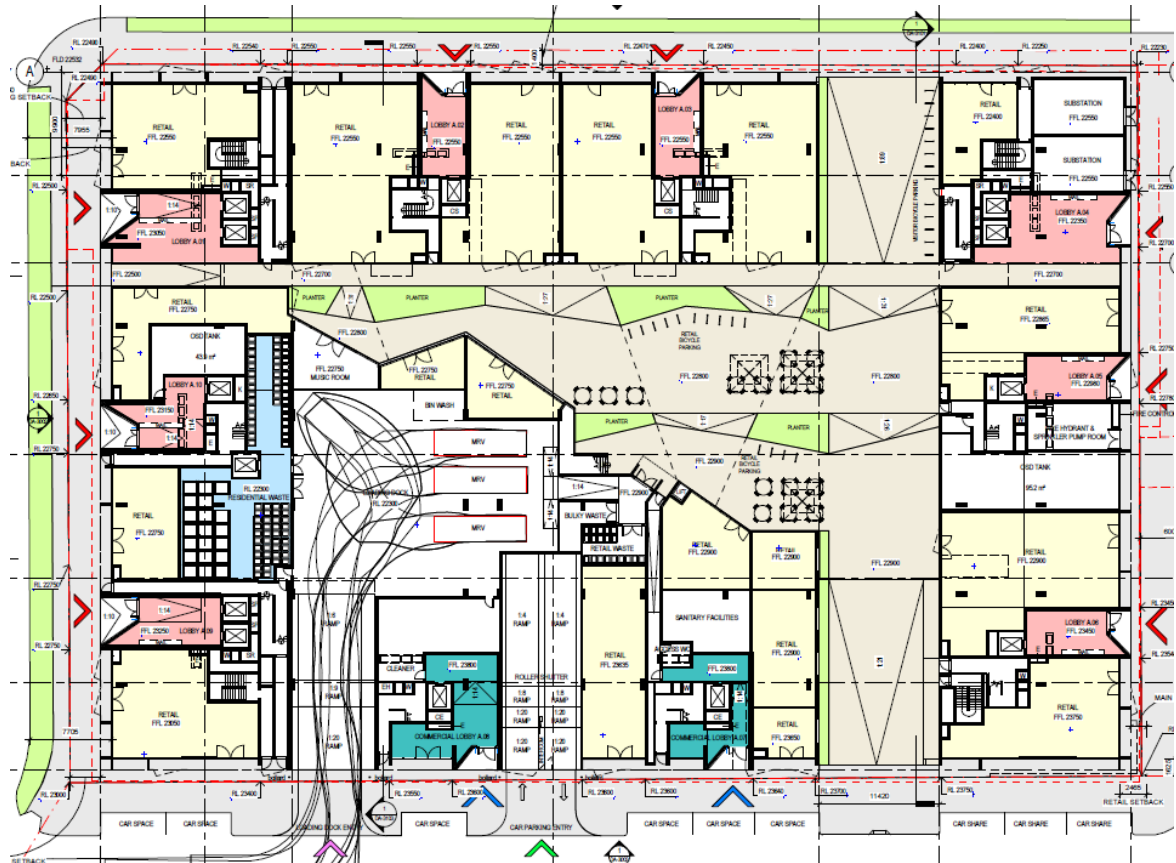
## PROPOSAL

14. The Stage 2 development application seeks consent for the following:
  - (a) Construction of a part 6 - 13 storey mixed use building comprising:
    - (i) 268 residential apartments;
    - (ii) 48 serviced apartments;
    - (iii) 1,971sqm of retail premises across 19 tenancies;
    - (iv) Music room at ground floor level;
  - (b) Through site link between Margari Street and Epsom Road;

- (c) Central landscaped courtyard;
  - (d) Podium communal open space, rooftop terraces and landscaping;
  - (e) Excavation of two levels of basement car parking accommodating 272 vehicles.
15. Amended plans were submitted to address concerns raised by Council officers, Changes included:
- (a) Increased activation and to through site link and park;
  - (b) Reduction in driveway width and location to align with surrounding future roads;
  - (c) Greater architectural articulation to the Epsom Road frontage;
  - (d) Amended architectural treatment of southern façade to ensure consistency with architectural design competition;
  - (e) Consolidation of heating and cooling infrastructure and removal of air conditioners from balconies; and
  - (f) Amendments to apartment layouts.
16. A site plan, ground floor plan, first floor plan, elevations photomontages and axonometric are shown in Figures 17-25 below:



**Figure 17: Site plan**



LEGEND








-  RESIDENTIAL LOBBY ENTRY
-  SERVICED APARTMENT LOBBY ENTRY
-  RESIDENTIAL CAR PARKING ENTRY
-  LOADING DOCK ENTRY
-  STAGE 1 DA OUTLINE
-  EXISTING SITE BOUNDARY
-  BUILDING A SITE BOUNDARY

Figure 18: Ground floor plan



Figure 19: First floor plan



Figure 20: North elevation (dotted red line indicates original Stage 1 DA envelope)



Figure 21: South elevation

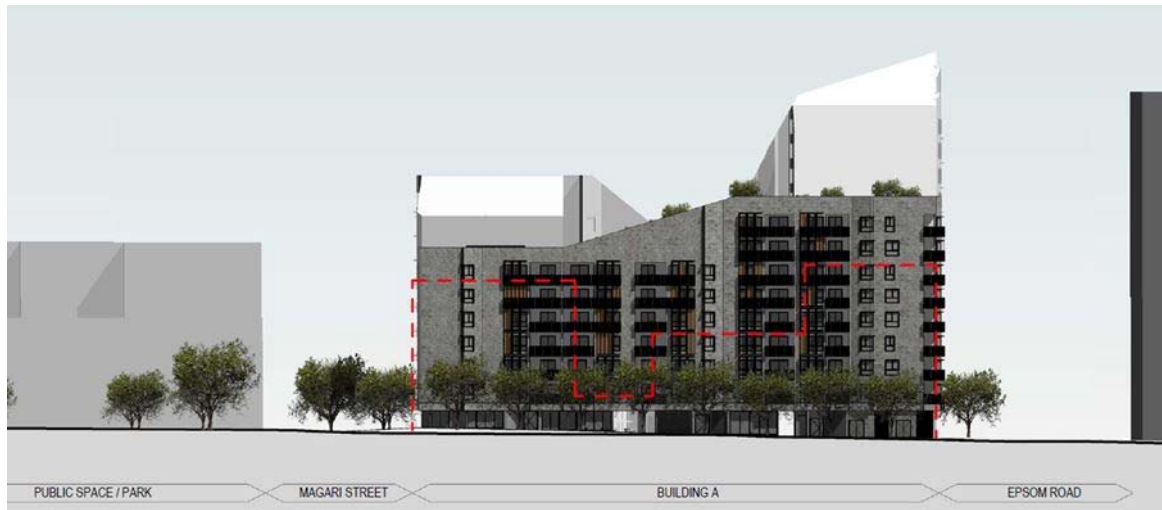


Figure 22: East elevation



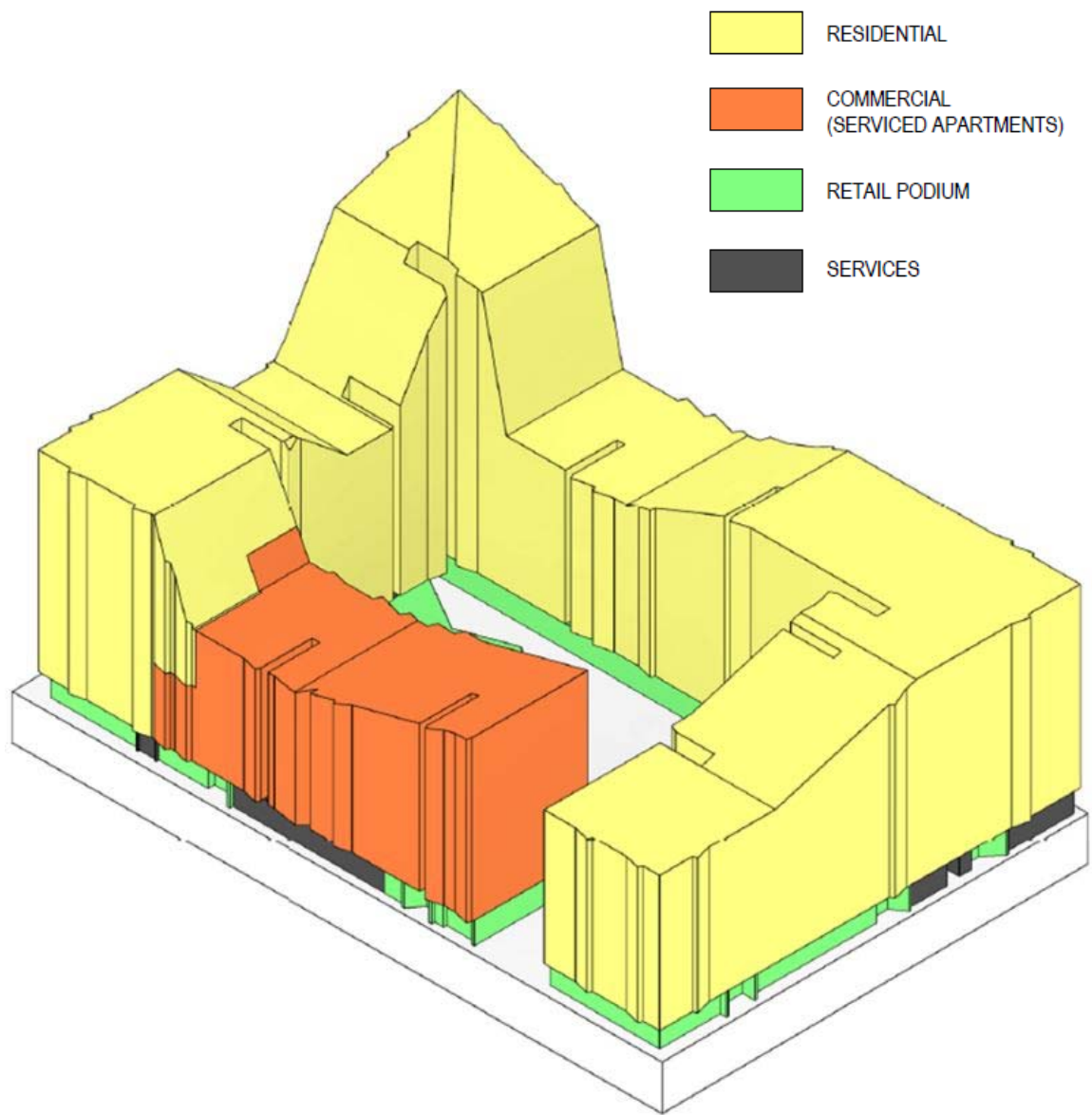
Figure 23: West elevation



**Figure 24:** Photomontage - corner of Epsom Road and Dalmeny Avenue



**Figure 25:** Photomontage southern elevation



**Figure 26:** Axonometric view showing distribution of uses

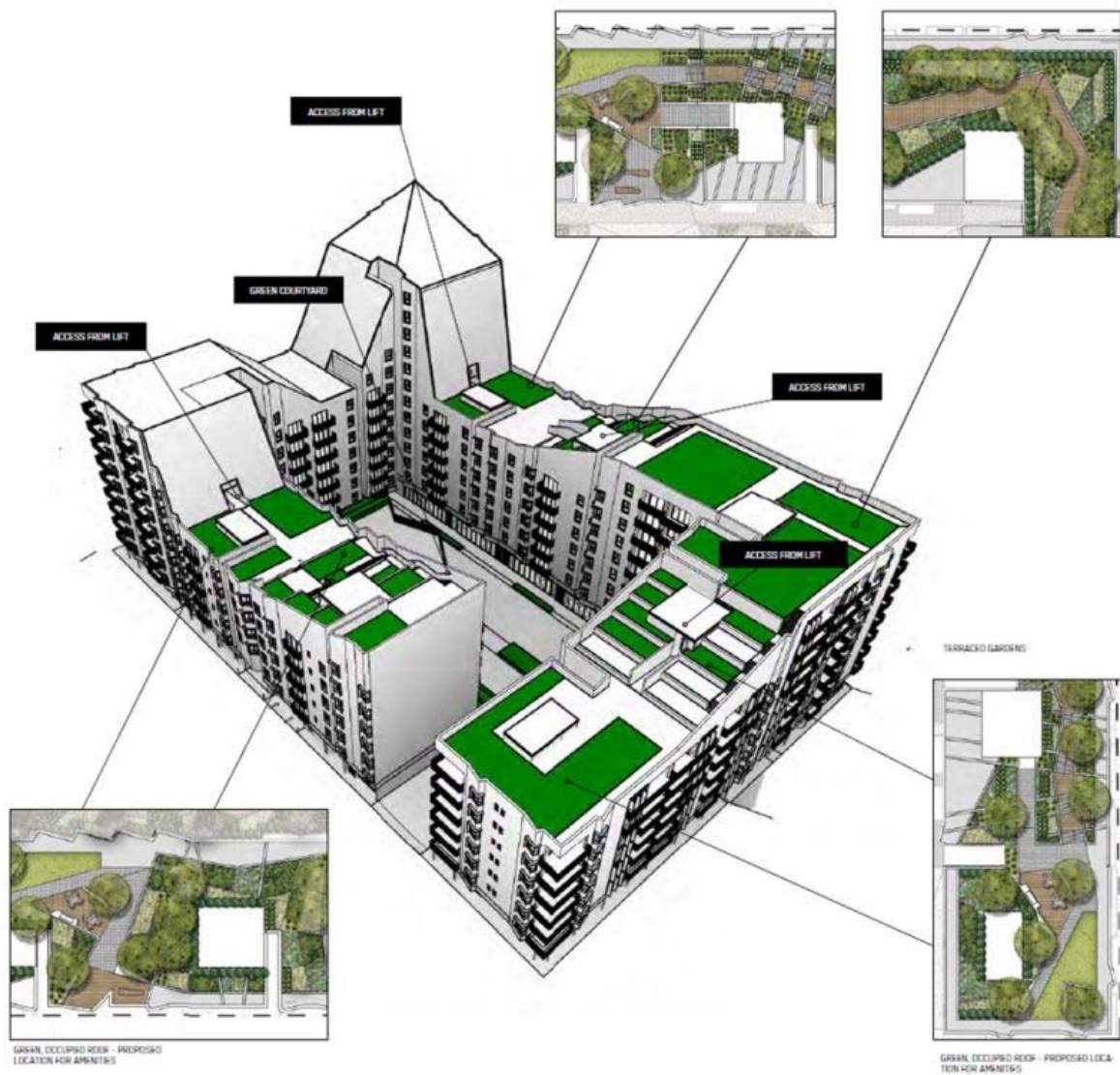


Figure 27: Landscape Axonometric

## ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

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

### Integrated Development – Section 91 EP&A Act

18. The application was referred to the NSW Office of Water as the proposal constitutes Integrated Development under Section 91 of the EP&A Act.
19. Preliminary assessment indicates that the groundwater table will be intercepted as a result of the excavation for the proposed basement car park. The construction dewatering proposed for the project is deemed to be an aquifer interference activity. The excavation and construction at the property will need to be conducted in accordance with the principles of the Aquifer Interference Policy as set out by the NSW Office of Water.



20. 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.

### **Environmental Planning Instruments and DCPs**

#### **SEPP 32 – Urban Consolidation (Redevelopment of Land)**

21. SEPP 32 aims to promote the orderly and economic use and development of land by enabling land which is no longer required for its current use to be redeveloped for multi-unit housing and residential development which is close to employment, leisure and retail opportunities.
22. The principle of residential development on this site has already been established within the Stage 1 approval. The development will result in a diverse range of apartment types, which are in close proximity to the future Green Square Town Centre and Sydney CBD, public transport links and community areas such as Moore Park. The development is consistent with the aims and objectives of the SEPP.

#### **State Environmental Planning Policy No 55—Remediation of Land**

23. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed. The site has previously been used for industrial purposes and the application proposes a more sensitive land use for residential purposes.
24. A Remedial Action Plan (RAP) was submitted with the development application. The City’s Health and Building Unit has reviewed the RAP and is satisfied that subject to conditions, the site can be made suitable for the proposed use

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

25. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 10 design quality principles, being:
- (a) **Principle 1:** Context and Neighbourhood Character
  - (b) **Principle 2:** Built Form and Scale
  - (c) **Principle 3:** Density
  - (d) **Principle 4:** Sustainability
  - (e) **Principle 5:** Landscape
  - (f) **Principle 6:** Amenity
  - (g) **Principle 7:** Safety
  - (h) **Principle 8:** Housing diversity and social interaction
  - (i) **Principle 9:** Aesthetics

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

### Residential Flat Design Code

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

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
<p><b>Building Depth</b></p> <p>10-18m (glass to glass)</p> <p>Developments wider than 18m are to demonstrate how satisfactory daylighting and natural ventilation are achieved.</p>	Partial	<p>The proposal has building depths ranging from 18-20m</p> <p>The depths beyond 18m are considered to be acceptable as the buildings are well articulated and achieve suitable amount of daylighting and natural ventilation.</p>
<p><b>Building Separation</b></p> <p>Up to four storeys/up to 12 metres:</p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms/ balconies</li> <li>• 9m between habitable/ balconies and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul> <p>Five to eight storeys/up to 25 metres:</p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms/ balconies</li> <li>• 13m between habitable/ balconies and non-habitable rooms</li> <li>• 9m between non-habitable Rooms</li> </ul>	Yes	<p>The separation between the east/west internal balconies is 59m.</p> <p>The separation between the north/south internal balconies is 28m</p> <p>The corner units of the internal courtyard incorporate appropriate privacy screen and angled windows and balconies to mitigate overlooking.</p>
<p><b>Deep Soil Zone</b></p> <p>A minimum of 25% of the open space area of the site should be a deep soil zone.</p>	Yes	<p>While no deep soil is provided within the boundaries of Building A, deep soil in excess of 25% of the overall masterplan site has been provided.</p>

<b>Residential Flat Design Code</b>		
<b>Rule of Thumb</b>	<b>Compliance</b>	<b>Comment</b>
<p><b>Communal Open Space</b> Communal open space to be 25- 30% of site area.</p> <p><b>Private Open Space</b> 25sq.m at ground level with minimum preferred dimension in one direction of 4m.</p>	<p>Yes</p> <p>N/A</p>	<p>28% of the site area being developed is to be used for communal open space.</p> <p>No ground floor residential units are proposed.</p>
<p><b>Safety</b> Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings</p>	Yes	A Crime Prevention Through Environmental Design (CPTED) statement was prepared identifying areas within the development that required appropriate design and security management. The proposal is considered to be satisfactory.
<p><b>Visual Privacy</b> To provide reasonable levels of visual privacy externally and internally, during the day and at night</p>	Yes	The proposal largely achieves acceptable separation to maintain visual privacy for future occupants and those of adjoining buildings.
<p><b>Single Aspect Apartments</b> Single aspect apartments should be limited in depth to 8m from a window.  Limit single aspect apartments with a southerly aspect (SW-SE) to max.10% of total units.</p>	Partial	<p>All single aspect apartments are less than 8m in depth, and have windows to habitable rooms and are acceptable in terms of achieving adequate daylight and natural ventilation.</p> <p>There are 21 south facing apartments, and 10 of these are serviced apartments. The totals 11.6% is marginally over the 10% maximum and is considered to be acceptable.</p>
<p><b>Apartment Layout (Kitchen)</b> The back of a kitchen should be no more than 8m from a window.</p>	Yes	All kitchens are less than 8m from a window.
<p><b>Apartment Layout (Cross-Over)</b> The width of cross-over or cross-through apartments over 15m deep should be 4m or greater to avoid deep narrow apartment layouts.</p>	Yes	All cross-through apartments have a minimum width of 4m.

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
<p><b>Apartment Layout (Unit Sizes)</b></p> <p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 38.5sqm</li> <li>• 1 bed: 50sqm</li> <li>• 2 bed: 70sqm</li> <li>• 3 bed: 95sqm</li> </ul>	Yes	<p>Unit sizes are provided as follows:</p> <ul style="list-style-type: none"> <li>• Studio: 50.3sqm – 56.7sqm</li> <li>• 1 bed: 50.1sqm – 74.2sqm</li> <li>• 2 bed: 74.9sqm – 95.3sqm</li> <li>• 3 bed: 97sqm – 122.1sqm</li> </ul>
<p><b>Balconies</b></p> <p>2m min balcony width</p>	Yes	All main balconies to apartments provide areas which generally have a minimum depth of 2m and are sufficiently wide to be furnishable and useable private spaces.
<p><b>Ceiling Heights</b></p> <p>2.7m minimum ceiling height in habitable areas.</p> <p>2.25-2.4m ceiling height in non-habitable areas.</p>	Yes	A minimum floor to floor height of 3.1m is proposed for all levels, ensuring a minimum 2.7m floor to ceiling height can be achieved.
<p><b>Ground Floor Apartments</b></p> <p>Optimise the number of ground level apartments with separate entries.</p> <p>Provide ground floor apartments with access to private open space.</p>	N/A	N/A
<p><b>Internal Circulation</b></p> <p>The number of apartments accessible from a single core/corridor should be limited to eight.</p>	Yes	Each lift core will service between 3 and 7 units.
<p><b>Storage</b></p> <p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> <li>• 1 bed: 6m<sup>3</sup></li> <li>• 2 bed: 8m<sup>3</sup></li> <li>• 3 bed: 10m<sup>3</sup></li> </ul> <p>(With minimum 50% storage area located within apartment)</p>	Yes	Adequate storage is provided within each apartment. Additional residential storage is also proposed within basement levels.

Residential Flat Design Code		
Rule of Thumb	Compliance	Comment
<p>Daylight Access</p> <p>70% of apartments to receive 2 hours of direct sunlight in midwinter to living rooms and private open spaces.</p>	Partial	<p>69% of residential units achieve 2 hours between 9am to 3pm. 58% of serviced apartments achieve 2 hours between 9am to 3pm. Combined, 64% of units achieve 2 hours between 9am to 3pm.</p> <p>72% of units achieve 2 hours between extended hours of 8am to 4pm.</p> <p>This represents a minor non-compliance and is considered to be acceptable due to the orientation of the site and the building locations that were approved as part of the Stage 1 DA.</p>
<p>Natural Ventilation</p> <p>60% of apartments to be cross ventilated.</p> <p>25% of kitchens within a development should have access to natural ventilation.</p>	Yes	<p>69% of residential units, and 54% of serviced apartments achieve cross ventilation.</p> <p>All kitchens are to be naturally ventilated.</p>

### Apartment Design Guide

28. Amendments to SEPP 65 and the replacement of the RFDC with the Apartment Design Guide as a result of the publication of the State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (Amendment No 3) (SEPP 65 Amendment) formally commenced on 17 July 2015. In accordance with the savings provision of the SEPP 65 Amendment, as this application was lodged prior to 19 June 2015, this application is assessed under the Residential Flat Design Code (RFDC).

### State Environmental Planning Policy (Infrastructure) 2007

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

### Clause 45

30. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the ISEPP as the development contains existing substations.

31. In accordance with Clause 45 of the ISEPP, the application was referred to Ausgrid for a period of 21 days and no objection was raised. The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development.

#### **Clause 104**

32. The application is subject to Clause 104 of the ISEPP as the application provides parking for more than 200 motor vehicles and is traffic generating development. The application has been referred to the Roads and Maritime Services who have no objection to the proposal.

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

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

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

35. SEPP 70 relates to Section 94F of the EP&A Act and provides that where the consent authority is satisfied that the development meets certain criteria and a Local Environmental Plan (LEP) authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
36. Clause 7.13 - Contribution for purpose of affordable housing of the Sydney LEP 2012 authorises that an affordable housing contribution may be levied for development in land in Green Square.
37. It is recommended that a condition be imposed requiring an affordable housing contribution to aid in the delivery of affordable housing in accordance with the principles in Schedule 2 of SEPP 70.
38. The total contribution required is \$4,617,027.17 (this will be indexed according to time of payment). The contribution is payable to the Department of Planning and Environment prior to issue of a Construction Certificate.

#### **Sydney LEP 2012**

39. The site is located within the B4 – Mixed Use zone within the Sydney Local Environmental Plan 2012 (Sydney LEP 2012). The proposed uses are permissible.
40. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Table		
Development Control	Compliance	Comment
4.3 Height of Buildings  4.6 Exceptions to development standards	No	<p>A maximum height of 29m is permitted.</p> <p>A maximum height of 49.6m is proposed.</p> <p>It is noted that the approved Stage 1 DA (D/2008/102) approved a maximum height of 43.4m (specifically excluding roof plant and roof features). The proposal is generally consistent with the approved Stage 1 DA with a height of 43.52m excluding the roof feature.</p> <p>The proposal seeks to vary the development standard through the provision of Clause 4.6 of the Sydney LEP 2012 to seek an exception to the height development standard.</p> <p>Refer to Issues section for discussion.</p>
4.4 Floor Space Ratio	Yes	<p>The site has a base FSR of 1.5:1 and permits community infrastructure incentives of 0.5:1 and design excellence incentives of up to 10%.</p> <p>The design excellence incentive for the Buildings B, C, E &amp; F (approved under D/2014/1977) was a bonus FSR of 0.076:1 (3.8%).</p> <p>The maximum potential design excellence incentive for this DA equates to 0.0616:1 (3.08%) (as discussed below under Clause 3.3 of the Sydney DCP 2012). Therefore a maximum FSR of 2.136:1 across the whole masterplan site is permitted.</p> <p>The Gross Floor Area (GFA) previously approved for the developments of Building D, G and H (18,668.2sqm) and B, C, E and F (20,984sqm) totals 39,652.2sqm.</p> <p>The subject application proposes a GFA of 28,069sqm.</p> <p>The proposed development and the previously approved Stage 2 DA's for the site equate to a combined total FSR of 2.03:1.</p>

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
5.6 Architectural roof features	Yes	<p>The maximum height limit is exceeded, in part by the architectural roof form on the corner of Epsom Road and Dalmeny Avenue</p> <p>While significantly above the 29m height limit (20.6m exceedance), it will exceed the Stage 1 DA envelope by 0.12m. The feature is acceptable as it is integral element of the building form.</p>
5.9 Preservation of trees or vegetation	Yes	<p>20 trees are required for removal. The proposed tree removal is supported.</p> <p>It is noted that extensive tree planting is proposed across the site, including street trees, private trees and park trees.</p> <p>There are 12 street trees to be retained and conditions are recommended relating to appropriate tree protection measures.</p>
5.10 Heritage conservation	Yes	<p>The site does not contain a heritage item and is not located within a heritage conservation area or in the vicinity of a heritage item.</p>
<b>Part 6 Local provisions - height and floor space</b>		
Division 2 Additional floor space outside Central Sydney	Yes	<p>The site is within area identified as 'Area 6', which permits an additional FSR of 0.5:1 subject to the provision of community infrastructure.</p> <p>Refer to Issues section.</p>



<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
Division 4 Design excellence	Yes	<p>The size of the site is such that a site specific development control plan is required to be prepared under Clause 7.20 of the Sydney LEP 2012.</p> <p>This requirement, in turn, triggers the need for a competitive design process to be undertaken under Clause 6.21 of the Sydney LEP 2012.</p> <p>Under this provision, the winning design of a competitive design process, subject to Council being satisfied that the building exhibits design excellence, an amount of floor space that exceeds the amount permitted may be granted consent.</p> <p>The subject application is based on the winning design of a competitive design process and seeks 10% additional FSR.</p> <p>Refer to Issues section for discussion.</p>
<b>Part 7 Local provisions—general</b>		
Division 1 Car parking ancillary to other development	Yes	<p>A maximum of 326 car parking spaces are permitted.</p> <p>272 car parking spaces are proposed.</p>
Division 3 Affordable housing	Yes	<p>The site is located in Green Square and subject to an affordable housing contribution, which has been included as a consent condition.</p>
7.16 Acid Sulphate Soils	Yes	<p>The site is identified as containing class 5 Acid Sulphate Soil (ASS) and located approximately 900m from a class 3 ASS zone and therefore an ASS Management Plan or Preliminary Assessment is not required.</p>
7.17 Flood planning	Yes	<p>The site and surrounding area is subject to flooding. The flood modelling submitted with the application has been reviewed and it is considered that the capacity of the drainage system will be adequate to manage flooding within the site.</p>

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
7.18 Airspace operations	Yes	The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport. Sydney Airport has confirmed they have no objection to the proposal.
7.19 Development in areas subject to airport noise	Yes	The land is not identified as being in an area sensitive to aircraft noise.
7.22 Development requiring preparation of a development control plan	Yes	<p>The site has a valid Stage 1 consent (being D/2008/102/C). This Stage 1 consent is the equivalent of a development control plan and details allowable building envelopes, land uses and vehicular access points. It is considered that current Stage 1 consent for the site addresses the requirements of Clause 7.20 of SLEP 2012.</p> <p>Further discussion is provided at the issues section of this report with regard to consistency of the proposal with the Stage 1 development consent.</p>
7.23 Large retail development near Green Square Town Centre	Yes	The proposal includes 1,971sqm of retail premises, however these are spread across 19 tenancies, with each well under the 1,000sqm maximum. This amount of commercial space will not have a negative impact on the viability and economic role of the Green Square Town Centre.

### **Sydney DCP 2012**

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

<b>2. Locality Statements – North Rosebery</b>
<p>The subject site is located in the North Rosebery locality. North Rosebery is a neighbourhood in transition from traditional industrial land uses to a mix of uses including medium-density residential development and commercial and retail uses.</p> <p>The proposal is considered to be in keeping with the unique character of the area and design principles of the locality. The provision of new streets and open space formed part of the Stage 1 DA for the site.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposed development will make a positive contribution to the public domain.
3.2 Defining the Public Domain	Yes	<p><u>Sunlight to publicly accessible spaces</u></p> <p>Solar access to more than 50% of the future public park will be achieved between 9am and 3pm and is considered to be acceptable.</p> <p><u>Addressing the street and public domain</u></p> <p>Commercial/retail premises are proposed at ground floor and provide an appropriate address and active frontage to the central courtyard, through site link and park.</p> <p>Overall the development is considered to result in a desirable level of street activation and a positive relationship with the public domain.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The control provides detail and guidance where a development is the subject of a competitive design process and specifically awarding additional floor space and height. A competitive design process was undertaken in accordance with the City of Sydney Competitive Design Policy and using the Model Competitive Processes Brief on this site.</p> <p>Under the control the potential additional floor space awarded for the competitive design process is proportional to the percentage of the total landholding covered by each competitive process.</p> <p>Using the formula in the control, additional floor space bonus (%) is calculated as:</p> <p>Competitive design process site area / (Lot area – Land to be dedicated area) x 10</p> <p>6,926 / (33,400sqm – 10,884sqm) x 10 = 3.08%</p>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
		<p>In this case the area of the masterplan stage 1 DA site area has been used (33,400sqm)</p> <p>The maximum additional floor space bonus for the site is 3.08%. Applying this bonus to the 2:1 FSR control equates to an amount of 2,004.3sqm of design excellence floor space.</p> <p>Converting this GFA to an FSR results in 0.0616:1.</p> <p>The bonus for buildings B, C, E and F was 3.8% and 0.076:1 additional FSR. This results in 2.1376:1 allowable FSR.</p> <p>The development proposes a cumulative FSR of 2.03:1.</p>
3.4 Hierarchy of Centres, City South	Yes	The proposal includes 1,971sqm of retail premises, however these are spread across 19 tenancies, with each well under the 1,000sqm maximum. This amount of commercial space will not have a negative impact on the viability and economic role of the Green Square Town Centre.
3.5 Urban Ecology	Yes	<p>20 trees are required for removal. The proposed tree removal is supported and will not adversely impact on the local urban ecology.</p> <p>It is noted that extensive tree planting is proposed across the site, including street trees, private trees and park trees.</p> <p>There are 12 street trees to be retained and conditions are recommended relating to appropriate tree protection measures.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal will not have unacceptable impacts on the environment and satisfies BASIX requirements.

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. The site and surrounding area is subject to flooding. The flood modelling submitted with the application has been reviewed and it is considered that the capacity of the drainage system will be adequate to manage flooding within the site.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	This application does not propose subdivision of the site.
3.9 Heritage	Yes	The site is not a heritage item and not located within a heritage conservation area or in the vicinity of a heritage item.
3.11 Transport and Parking	Yes	Appropriate conditions are recommended in relation to the provision of car parking spaces and bicycle storage within the basement car park.
3.12 Accessible Design	Yes	A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	<p>Waste collection will occur from a garbage room at ground level adjacent to the loading dock. Garbage rooms have been located adjacent to each liftcore within the basement</p> <p>A condition has been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005.</p>

4. Development Types														
4.2 Residential Flat, Commercial and Mixed Use Developments														
Development Control	Compliance	Comment												
4.2.1 Building height	Yes	<p>A maximum of 8 storeys is permitted. The proposed development is a maximum of 13 storeys in height.</p> <p>While this does not comply with the control it is generally consistent with the Stage 1 DA envelope approval.</p> <p>Building height is discussed under the Issues section.</p>												
4.2.2 Building setbacks	Yes	<p>A 1.4m setback and dedication is required to the Epsom Road frontage and has been provided. The site is setback in accordance with the Stage 1 consent.</p> <p>The proposed setbacks comply with the requirements of the Building Setback Map and are consistent with existing setbacks along the street.</p>												
4.2.3 Amenity	Yes	<p>The proposal generally provides for acceptable standards of amenity, as discussed in the SEPP 65 discussion above.</p> <p><u>Flexible housing and dwelling mix</u></p> <p>The development proposes a dwelling mix of:</p> <table border="1"> <thead> <tr> <th>Type</th> <th>Control</th> <th>No and Percentage</th> </tr> </thead> <tbody> <tr> <td>Studio and 1 bed</td> <td>15-40% max</td> <td>113(42.1%)</td> </tr> <tr> <td>2 bed</td> <td>40-75% max</td> <td>130(48.7%)</td> </tr> <tr> <td>3 bed</td> <td>10 % min</td> <td>25 (9.3%)</td> </tr> </tbody> </table> <p>The non-compliance in the unit mix is minor and considered acceptable in this instance, with a variety of different unit types and sized provided throughout the development.</p>	Type	Control	No and Percentage	Studio and 1 bed	15-40% max	113(42.1%)	2 bed	40-75% max	130(48.7%)	3 bed	10 % min	25 (9.3%)
Type	Control	No and Percentage												
Studio and 1 bed	15-40% max	113(42.1%)												
2 bed	40-75% max	130(48.7%)												
3 bed	10 % min	25 (9.3%)												

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
<p>4.2.4 Fine grain, architectural diversity and articulation</p> <p>(1) The maximum street frontage length of an individual building is:-</p> <p>65m on streets with a width greater than or equal to 18m wide; and</p> <p>40m on streets with a width less than 18m wide</p>	Partial	<p>The building street frontage widths were determined by the Stage 1 DA.</p> <p>The building has 98m frontages to Epsom Road and Margari Streets, which are both over 18m in width. The Margari Street frontage is split into two separate building forms by the 11m through site link, resulting in a 67m and 18.5m building lengths, which is marginally over the 65m maximum, but acceptable in this instance.</p> <p>The Epsom Road frontage has a corresponding break for the through site link, but this break only occurs at ground and first floor level. Amended plans to change the architectural language above this break to provide a more significant articulation have been provided and are acceptable.</p> <p>The site has a 66.4 m frontage to Dalmeny Ave (which is over 18m) and Bunmarra Street (which is under 18m in width). While both of these frontage are in excess of the 65m and 40m control, given the building lengths are consistent with the Stage 1 DA Masterplan approval, and are well articulated, are acceptable.</p>
4.2.5 Types of development	Yes	<p><u>Courtyard buildings and perimeter street block buildings</u></p> <p>The proposal is broken into components that allow visual permeability into the courtyard space at the centre of the site and includes a publicly accessible through-site pedestrian links.</p>
4.2.6 Waste minimisation	Yes	Each dwelling has adequate space to manage waste and a waste chute is provided on each level. The residential and retail waste facilities are separate.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.7 Heating and Cooling Infrastructure	Yes	Air conditioning equipment is consolidated into areas in the basement, roof void and roof. A condition requiring full details of the location, screening and impact of the units on the rooftop communal open space is recommended.
4.2.8 Letterboxes	Yes	The application includes individual letterboxes located at street level adjacent to the buildings main entry lobbies.

4. Development Types		
4.4 Other Development Types and Uses – Serviced Apartments		
Development Control	Compliance	Comment
4.4.8.5 Additional provisions for serviced apartments	Yes	<ul style="list-style-type: none"> <li>• Each room exceeds the minimum areas for serviced apartments rooms</li> <li>• The serviced apartments are designed to a level of residential amenity generally equivalent to the requirements in the RFDC.</li> <li>• Each apartment has a laundry capable of accommodating a wash tub, washing machine and clothes dryer.</li> <li>• Each apartment can accommodate garbage receptacle storage area with space for recyclables.</li> <li>• Conditions can be imposed to ensure no more than two adults and one child are permitted per room and a Plan of Management is submitted and approved describing how on-going operations are to be managed.</li> <li>• The serviced apartments, while not located on a separate floor to the residential uses, are located in separate part of the building that is serviced by a separate foyer and lift.</li> </ul>



4. Development Types		
4.4 Other Development Types and Uses – Serviced Apartments		
Development Control	Compliance	Comment
		<ul style="list-style-type: none"> <li>The dwelling mix of the serviced apartments is 60% 1 bed apartments and 40% 2 bedrooms. This complies with the control of a maximum 60% one bedroom apartments.</li> </ul>

5. Specific areas - Green Square		
Development Control	Compliance	Comment
5.2.1 Green Square Urban Strategy  5.2.2 Objectives for Green Square	Yes	The proposal is considered to satisfy the relevant objectives and is consistent with the planning strategy envisaged for the area in that it contributes to the housing stock and includes building types and forms appropriate in the streetscape.
5.2.3 Community Infrastructure	Yes	<p>The application seeks consent for the maximum GFA permitted under clause 6.14 of Sydney LEP 2012 which can only be achieved where a development provides community infrastructure to the satisfaction of the consent authority.</p> <p>A Voluntary Planning Agreement at the time of the Stage 1 DA included the provision of new streets and park which satisfies the community infrastructure provisions. This enables the site to benefit from the maximum gross floor area achievable under clause 6.14 of Sydney LEP 2012. This VPA will be required to be amended to allow for the change in the proportion of residential floorspace and non-residential floorspace.</p> <p>Refer to Issues section for discussion.</p>
5.2.4 Local Infrastructure	Yes	New streets are provided in locations determined at the time of the Stage 1 DA.

5. Specific areas - Green Square		
Development Control	Compliance	Comment
5.2.5 Pedestrian and bike networks	Yes	<p><u>Bike network</u></p> <p>The bike network does not impact upon the proposed development.</p> <p><u>Through-site links</u></p> <p>The site is not identified on the Sydney DCP 2012 through-site links map, however a through site link is provided from Margari Street through to Epsom Road. The road network is considered to provide an appropriate level of access through the site.</p>
5.2.6 Public open space	Yes	A proposed public park is subject to a separate development application.
5.2.7 Stormwater management and waterways	Yes	The proposal is able to achieve water sensitive urban design principles. The site is not identified for a water channel.
5.2.8 Highly visible sites	Yes	The site is not identified as a highly visible site.
5.2.9 Building design	Yes	<p>The proposal complies with the building design controls as follows:</p> <ul style="list-style-type: none"> <li>• The buildings are aligned to the street to define and frame the street edge, activate and provide clear delineation between the public and private domain.</li> <li>• The building will not affect significant views to the City skyline from surrounding residences.</li> <li>• The development includes the provision of new plantings and landscaping to maximise pedestrian amenity,</li> <li>• The building facade utilises a variety of finishes to provide variety and articulation.</li> <li>• Multiple entries are provided along street frontages to maximise passive surveillance.</li> </ul>

<b>5. Specific areas - Green Square</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
5.2.10 Setbacks The Sydney DCP 2012 requires buildings to be setback from new streets by 1m to provide a landscape setback, unless the frontage is nominated active frontage on the Active frontages map.	Acceptable	In this instance the building locations were determined as part of the Stage 1 DA.  While the frontages are not nominated on the active frontages map, active frontage and retail uses are provided at ground floor. The building setbacks are approximately: <ul style="list-style-type: none"> <li>• 1.6m to Margari Street;</li> <li>• 1m to Bunmarra Street;</li> <li>• 1m to Epsom Road; and</li> <li>• 3.2m to Dalmeny Avenue</li> </ul>
5.2.11 Carparks under the public domain	Yes	The application does not propose a car park under a street or lane.
5.2.12 Above ground parking spaces and adaptable car parking spaces	Yes	The application does not propose above ground car parking spaces.

## ISSUES

### Compliance with Stage 1 DA

42. The applicable environmental planning instrument is Sydney LEP 2012 which requires the preparation of a site specific development control plan before any particular or kind of development is carried out on the site. Pursuant to Section 83C of the EP&A Act that obligation can be satisfied by the making and approval of a staged development application in respect of that land.
43. Pursuant to Section 83D of the EP&A Act, any subsequent Stage 2 development determination cannot be inconsistent with the Stage 1 consent.
44. The Stage 1 DA approved by the CPSC on 30 July 2010 included a number of conditions of consent. An assessment of compliance with these conditions which specifically required details to be submitted as part of the Stage 2 application are provided below:

No.	Condition	Assessment
1	Approved Development	<b>Does not comply.</b> A section 96 application (D/2008/102/E) to address this inconsistency has been separately prepared for the CSPC's consideration.
2	Compliance with the Voluntary Planning Agreement (VPA)	<b>Able to comply.</b> A deferred commencement condition has been recommended to ensure that the VPA is updated to reflect the updated public benefit offer which reflects the proposed residential and non-residential floorspace figures. See further discussion below.
4	Design Quality Excellence	<b>Complies:</b> The design of Building A followed a competitive design alternatives competition and the winning scheme is considered to be of an international design standard.
5	Street Activation	<b>Complies.</b> The design of Building A provides good activation of the street frontages, park and through site link.
6	Details to be provided with future Development	<b>Complies.</b> Details have been submitted as required by the condition.
7	Design of End Walls	<b>Complies.</b> The end walls are considered to be suitably designed.
8	Height of Buildings	<b>Does not comply.</b> A section 96 application (D/2008/102/E) to address this inconsistency has been separately prepared for the CSPC's consideration.
9	Floor to Ceiling Height	<b>Complies.</b> Each storey has a minimum floor to ceiling height of 2.7m and floor to floor heights of 3.1m.
10	Floor Space Ratio	<b>Does Not Comply</b> The proposal does not exceed the maximum FSR for the site, however the proportion of residential, commercial and retail floorspace differs from that approved.  A section 96 application (D/2008/102/E) to address this inconsistency has been separately prepared for the CSPC's consideration.
11	Electricity Substation	<b>Complies.</b> A substation is proposed on the corner of Bunmarra Street and Epsom Road and is detailed on the architectural plans.
12	Ecologically Sustainable Development	<b>Complies.</b> ESD provisions have been incorporated into the detailed design in the Stage 2 DA.
13	Wind Tunnelling	<b>Complies.</b> A suitable Wind Environment report prepared by Windtech was submitted with the application.

No.	Condition	Assessment
14	Sydney Airport Corporation	<b>Complies.</b> Approval has been received from the Sydney Airport Corporation.
15	Construction Management	<b>Able to comply.</b> A condition has been recommended requiring a Construction Management Plan.
16	Compliance with Acoustic Assessment	<b>Able to comply.</b> A condition has been recommended requiring compliance with the submitted acoustic report.
17	Upgrade to Epsom Road/ Link Road Intersection	<b>Able to comply.</b> The upgrade will be required prior to the issue of any occupation certification for Building A.
18	Car Parking and Loading Requirements	<b>Able to comply.</b> Conditions have been recommended relating to car parking and loading requirements.
19	Traffic Requirements	<b>Able to comply.</b> Conditions have been recommended relating to manoeuvrability into the site.
20	Cycleway Requirements	<b>Complies.</b> Council's Transport and Access unit has confirmed that the provision of a cycleway on Dalmeny Avenue is not required.
21	Public Domain Lighting	<b>Able to comply.</b> The applicant has not provided the required information. It is recommended that the information is provided as a condition of consent.
22	Site Landscape Plan	<b>Able to comply.</b> A condition has been recommended requiring the submission of a detailed landscape plan.
24	Public Domain Plan	<b>Able to comply.</b> A condition has been recommended requiring the submission of a Public Domain Plan.

### Community Infrastructure - Public Benefit and Voluntary Planning Agreement

45. The development application seeks consent for the maximum amount of GFA permitted under Clause 6.12 and Clause 6.14 of Sydney LEP 2012 which can only be achieved where a development provides community infrastructure to the satisfaction of the consent authority.
46. A Voluntary Planning Agreement (VPA) associated with a public benefit was executed on 28 September 2010. The agreement included public benefits including: land dedications, construction of roads and a park as well as a monetary contribution for infrastructure within the Green Square Town Centre and for cycleway infrastructure.

47. The total package value was calculated on the basis of the additional floor space amount and the adopted residential and commercial rates. It is noted that residential floorspace generates a greater need for infrastructure and services and therefore attracts a higher rate than commercial floorspace.
48. The proportion of residential and commercial floorspace was established in the Stage 1 DA as 58,030sqm residential, 4,999sqm commercial and 3,771sqm retail.
49. The floorspace proportions proposed under this DA, not including the design excellence bonus floorspace is 60,944sqm residential, 3,715sqm commercial and 2,141sqm retail.
50. This change in the land use mix across the site alters the public benefit obligations. The applicant has submitted a revised public benefit offer made on 17 February 2016 and signed by Mark Fitzpatrick of Toplace Pty Ltd. The revised offer has been reviewed and is acceptable.
51. A deferred commencement consent is recommend, to require the Planning Agreement to be drafted, exhibited and registered on the tile, prior to the consent being activated.

#### **Competitive Design Process, Design Improvements and Design Excellence**

52. A competitive design process was undertaken in June 2014. The BVN design (the subject of this application) was the winner of the competitive design process. In accordance with Clause 6.21 (7) of Sydney LEP 2012, the consent authority may grant up to 10% additional floor space where design excellence is achieved through a competitive design process.
53. The application seeks consent for part of the applicable proportion of the 10% additional FSR under Clause 3.3.5 of the Sydney DCP 2012, which equals 3.08% for this part of the site.
54. In selecting BVN as the as the preferred proposal, the Competitive Design Process Selection Panel raised the following issues:

<b>Panel Comments</b>	<b>Applicants response</b>	<b>Comment</b>
The proposed ground floor levels are below the Briefed minimum PMF levels	The Alexandra Canal Flood Study has been completed by Council since the design competition. The minimum floor levels to cater for the flooding affectations.	Acceptable

Panel Comments	Applicants response	Comment
Concerns about the significant shortfall in development yield for both complying and non-complying options. It is likely that the proponent will require that the GFA target including bonuses is achieved. This may have significant impacts on the height, scale and form of the proposal.	The proposal was revised and options were presented to the Selection Panel members to demonstrate a more compliant scheme that will not adversely affect adjoining sites in terms of bulk, scale, shadowing and privacy.	Acceptable - this is discussed further below.
Additional area in the extended roof profile is not utilised for additional apartments. Whilst the varied roof profile approach can potentially provide additional GFA, it will not address the significant shortfall.	The final scheme where possible utilises space within the roof forms.	Acceptable
The roof garden could offer great amenity but requires roof structures to provide shade and amenity. These structures would need to carefully integrate into the complex roofscape profiles.	A detailed landscape plan and landscape report prepared by Site Image accompanies this submission. The plans provided for vast use of the roofscape as communal open space.	The proposal does provide significant amenity and shaded structures on the rooftop landscaped areas. A condition is recommended for detailed landscape plans to ensure the final landscape design is acceptable.
Reliance on deep slots for ventilation to the lobbies. These are very narrow and may be expensive and difficult to build. Question whether they offer sufficient amenity. The area could be integrated into adjacent apartments to increase GFA, however alternative means of natural lighting or other qualitative improvements to the lift lobbies to offset the loss of these 'slots' should be explored.	The slots have been designed so that they are a minimum of 2 metres wide and run the entire way up the building. This arrangement facilitates air flow which will sufficiently ventilate the lobbies.	Acceptable

Panel Comments	Applicants response	Comment
Dependent on high quality brickwork detailing and implementation which will need to be demonstrated. It should avoid being too similar to some of the illustrated precedents.	The brickwork forms an integral component of the winning design and is reflected in the Stage 2 DA.	Acceptable – a physical sample board will be required prior to CC to ensure materials are of a high quality.
South facing apartments, particularly to Park, do not have complying balconies.	The configuration of the units has been amended to enable the serviced apartments to look directly onto the park. In order to maximise solar access, the majority of the units have their living areas facing north.	70% of units have compliant balconies, which fall slightly short of the 75% required by the SDCP 2012. Given the proximity to the park and communal open space (28%) within the site this is acceptable.
Brickwork bands below tower NE corner terraces is unconvincing.	The materials have been refined and further detailed in the Stage 2 DA.	Acceptable – a physical sample board will be required prior to CC to ensure materials are of a high quality.

55. The Selection Panel unanimously selected the BVN submission as the preferred scheme. However it was noted that the scheme did not maximise the GFA potential of the site. The Selection Panel requested BVN demonstrate how the scheme could be amended to achieve the permitted GFA allocated to the site. As part of their submission BVN were requested to demonstrate that the changes did not result in additional adverse impacts and that the integrity of the architectural design remain consistent.
56. BVN provided a supplementary submission which demonstrated that a revised massing and additional GFA may potentially be accommodated on the site. The Selection Panel made the following comments on the amended submission:

Panel Comments	Applicants response	Comment
The increase in winter shadow to the Park caused by addition of an extra floor in the central section of the south building is relatively minor. There are some written suggestions in relation to further increase in GFA, and that this may require further height to the southern edge. There should be no further increase in building height on the southern part of the site or overshadowing to the Park.	The increased height has been moved from the south and the park will have no significant overshadowing impacts.	Acceptable



Panel Comments	Applicants response	Comment
It may be preferable to see the tower mass increased in plan and height rather than further height to the south. There is a tendency to gain area by filling in and hence flattening of the roof topography. This should be avoided, the sculptural quality of the scheme must be maintained and this is about keeping the strong undulation - ie accentuating the low points as well as the high points of the profile/silhouette.	The height has been further accentuated at the high points to further accentuate the building profile rather than adding to the south.	Acceptable
The Development Application should be accompanied by a diagram that demonstrates the net volumetric exceedance of the Master Plan envelope.	Provided	Noted

57. BVN's non-conforming proposal was specifically selected for its architectural distinctiveness, particularly its distinctive roof form and features. The Selection Panel considering the changes to the built form represented an improvement on the Stage 1 DA envelope.
58. The demolition of the commercial buildings in the centre of the site and the creation of the triangular on grade courtyards and through site link were considered to be significant benefits.
59. Upon review of the detailed application, Council's officers made some recommendations to improve the design. The applicant provided further information and amended plans to address these issues as outlined below:

Issue	Applicants response	Comment
<p>Opportunities to activate the park and through site link should be maximised. The stair to north east corner could be rearranged discharge into through site link to allow greater retail activation. Alternatively relocate the cycle parking to the eastern side. The south eastern retail space has a narrow area which may not be well used. Consider replanning this area.</p>	<p>The stair to the north eastern corner has been re-arranged so it discharges to the south in the through site link. In addition, the cycle parking has been moved to the eastern side of the main through site link to allow for the adjacent retail to incorporate glazing and opening onto the through site link. The design of the retail space has been updated along Bunmarra Street due to the incorporation of the OSD requirements. However, the retail maintains dual frontage to the street and through site link.</p>	<p>Acceptable</p>
<p>The building form of Epsom Road is 98 metres in length.</p> <p>The building has an opening at the ground and first floor levels for the through site link, however this link is not acknowledged in the architecture above to provide a cue as to where the through site link is and to help visually modulate the building.</p>	<p>The northern facade geometry has been amended between grids 5 and 6 by:</p> <ul style="list-style-type: none"> <li>• Recessing the primary building line between these grids</li> <li>• Recessing the leading edge of the balconies</li> <li>• Creating a more 'angled' façade geometry which is consistent with the overall design concept and competition winning scheme</li> <li>• The angled façade continues up to the roof parapet, meaning that the current continuous line is now broken</li> <li>• Increased the size of the windows between these grids</li> </ul>	<p>Acceptable – the comparison of the original and amended northern facade is included at Figures 28 - 29 below</p>

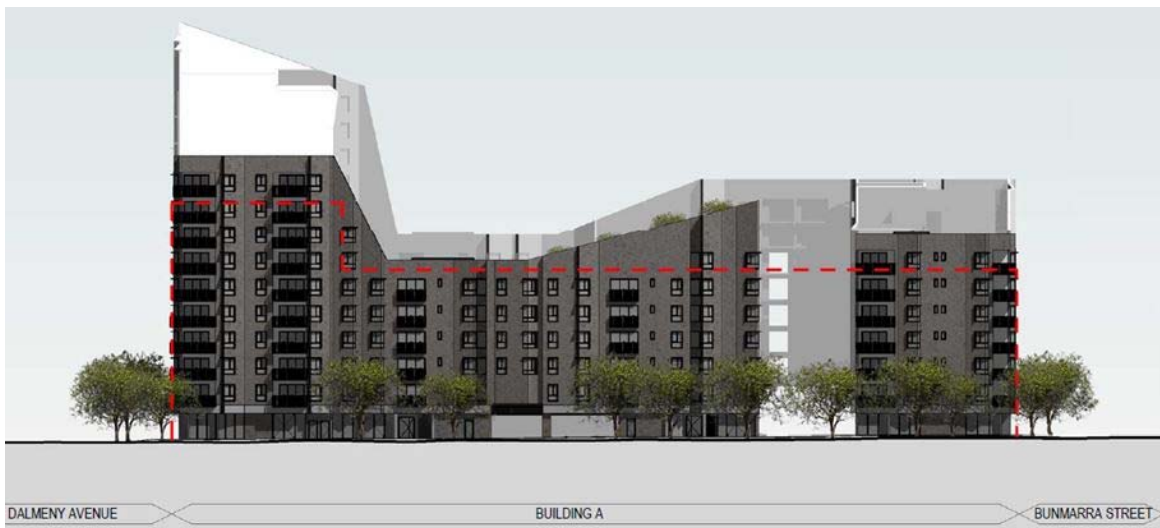


**Figure 28:** Original northern elevation



**Figure 29:** Amended northern elevation

Issue	Applicants response	Comment
<p>The southern façade in the competition winning design used a different architectural language for the commercial component.</p> <p>The DA no longer includes this change in language. It is recommended that the southern façade be reconsidered to create more variety and interest through the architectural language.</p>	<p>The language used in the competition on the shorter building end of the southern façade has been reinstated as per the winning design competition scheme.</p>	<p>Acceptable – the comparison of the original and amended southern facade is included at Figures 30-33 below.</p>



**Figure 30:** Original southern elevation (dotted red line indicates original Stage 1 DA envelope)



**Figure 31:** Amended southern elevation



**Figure 32:** Original southern elevation

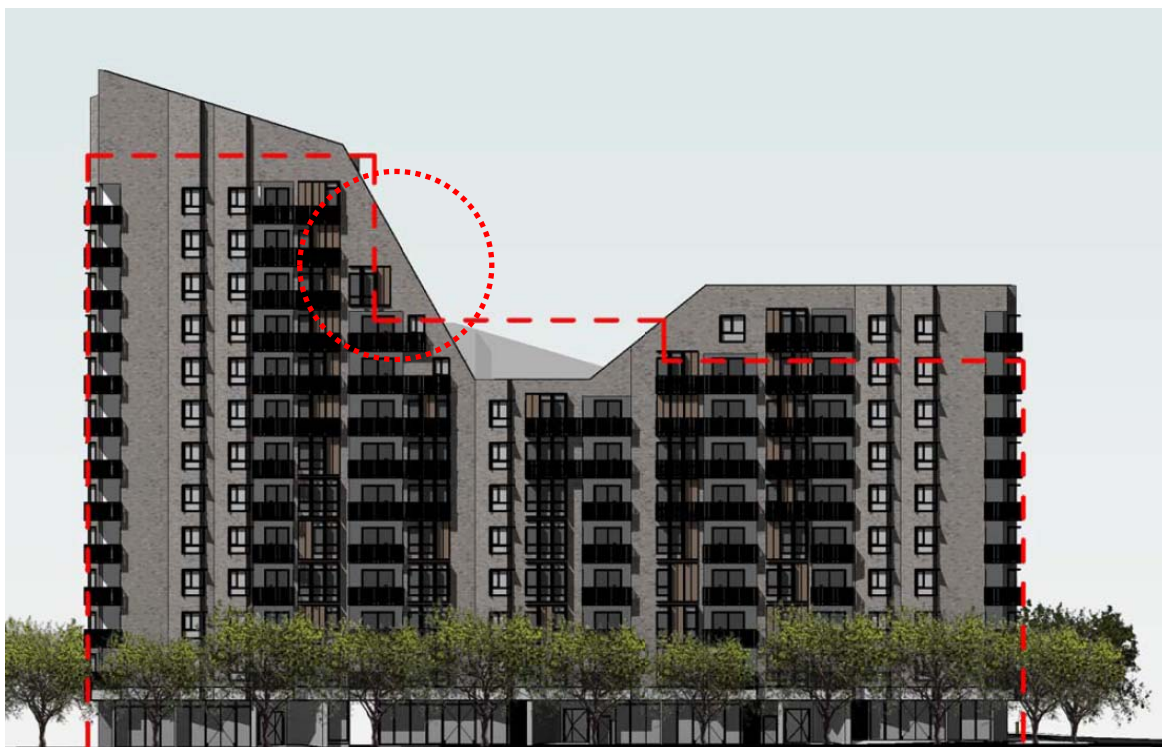


**Figure 33:** Amended southern elevation

Issue	Applicants response	Comment
<p>The tower element is not as slender as it was in the competition winning scheme. It is suggested that the treatment of the tower be reconsidered to make it appear more slender.</p>	<p>The depth and angle of the tower elements have been reduced to improve the slender appearance of the tower.</p>	<p>Acceptable</p>
<p>Individual air conditioning units are provided on balconies. This is contrary to the SDCP 2012 which requires centralised heating and cooling infrastructure.</p>	<p>The air condition units have been consolidated in areas in the basement, roof voids, and roof.</p>	<p>Acceptable</p>
<p>The original plans showed a roof void in the tower at level 10, resulting in a triangular form of brickwork on the west elevation which allowed a clear reading of the sloping roofscape. A one bedroom unit is now located in this area and a window is located in what was a defined triangular area of brickwork. This reduces the appearance of the tower and the elevation needs some areas of brick without fenestration to best show off the building form.</p>	<p>The intention of the design concept is to increase the diversity and amenity of the apartment types by utilising the space/volume underneath the sloping wall/roof areas. The sloping roof creates interesting and different spatial volumes which are not typically present in contemporary apartment design. In addition, the sloping wall areas have a hit and miss brickwork pattern utilising glass bricks to bring natural light into the apartments from another side. As such, these have the potential to be unique apartments with a very high level of amenity.</p>	<p>On balance the inclusion of a unit in this location is acceptable given the amenity of the unit.</p> <p>This area is shown as originally proposed and as amended in Figures 34 and 35.</p>



**Figure 34:** Original western elevation (dotted red line indicates original Stage 1 DA envelope)



**Figure 35:** Amended western elevation

Issue	Applicants response	Comment
There are a number of instances where window and balcony locations create inadequate separation between units, with impacts of privacy, cross ventilation and acoustics	The layouts have been amended address the concerns, including moving some windows, deleting some windows and adding some privacy screens.	Acceptable
Basement storage - manoeuvring larger items into storage may be difficult, given the narrow aisle.	The corridor width between the storage units is 1250mm, which is suitable for manoeuvring items.	Acceptable

60. In considering whether development exhibits design excellence, the consent authority must have regard and be satisfied that the development achieves this criteria. Each criterion is addressed below:

(a) **A high standard of architectural design, materials and detailing appropriate to the building type and location**

The development is considered to represent a well resolved architectural design with a clear concept. The angled geometric form and use of brickwork throughout creates a robust, interesting and unique form.

(b) **A form and external appearance of the proposed development will improve the quality and amenity of the public domain**

The bulk, massing and modulation of the building is suitable for the street blocks, with meaningful breaks, articulation and recesses in the facade. The buildings adopts active frontages at ground floor including to the central courtyard and through site link, which will activate and enhance the appearance and setting of the buildings.

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

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

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

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

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



**Building Height – Exception to Development Standard**

61. The Sydney LEP 2012 height control is 29m and the Sydney DCP 2012 height in storeys control is 8 storeys.
62. The proposal has a maximum height of 49.6m. The applicant is relying on the provisions of Clause 4.6 of Sydney LEP 2012 to seek an exception to the height development standard by 20.6m. This represents a 71% exceedance of the height control.
63. It is noted that the approved Stage 1 DA provided for heights that significantly exceeded the 29 metre height control with a maximum height of 43.4m. The Stage 1 DA specifically excluded the services/lift overruns, parapets or articulation elements or courtyards elevated above ground from the approved building envelopes as the former South Sydney DCP 1988 excluded these elements from the height definition. It is also noted that the Stage 1 DA did not allow for 3100mm floor to floor heights, which have been allowed for in this proposal.
64. The Stage 1 DA provided for a range of heights for different parts of the envelope as detailed below:

Stage 1 Building No.	Stage 2 DA Building No.	Approved Height (Stage 1 DA) Not including plant and roof as per the Masterplan		Proposed height to top of roof RL's	Proposed height to top of roof in meters	Total height excluding architectural roof feature
		RL's	Meters			
A3	A1	65.87	43.4	65.87 - 72.15	49.6	43.52
A4	A2	50.87	28.3	47.10 - 65.87	24.5	23.3
A5	A3	44.87	22.3	47.10 - 53.70	24.5 – 31.1	23.3 – 29.9
A6	A4	0 - 35.87	0 – 22.3	53.70	31.1	29.9
A7	A5	27.87	4.4 – 13.2	47.10 - 53.70	31	29.8
A8	A6	42.87	19.9	47.10	24.2	23
A8	A7	42.87	19.5	44.00 - 51.19	20-27.9	18.8 – 22.31
A8	A8	42.87	19.5	44.00 - 56.39	20	18.8
A1	A9	50.8	27.8	56.39	33.3	32.1
A2	A10	53.87	31.3	49.50 - 56.39	26.7-33	25.5 – 31.8

65. While the above changes appear to see the building increase significantly in height in some locations there are significant volumetric changes across the development site where GFA has been transferred. In particular, the central section of the site included two buildings that ranged in height from 4.4 to 22.3 metres. There are no buildings proposed in this location under this proposal, with a central courtyard area, with active retail spaces and a through site link proposed instead.
66. Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The Council may grant the exception as the Director-General's concurrence can be assumed where Clause 4.6 is adopted as per Department of Planning Circular PS 08-003 dated 9 May 2008.
67. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the height development standard has been considered against the objectives and provisions of Clause 4.6 in the following table:

Clause 4.6 Requirement	Assessment
<p><b>4.6(4)(a)(i)</b></p> <p>The applicant must submit a written request to vary the development standard that has adequately addressed the matter required to be demonstrated by subclause (3)</p>	<p>A written request has been submitted to Council justifying the proposed contravention of the height development standard. The applicant submits that compliance with the height control is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient planning grounds to justify contravening the development standard on the following basis:</p> <ul style="list-style-type: none"> <li>• The approved Stage 1 DA provided for heights that exceeded the 29 metre height control;</li> <li>• The Council has virtually abandoned its controls on this site by the Stage 1 DA that permits heights well in excess of 29 metres;</li> <li>• The proposed changes are representative of the recent competitive design competition;</li> <li>• The building provides architectural roof features that are key design elements of the building and do not constitute additional floor space;</li> <li>• The volumetric changes across the development site where GFA has been transferred to create a development with greater amenity;</li> <li>• The height has been appropriately located to ensure minimal impact on the public park to the south. The lower building forms front the future public park to retain a more human scale and minimise overshadowing impacts; and</li> <li>• Compliance with the standard would result in an inferior architectural outcome.</li> </ul>

Clause 4.6 Requirement	Assessment
<p><b>4.6(4)(a)(ii)</b></p> <p>Council must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the zone</p>	<p>The objectives of the zone are:</p> <ul style="list-style-type: none"> <li>• To provide a mixture of compatible land uses.</li> <li>• To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</li> <li>• To ensure uses support the viability of centres.</li> </ul> <p>The objectives of the development standard are:</p> <ol style="list-style-type: none"> <li>a) to ensure the height of development is appropriate to the condition of the site and its context,</li> <li>b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,</li> <li>c) to promote the sharing of views,</li> <li>d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,</li> <li>e) in respect of Green Square: <ol style="list-style-type: none"> <li>i. to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and</li> <li>ii. to ensure the built form contributes to the physical definition of the street network and public spaces.</li> </ol> </li> </ol> <p>The proposed development is consistent with the objectives for Height of Buildings provided under Clause 4.3 of Sydney LEP 2012 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposed development is based on the winning competition scheme, including the proposed height;</li> <li>• The winning design shifted floor space across the site to improve the relationship of the building with the public domain and the streetscape.</li> <li>• The amenity and separation of the proposed building remains compliant and combined with the building scale and form is appropriate to justify a variation.</li> <li>• The height has been appropriately located to ensure minimal impact on the public park to the south. The lower building forms front the future public park to retain a more human scale and minimise overshadowing impacts.</li> </ul>

Clause 4.6 Requirement	Assessment
	<ul style="list-style-type: none"> <li>• The building provides appropriate height transitions within the area;</li> <li>• The site is not within a conservation area or proximity to a heritage item; and</li> <li>• It is unlikely that views will be unreasonably impacted by the additional height.</li> </ul> <p>The proposed development is consistent with the objectives of the B4 Mixed Use Zone in which it is located. Specifically:</p> <ul style="list-style-type: none"> <li>• The proposal includes a mixture of compatible uses being retail and residential dwellings;</li> <li>• The site is in close proximity to existing public transport and a future public transport corridor; and</li> <li>• The proposal will not compromise the viability of centres.</li> </ul>

68. While the exceedance of the height control is significant in this instance it is noted that this is a direct result of the approved Stage 1 DA envelope, which significantly exceeded the 29 metre height control, with a maximum height of 43.4m (excluding services and lift over-runs, parapets or articulation elements). The proposed overall maximum height is generally consistent with the approved height under the Stage 1 DA.
69. The table below sets out the approved and proposed building heights of the various part of the proposed Building A and comments on the compliance or contravention with 29m building height control. Figure 36 shows the location of each part of Building A.

Stage 2 DA Building No.	Approved Height (Stage 1 DA)- Not including plant and roof feature	Proposed height to top of roof in meters	Total height excluding architectural roof feature	Comment
A1	43.4	49.6	43.52	<p>The Stage 1 DA already exceeded the 29m height control by 14.4m (not including plant and roof features).</p> <p>The proposal exceeds the 29m height control by 20.6m in total or 14.52 if excluding roof feature. This exceedance is minor in the context of the overall development and will not cause any unreasonable impacts.</p>
A2	28.3	24.5	23.3	Both the Stage 1 DA and proposal do not exceed the 29m height control.
A3	22.3	24.5 – <b>31.1</b>	23.3 – <b>29.9</b>	<p>The Stage 1 DA did not exceed the 29m height control.</p> <p>The proposal exceeds the 29m height control by 2.1m in total, or 0.9m if excluding the roof feature. This exceedance is minor in the context of the overall development and will not cause any unreasonable impacts.</p>
A4	0 – 22.3	<b>31.1</b>	29.9	<p>Stage 1 DA did not exceed the 29m height control.</p> <p>The proposal exceeds the 29m height control by 2.1m in total, or 0.9m if excluding the roof feature. This exceedance is minor in the context of the overall development and will not cause any unreasonable impacts.</p>
A5	4.4 – 13.2	<b>31</b>	29.8	<p>Stage 1 DA did not exceed the 29m height controls.</p> <p>Proposal exceeds the 29m height control by 2m in total, or 0.8m if excluding the roof feature. This exceedance is minor in the context of the overall development and will not cause any unreasonable impacts.</p>

Stage 2 DA Building No.	Approved Height (Stage 1 DA)- Not including plant and roof feature	Proposed height to top of roof in meters	Total height excluding architectural roof feature	Comment
A6	19.9	24.2	23	Both the Stage 1 DA and the proposal do not exceed the 29m height limit.
A7	19.5	20-27.9	18.8 – 22.31	Both the Stage 1 DA and the proposal do not exceed the 29m height limit.
A8	19.5	20	18.8	Both the Stage 1 DA and the proposal do not exceed the 29m height limit.
A9	27.8	<b>33.3</b>	32.1	<p>The Stage 1 DA did not exceed the 29m height control.</p> <p>The proposal exceeds the 29m height control by 4.3m in total, or 3.1m if excluding the roof feature. This exceedance is minor in the context of the overall development and will not cause any unreasonable impacts.</p>
A10	31.3	26.7- <b>33</b>	25.5 – 31.8	<p>The Stage 1 DA already exceeded the 29m height control by 2.3m (not including plant and roof features).</p> <p>The proposed height exceedance of 4m (including roof feature) or 2.8m if excluding roof feature. This exceedance is minor in the context of the overall development and will not cause any unreasonable impacts.</p>

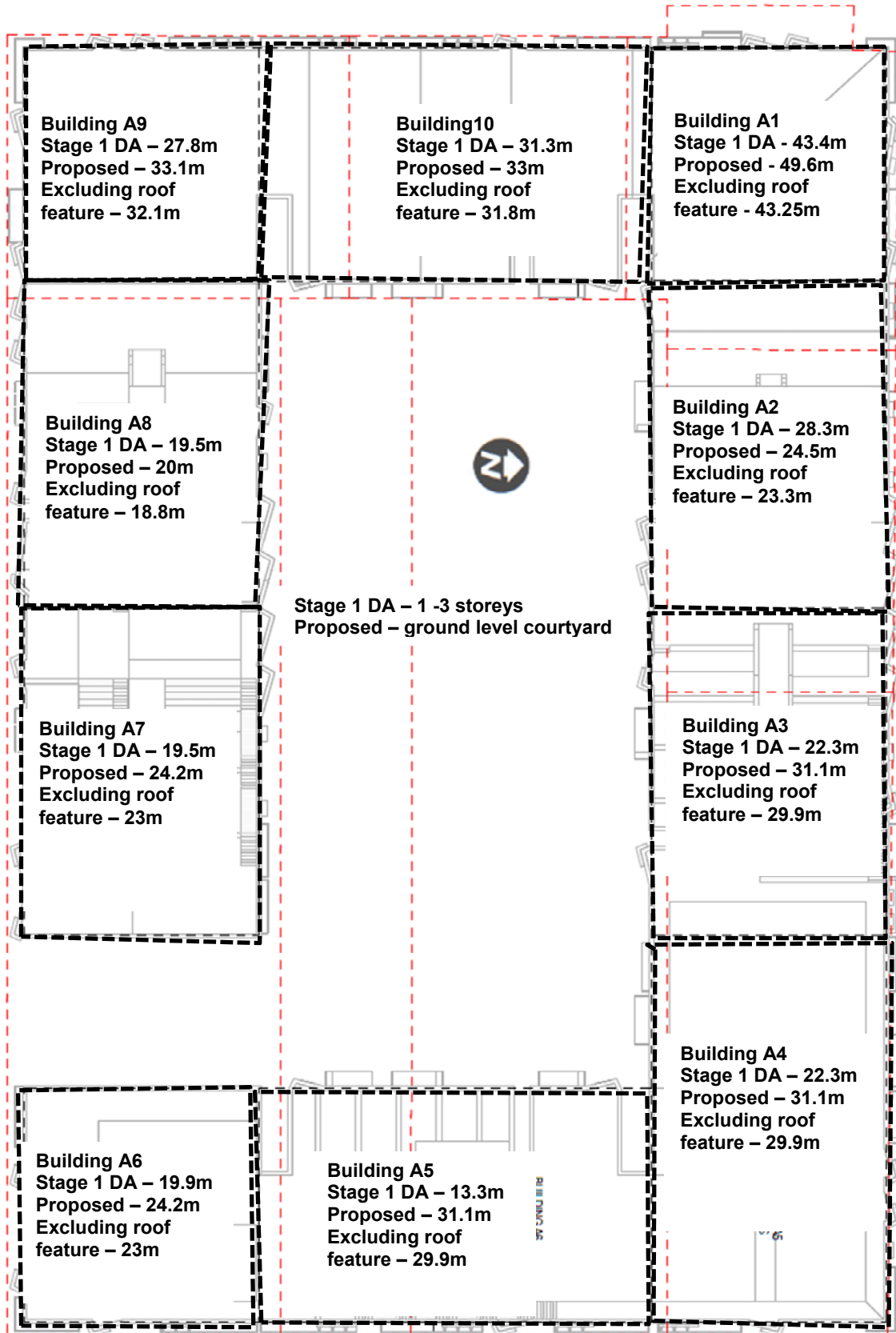


Figure 36: Approved Stage 1 DA heights compared to proposed

70. It is considered that the written statement provided by the applicant has sufficiently justified that strict numeric compliance with the development standard is unreasonable and unnecessary in this instance, given the Stage 1 DA approval, and have provided sufficient environmental planning grounds to justify contravening the development standard. The proposal is consistent with the building height control and B4 Mixed Use zone objectives and will be in the public interest.
71. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the height development standard and it is recommended that a Clause 4.6 exception be granted, pursuant to the Director-General's general concurrence of May 2008.

**Other Impacts of the Development**

72. The proposed development is capable of complying with the BCA.
73. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

**Suitability of the site for the Development**

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

**INTERNAL REFERRALS**

75. The application was referred to Council's:
- (a) Building Approvals Unit;
  - (b) Transport and Access Unit;
  - (c) Heritage Specialist;
  - (d) Urban Designer;
  - (e) Environmental Health Specialists;
  - (f) Public Domain Unit;
  - (g) Tree Management Unit;
  - (h) Specialist Surveyors; and
  - (i) Waste Management Unit.
76. No objection to the amended proposal was raised, subject to the imposition of appropriate conditions. Where appropriate, the recommended conditions have been included in the recommendation of this report.

**Design Advisory Panel**

77. The application was reviewed by the Deigns Advisory Panel on 15 December 2015.



78. The panel raised concerns with application given its non-compliance with the Stage 1 DA and validity of the transfer of the commercial floorspace from commercial to residential floorspace.
79. A Section 96 application D/2008/102/E to the Stage 1 development application has been referred concurrently to the CSPC as detailed in this report. The changes are consistent with the winning design of the architectural competition and have been assessed as having an acceptable outcome. In particular the removal of the commercial buildings from the centre of the site has allowed for an activated central courtyard and through site link which is a superior outcome for the site in this regard.
80. The proportion of commercial floorspace and residential floorspace is proposed to be amended, with commercial floorspace being reduced and residential floorspace being increased. There is nothing, in principle, precluding this change of proportions of use. As detailed above the Planning Agreement will be required to be updated to reflect this change in proportion if use and associated infrastructure requirements.
81. The Panel also noted that the increase in street wall height may have some negative impacts on the amenity of the streets around the site. The redistribution of floorspace from the centre of the site does result in additional storeys to some street frontages as compared to that approved in the Stage 1 DA. However the additional height does not have unacceptable impact on the surrounding streets and is generally consistent with similar development in the area. The height has been limited on the southern side of the site to ensure the amenity and sun access to the new public park is maintained and the through site link and activated ground floor courtyard provides further amenity in the area.

## **EXTERNAL REFERRALS**

### **Sydney Airport**

82. The application was referred to Sydney Airport Corporation Ltd (SACL) as the Building A will intrude into prescribed airspace for Sydney Airport. Council received correspondence dated 22 December from SACL advising of conditions of approval. It is recommended that these conditions are incorporated in any consent.

### **Ausgrid**

83. The application was referred to Ausgrid. Ausgrid identified a number of existing substations and assets within the site that would be affected by the proposal and that a subsequent application to Ausgrid will be required.
84. Given the scale of the development, a substation is proposed to be accommodated within site.

### **Sydney Water**

85. The application was referred to the Sydney Water who had no objection to the proposal.

### **Roads and Maritime Services**

86. The application was referred to Roads and Maritime (RMS). Comments were received on 9 February 2015 advising that RMS raises no objection to the proposal.

**NSW Police**

87. The Redfern Local area Command of NSW Police made a submission and raised no objection to the proposal subject to appropriate conditions in regards to the use of CCTV, lighting, access control, signage etc. Conditions have been included where appropriate.

**Notification, Advertising and Delegation (Submissions Received)**

88. In accordance with Schedule 1 of the Sydney DCP 2012, the proposed development is required to be notified and advertised. The application was notified and advertised for a period of 28 days between 25 May 2015 and 23 June 2015. No submissions were received.
89. During the assessment process it become apparent that the application was integrated development and as such the application was notified and advertised for a further 30 days between 21 January 2016 to 21 February in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. Three submission were received.
90. The issues raised in the submission are as follows:
- (a) The massing is significantly different from the approved Masterplan, with increased height at its perimeters, which results in increased overshadowing and inconsistency with the bulk of adjacent developments

**Response:** A Section 96 application D/2008/102/E to the Stage 1 Masterplan is being assessed concurrently. The changes are consistent with the winning design of the architectural competition and have been assessed as having an acceptable outcome. In particular the removal of the commercial buildings from the centre of the site has allowed for an activated central courtyard and through site link which is a superior outcome for the site in this regard. The changes in the built form do not result in an unreasonable overshadowing impacts, with particular regard to the Park to the south and have an acceptable relationship with the surrounding development and proposed future character of the area.

- (b) Increased traffic and dangerous traffic flows

**Response:** The Traffic Impact Assessment was reviewed by Council's Transport officers and is acceptable. The generated volumes of traffic will not unreasonably impact on the local road network or create any safety issues.

- (c) No pool is provided or other amenities such as basketball courts

**Response:** The proposal provides significant areas of communal open space on the roof as well as a public courtyard at ground floor. In addition the site is located adjacent to a park and close to the planned Gunyama Park (with Skate Park) and Aquatic Centre. There is no requirements for a pool to be provided within the development.

- (d) The site is subject to flooding and drainage issues

**Response:** The flood modelling submitted with the application has been reviewed and it is considered that the capacity of the drainage system will be adequate to manage flooding within the site.

- (e) Noise from air conditioners

**Response:** The air conditioners have been provided in several consolidated areas and will be required to comply with standard noise conditions. The City's health unit have reviewed the submitted Acoustic Report and have no objection to the proposal subject to appropriate conditions

- (f) The types of shops should be limited

**Response:** The use of the retail floorspace will be subject to future complying development certificate or development applications. Subject to there not being any unreasonable impacts the particular types of shops are not regulated by planning controls.

- (g) During construction the developers must provide reports on scaffolding, must use appropriate traffic controllers and must not work outside of approved construction hours

**Response:** Conditions have been recommended to minimise the impacts during construction including requirements to comply with standard construction regulations and Council's standard hours of construction.

- (h) Streets on parking – time limits should apply of parking spaces on Dalmeny Avenue and some section of Epsom Road

**Response:** This issue cannot be dealt with via a development application. However the issues will be considered by the City's Transport Team as the area continues to transition from an industrial to residential are and in response to population changes and parking demands.

## PUBLIC INTEREST

91. 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

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

<b>Community Facilities</b>	\$	694,586.10
<b>Public Domain</b>	\$	434,633.74
<b>New Open Space</b>	\$	3,386,566.02
<b>New Roads</b>	\$	860,092.24
<b>Accessibility</b>	\$	35,673.13
<b>Management</b>	\$	38,570.88
<b>Total</b>	<b>\$</b>	<b>5,450,122.11</b>

93. The contribution is calculated based on a total of:
- (a) 268 new dwellings (113 studio and one bedrooms, 130 two bedrooms and 24 three bedrooms);
  - (b) 48 serviced apartments (29 x 1 bedroom and 19 x 2 bedrooms and based on room occupancy of 1 and 1.75 for 1 and 2 bedrooms respectively and multiplied by the average occupancy rate of 75%); and
  - (c) 88 workers based on employee density for shops with a frontage to the street (1 per 22.3sqm).
94. No credits have been applied for past uses of the site.

### **Affordable Housing Contributions**

95. The development is subject to the affordable housing contribution under clause 7.13 of the Sydney LEP 2012. The contribution is calculated based on:
- (a) \$174.19 per square metre of the total residential floor area (24,505.5sqm – \$4,268,613.05); plus
  - (b) \$58.04 per square metre of the non-residential floor area (6,033sqm - \$348,414.12).
96. The total contribution required is **\$4,617,027.17** (this will be indexed according to time of payment). The contribution is payable to the Department of Planning and Environment prior to issue of a Construction Certificate.

### **RELEVANT LEGISLATION**

97. The Environmental Planning and Assessment Act 1979.

### **CONCLUSION**

98. The proposed development is generally consistent with the core development standards and zone objectives contained in Sydney LEP 2012 with the exception of the height of buildings control.
99. The development will provide 268 residential units, required for the incoming population anticipated for the Green Square locality. The site will also provide 48 serviced apartments and 19 ground floor retail tenancies to service the area.
100. The proposal has been subject to a design competition process and the inconsistencies with the Stage 1 development application have been addressed in the concurrent Section 96 application to the Stage 1 DA.
101. The building has been suitably designed and represents a well resolved architectural design that adopts an appropriate form, scale and expression. The design provides active frontages all ground floor frontages including to the park and through site link and enhances the public domain.

102. The amended proposal performs well against the relevant built form controls in Sydney DCP 2012 and design principles in SEPP 65. An acceptable level of internal amenity is afforded to future residents and the built form will not unreasonably preclude achievement of internal amenity to future redevelopment schemes on adjoining sites.
103. The proposal exceeds the height of building and height in storeys controls on parts of the site. The exception to the height development standard and height in storeys control is assessed to be acceptable in this circumstance. The development generally complies with the Stage 1 consent in terms of height and represents a preferable outcome.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Erin Murphy, Specialist Planner)