

**ITEM 4. DEVELOPMENT APPLICATION: 906 BOURKE STREET ZETLAND****FILE NO: D/2015/1791****DEVELOPMENT APPLICATION NO: D/2015/1791****SUMMARY**

**Date of Submission:** 11 December 2015  
Amended 31 May 2016

**Applicant:** Urbis Town Planning Consultants

**Architect:** BVN

**Developer/ Owner:** JQZ/ Strata Plan No 49583

**Cost of Works:** \$109, 860, 000

**Proposal Summary:** Demolition of existing buildings, site remediation, subdivision, construction of a 13 storey building (the Eastern Block), an 8 storey building (the Western Block) and fifteen 3 storey terraces containing a total of 343 dwellings. The proposal also involves excavation for basement parking accommodating a total of 267 car parking spaces, construction of a new park, a new road and pedestrian through-site link to be dedicated to Council, footpath widening on Bourke Street and McPherson Lane and associated landscaping. The proposed construction and dedication of the new park, new road and pedestrian through-site link, and footpath widening, are the subject of a public benefit offer, to be formalised as a Planning Agreement.

On 31 May 2016, the proposal was amended in response to feedback from Council officers resulting in a minor increase in building height to the East Block to address the flood risk of the site, internal reconfigurations to apartments and corridors resulting in a decrease in gross floor area, reconfiguration of car park egress and lift access to common areas, revised access to the Green through-site link and increased building separation between the terraces and West Block.

The proposal has been the subject of a Competitive Design Process, and is consistent with the winning scheme and recommendations made by the selection panel. In accordance with Clause 6.21 of Sydney LEP 2012, the proposal is considered to display design excellence.

**Proposal Summary:  
(continued)**

The proposal complies with the maximum permissible floor space ratio (FSR) for the site of 1.925:1, which includes a community infrastructure bonus of 0.25:1 and a 10% bonus awarded in accordance with Clause 6.21 of Sydney LEP 2012. In accordance with Clause 4.6 of Sydney LEP 2012, the proposal includes a submission seeking minor variations to the height of buildings development standard. The request is supported on the basis that the variation to the height controls are minor, do not result in adverse impacts, are appropriate for the conditions of the site and are consistent with the objectives of the height of buildings development standard and the B4 Mixed Use zone.

The proposal was notified and advertised for 38 days between 19 December 2015 and 26 January 2016 in accordance with the provisions of *Environmental Planning and Assessment Regulations 2000*. Due to the notification and advertising period falling during the Christmas holiday period, notification was extended by an additional 8 days. In response to notification and advertising, submissions were received from 2 members of the public. Issues raised in submissions relate to the height of the development, overshadowing, privacy, traffic impacts and increases in local crime.

The proposal is not considered to result in any significant impacts on surrounding development in terms of overshadowing, privacy or view loss and will result in significant public domain benefits. The proposal responds appropriately to surrounding development, and will achieve a high standard of landscape design, architectural design and finishes that is considered to demonstrate design excellence.

The proposal constitutes Integrated Development as it requires approval under Section 91 of the *Water Management Act 2000*. General Terms of Approval have been provided by the NSW Department of Primary Industry – Water.

- Summary Recommendation:** It is recommended that the Central Sydney Planning Committee:
- (a) Waive Clause 7.20 of Sydney Local Environmental Plan 2012 (Sydney LEP 2012) requiring the preparation of a development control plan in relation to development of a site with area greater than 5,000m<sup>2</sup> and resulting in a building greater than 25m in height;
  - (b) Support the variation to Clause 4.3 Height of Buildings in accordance with Clause 4.6 of Sydney LEP 2012;
  - (c) Delegate the decision to determine the development application to the Chief Executive Officer (CEO) upon the completion of the planning agreement exhibition process and consideration of all submissions received during the process, subject to conditions.
- Development Controls:**
- (i) Water Management Act 2000
  - (ii) Roads Act 1993
  - (iii) Sydney Development Control Plan 2012
  - (iv) State Environmental Planning Policy No 55 Remediation of Land
  - (v) State Environmental Planning Policy No 65— Design Quality of Residential Flat Development
  - (vi) State Environmental Planning Policy No 32— Urban Consolidation (Redevelopment of Urban Land)
  - (vii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
  - (viii) State Environmental Planning Policy (Infrastructure) 2007
- Attachments:**
- A - Selected Drawings

**RECOMMENDATION**

It is resolved that:

- (A) the requirement under Clause 7.20 of Sydney Local Environmental Plan 2012 (Sydney LEP 2012), requiring the preparation of a development control plan in relation to development of a site with area greater than 5,000m<sup>2</sup> and resulting in a building greater than 25m in height, be waived;
- (B) the variation to Clause 4.3 Height of Buildings in accordance with Clause 4.6 of Sydney LEP 2012 be supported;
- (C) authority be delegated to the Chief Executive Officer (CEO) to determine Development Application No. D/2015/1791, subject to the public exhibition of a planning agreement and consideration of any submissions;
- (D) if the CEO determines to approve the application, then consideration be given to granting a deferred commencement consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, subject to the conditions set out in Part A below; and
- (E) in determining the application, the CEO consider the draft conditions of consent, as shown in Part A and Part B below, and any other relevant conditions.

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

The following deferred commencement conditions must be satisfied prior to the consent becoming operative:

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

**(1) VOLUNTARY PLANNING AGREEMENT**

- (a) That a planning agreement in accordance with the public benefit offer made to the City by JQZ be executed and submitted to Council; and
  - (b) Any guarantees required under the planning agreement at the time of execution must be provided to Council; and
  - (c) The planning agreement, as executed, must be registered on the title of the land; and
  - (d) The payment of the monetary contribution must be provided to Council in accordance with the planning agreement.
- Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within 24 months of the date of this determination of this deferred commencement consent, failing which this deferred development consent will lapse pursuant to section 95(6) of the Environmental Planning and Assessment Act 1979;

- The consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied; and
- 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, as detailed in Part B Conditions of Consent (Once the Consent is in Operation) of the subject report, 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/2015/1791 dated 11 December 2015 and the following drawings:

| <b>Drawing Number/ Title</b>      | <b>Architect</b> | <b>Date</b> |
|-----------------------------------|------------------|-------------|
| A-XX-03 Site Plan Rev 2           | BVN              | 25/05/2016  |
| AR-B-B1-01 Basement Level 1 Rev 2 | BVN              | 25/05/2016  |
| AR-B-B1-02 Basement Level 2 Rev 2 | BVN              | 25/05/2016  |
| AR-B-00-01 Level 00 Rev 2         | BVN              | 25/05/2016  |
| AR-B-00-01 Level 00 Rev 2         | BVN              | 25/05/2016  |
| AR-B-00-01 Level 00 Rev 2         | BVN              | 25/05/2016  |
| AR-B-01-01 Level 01 Rev 2         | BVN              | 25/05/2016  |
| AR-B-02-01 Level 02 Rev 2         | BVN              | 25/05/2016  |
| AR-B-03-01 Level 03 Rev 2         | BVN              | 25/05/2016  |
| AR-B-04-01 Level 04 Rev 2         | BVN              | 25/05/2016  |
| AR-B-05-01 Level 05 Rev 2         | BVN              | 25/05/2016  |

| Drawing Number/ Title                                    | Architect | Date       |
|--|-----------|------------|
| AR-B-06-01 Level 06 Rev 2                                | BVN       | 25/05/2016 |
| AR-B-07-01 Level 07 Rev 2                                | BVN       | 25/05/2016 |
| AR-B-08-01 Level 08 Rev 2                                | BVN       | 25/05/2016 |
| AR-B-09-01 Level 09 Rev 2                                | BVN       | 25/05/2016 |
| AR-B-10-01 Level 10 Rev 2                                | BVN       | 25/05/2016 |
| AR-B-11-01 Level 11 Rev 2                                | BVN       | 25/05/2016 |
| AR-B-12-01 Level 12 Rev 2                                | BVN       | 25/05/2016 |
| AR-B-13-01 Level 13 Rev 2                                | BVN       | 25/05/2016 |
| AR-B-14-01 Roof Plan Rev 2                               | BVN       | 25/05/2016 |
| AR-B-12-01 Level 12 Rev 2                                | BVN       | 25/05/2016 |
| AR-C-XX-01 Elevation – East Block – North Rev 2          | BVN       | 25/05/2016 |
| AR-C-XX-02 Elevation – East Block – West Rev 2           | BVN       | 25/05/2016 |
| AR-C-XX-03 Elevation – East Block – South Rev 2          | BVN       | 25/05/2016 |
| AR-C-XX-04 Elevation – East Block – East Rev 2           | BVN       | 25/05/2016 |
| AR-C-XX-10 Elevation – West Block – North Rev 2          | BVN       | 25/05/2016 |
| AR-C-XX-11 Elevation – West Block – East Rev 2           | BVN       | 25/05/2016 |
| AR-C-XX-12 Elevation – West Block – West Rev 2           | BVN       | 25/05/2016 |
| AR-C-XX-20 Elevation – Terraces – West Rev 2             | BVN       | 25/05/2016 |
| AR-C-XX-21 Elevation – Terraces – South Rev 2            | BVN       | 25/05/2016 |
| AR-D-XX-01 Section Along Link Rev 2                      | BVN       | 25/05/2016 |
| AR-D-XX-02 Section Through Link Rev 2                    | BVN       | 25/05/2016 |
| AR-D-XX-03 Section Through West Block & East Block Rev 2 | BVN       | 25/05/2016 |
| AR-D-XX-04 Section Through Terraces Rev 2                | BVN       | 25/05/2016 |
| AR-G-XX-01 Adaptable Apartment Type Plans Rev 2          | BVN       | 25/05/2016 |
| AR-G-XX-02 Adaptable Apartment Type Plans Rev 2          | BVN       | 25/05/2016 |

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) ROADS ACT APPROVAL**

Approval is required under Section 138 of the *Roads Act 1993* for the construction of the new road.

**(3) DESIGN MODIFICATIONS**

The design of the buildings and associated landscaping must be modified as follows:

- (a) Detailed plans and elevations are to be submitted reconciling the following:
  - (i) All window types must be identified: casement, sash, awning etc.
  - (ii) Minimum opening dimensions required for each window type in order to comply with the natural cross-ventilation requirements under the Apartment Design Guide are to be annotated on elevations.
  - (iii) Materials and finishes are to be clearly identified on each elevation.
  - (iv) All habitable rooms must have windows.
  - (v) All corner and flow through apartments are to have openings within the primary elevation, that is, these apartments must **not** have fixed glass to a bedroom or living room within the primary facade.
  - (vi) Where sliding doors are the only source of ventilation to a bedroom, fan light windows or a panel of louvres are to be provided to ensure ventilation as well as security.
  - (vii) Where sliding doors are the only source of ventilation to a living room and/or bedroom located at ground level or accessible from common or public domain, fan light windows or a panel of louvres are to be provided to ensure ventilation as well as security.
- (b) Skylights facing the opposite direction to window openings below are to be provided to the following apartments, and must be located so as to minimise potential noise impacts arising from roof top plant:
  - (i) West Block Terraces 0.06, 0.07, 0.08 and 0.09.
  - (ii) West Block Apartments 6.09, 6.10, 6.11, 6.12, 6.13, 6.14 and 6.15.
- (c) Living room windows to apartment 03 in the West Block levels 2 to 5, and apartment 05 in the East Block levels 2 to 8, are to be repositioned, or an additional window deeper within the plan is to be provided to achieve air flow through the majority of the primary living space (refer to Figure 1 below). In order to maintain visual privacy and maximise airflow, louvres are an acceptable window type.

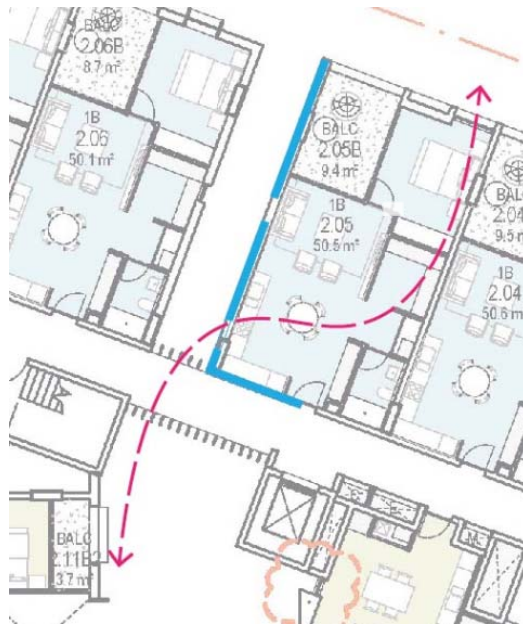


Figure 1: Additional window deeper in the plan to improve air flow

- (d) Bedroom windows of apartments 0.08 and 0.09, 1.09 and 1.10, 2.09 and 2.10, 3.09 and 3.11, 4.07 and 4.08 (west block) are to be offset and provided with privacy treatments to ensure that direct viewing between bedrooms is avoided.
- (e) Two additional cross-through or cross-over apartments are to be provided within the West Block on at least 5 floors of the building, resulting in no less than 10 additional genuinely naturally cross-ventilated apartments.
- (f) West Block apartment 0.03 is to be redesigned to be a 1 bedroom apartment in order to remove the snorkel window to bedroom 2.
- (g) East Block apartments 0.12, 1.06, 1.12, 1.13, 2.01, 2.06, 2.09, 2.15, 2.16, 2.20, 3.01, 3.06, 3.19, 4.01, 4.06, 4.20, 5.01, 5.06, 5.19, 6.01, 6.06, 6.17, 7.01, 7.06, 7.12, 8.01, 8.06, 8.14 and 9.01 are to be reconfigured to remove partitions to studies and provide studies with open plan arrangements that are not capable of being enclosed.
- (h) The window opening adjacent to the lift core in East Block apartments 1.15, 2.19, 3.18, 4.19, 5.18, 6.16, 7.11 and 8.13, must be increased in size to a minimum horizontal width of 1700mm, and should open away from the wall adjacent to the lift shaft.
- (i) Additional measures to provide visual and acoustic privacy to ground floor bedrooms of apartments 0.01 and 0.02 in the East Block are required and may include a combination of the following:
  - (i) Locating the bedroom windows for light and air to the adjoining balcony/terraces and a solid wall to the street.



- (ii) Locating an additional bedroom window to the adjoining balcony and terrace and providing opaque shutters to windows facing the street.
- (iii) Use of landscaping such as a hedge between the fence line and the bedroom windows to the street.
- (j) The basement below the Green Link is to be redesigned to be a minimum 1.5m clear depth below the finished ground level of the Green Link.
- (k) All three lift cores adjacent to the Green through-site link are to be accessible from the Green through-site link and are to be of a sufficient width to provide comfortable movement and access in accordance with the objectives of the Apartment Design Guide.
- (l) The doors/gates securing the access points referred to in (k) above are to be located no more than 5m from the boundary of the Green through-site link.
- (m) West Block Terrace 0.15 is to be modified to allow a minimum clearance of 6 metres to the adjacent southern access point from McPherson Lane.
- (n) No less than 35 Class 3 visitor bicycle parking spaces are to be provided at ground level in the vicinity of the principle building entries to the East Block and West Block.

The modifications are to be submitted to and approved by Council's Director City Planning, Development and Transport prior to the issue of a Construction Certificate.

#### **(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) RELEASE OF EASEMENTS**

- (a) All easements and rights of way within the site of the proposed new road shall be extinguished prior to the issue of any Interim or Final Occupation certificate for the development.
- (b) The right of footway variable width created by dealing H384080 burdening the site of the proposed public park shall be extinguished prior to the dedication of the park to the public.

**(6) 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 \$7,233,212.91 based on the in lieu monetary contribution rate for residential development at \$206.06 per square metre of total residential floor area 35,102.46sqm. 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 2016 to 28 February 2017, 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 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 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 2016 to 28 February 2017.

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 (\$)).

**(7) 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         | \$780,781.70   |
| Public Domain                | \$480,916.50   |
| New Open Space               | \$3,747,190.56 |
| New Roads                    | \$951,680.70   |
| Accessibility                | \$39,471.84    |
| Management                   | \$42, 678.17   |
| Total                        | \$6,042,719.47 |

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 – March 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.

#### **(8) 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.

#### **(9) NEW PARK – SEPARATE DA REQUIRED**

The detailed design of the proposed new park is to be in accordance with the planning agreement for the site.

#### **(10) GREEN THROUGH-SITE LINK**

The detailed design of the Green Through-Site Link is to be in accordance with the planning agreement for the site, and is to form part of the Alignment Level and Public Domain Plan submission.

#### **(11) LAND SUBDIVISION – SEPARATE DA REQUIRED**

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

**(12) CONSTRUCTION CERTIFICATE FOR SUBDIVISION WORKS**

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

**(13) DESIGN AND CONSTRUCTION OF ROADS**

- (a) Detailed engineering, road, drainage and infrastructure works, design and construction plans for the construction of the proposed road are to be submitted to Council and approval gained prior to the issue of any Construction Certificate for the proposed Subdivision Works. The design and documentation is to include any requirements and approvals from external parties such as public utility service authorities and is to be in accordance with Council's "*Development Specifications for Civil Works Design and Construction*" and is to be in accordance with any approved flood analysis and assessment report for the site and is to be consistent with Water Sensitive Urban Design principles.
- (b) The submission to Council is to provide plans and specifications sufficient to describe in detail the design, scope and extent of all proposed road, drainage and infrastructure works for the construction of the road extensions prepared and certified by a Professional Engineer, and is to include:
  - (i) Details of existing and final site contours, levels and volumes of proposed earthworks providing confirmation that the site contours and levels will not adversely impact upon the flow of floodwater on the site,
  - (ii) Geometric design and pavement design of the road extensions including formation widths, batter slopes, longitudinal sections, cross-sections, materials, specifications and thicknesses of pavement and surfacing,
  - (iii) Proposed contours and levels, showing existing and proposed adjacent levels at abutment to threshold of adjacent properties, proposed buildings, existing roads and existing parks including level and batter slopes, and details of the interpolation of the design levels demonstrating that the road will marry in with its thresholds with Bourke Street.
  - (iv) Kerb and gutter design and specifications and any necessary works and matching into existing formations including a minimum 500mm existing road pavement restoration,
  - (v) Geometric and hydraulic design of all stormwater drainage structures and systems including drainage swales and temporary downstream drainage, if required, and specifications and materials and details of connections into Council's public stormwater system,

- (vi) Details of design and specifications for footpaths, retaining walls, pedestrian and bicycle facilities, street lights, traffic and pedestrian signage, landscaping and associated verge works,
  - (vii) Details of structures and conduits for the provision and installation of any public utility services and any adjustment to existing services required,
  - (viii) Details of structures, procedures and measures adopted to address erosion and sediment control during the earthworks and construction process,
  - (ix) Details of traffic management and site management procedures during the construction process,
  - (x) Specifications showing assumptions, calculations and testing.
- (c) The certification is to include confirmation from a Professional Engineer that the design complies with Council's Development Specifications for Civil Works Design and Construction and that the development will be flood compatible by enabling the floor levels of buildings to provide a minimum of 500mm freeboard above the 1 in 100 year flood level and a minimum of 300mm for publicly accessible areas.
- (d) The documentation is to be fully coordinated with the approved Public Domain and Landscape plans for the development, and submitted concurrently to Council's Public Domain Section for review and Council's acceptance of completed Subdivision Work and issue of the final Compliance Certificate as the Principal Certifying Authority will be subject to certification and compliance with the approved drawings, the Development Specifications for Civil Works Design and Construction, applicable standards and the submission of certified Works as Executed drawings.

#### **(14) ROAD NETWORK AND GEOMETRIC ROAD DESIGN**

- (a) Preparation of the detailed design and construction documentation for the proposed public road system shall include all necessary liaison with and requirements of all relevant public utility authorities, Roads and Maritime Services, Council, the Local Pedestrian Cycling and Traffic Calming Committee and its nominated consultants in order to achieve design approvals and construction compliance. Written evidence of approval from relevant authorities must be submitted to Council with the road design submission.
- (b) The design and construction of all road works shall be undertaken in accordance with City of Sydney's *Sydney Streets Technical Specification* and the *Public Domain Manual*. Detailed plans, construction details and specifications for the works shall be prepared and submitted to Council for approval prior to issue of a Construction Certificate, excluding for approved preparatory or demolition work, or before issue of an approval under Section 138 of the *Roads Act 1993* for the road and drainage, infrastructure work. The detailed plans and supporting documentation shall include as a minimum the following information:

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

- vi. Adjustments/upgrades to utility services as required;
- vii. Standard engineering and structural details plan;
- viii. Erosion and sedimentation control plans;
- ix. A design certification report for the road works prepared by an appropriately qualified civil engineer certifying that the design complies with the City of Sydney's policies, standards and specifications and those of all other relevant authorities as applicable. All design documentation shall be completed in accordance with the relevant standards and specifications as adopted by Council from time to time. All engineering plans and calculations shall be checked, signed and certified by a suitably qualified practicing professional engineer.

- (c) The road and drainage works are to be completed in accordance with the approved plans and the City of Sydney's *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

#### **(15) PRINCIPAL CERTIFYING AUTHORITY**

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

#### **(16) COMPLETION OF SUBDIVISION WORKS**

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

#### **(17) COMPLETION OF PUBLIC DOMAIN WORKS**

Prior to the issue of the Subdivision Certificate for the subdivision, the public domain works associated with the subdivision works are to be completed in accordance with the requirements of and to the satisfaction of Council

#### **(18) PUBLIC UTILITY SERVICES**

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



**(19) SYDNEY WATER CERTIFICATE**

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

**(20) SIGNIFICANT FIG TREE BOND**

- (a) A \$75,000 bond for the Significant Moreton Bay Fig (Tree 28) shall be lodged with Council to ensure the retention and protection during demolition/construction and adaptation to the altered environment of the tree on the endorsed plans to be retained.
- (b) The applicant shall lodge the bond with Council prior to the issuing of the Construction Certificate.
- (c) The Applicant shall be responsible for the health and condition of the Significant Moreton Bay Fig (Tree 28). In the event that at completion of the works and prior to the issuing of the Occupation Certificate, Council's Tree Management Officer determines that the tree has been damaged/destroyed (by activities associated with any Development Application related to the subject site) to a value in excess of the retained bond the applicant shall lodge the excess to Council and to an amount determined by Council's Tree Management Officer.
- (d) The bond amount for will be retained for a minimum period of 12 months from the date of the Final Occupation Certificate being issued. At this time, a further inspection will be undertaken by the Consulting Arborist engaged throughout the demolition/construction phases of the development. The Consulting Arborist is to submit an Arboricultural Report to Council at the expiry of each bond period and prior to the bond being refunded. If the report indicates that the tree/s require remedial works, the City's Tree Management Officer will assess the recommendations and determine any works prior to their execution by the Consulting Arborist.
- (e) The following formula will be used for the retention of all or part of the tree bond/s:-
  - (i) An initial breach of any tree protection condition – 20% of total bond for each tree;
  - (ii) A second of continuing breach of any tree protection condition – 40% of total bond for each tree;

- (iii) If after 40% of the bond is retained, further breaches of the tree protection conditions occur, Council may instigate legal proceedings for the cessation of all works on the site; and
- (iv) Death of the Moreton Bay Fig (Tree 28) due to non-compliance with the tree protection conditions – Total 100% of total bond for particular tree/s and possible legal action by Council.

#### **(21) EXTERNAL LIGHTING**

A separate development application is required to be lodged and approved prior to any external floodlighting or illumination of the building or site landscaping.

#### **(22) SURVEILLANCE CAMERAS**

- (a) CCTV surveillance cameras shall be strategically installed, operated and maintained throughout publicly accessible areas of the site with particular coverage to:
  - (i) principal entrances and exits to buildings; and
  - (ii) the basement car park.
- (b) Suitable and clearly visible signage shall be displayed at the principal entrance(s) to the premise and in a prominent position in lettering not less than 50mm in height with the words "Closed Circuit Television in use on these premises".
- (c) All CCTV recording equipment and cameras shall be of high grade digital quality capable of identification of offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 10 frames per second and at high resolution.
- (d) CCTV recording discs or hard drive recordings shall be retained for 28 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD, USB or other appropriate digital copy of recorded footage on demand of Council or Police Officers either immediately or within 12 hours of the request being made. Copy discs must be handed to Council, Police Officer or Special Inspectors as required.

#### **(23) RESTRICTION ON RESIDENTIAL DEVELOPMENT**

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of all buildings within the site (levels 0-12) 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.

#### **(24) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL**

The following conditions apply to car parking:

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

#### **(25) PARKING DESIGN**

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued.

#### **(26) FUTURE DRIVEWAY DESIGN**

- (a) A swept path analysis is to be undertaken showing a maximum sized vehicle as a Council standard 9.25m waste vehicle to service the subject site from the basement level. This swept path analysis, along with amended plans if required, must be submitted to and approved by Council prior to the Construction Certificate being issued.
- (b) Upon the dedication of the new street connection through to O’Dea Avenue, the driveway is to be reduced to a width determined by the swept path analysis referred to in (a) above.

**(27) 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                    | 188        |
| Accessible residential spaces         | 52         |
| Residential visitor spaces            | 21         |
| Accessible residential visitor spaces | 2          |
| Car share parking                     | 4          |
| <b>Subtotal</b>                       | <b>267</b> |
| Motorcycle parking (see note a)       | 6          |
| Car wash bay                          | 1          |
| Child care drop off and pick up       |            |
| Child care long term visitor parking  |            |
| Service vehicle spaces                | 3          |
| Medium Rigid Vehicle loading dock(s)  | 1          |
| <b>Total</b>                          | <b>11</b>  |

**Notes**

- (a) Spaces are standard car spaces. Alternatively motorcycle spaces with dimensions of 1.2m x 2.5m (as per the relevant Australian Standards) may be provided. In this case, 22 motorcycle spaces would be required.
- (b) Access for waste collection vehicles must meet the requirements of Sydney DCP Section 3.11.13, namely that vehicle access for collection and loading will provide for:
- (i) A 9.25m Council garbage truck and a small rigid delivery vehicle; and
  - (ii) Minimum vertical clearance of 4.0 metre for residential development, or 3.8 metres clear of all ducts, pipes and other services, depending on the gradient of the access and the type of collection vehicle.

**(28) ALLOCATION FOR VISITOR PARKING**

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

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

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

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

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

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

**(31) 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 accessible to members of the car share scheme at all times.
- (f) The car share spaces are to be available at the same time that the car park commences operation.

**(32) 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          | 343        | Spaces must be a class 1 or class 2 bicycle locker [refer to note i. and ii.] |
| Residential visitor  | 35         | Spaces must be Class 3 bicycle rails [refer to note i.]                       |
| <b>Total</b>         | <b>378</b> |   |

**Notes:**

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

- (ii) 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.

### **(33) GREEN TRAVEL PLAN**

- (a) A Green Travel Plan must be submitted to and approved by Council prior to the issue of a Construction Certificate.
- (b) The Green Travel Plan should be prepared in accordance with guidelines contained on Council's website, and include mode share targets which promote sustainable travel behaviour, means of minimising travel demand by private car and maximise the share of travel by other modes including public transport, cycling, walking, carpooling or car share. The plan should nominate a co-ordinator responsible for monitoring and reviewing the Green Travel Plan.
- (c) The responsibilities of the Travel Plan Coordinator include:
  - (i) Coordinating implementation efforts;
  - (ii) Conducting surveys or other data collection processes to measure progress;
  - (iii) Communicating the travel plan to stakeholders and promoting awareness of the plan;
  - (iv) Coordinating marketing and promotional programs.

#### **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

### **(34) CHANGES TO KERB SIDE PARKING RESTRICTIONS**

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

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

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

Note: As parking in the LGA is at a premium, it is recommended that the applicant should approach the Area Traffic Engineer to discuss the proposal before making a submission.

**(35) 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.

**(36) TRAFFIC FACILITIES PLAN**

- (a) A concept plan showing proposed traffic facilities must be submitted to the satisfaction of the City Infrastructure and Traffic Operations team. The concept plan must address the following:
- (i) The provision of a design to accommodate left in/out at New Street and Bourke Street intersection.
  - (ii) Continuous Footpath treatment be provided car park basement entry points.
- (b) Approval of the concept plan is subject to Council's Local Pedestrian, Cycling and Traffic Calming Committee and the NSW Roads and Maritime Services. Following concept plan approval, the proponent must submit a detailed design back to the City Infrastructure and Traffic Operations team for approval.
- (c) All works approved by Council's Local Pedestrian, Cycling and Traffic Calming Committee are to be undertaken prior to the issue of an Occupation Certificate.
- (d) All costs associated with the works are to be borne by the developer.

**(37) 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.*

**(38) 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.

**(39) LETTERBOXES**

- (a) Letterboxes are to be discreetly located, shall not obstruct and/or dominate the public way and shall be of a type and specification that minimises opportunities for mail theft.
- (b) Where possible, consideration should be given to locating letterboxes within secure building lobbies.

Note: The Applicant is strongly advised to contact Australia Post to discuss how the letterboxes within the lobby will be accessed.

**(40) 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.

**(41) 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.

**(42) 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***.

**(43) TRAFFIC WORKS**

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

**(44) 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".

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

The courtyards and roof top terraces must be available for the use all residents of the building, and must be designated as common property on any strata subdivision of the site, with no exclusive use rights.



**(46) NO SPEAKERS OR MUSIC IN OUTDOOR COMMON AREAS**

Speakers and/or noise amplification equipment must not be installed and music must not be played in any of the outdoor common areas associated with the premises including the public domain.

**(47) NO AIR CONDITIONING UNITS TO FACADE OR BALCONIES OF BUILDING**

Approval is not granted for the installation of individual air conditioning units to the facade or balconies of the building.

**(48) 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.

#### **(49) 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.

#### **(50) WASTE/ RCYCLING 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.

#### **(51) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL**

- (a) The Waste Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste Management Plan is to be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued. The plan must comply with the Council's *Policy for Waste Minimisation in New Developments 2005* and must address waste management and collection for all buildings within the site including the terraces. All requirements of the approved Waste Management Plan must be implemented during construction of the development.
- (c) The buildings must incorporate designated areas or separate garbage rooms constructed in accordance with Council's *Policy for Waste Minimisation in New Developments 2005*.

## UPON COMPLETION OF THE DEVELOPMENT

- (d) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

**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.

**(52) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES**

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

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

**(53) LANDSCAPING OF THE SITE**

- (a) A detailed landscape plan, drawn to scale, by a qualified landscape architect, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate for above ground building works. The plan must include:
  - (i) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;
  - (ii) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be a minimum of 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 privacy planting to all private ground level terraces;
  - (v) Details of planting procedure and maintenance;
  - (vi) Details of drainage, waterproofing and watering systems;

- (vii) Details of all landscape fences/walls and gates, ensuring a maximum height of 1.4m for any fences facing the public domain;
- (viii) Details of security measures for the south-eastern pedestrian connection of the East Block.
- (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.

**(54) INACCESSIBLE GREEN ROOFS**

- (a) A detailed plan of the inaccessible green roofs, drawn to scale, by a qualified landscape architect, must be submitted to and approved by Council prior to the issue of a Construction Certificate. The plan must include:
  - (i) 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;
  - (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
  - (iii) Details of the location, sizes and numbers of plants used, with reference to NATSPEC (if applicable) and with a preference for drought resistant local species;
  - (iv) Details of the soil media / substrate type and depth;
  - (v) Details of installation methodology e.g. safety considerations for working at height, location of maintenance hooks (if applicable) transport of materials etc;
  - (vi) Details of the parts of the green roof which are accessible and inaccessible. Where proposed to be inaccessible, green roofs are required to remain such during occupation of the property;
  - (vii) Details of provisions for safe maintenance access;
  - (viii) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer (if applicable).
- (b) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

- (c) Prior to the issue of an Occupation Certificate, a maintenance plan is to be submitted and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property and a copy of the maintenance plan is to be kept on site at all times during construction and following completion and shall be produced to Council on request. The maintenance plan 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.
  - (vi) Decommissioning procedures.
- (d) Inaccessible green roofs are required to remain inaccessible, other than for maintenance purposes.

**(55) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN**

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

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

The form of the recording is to be as follows:-

- (a) A PDF format report containing all images at a scale that clearly demonstrates the existing site conditions;
- (b) Each image is to be labelled to identify the elements depicted, the direction that the image is viewed towards, and include the name of the relevant street frontage;
- (c) Each image is to be numbered and cross referenced to a site location plan;
- (d) A summary report, prepared by a suitable qualified professional, must be submitted in conjunction with the images detailing the project description, identifying any apparent existing defects, detailing the date and authorship of the photographic record, the method of documentation and limitations of the photographic record;

- (e) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

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

#### **(56) 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.

#### **(57) PUBLIC DOMAIN PLAN**

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

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

#### **(58) RETAINING WALLS AND STAIRS**

The submission to Council is to provide plans and specifications sufficient to describe in detail the design, scope and extent of all proposed retaining wall and stair structures within the public domain. This submission is to be prepared and certified by a Professional Structural Engineer, and is to include construction level detail of these elements inclusive of structural and drainage requirements.

The design of these structures must be certified to 100 year life and shall be submitted to the Principal Certifying Authority for approval prior to the issue of the first Construction Certificate excluding approved remediation, preparatory, demolition and excavation work.

**(59) McPHERSON LANE PUBLIC DOMAIN AND DEVELOPMENT INTERFACE**

Details of the development's interface to the public domain at McPherson Lane and the ground level setback area to the private fence line are to form part of the Alignment Level and Public Domain Plan submission.

The detailed submission must demonstrate how the development integrates and complements the surrounding street network, including road and footway alignment levels, pallet of paving materials and tree planting.

**(60) 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".

**(61) 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).

**(62) PROTECTION OF SURVEY INFRASTRUCTURE**

Prior to the commencement of any work on site, a statement prepared by a Surveyor registered under the *Surveying Act 2002* must be submitted to Council verifying that a survey has been carried out in accordance with the Surveyor General's Direction No. 11 – Reservation of Survey Infrastructure. Any Permanent Marks proposed to be or have been destroyed must be replaced, and a "Plan of Survey Information" must be lodged at the Land and Property Management Authority.

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



**(63) 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.

**(64) DEFECTS LIABILITY PERIOD – PUBLIC DOMAIN WORKS**

All works to the City's public domain, including rectification of identified defects, are subject to a 12 month defects liability period from the date of final completion. The date of final completion will be nominated by Council on the Certificate of Completion for public domain works.

**(65) 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.

**(66) NOMINATED ENGINEERING WORKS SUPERVISOR – MAJOR INFRASTRUCTURE**

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

- (a) A Chartered Civil Engineer, with National Professional Engineering Registration (NPER 3) in the construction of civil works, or
- (b) A survey company of Registered Surveyors with accreditation from the Institution of Surveyors NSW Inc, or

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

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

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

A Public Domain Damage Deposit calculated on the basis of 8 lineal metres of concrete/ asphalt 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.

#### **(68) 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.

**(69) 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.

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

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

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

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

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

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

**(71) 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 Demolition, Excavation and Construction Management Plan approved in accordance with Condition (70) above.
- (b) Where all such control measures have been implemented and the resultant noise and/ or vibration levels at any sensitive receiver still exceed the council's applicable criteria stated in the Construction Hours/Noise Code 1992 and are giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building unit. Approval to vary the authorised noise and vibration levels must be received in writing by the proponent from Council prior to activities being undertaken that exceed sanctioned emission levels. (Use where respite periods not specified under the approved DEC NMP)

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

**(72) 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 EMM dated 30 November 2015 reference 15J15130RP1, titled 906 Bourke Street Zetland NSW Council Reference 2015/659157 must be implemented as part of the detailed design assessment and implemented into the design drawings prior to the commencement of the use of the premises in accordance with the requirements of (b) and (c) below and to the satisfaction of the certifying authority.
- (b) Prior to the issue of a Construction Certificate, the construction drawings and construction methodology must be assessed and certified by a suitably qualified acoustic consultant\* (see definition below) to be in accordance with the requirements of the DA acoustic report prepared by EMM dated 30 November 2015 reference 15J15130RP1, titled 906 Bourke Street Zetland NSW Council Reference 2015/659157.
- (c) Prior to the issue of an Occupation Certificate, a suitably qualified acoustic consultant is to provide a written Acoustic Verification Report to the satisfaction of the Council's Area Planning Manager 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.

**(73) ARCHAEOLOGICAL ASSESSMENT**

An archaeological assessment undertaken by a suitably qualified archaeologist must be submitted to and approved by Council's Heritage Specialist prior to the issue of a Construction Certificate. The report must assess whether the proposed works have the potential to disturb any archaeological remains and the need for any archaeological investigation prior to commencement of any works on site. The report should also recommend measures and documentation to be undertaken during the process of demolition and excavation work.

Recommendations by the archaeological assessment are to be implemented during the process of demolition and excavation work.

Should the assessment report suggest the site may contain relics and the proposed work may disturb them, council may request the applicant to amend the proposal so that the relics are properly protected or interpreted.

**(74) 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.

**(75) HERITAGE INTERPRETATION STRATEGY**

- (a) Prior to the issue of a Construction Certificate, a Heritage Interpretation Strategy is to be submitted to Council for approval. The Heritage Interpretation Strategy is to address the interpretation of the site's historical association with Zetland Lodge within the site's public open spaces, and may include the expression of historic themes in the park and public open space design, public art work, place naming and heritage plaques.
- (b) The Heritage Interpretation Strategy is to incorporate findings of the archaeological assessment and/or field work and other historical research on the Zetland Lodge.
- (c) The Heritage Interpretation Strategy is to be submitted to and approved by Council, and must be implemented prior to the issue of any Occupation Certificate.

**(76) SECTION 138 APPROVAL**

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

**(77) STRATA SUBDIVISION**

Any proposal to Strata subdivide the buildings will require a separate application to obtain approval of the final Strata Plan and issue of the Strata Certificate by Council or an accredited Strata Certifier.

**(78) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

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

**(79) 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 whichever 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.

**(80) 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.

**(81) COMPLIANCE WITH ACID SULFATE SOILS MANAGEMENT PLAN**

All recommendations contained in the Acid Sulfate Soils Management Plan prepared by Martens Consulting Engineers, dated 10 June 2016 reference P1505012JC04V01 must be implemented.

**(82) 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.

**(83) 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.

**(84) 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.

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

The site is to be remediated and validated in accordance with the Remedial Action Plan prepared by Martens Consulting Engineers dated 26 November 2015, referenced P1505012JR03V01, Council reference 2015/659156 and the Letter of Interim Advice prepared by James Davis dated 29 March 20156 reference IA0301-1606\_01, Council reference 2016/181596-01. 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.

**(86) 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.

**(87) SITE AUDIT STATEMENT**

Prior to the execution of works associated with the built form of the development (excluding building work directly related to remediation) a Site Audit Statement (SAS) is to be obtained from a NSW EPA Accredited Site Auditor is to be submitted to the Area Planning Manager. The SAS must confirm that the site has been remediated in accordance with the approved Remediation Action Plan and clearly state that site is suitable for the proposed use. Conditions on the Site Audit Statement shall form part of the consent.

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

**(88) SITE AUDIT STATEMENT – ENVIRONMENTAL MANAGEMENT PLAN**

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

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

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

**(89) COMPLIANCE WITH APPROVED ENVIRONMENTAL MANAGEMENT PLAN**

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

**(90) 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

**(91) 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.

**(92) 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.

**(93) STORMWATER AND DRAINAGE – MAJOR DEVELOPMENT**

- (a) Prior to an approval or Construction Certificate being issued for excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work a detailed drainage engineering design, calculations and design for the stormwater overland flow path for the development must be:
  - (i) prepared by a suitably qualified hydraulic or civil engineer to show the proposed method of collection and disposal of stormwater; and
  - (ii) prepared in accordance with the City of Sydney's *Stormwater Drainage Manual*, technical specifications, standards and policies, as amended from time to time; and
  - (iii) submitted to and be approved by the City of Sydney and a copy of the City's letter of approval must be provided to the Principal Certifying Authority.

- (b) For approval of a connection into the City of Sydney's drainage system an "Application for Approval of Stormwater Drainage Connections" must be submitted to the City, together with an application fee in accordance with the City of Sydney's adopted Schedule of Fees and Charges.
  - (i) The application must be approved by the City of Sydney prior to an approval or Construction Certificate being issued for excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work.
  - (ii) All proposed connections to the City's underground drainage system require the owner to enter into a Deed of Agreement with the City of Sydney and obtain registration on Title of a Positive Covenant prior to any Occupation Certificate being issued, including an Interim Occupation Certificate.

### **On-site Detention**

- (c) The requirements of Sydney Water with regard to the on-site detention of stormwater must be ascertained and complied with.
  - (i) Evidence of the approval by Sydney Water of the detailed design of the on-site detention must be submitted to and be accepted by the City of Sydney and a copy of the City's letter of acceptance must be provided to the Principal Certifying Authority prior to a Construction Certificate being issued, excluding for any approved preparatory, demolition or excavation works.
  - (ii) Prior to the issue of an Occupation Certificate, including an Interim Occupation Certificate, a Positive Covenant must be registered on the property title for all drainage systems involving On-Site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection.

### **Stormwater Quality Assessment**

- (d) 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 City of Sydney and a copy of the City's letter of approval must be provided to the Principal Certifying Authority.
  - (i) be prepared by a suitably qualified hydraulic engineer with experience in Water Sensitive Urban Design;
  - (ii) use modelling from an industry-standard water quality model (e.g. MUSIC Model or equivalent); and
  - (iii) demonstrate through reports, design plans and calculations, 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%.
- (iv) include certification from a suitably qualified practicing professional that the requirements of parts d) (i), (ii) and (iii) of this condition have been met.

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

#### **Completion / Works-as-Executed Documentation**

- (e) Prior to a Certificate of Completion being issued by the City of Sydney for stormwater drainage works:
- (i) All works for the disposal of stormwater and drainage are to be implemented in accordance with the approved plans, City of Sydney technical specifications. Standards and policies, approval letters and the requirements of this consent.
  - (ii) a Works-As-Executed survey, prepared, signed and dated by a Registered Surveyor, must be submitted to and be accepted by the City of Sydney. The plan must be overlaid on a copy of the approved stormwater drainage plans issued with the Construction Certificate, with variations to locations, dimensions, levels and storage volumes clearly marked;
  - (iii) Electronic works-as-executed (as-built) details, certifications, warranties, inspection reports (including Closed Circuit Television reports) and associated documentation for the completed work must be prepared and certified by a suitably qualified hydraulic engineer, in accordance with the requirements of the City of Sydney's technical specifications, the *Public Domain Manual*, the *Stormwater Drainage Manual*, the conditions of this consent and all letters of approval issued by the City of Sydney for works in the public domain, and must be submitted to and be accepted by the City of Sydney.
- (f) Prior to the issue of the first Occupation Certificate, including an Interim Occupation Certificate, or before the use commences (whichever is earlier):
- (i) a copy of the City's Certificate of Completion for all stormwater and drainage work undertaken in the public domain must be provided to the Principal Certifying Authority;

- (ii) a Works-As-Executed survey, must be prepared, signed, dated and certified by a Registered Surveyor and must be submitted to and be accepted by the Principal Certifying Authority. The Works-as-Executed plan must be overlaid on a copy of the approved stormwater drainage plans issued with the Construction Certificate, with variations to locations, dimensions, levels and storage volumes clearly marked;
- (iii) a Hydraulic Compliance Certificate and Calculation Sheet must be prepared by a suitably qualified hydraulic engineer (minimum NER), showing approved versus installed hydraulic calculations, and must be submitted to and be accepted by the Principal Certifying Authority;
- (iv) evidence of Sydney Water's acceptance of the Works-As-Executed documentation, certification and Hydraulic Compliance Certificate and Calculation Sheet must be provided to the Principal Certifying Authority;
- (g) The Principal Certifying Authority must submit a copy of the Works-As-Executed plans, certifications, Hydraulic Compliance Certificate and Calculation Sheet to the City of Sydney.

**(94) ARBORICULTURAL METHODOLOGY STATEMENTS SERVICES**

- (a) A Construction and Tree Protection Methodology Statements must be submitted to and approved by Council's Area Planning Manager prior to demolition or the issuing of the Construction Certificate (whichever comes first). The report must reflect current industry practices, with particular reference to the Australian Standard 'Protection of trees on development site' (AS4970-2009) and must include:
  - (i) The Arboricultural Methodology Statements shall include the retention of the Moreton Bay Fig. The tree shall be referred to as Tree 28 (in accordance with the Arboricultural Impact Report prepared by Landscape Matrix Pty Ltd dated 7 May 2015);
  - (ii) The Arboricultural Methodology Statements shall include a detailed assessment, tree protection zone and structural root zone distances for Tree 28;
  - (iii) 'Methodology Statement for demolition of the building surrounding Tree 28 which includes removal of the concrete slab and any associated footings - detailing tree sensitive removal methods to ensure the protection of the Tree 28 above and below ground;
  - (iv) 'Methodology Statement for excavation for new basements and construction of new buildings (tree protection from cranes, piling, rigging, hoardings, scaffoldings, etc.) - that describes construction method for new buildings and recommendations on how to minimise any impacts on Tree 28;
  - (v) Tree Protection Methodology and Plan for Tree 28 which is site specific;

- (vi) A 'Pruning Schedule' (size of branches, location, extent of pruning) of the Tree 28 if relevant or if required to accommodate any construction activities. Pruning of any trees must not exceed more than 15% of the total live canopy area.

**(95) COMPLIANCE WITH ARBORICULTURAL METHODOLOGY STATEMENTS**

All recommendations, Pruning Specifications and Methodology Statements contained in the approved Arboricultural Methodology Statements as required by the condition titled Arboricultural Methodology Statements must be implemented during the demolition, construction and use of the development.

**(96) TREES APPROVED FOR REMOVAL**

- (a) Trees numbered 1-27 and 29-57 in the Arboricultural Impact Assessment prepared by 'Landscape Matrix Pty Ltd' dated 7 May 2015 are approved for removal.
- (b) Tree removal must not occur until the Construction Certificate has been issued.
- (c) All tree removal works must be carried out by a qualified Arborist, with a minimum Level 3 AQF in arboriculture and in accordance with WorkCover's Code of Practice – Amenity Tree Industry.
- (d) In the event that wildlife is found during the course of tree removal works, work must stop until a trained wildlife handler attends the site or the animal relocates itself.

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

The Moreton Bay Fig tree located adjacent to the western boundary and numbered Tree 28 in the Arboricultural Impact Report prepared by 'Landscape Matrix' dated 7 May 2015 must be retained and protected in accordance with the Australian Standard 4970 Protection of Trees on Development Sites throughout the proposed development.

**(98) SITE SUPERVISION AND REPORTING**

- (a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone in accordance with Australian Standard AS4970 Protection of Trees on Development Sites. The Arborist must certify compliance with each key milestone detailed below to the Director of City Planning, Development and Transport:
  - (i) The installation of tree protection measures prior to the issuing of a Construction Certificate;
  - (ii) During demolition of (insert specific details of structures to be demolished within close proximity to TPZ/s);
  - (iii) During excavation and construction of (insert details if applicable);
  - (iv) During any excavation and trenching within the Tree Protection Zone;

- (v) During any Landscape works within xx metres of the trees trunk.
- (b) A fortnightly/monthly/quarterly compliance report shall be submitted to the Director City Planning, Development and Transport which provides details on the health and structure of tree to be retained and protected and must include:
  - (i) Certification of compliance with each key milestone;
  - (ii) Details of any other works undertaken on any tree to be retained or within TPZ/s;
  - (iii) Documentary evidence of compliance with tree protection and measures (including photographs and site notes);
  - (iv) Ensure that the soil moisture is appropriate [Optional – Tree Management Team to insert] and the irrigation system is functioning in accordance with the Arborist's specifications.

#### **(99) STREET TREE PLANTING AND MAINTENANCE**

- (a) A Landscape Plan indicating the location of the street trees to be planted in association with the development must be submitted to and approved by Council prior to the issue of the Construction Certificate. Street trees must be located and planted in accordance with the City's Street Tree Master Plan, and the following:
- (b) The design must include:
  - (i) The trees must be a minimum container size of 200 litres grown in accordance with the Australian Standard 2303:2015 'Tree stock for landscape use';
  - (ii) Structural soils in accordance with the STMP Technical Guideline (Part D), Section 4 – Street Tree Soil Specification: [http://www.cityofsydney.nsw.gov.au/\\_data/assets/pdf\\_file/0010/130240/STMP2011\\_150501-PartD.PDF](http://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0010/130240/STMP2011_150501-PartD.PDF) and
  - (iii) CoS Standard Drawing, General Footpath, Structural Soil Drawing No 2.1.7 [http://www.cityofsydney.nsw.gov.au/\\_data/assets/pdf\\_file/0003/142572/C-Standard-Drawings-all-drawings.pdf](http://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0003/142572/C-Standard-Drawings-all-drawings.pdf)
- (c) The new street shall include the following species selection:
  - (i) McPherson Lane – Eucalyptus saligna (if space).
  - (ii) Green Link and new street to Bourke (north-south) – Robinia pseudoacacia 'Frisia' (planting next to the park is unlikely to be required).
  - (iii) New street (east-west) – Waterhousia floribunda 'Green Avenue' southern side only. No street tree planting on northern side due to south facing and insufficient setback of buildings at 904 Bourke Street.



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

**(100) APPLICATION FOR HOARDINGS AND SCAFFOLDING INSTALLED ON OR ABOVE A PUBLIC ROAD AND OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD**

- (a) A separate application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* is to be made to Council to erect a hoarding and/or scaffolding (temporary structures) on or above a public road (footway and/or roadway).
- (b) Where an approval (Permit) is granted allowing the placement of temporary structures on or above a public road the structures must comply fully with Council's *Hoarding and Scaffolding Policy; Guidelines for Hoardings and Scaffolding*; and the conditions of approval (Permit) granted including:
  - (i) maintaining a current and valid approval for the full duration that the temporary structure/s is in place;
  - (ii) maintaining temporary structure/s in a structurally sound and stable condition for the full duration of installation (Clause 2.11.1);
  - (iii) bill posters and graffiti being removed within 24 hours of their placement (Clause 2.11.2);
  - (iv) maintaining temporary structures and the public place adjoining the work site in a clean and tidy condition including repainting and/or repair of graphics (Clauses 2.11.1, 2.11.4, 2.14.1 and 3.9.3);

- (v) maintaining a watertight deck (Type B hoardings) to prevent liquids including rainwater, falling onto the footway/roadway surfaces (Clauses 3.9.1 and 3.9.4);
- (vi) approved site sheds on the decks of a Type B hoarding being fully screened from the public place (Clause 3.9.5);
- (vii) material and equipment not being placed or stored on the deck of Type B hoardings, unless specifically approved by Council (Clause 3.9.4);
- (viii) providing and maintaining operational artificial lighting systems under Type B hoardings including at high-bay truck entry points (Clause 3.9.9); and
- (ix) ensuring all required signage is provided and maintained (Clauses 3.9.3, 3.9.6, 3.9.8, 3.10.1 and 4.2).

If it is proposed to operate a hoisting device including a building maintenance unit above a public road which swings, hoists material/equipment and/or slews any part of the device over the public road, a separate application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* must be made to Council to obtain approval.

**Note:** 'Building maintenance unit' means a power-operated suspended platform and associated equipment on a building specifically designed to provide permanent access to the faces of the building for maintenance (*Work Health and Safety Regulation 2011*).

#### **(101) INSTALLATION OF GRAPHICS AND ARTWORK ON SCAFFOLDING (BUILDING / CONSTRUCTION WRAPS)**

- (a) Where scaffolding is to be installed to undertake the proposed development an approved graphic / artwork installation must be provided on the scaffolding system to shield the development from the public place and to minimise adverse visual impacts on the locality.
- (b) The graphic installation must be printed, installed and maintained in accordance with Council's Guidelines for Hoardings and Scaffolding. Details of the proposed graphic must be submitted to and approved by Council prior to the installation of any scaffolding.

#### **(102) 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 Ausgrid, prior to a Construction Certificate being issued or the commencement of the use, whichever is earlier.

#### **(103) UTILITY SERVICES**

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of a Construction Certificate a survey is to be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.
- (b) Prior to the commencement of work the applicant is to obtain written approval from the utility authorities (e.g. Energy Australia, Sydney Water, and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

## SCHEDULE 1C

### During Construction/Prior to Occupation/Completion

#### (104) SURVEY

- (a) AT FOUNDATION STAGE - All footings and walls adjacent to a boundary must be set out by a registered surveyor. Upon commencement of blockwork or wall construction for the basements 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 allotments. Any encroachments of the subject building or associated structures over any boundaries must be removed prior to continuation of building construction work, or alternatively a letter supplied from the registered proprietor(s) of the adjoining lot(s) confirming that they are aware of the nature & extent of the encroachment, and undertaking to execute all necessary documentation to permit the creation of an easement to permit the encroachment to remain.
- (b) DURING CONSTRUCTION - A survey of the formwork for the concrete slab at each floor level, showing its position in relation to the site boundaries with clearly annotated offsets, must be carried out **prior to concrete pour**, and supplied to the Principal Certifying Authority.
- (c) AT COMPLETION – **Prior to the issue of an Occupation Certificate** - A Final Identification Survey prepared by a Surveyor registered under the Surveying & Spatial Information Act, 2002 must be submitted at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment, and showing its position with clearly annotated offsets. Any encroachments of the building over the side boundaries must be removed, or alternatively appropriate easements under Section 88B of the Conveyancing Act, 1919, with terms to the satisfaction of Council, must be provided. Easements burdening proposed or existing roads are not permitted.

#### (105) 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*.

#### **(106) 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.

**(107) 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.

**(108) BASIX**

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

**(109) LOADING AND UNLOADING DURING CONSTRUCTION**

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site.
- (b) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) In addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (e) The structural design of the building must allow the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.
- (f) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

**(110) 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.

**(111) 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.

**(112) 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.

**(113) 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.

**(114) HAZARDOUS AND INDUSTRIAL WASTE**

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

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

**(115) 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.

**(116) 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.

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

- (a) The operation of high noise emission appliances, plant and/or machinery such as pile – drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* is restricted to the hours of:
- (i) Monday to Friday – 9:00am to 12:30pm and 2:00pm to 4:30pm;
  - (ii) Saturday – 9:00am to 1:00pm;
  - (iii) Sunday and Public Holidays – No works permitted.
- (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*.

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

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

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 infrastructure.
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. Site visits were carried out on 19 January and 4 March 2016.
2. The site is irregular in shape, with area of approximately 14,677m<sup>2</sup>. It has a narrow street frontage to Bourke Street measuring approximately 20m, and secondary street frontages to McPherson Lane measuring approximately 112m to the western boundary and 102m to the southern boundary.
3. Access to the site is from Bourke Street.
4. There is a fall across the site from south to north of approximately 1 metre. To the southern boundary of the site there is significant level change between the site and McPherson Lane of approximately 4 metres.
5. Occupying the site is a commercial warehousing complex consisting of two separate buildings with above ground car parking. The majority of the site is comprised by hard stand paving.
6. Vegetation is generally limited to the northern and western perimeter of the site.
7. A Sydney Water substation is located within the driveway and the site is burdened by a Sydney Water easement which generally runs along the driveway from Bourke Street.
8. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from Bourke Street



Figure 3: View south along driveway from Bourke Street, with the substation proposed to be relocated circled



Figure 4: Existing warehouses located within the site



Figure 5: View across the site towards existing residential development known as 'Emerald Park' adjoining the eastern boundary of the site at 5 O'Dea Avenue



Figure 6: View north across the site from the southern boundary on McPherson Lane



Figure 7: Retaining wall along the southern boundary of the site, indicating the significant level change between the site and McPherson Lane (approximately 4m)



Figure 8: View along McPherson Lane, showing adjacent residential development

## PROPOSAL

9. The application seeks consent for the demolition of all existing structures, site remediation and the construction of a multi-storey residential development consisting of:
  - (a) **Basement Levels 1 and 2**
    - (i) parking for 267 cars (including 4 car share spaces);
    - (ii) parking for 22 motorcycles;
    - (iii) 2 service vehicle parking spaces and 1 car wash bay;
    - (iv) parking for 161 bicycles;
    - (v) 259 resident storage spaces;
    - (vi) garbage room and bulky good storage;
    - (vii) stormwater detention tanks; and
    - (viii) building services.
  - (b) **East Block**
    - (i) 179 apartments with a building height between 6 and 13 storeys;
    - (ii) primary entrances from the proposed new road, green (through-site) link and ground floor courtyard;

- (iii) roof top plant;
- (iv) roof top communal terrace at level 10; and
- (v) ground floor communal courtyard for private use of residents.

(c) **West Block**

- (i) 149 apartments with a building height between 6 and 8 storeys;
- (ii) roof top plant;
- (iii) primary entrances from the proposed public park, green (through-site) link and ground floor courtyard;
- (iv) roof top communal terraces at levels 7 and 9; and
- (v) ground floor communal courtyard for private use of residents.

(d) **Terraces**

15 x 3 storey terraces with frontage to McPherson Lane, each containing 3 bedrooms.

(e) **Public Domain Works**

- (i) dedication of 2,561m<sup>2</sup> of land and associated remediation, civil works and landscaping for the creation of a new public park;
- (ii) dedication of 1,885m<sup>2</sup> of land and associated remediation, civil works and landscaping for the creation of a new 12m wide road accessed from Bourke Street;
- (iii) dedication of 284m<sup>2</sup> of land and associated remediation and civil works for the purposes of road widening along Bourke Street and McPherson Lane; and
- (iv) dedication of 1,193m<sup>2</sup> of land in stratum to a depth of 1.5m for the creation a green (through-site) link.

10. The application proposes a total of 343 dwellings (28,615m<sup>2</sup>), comprising the following unit mix:

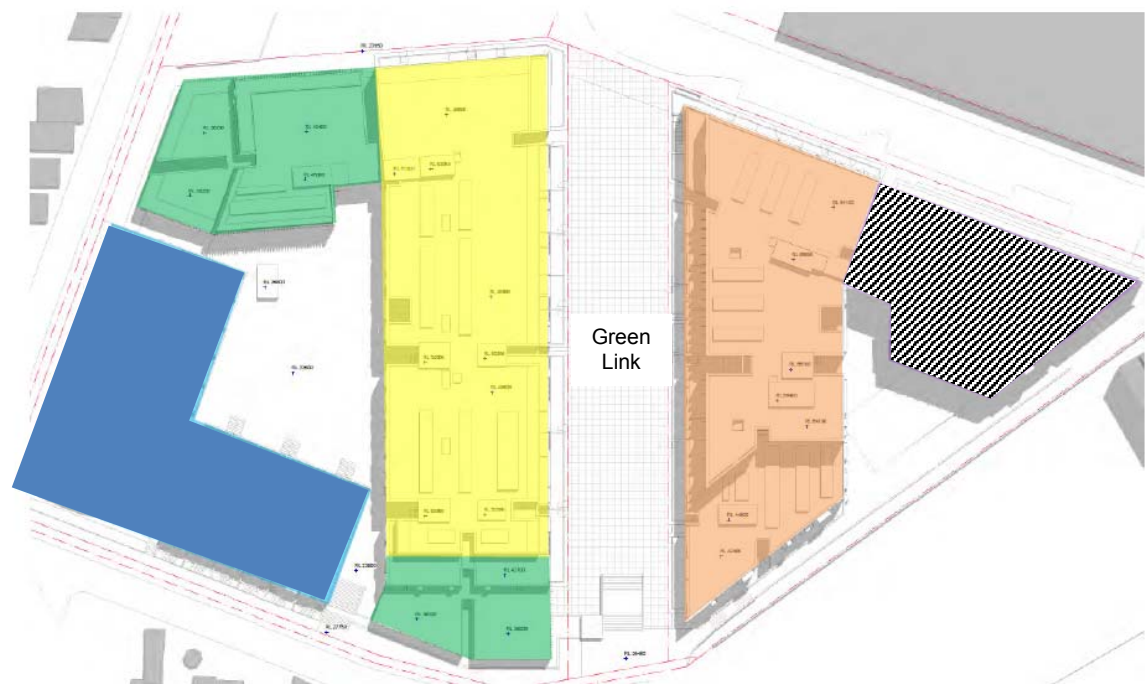
| Apartment Type | Number     | Ratio  |
|----------------|------------|--------|
| Studio:        | 2          | 0.58%  |
| 1 Bedroom:     | 108        | 31.49% |
| 2 Bedroom:     | 200        | 58.31% |
| 3 Bedroom:     | 33         | 9.62%  |
| <b>Total:</b>  | <b>343</b> |        |



11. On 31 May 2016, the application was amended in response to feedback from Council staff as follows:
  - (a) increased height of the East Block by 300mm in response to flood issues resulting in the need to raise the ground floor finished level;
  - (b) internal reconfiguration of apartments and building corridors and services to reduce gross floor area;
  - (c) provision of direct access to the West and East Blocks from the green (through-site) link, resulting in two 2 bedroom apartments becoming 1 bedroom apartments;
  - (d) provision of stair and ramp access at the southern end of the green (through-site) link to replace a previously proposed lift;
  - (e) revised terrace arrangement to provide minor increase in building separation from the West Block;
  - (f) relocation of basement fire escape within courtyard and improved lift access to communal roof terraces; and
  - (g) revised landscape design at building entrances and interfaces with communal open space.
12. The proposal includes the relocation of an existing Sydney Water substation, located within the driveway to the site (refer to Figure 3).



Figure 9: Landscape Concept Plan showing the general site arrangement proposed



Legend of Building Characters

- Western Building – 8 storey building
- Western Building – Podium form
- Townhouses
- Eastern Building – 13 storey tower
- Eastern Building – 9 storey podium form

Figure 10: Proposed building configuration and heights

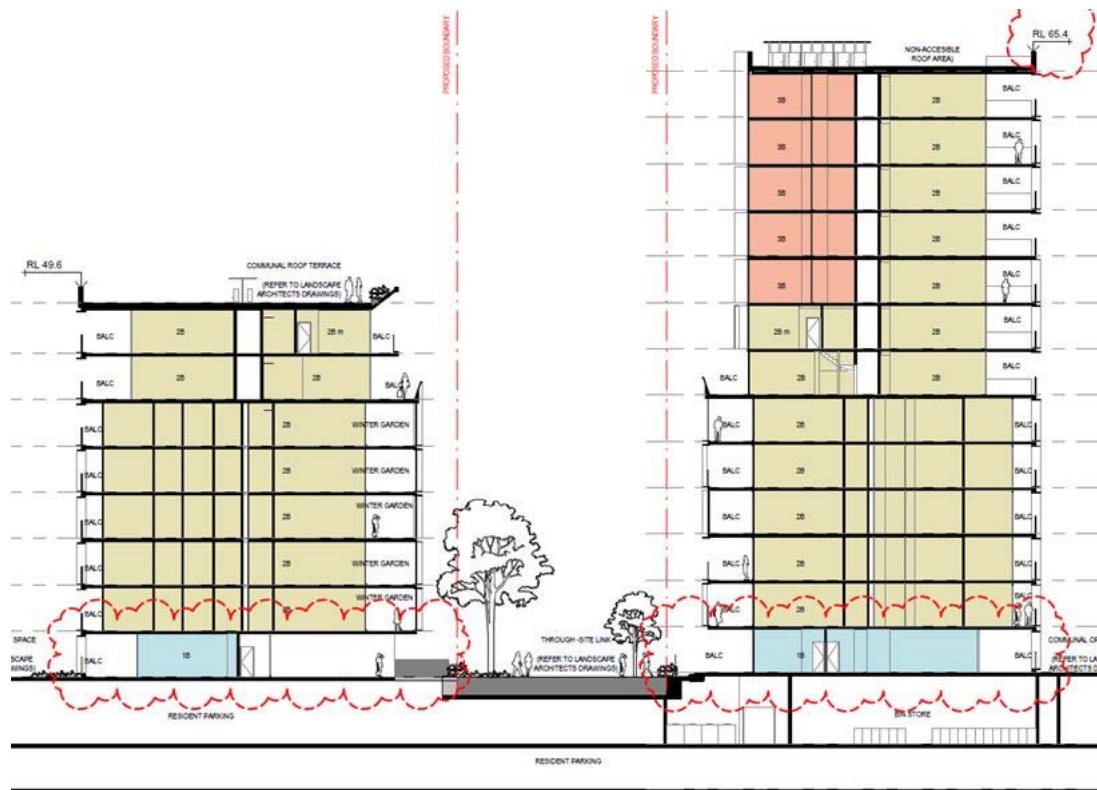


Figure 11: Section through the Green through-site link



Figure 12: Photomontage of the Green through-site link viewed from McPherson Lane, looking north



Figure 13: Photomontage showing the proposed new park adjacent to the West Block, looking south



Figure 14: Photomontage of the proposed terraces with frontage to McPherson Lane



Figure 15: Photomontage of the proposed entry to the West Block from the Green through-site link

## HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

13. In April 2014, the Applicant submitted a Planning Proposal to Council to facilitate the redevelopment of the subject site. The Planning Proposal sought to amend the height control to provide a mix of buildings heights, reduce the maximum permissible FSR and to establish public domain benefits. The Planning Proposal was endorsed by Council on 8 December 2014.

14. Gateway determination of the Planning Proposal was received on 3 February 2015, and following public exhibition, the site specific planning controls were adopted by the City of Sydney Council on 18 May 2015 and formally gazetted on 28 August 2015.
15. On 11 August 2015 a Competitive Design Process was commenced in accordance with Clause 6.21(5) of Sydney LEP 2012, and Clause 4.3 of Sydney DCP 2012. Five competitors were invited to make submissions, with the winning design by BVN selected by the panel on 17 September 2015.
16. In the Competitive Design Alternatives Report the selection panel made recommendations regarding the winning BVN scheme, to be addressed in any future development application. These are summarised below:
  - (a) The extent of overshadowing of adjoining properties on Merton Street and the Emerald Park development is to be reduced. Any subsequent re-allocation of floor space to achieve this reduction of overshadowing may be in the form of an additional level to the southern portion of the western building.

**Comment:** Overshadowing impacts have been considered as part of the assessment and it is considered that the proposal will not result in unacceptable impacts on solar access to surrounding development.
  - (b) The required areas of communal open space are to be provided on the roof top space.

**Comment:** This has been provided.
  - (c) All units should comply with the minimum areas required by the ADG.

**Comment:** The proposal generally achieves compliance with minimum apartment sizes, with the exception of some minor non-compliances arising from the additional area required where more than one bathroom is provided. This is acceptable due to the minor extent of non-compliance and the acceptable amenity provided.
  - (d) No studio units are to be proposed. It is acknowledged that this will be assessed by Council at the DA stage, noting that the Sydney Development Control Plan 2012 requires the maximum percentage of studio dwellings and 1 bedroom dwellings combined must not exceed 40% of the total dwellings proposed.

**Comment:** Two studios are proposed. The proposed unit mix is considered acceptable.

- (e) The 'green link' is to be redesigned to include at-grade pedestrian access from McPherson Lane to the proposed new park. It is desirable for this pathway to be on the eastern side of the 'green link' to reflect desire lines. Access to the below ground retail space from the northern portion of the site in proximity to the park may be further explored. Residential entrances are required to front this 'green link' on both sides to further encourage its activation.

**Comment:** The green link has been designed to provide access from McPherson Lane to the proposed new park via a combined stair and ramp design. The detailed design of the green link is subject to a voluntary planning agreement. No retail uses are proposed. All ground floor dwellings fronting the green link have been provided with direct access.

- (f) There should be a strategy identified for alternative uses if retail activation fails, which may include a reduction in retail floor space/increase in storage area. Other types of retail which may be considered within the DA include those that do not require as much visible identity and natural light. This could include boutique storage, or gallery and workshops that may be suited to good top lighting. It is important that any below ground uses fall within the definition of 'commercial premises' or 'storage premises' within the Sydney Local Environmental Plan 2012. Should commercial storage be pursued within the basement level, to the exclusion of any other basement commercial floor space, the 'green link' should be designed predominantly at grade (aka without a significant void in the green link).

**Comment:** No commercial uses are proposed.

- (g) The pedestrian lane to the south of the site (adjacent to the Emerald Park development) is to be converted to private or communal open space. Alternatively consideration should be given to extending the accommodation to the boundary, and consolidating the open space to the central courtyard.

**Comment:** This has been provided.

- (h) The proposed materiality in of the scheme is to be revised in response to the comments made by the Selection Panel.

**Comment:** This has been provided.

## **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:

- (a) Environmental Planning Instruments and DCPs.

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

18. 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.
19. A Detailed Site Investigation Report and peer-reviewed Remediation Action Plan were submitted with the development applicant. The City's Health Unit 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

20. 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
  - (b) **Principle 2:** Scale
  - (c) **Principle 3:** Built Form
  - (d) **Principle 4:** Density
  - (e) **Principle 5:** Resource, energy and water efficiency
  - (f) **Principle 6:** Landscape
  - (g) **Principle 7:** Amenity
  - (h) **Principle 8:** Safety and Security
  - (i) **Principle 9:** Social Dimensions
  - (j) **Principle 10:** Aesthetics
21. 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.

| <b>Apartment Design Guide</b> |                   |   |
|-------------------------------|-------------------|---|
| <b>Control</b>                | <b>Compliance</b> | <b>Comment</b>  |
| <b>2E Building Depth</b>      |                   |   |
| 12-18m (glass to glass)       | Generally         | The proposal generally provides building depths of 18m, with some localised areas of non-compliance up to 22.4m in depth. |



| Apartment Design Guide  |            |   |
|---|------------|---|
| Control   | Compliance | Comment   |
| <b>2F Building Separation</b>   |            |   |
| Up to four storeys (approximately 12 metres): <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul>     | Generally  | The proposal provides adequate separation from adjoining development. Some areas of minor non-compliance exist within the proposed development at the interfaces of the terraces. There is no impact on privacy as a result of this as the side boundary walls at the end of each row of terraces does not contain any windows. |
| Five to eight storeys (approximately 25 metres): <ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable Rooms</li> </ul> | Generally  | The proposal provides adequate separation from adjoining development. Approximately 7.5m and 6.5m separation is achieved between habitable rooms and balconies located adjacent to the inner corner of the East Block and the West Block.   |
| Nine storeys and above (over 25m): <ul style="list-style-type: none"> <li>• 24m between habitable rooms / balconies</li> <li>• 18m between habitable and non-habitable rooms</li> <li>• 12m between non-habitable Rooms</li> </ul>              | Generally  | The proposal provides adequate separation from adjoining development. Approximately 6.5m separation is achieved between habitable rooms and balconies located adjacent to the inner corner of the East Block.   |
| At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.   | No         | The terraces, which adjoin the R1 zone boundary, are not setback an additional 3m. This is not considered necessary given the nature and character of development within the lane, and would detract from activation of the street.   |

| Apartment Design Guide   |            |  |                           |                       |
|--|------------|--|---------------------------|-----------------------|
| Control  | Compliance | Comment  |                           |                       |
| <b>3D Communal and Public Open Space</b>   |            |  |                           |                       |
| Communal open space has a minimum area equal to 25% of the site.   | Yes        | A total area of 2,472m <sup>2</sup> of communal open space is provided in the form of roof terraces and courtyards, equating to 28% of the site area.  |                           |                       |
| Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter). | No         | Ground floor communal courtyards do not receive the minimum 2 hours of solar access required in mid-winter, however the communal roof terraces (equating to 943m <sup>2</sup> or 38% of communal open space) receive approximately 6 hours of direct sunlight between 9am and 3pm in mid-winter. This is considered acceptable.                              |                           |                       |
| <b>3E Deep Soil Zones</b>  |            |  |                           |                       |
| Deep soil zones are to meet the following minimum requirements:  | Yes        | The proposal provides an area of 708m <sup>2</sup> of deep soil along the site perimeter and 2,561m <sup>2</sup> comprising the new public park. This equates to a total of 22% of the site area, exceeding the minimum requirement of 7%.<br><br>The majority of the deep soil area comprises the public park which has a minimum dimension of at least 6m. |                           |                       |
| <b>Site area</b>   |            |  | <b>Minimum Dimensions</b> | <b>% of site area</b> |
| <650m <sup>2</sup>   |            |  | -                         | 7%                    |
| 650m <sup>2</sup> – 1,500m <sup>2</sup>  |            |  | 3m                        |                       |
| >1,500m <sup>2</sup>   |            |  | 6m                        |                       |
| >1,500m <sup>2</sup> with significant existing tree cover  | 6m         |  |                           |                       |

| <b>Apartment Design Guide</b>   |                   |   |
|---|-------------------|---|
| <b>Control</b>  | <b>Compliance</b> | <b>Comment</b>  |
| <b>3F Visual Privacy</b>  |                   |   |
| <p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum separation distances from buildings to the side and rear boundaries are outlined below.</p> <p>Note: Gallery circulation is treated as habitable space.</p> |                   |   |
| <p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> <li>• 6m between habitable rooms / balconies</li> <li>• 3m between non-habitable rooms</li> </ul>   | Generally         | <p>Some areas of minor non-compliance exist at the interfaces of the terraces. There is no impact on privacy as a result of this as the side boundary walls at the end of each row of terraces does not contain any windows.</p>                                    |
| <p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> <li>• 9m between habitable rooms / balconies</li> <li>• 4.5m between non-habitable rooms</li> </ul>  | Generally         | <p>Within the proposed development, approximately 7.5m and 6.5m separation is achieved between habitable rooms and balconies located adjacent to the inner corner the East and West Blocks.</p>   |
| <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 6m between non-habitable rooms</li> </ul>   | No                | <p>Approximately 6.5m separation is achieved between habitable rooms and balconies located adjacent to the inner corner of the East Block.</p>  |
| <b>4A Solar and Daylight Access</b>   |                   |   |
| <p>70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.</p>  | No                | <p>A total of 209 apartments (61%) receive the minimum 2 hours of direct sunlight to living rooms and private open space in mid-winter. This is considered acceptable given the constraints of the approved building envelopes and the orientation of the site.</p> |
| <p>Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.</p>  | No                | <p>20% of apartments receive no direct sunlight to living rooms and private open space in mid-winter. This is considered acceptable given the constraints of the approved building envelopes and the orientation of the site.</p>                                   |

| <b>Apartment Design Guide</b>   |                   |   |
|---|-------------------|---|
| <b>Control</b>  | <b>Compliance</b> | <b>Comment</b>  |
| <b>4B Natural Ventilation</b>   |                   |   |
| <p>Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.</p> <p>Note: Apartments 10 storeys or greater are deemed to be naturally cross ventilated only if balconies allow for adequate ventilation and cannot be fully enclosed.</p> | No                | In the first nine storeys of the development there are 315 apartments (including the 15 terraces). Of these only 146 achieve natural cross-ventilation, equating to 46%. A minimum of 50% would be considered acceptable in a development of this size. This is considered to be achievable through relatively minor reconfigurations including the provision of skylights and additional cross-over or through apartments. Refer to discussion under the heading Issues. |
| Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.  | Yes               | The maximum depth of cross-over apartments is 17.6m, and cross-over apartments (terraces) is 13m.   |
| <b>4C Ceiling Heights</b>   |                   |   |
| Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows:   |                   |   |
| Habitable rooms: 2.7m   | Yes               | Floor to floor heights of 3.1m are provided.  |
| Non-habitable rooms: 2.4m   | Yes               | Floor to floor heights of 3.1m are provided.  |
| Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.  | Yes               | All apartments are provided with floor to floor heights of 3.1m.  |
| If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.   | No                | All apartments are provided with floor to floor heights of 3.1m. Given the need to raise the finished floor levels in some parts of the site to address potential flood risks, this is considered appropriate.  |

| Apartment Design Guide  |            |  |
|---|------------|--|
| Control   | Compliance | Comment  |
| <b>4D Apartment Size and Layout</b>   |            |  |
| <p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35m<sup>2</sup></li> <li>• 1 bed: 50m<sup>2</sup></li> <li>• 2 bed: 70m<sup>2</sup></li> <li>• 3 bed: 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p> | Generally  | Apartments generally comply with minimum size requirements, with the exception of 15 apartments (4%) which have minor non-compliance of between 0.3m <sup>2</sup> and 2.2m <sup>2</sup> . This extent of non-compliance is not considered to result in poor amenity and is acceptable. |
| Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.  | Capable    | A condition of consent has been recommended to ensure adequate window sizes.   |
| Habitable room depths are to be no more than 2.5 x the ceiling height.  | Generally  |  |
| 8m maximum depth for open plan layouts.   | Generally  | Open plan layouts are generally between 6.1m and 8.7m in depth.  |
| <p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• master bedroom: 10m<sup>2</sup></li> <li>• all other bedrooms: 9m<sup>2</sup></li> </ul> <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>  | Yes        |  |
| <p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>   | Generally  | In some cases one bedroom apartments are provided with minimum living room widths of 2.7m, which is acceptable in these instances due to the open-plan layouts provided which provide room widths up to 3.9m.  |
| 4m minimum width for cross over and cross through apartments.   | Yes        |  |

| Apartment Design Guide   |                  |  |            |        |                 |   |         |                 |    |         |                  |    |            |                  |      |           |   |
|--|------------------|--|------------|--------|-----------------|---|---------|-----------------|----|---------|------------------|----|------------|------------------|------|-----------|---|
| Control  | Compliance       | Comment  |            |        |                 |   |         |                 |    |         |                  |    |            |                  |      |           |   |
| <b>4E Private Open Space and Balconies</b>   |                  |  |            |        |                 |   |         |                 |    |         |                  |    |            |                  |      |           |   |
| <p>All apartments required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling Type:</th> <th>Min. Area</th> <th>Min. Depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m<sup>2</sup></td> <td>-</td> </tr> <tr> <td>One bed</td> <td>8m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>Two bed</td> <td>10m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>Three+ bed</td> <td>12m<sup>2</sup></td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum depth counting to balcony area is 1m.</p> | Dwelling Type:   | Min. Area  | Min. Depth | Studio | 4m <sup>2</sup> | - | One bed | 8m <sup>2</sup> | 2m | Two bed | 10m <sup>2</sup> | 2m | Three+ bed | 12m <sup>2</sup> | 2.4m | Generally | All apartments are provided with balconies. Balconies are generally comply with the minimum dimensions required, with some minor exceptions due to irregular configurations. On balance, this is considered acceptable. |
| Dwelling Type:   | Min. Area        | Min. Depth   |            |        |                 |   |         |                 |    |         |                  |    |            |                  |      |           |   |
| Studio   | 4m <sup>2</sup>  | -  |            |        |                 |   |         |                 |    |         |                  |    |            |                  |      |           |   |
| One bed  | 8m <sup>2</sup>  | 2m   |            |        |                 |   |         |                 |    |         |                  |    |            |                  |      |           |   |
| Two bed  | 10m <sup>2</sup> | 2m   |            |        |                 |   |         |                 |    |         |                  |    |            |                  |      |           |   |
| Three+ bed   | 12m <sup>2</sup> | 2.4m   |            |        |                 |   |         |                 |    |         |                  |    |            |                  |      |           |   |
| Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.  | No               | 38 ground level apartments (75%) are provided with private open space of 15m <sup>2</sup> or more with a minimum dimension of 3m. This is considered acceptable as all ground level apartments are provided with direct access to high quality communal and public open space, including a new park of 2,561m <sup>2</sup> .             |            |        |                 |   |         |                 |    |         |                  |    |            |                  |      |           |   |
| <b>4F Common Circulation and Spaces</b>  |                  |  |            |        |                 |   |         |                 |    |         |                  |    |            |                  |      |           |   |
| The maximum number of apartments off a circulation core on a single level is eight (8).  | Generally        | The East Block contains 3 circulation cores, and the West Block contains 4. All except one circulation core within the West Block provide access to less than the maximum number of apartments, with 9 apartments on alternate floors accessed from the non-compliant core. This is a minor non-compliance and is considered acceptable. |            |        |                 |   |         |                 |    |         |                  |    |            |                  |      |           |   |
| For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.  | Yes              | There are 21 apartments above 9 storeys, served by two lifts.  |            |        |                 |   |         |                 |    |         |                  |    |            |                  |      |           |   |

| Apartment Design Guide  |            |   |
|---|------------|---|
| Control   | Compliance | Comment   |
| <b>4G Storage</b>   |            |   |
| Minimum storage provision facilities: <ul style="list-style-type: none"> <li>• Studio: 4m<sup>3</sup></li> <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> (Minimum 50% storage area located within unit) | Yes        | At least 50% of the required storage is provided within each apartment. Additional storage is provided at Basement Level 1. |

### State Environmental Planning Policy (Infrastructure) 2007

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

#### Clause 45

23. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development:
- (a) involves the penetration of ground within 2m of an electricity distribution pole;
  - (b) is to be carried out within and immediately adjacent to an easement for electricity purposes; and
  - (c) is to be carried out immediately adjacent to an electricity substation.
24. In accordance with the Clause, the application was referred to Ausgrid for a period of 21 days and no objection was raised.
25. Ausgrid have advised that a formal submission to Ausgrid is required to be made 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. Furthermore, the applicant is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, or the relevant Australian Standards.

#### Clause 101

26. The application is subject to Clause 101 of the SEPP as the site has frontage to Bourke Street which is a classified road. The application is considered to satisfy Clause 101 of the Infrastructure SEPP subject to conditions of consent, as it will not affect the safety, efficiency and ongoing operation of the classified road and acoustic conditions have been included within the recommended Conditions of Consent.

**Clause 104**

27. The application is subject to Clause 104 of the SEPP as the proposal comprises traffic generating development in accordance with Schedule 3.
28. The application was referred to RMS on 18 December 2015. On 18 April 2016 RMS provided written confirmation that no objection is raised to the proposed development.
29. The proposal is not considered to result in detrimental impacts on traffic safety, road congestion or parking implications and a condition of consent has been recommended to require the preparation of a Green Travel Plan in order to minimise transport by private car and promote sustainable travel behaviour.

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

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

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

32. SEPP 32 provides for the increased availability of housing within the inner city and to assist in meeting the demand for housing close to employment, leisure and retail opportunities.
33. The proposed development of the site is consistent with the aims and objectives of SEPP.

**Sydney LEP 2012**

34. The site is located within the B4 Mixed Use zone. The proposed use is defined as residential and is permissible.
35. 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                 | No         | <p>Maximum building heights prescribed across the site are as follows:</p> <ul style="list-style-type: none"> <li>• Terraces: 12m</li> <li>• Western Buildings: 12m (southern podium) and 22m-25m</li> <li>• Eastern Buildings: 22m-29m (podiums) and 42m (tower)</li> </ul> <p>A maximum height of 12.8m (RL 36.3) is proposed for the terraces.</p> <p>A maximum height of 29.55m (RL 53.05) is proposed for the West Block.</p> <p>A maximum height of 43.5m (RL 67.00) is proposed for the East Block.</p> <p>These non-compliances are generally localised at lift overruns and are the result of minor variations from indicative massing used to establish height controls across the site. The proposed height of buildings is supported. Refer to the Clause 4.6 variation request discussed below.</p> |
| 4.4 Floor Space Ratio                   | Yes        | <p>A maximum FSR of 1.925:1 is permitted, equating to a gross floor area of 28,251.22m<sup>2</sup>.</p> <p>This includes a community infrastructure bonus of 0.25:1 plus a 10% bonus in accordance with Clause 6.21.</p> <p>A FSR of 1.925:1 is proposed.</p>  |
| 4.6 Exceptions to development standards | Yes        | <p>The proposal seeks to vary the development standard for building height prescribed under Clause 4.3.</p> <p>The variation request is supported. Refer to discussion under the heading Issues.</p>   |

| <b>Compliance Table</b>                                  |                   |   |
|--|-------------------|---|
| <b>Development Control</b>                               | <b>Compliance</b> | <b>Comment</b>  |
| 5.9 Preservation of trees or vegetation                  | Yes               | The proposal is acceptable in terms of tree preservation as the proposal will retain the only tree within the site that is identified as being significant, and would result in the planting of a number of new trees across the site. Appropriate conditions of consent have been recommended. See discussion under the heading Issues.  |
| 5.10 Heritage conservation                               | Yes               | The subject site is not within a heritage conservation area, but adjoins the eastern boundary of the Zetland Estate conservation area (C73). The proposed public park and 3 storey terraces along the site's western boundary are considered to provide an acceptable response to the adjoining conservation area, and will not detract from the heritage significance of the conservation area. The site is considered to have some archaeological potential. Appropriate conditions of consent have been recommended. |
| <b>Part 6 Local provisions - height and floor space</b>  |                   |   |
| Division 2 Additional floor space outside Central Sydney | Yes               | Community infrastructure provided as part of the proposal includes a public park, through-site link and new road. The site is identified as being located within Area 5 and is therefore eligible for a community infrastructure bonus of 0.25:1.   |
| Division 4 Design excellence                             | Yes               | The proposed development satisfies the requirements of this provision as it is considered to achieve a high standard of architectural design and materials and will significantly improve the quality and amenity of the public domain. The proposal provides appropriate bulk, massing and modulation of buildings which achieve an acceptable relationship with surrounding development and have regard to streetscape and heritage constraints.  |

| Compliance Table   |            |  |
|--|------------|--|
| Development Control  | Compliance | Comment  |
| <b>Part 7 Local provisions—general</b>                               |            |  |
| Division 1 Car parking ancillary to other development                | Yes        | <p>A maximum of 324 car parking spaces are permitted.</p> <p>A total of 263 resident car parking spaces are proposed, in addition to 4 service vehicle spaces, 4 car share spaces, 23 visitor spaces and 22 motorcycle spaces. This complies with the maximum amount of car parking permissible.</p>                                     |
| 7.14 Acid Sulphate Soils   | Yes        | <p>The site is identified as containing class 5 Acid Sulphate Soil and is within 350m of class 3 land. An Acid Sulphate Soil Management Plan has been submitted. A condition has been recommended to address acid sulphate soils on site.</p>  |
| 7.15 Flood planning  | Yes        | <p>The site is identified by Council as being flood prone. Council's Public Domain Unit have considered potential flood impacts and have advised that the proposal is acceptable. Appropriate conditions of consent have been recommended. See discussion under the heading Issues.</p>  |
| 7.16 Airspace operations   | Yes        | <p>The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport. Approval has been granted for a maximum building height of 72.7m AHD. An appropriate condition of consent has been recommended.</p>   |
| 7.20 Development requiring preparation of a development control plan | Yes        | <p>The site area exceeds 5,000m<sup>2</sup> and the proposal is for buildings greater than 25m in height, however the preparation of a development control plan is not considered reasonable or necessary given that site specific controls have been established through a Planning Proposal for the site, gazetted in August 2015.</p> |

**Sydney DCP 2012**

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

| <b>2. Locality Statements – Mary O’Brien Park</b>   |
|---|
| The subject site is located in the Mary O’Brien Park locality. The proposal is considered to be in keeping with the unique character of the area and design principles in that it provides a sympathetic transition in scale to the adjoining heritage conservation area, and provides green spaces and public domain improvements including the new park in the north western portion of the site. |

| <b>3. General Provisions</b> |                   |   |
|------------------------------|-------------------|---|
| <b>Development Control</b>   | <b>Compliance</b> | <b>Comment</b>  |
| 3.1 Public Domain Elements   | Yes               | <p>The proposed development will make a positive contribution to the public domain by delivering a new park, road and through-site link. The new road and through-site link align with and connect to the surrounding street network. The proposed public domain elements are consistent with stormwater and flooding, solar access and accessibility requirements.</p> <p>The landscape design of the proposed park and through-site link is subject to further detailed design and assessment, and appropriate conditions of consent have been recommended.</p> <p>36 or 10.5% of dwellings within the development are terrace houses or maisonette apartments.</p> |

| 3. General Provisions                                  |            |   |
|--|------------|---|
| Development Control                                    | Compliance | Comment   |
| 3.2 Defining the Public Domain                         | Yes        | <p>The proposed development will enhance the public domain by:</p> <ul style="list-style-type: none"> <li>• Delivering a new public park, road, through-site link, footpath widening and associated public domain improvements;</li> <li>• Ensuring adequate sun access to publicly accessible spaces including the new park;</li> <li>• Providing a street address to each component of the residential development (ie East Block, West Block, terraces);</li> <li>• Providing ground floor dwellings with individual entries from the street and the through site link; and</li> <li>• Maximising opportunities for activation and casual surveillance of the public domain.</li> </ul> <p>Conditions of consent have been recommended regarding further detailed design requirements for public domain improvements proposed.</p> |
| 3.3 Design Excellence and Competitive Design Processes | Yes        | <p>The proposed development has been subject to a design competition, and is in keeping with the winning scheme by BVN. The proposal has addressed the recommendations made by the competition selection panel. Refer to discussion above.</p>  |
| 3.5 Urban Ecology                                      | Yes        | <p>The proposed development involves the removal of 55 trees, however a number of new street trees and vegetation is proposed to be provided. The proposal will not adversely impact on the local urban ecology. Appropriate conditions of consent have been recommended.</p>   |
| 3.6 Ecologically Sustainable Development               | Yes        | <p>The proposal will not have unacceptable impacts on the environment and satisfies BASIX requirements.</p>   |

| <b>3. General Provisions</b>   |                   |  |
|--------------------------------|-------------------|--|
| <b>Development Control</b>     | <b>Compliance</b> | <b>Comment</b>   |
| 3.7 Water and Flood Management | Yes               | <p>The site is identified as being on flood prone land. The proposed finished floor levels comply with the Interim Floodplain Management Policy and the proposed new road achieves the minimum freeboard requirements.</p> <p>Conditions of consent have been recommended regarding stormwater and drainage requirements.</p>  |
| 3.11 Transport and Parking     | Yes               | <p>A Traffic Impact Assessment was submitted with the application, and additional intersection performance testing undertaken. A condition of consent has been recommended requiring the preparation of a Green Travel Plan.</p> <p>A total of 263 resident parking spaces are proposed. The proposal includes 4 car share parking spaces in accordance with the requirements for land identified as Category B land on the Land Use and Transport Integration Map.</p> <p>23 visitor car parking spaces are provided. These are grouped together and located adjacent to lift cores within the West Block.</p> <p>22 motorcycle parking spaces are provided, equating to 1 for every 12 car resident parking spaces.</p> <p>The proposal provides 2 service vehicle parking spaces accommodating B99 vans as well as 2 spaces that can accommodate Council waste vehicles and 8.8m MRVs.</p> <p>The basement car park has been designed so that only common circulation areas are located beneath the green through-site link that is proposed to be dedicated to Council. Appropriate conditions of consent have been recommended.</p> |

| <b>3. General Provisions</b>                   |                   |  |
|--|-------------------|--|
| <b>Development Control</b>                     | <b>Compliance</b> | <b>Comment</b>   |
|  | No                | <p>The proposal provides adequate bicycle parking for residents.</p> <p>The proposal does not provide visitor bicycle parking. A minimum of 35 class 3 visitor bicycle parking spaces are required to be provided at ground level, adjacent to building entrances. An appropriate condition of consent has been recommended.</p> |
| 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               | The proposal is capable of providing access for waste collection vehicles to the basement car park. A condition has been recommended to ensure that the proposed development complies with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005.                                   |

| 4. Development Types  |            |   |
|---|------------|---|
| 4.2 Residential Flat, Commercial and Mixed Use Developments |            |   |
| Development Control   | Compliance | Comment   |
| 4.2.1 Building height                                       | No         | <p>The height of buildings (storeys) controls across the site vary as follows:</p> <ul style="list-style-type: none"> <li>• Terraces: 3 storeys</li> <li>• Western Buildings: 4 storeys (southern podium) 6 storeys (northern podium) and 7 storeys</li> <li>• Eastern Buildings: 6-8 storeys (podiums) and 12 storeys (tower)</li> </ul> <p>The West Block has a maximum height of 13 storeys with podium heights of 6 and 9 storeys. The East Block has a maximum height of 8 storeys with podium heights of 4 and 6 storeys. The terrace have a height of 3 storeys.</p> <p>The proposed building heights exceed the height of buildings controls by up to 1 storey. This is considered acceptable in this instance as the proposed building heights are considered to provide an appropriate height transition to surrounding development that is consistent with the character of the surrounding conservation area.</p> |
| 4.2.2 Building setbacks                                     | Yes        | <p>The proposal generally complies with the setback controls for the site as follows:</p> <ul style="list-style-type: none"> <li>• 4m ground level setbacks from the green through-site link, proposed new road and public park</li> <li>• upper level setbacks between 5.5m and 6m from the through-site link</li> <li>• East Block – upper level setbacks between 2 and 4m from the new road</li> <li>• West Block upper level 5m and 6m from the new park</li> </ul>   |



| 4. Development Types  |            |  |
|---|------------|--|
| 4.2 Residential Flat, Commercial and Mixed Use Developments |            |  |
| Development Control   | Compliance | Comment  |
| 4.2.3 Amenity   | Generally  | <p>The proposal provides 146 apartments or 46% of dwellings with natural cross-ventilation in the first 9 storeys. This is a shortfall of 14% or 48 apartments. Given the constraints of the approved building envelopes, a reasonable outcome is considered to be 50% of dwellings, which could be achieved subject to relatively minor modifications and reconfigurations. These include the provision of skylights to certain apartments and additional through or cross-over apartments. These modifications and reconfigurations are included in recommended conditions of consent to achieve a minimum of 50% of dwellings in the first 9 storeys are naturally cross-ventilated.</p> <p>A total of 209 apartments or 61% of dwellings achieve the minimum solar access requirement of 2 hours direct sunlight to living room windows and private open space on 21 June. While this is below the minimum requirement of 70% of dwellings under the ADG, this is considered acceptable in this instance given the constraints of the approved building envelopes and the orientation of the site.</p> <p>Internal corridors and lift lobbies have access to daylight and outlook, and are a minimum of 2m wide in front of lifts.</p> |
| Natural cross-ventilation                                   |            |  |
| Solar access  |            |  |
| Circulation spaces  |            |  |

| 4. Development Types  |            |   |
|---|------------|---|
| 4.2 Residential Flat, Commercial and Mixed Use Developments |            |   |
| Development Control   | Compliance | Comment   |
| Private Open Space  |            | All apartments are provided with private open space directly accessible from the living area and a pleasant outlook. Generally balconies comply with the minimum size and dimension requirements, except in instances arising from irregular configurations, and 42% of and ground floor apartments which have less than 25m <sup>2</sup> of private open space. This is considered acceptable as ground floor apartments are generally generously sized and well integrated with the landscape design of surrounding public spaces to ensure good outlook and privacy. |
| Deep soil   |            | The proposal provides a total of 3,269m <sup>2</sup> of deep soil (including the new park) which equates to 22% of the site area. This exceeds the minimum requirement of 10% of the site area.   |
| Common open space   |            | A total area of 2,472m <sup>2</sup> of communal open space is provided, or 28% of the site area. This exceeds the requirement of 25% of the site area and the minimum dimension of 6m. Communal open space is provided in the form of ground floor courtyards and elevated roof terraces. These have been designed to provide for the recreational needs of residents and provide good amenity, subject to further detailed design, in accordance with recommended conditions of consent.   |
| Privacy   |            | Street plantings are proposed adjacent to the street boundary of all ground floor apartments. A condition of consent has been recommended to ensure that appropriate landscaping is provided to ensure the privacy of ground floor apartments.  |

| 4. Development Types  |            |  |
|---|------------|--|
| 4.2 Residential Flat, Commercial and Mixed Use Developments |            |  |
| Development Control   | Compliance | Comment  |
| Dwelling Mix  |            | The proposal achieves an appropriate dwelling mix, with less than 40% of dwellings comprising 1 bedroom and studio apartments, and 10% of dwellings comprising 3 bedroom apartments. Conditions of consent have been recommended requiring reconfiguration of certain apartments, including amending a 2 bedroom apartment at the ground floor of the West Block to become a 1 bedroom apartment. These reconfigurations would still result in a compliant dwelling mix.   |
| 4.2.4 Fine grain, architectural diversity and articulation  | Yes        | The proposal is successful at breaking down the mass of the East Block and West Block and providing each with distinct building components through varied architectural language and character. The siting and design of each building responds to the surrounding street network and new public domain spaces such as the Green through-site link and the new public park.  |
| 4.2.5 Types of development                                  | No         | <p>Levels 11 and 12 of the East Block are over 35m in height with a floorplate of approximately 860m<sup>2</sup>. This exceeds the maximum floor plate for tall buildings over 35m in height of 750m<sup>2</sup>. This is considered acceptable as it is consistent with the approved building envelope and does not result in unacceptable overshadowing or poor internal amenity.</p> <p>Ground floor dwellings are generally provided with the minimum 4m setback. Balustrades to private open spaces for ground floor dwellings are predominantly contemporary steel palisade types.</p> |

| <b>4. Development Types</b>  |                   |   |
|--|-------------------|---|
| <b>4.2 Residential Flat, Commercial and Mixed Use Developments</b> |                   |   |
| <b>Development Control</b>   | <b>Compliance</b> | <b>Comment</b>  |
| 4.2.7 Heating and Cooling Infrastructure                           | Yes               | Heating and cooling infrastructure is provided in centralised basement and non-accessible roof areas. |
| 4.2.8 Letterboxes  | Yes               | The proposal is capable of complying with the requirements of Australia Post for letterboxes.         |

| <b>5. Specific areas – Green Square</b> |                   |  |
|---|-------------------|--|
| <b>Development Control</b>              | <b>Compliance</b> | <b>Comment</b>   |
| 5.2.3 Community Infrastructure          | Yes               | The proposal includes a public benefit offer for the provision of community infrastructure including new public open space, a new road and associated embellishments.  |
| 5.2.4 Local Infrastructure              | Yes               | The proposed new road is consistent with the Green Square street hierarchy and layout requirements, and is to be dedicated to Council in accordance with a Voluntary planning Agreement. Appropriate conditions of consent have been recommended.  |
| 5.2.5.5.2 Through-site Links            | Yes               | The proposal provides a through-site link of approximately 14m wide. The detailed design and construction of this through-site link is required to be the subject of a separate development application.   |
| 5.2.6 Public Open Space                 | Yes               | The proposed new park is consistent with the requirement for new open space identified for Green Square under Sydney DCP 2012. The detailed design and construction of the park including amenities, play equipment and landscaping is required to be the subject of a separate development application. |

| <b>5. Specific areas – Green Square</b>   |                   |  |
|---|-------------------|--|
| <b>Development Control</b>                | <b>Compliance</b> | <b>Comment</b>   |
| 5.2.7 Stormwater Management and Waterways | Yes               | The proposal has been designed with regard to the flood risk for the site and complies with the City's Interim Floodplain Management Policy. Detailed specifications for stormwater management are contained in the recommended conditions of consent.   |
| 5.2.9 Building Design                     | Yes               | <p>Buildings have been aligned with the street network and through-site link. The proposal provides a clear delineation between public and private spaces, and will deliver street tree plantings and landscaping along footpaths and the through-site link to improve pedestrian amenity.</p> <p>Building facades provide a variety of materials and textures and relate sympathetically to surrounding development.</p> <p>Multiple entries have been provided from the street frontages and through-site link. A condition of consent has been recommended to ensure that all lift cores adjacent to the through-site link are directly accessible.</p> <p>The proposal has an appropriate separation between vehicular and pedestrian access points.</p> |
| 5.2.10 Setbacks                           | Yes               | <p>The proposal complies with the required 1.2m setback to McPherson Lane to allow for footpath widening.</p> <p>The proposal provides the required 1m setback from the new road to allow for a landscaped setback.</p>  |
| 5.2.11 Carparks under the Public Domain   | Yes               | The basement car park is located beneath the Green through-site link which is proposed to be dedicated to Council. This is acceptable as the only areas that are directly below the Green through-site link comprise common circulation spaces.  |

## ISSUES

## Requirement for a Development Control Plan

37. Under Clause 7.20 of Sydney LEP 2012, a development control plan is required to be prepared for development relating to sites with an area greater than 5,000m<sup>2</sup> and buildings greater than 25m in height.
38. Clause 7.20(3) permits the consent authority to waive the requirement for a development control plan if it is satisfied that that it would be unreasonable or unnecessary in the circumstances.
39. The preparation of a development control plan is not considered reasonable or necessary in relation to the proposed development given that site specific controls have been established through a Planning Proposal for the site, gazetted in August 2015. The site specific controls were established having regard to the suitability of the site for the proposed development, impacts on the environment, public domain and view corridors as well as heritage and streetscape constraints.
40. The proposed development is generally consistent with the site specific controls and is not considered likely to result in adverse impacts on adjoining development or the public domain. As such, it is recommended that the requirement of for the preparation of a development control plan be waived, in accordance with Clause 7.20(3) of Sydney LEP 2012.

## Exceptions to Development Standards – Height of Buildings

41. The height controls that apply to the site includes a series of maximum heights including 3m, 12m, 22m, 25m, 29m and 42m, as illustrated in the following figure taken from the Sydney LEP 2012 Height of Buildings Map:

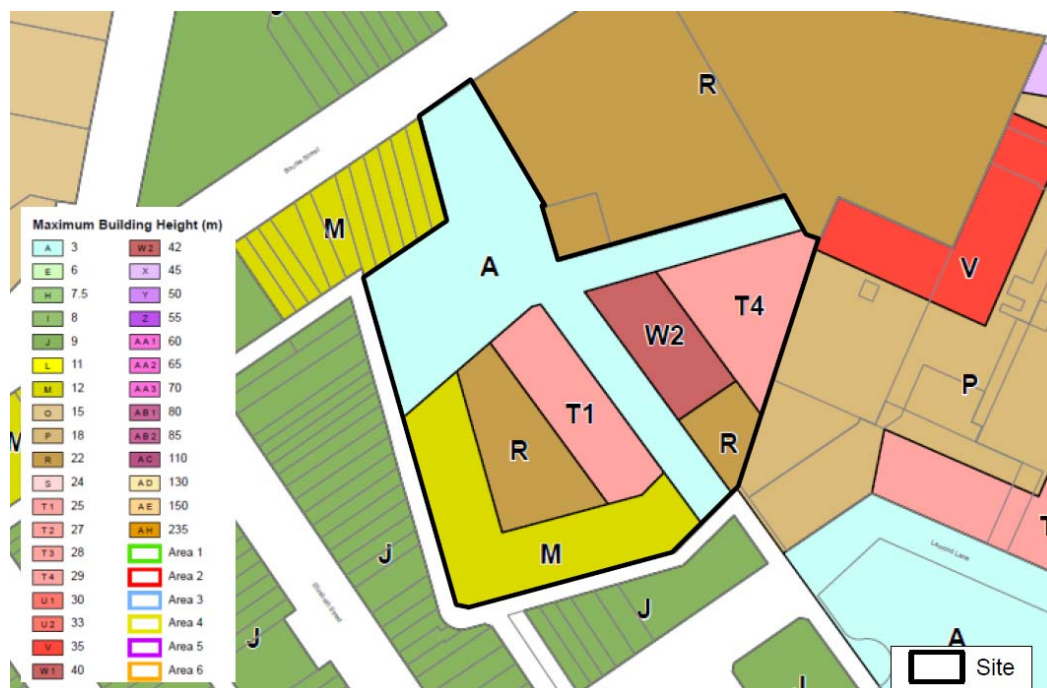


Figure 16: Extract from the Height of Buildings Map

42. In accordance with clause 4.6 of Sydney LEP 2012, the application includes a submission seeking minor variations to the height of buildings development standard under Clause 4.3 as illustrated below:

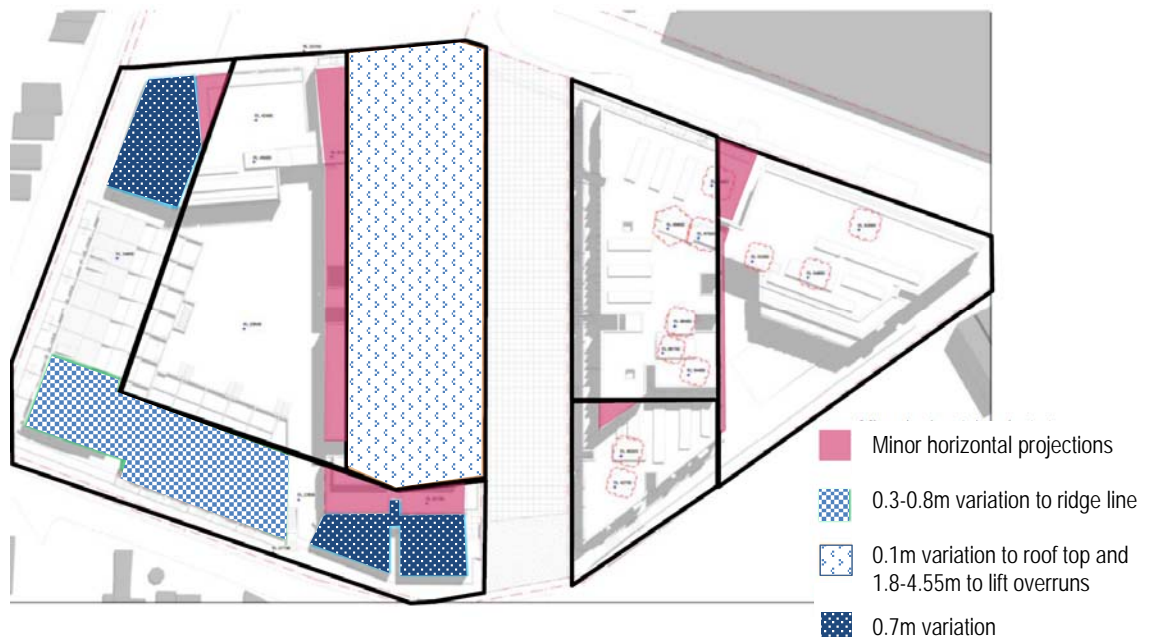


Figure 17: Diagram illustrating the proposed variations to the maximum height controls contained in Sydney LEP 2012

43. An assessment of the Applicant’s request is contained below:

| Clause 4.6 Requirement  | Assessment  |
|---|---|
| <p><b>4.6(3) (a) and (b)</b></p> <p>The applicant must submit a written request that seeks to justify the contravention of the development standard by demonstrating:</p> <p>(a) that compliance is unreasonable and unnecessary in the circumstances</p> | <p>A written request has been submitted to Council justifying a contravention of the height of buildings development standard on the following basis:</p> <p>(a) The non-compliances are localised, occurring primarily at lift cores and parapets;</p> <p>(b) Reducing lift cores would prevent the provision of accessible communal roof terraces, which would result in communal open space that does not comply with size and solar access requirements;</p> <p>(c) The extent of non-compliance is minor and would not result in a perceivable difference in bulk, scale or intensity of development as envisioned during the assessment of the Planning Proposal which established the height of buildings development standard for the site;</p> |

| <b>Clause 4.6 Requirement</b>   | <b>Assessment</b>  |
|---|--|
| (b) that there are sufficient environmental planning grounds to justify the contravention.  | <p>(d) The height controls applying to the site are highly prescriptive and were established based on indicative building massing, and as do not allow for minor variations to building envelopes arising from detailed design;</p> <p>(e) The proposal complies with the maximum FSR development standard and is consistent with the winning competition entry;</p> <p>(f) The site is identified as floor prone and as such a 300mm freeboard is required, which has resulted in the raising of ground level finished floor levels; and</p> <p>(g) The non-compliances do not result in view loss or significant additional overshadowing of surrounding development.</p>  |
| <p><b>4.6(4)(a)(i)</b></p> <p>Council must be satisfied that the applicant has adequately addressed the matters required to be demonstrated by subclause (3), and the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone.</p> | <p>The development is within the B4 – Mixed Use Zone. 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 height of buildings development standard are:</p> <p>(a) to ensure the height of development is appropriate to the condition of the site and its context,</p> <p>(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,</p> <p>(c) to promote the sharing of views,</p> <p>(d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,</p> |



| Clause 4.6 Requirement | Assessment   |
|------------------------|--|
|                        | <p>(e) in respect of Green Square:</p> <ul 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> </ul> <p>The proposal is consistent with the objectives of the B4 Mixed Use zone and with the height of buildings development standard for the following reasons:</p> <ul style="list-style-type: none"> <li>(a) The proposal is considered to provide appropriate height transitions to adjoining areas consistent with the winning design competition entry;</li> <li>(b) The proposed built form appropriately defines and activates public spaces and street networks;</li> <li>(c) The proposal includes significant improvements to the public domain including a new park, new road and through-site link;</li> <li>(d) The height of the proposed development will not impact on significant views;</li> <li>(e) The proposal provides an appropriate mix of apartment types in an inner city location which has access to train and bus routes;</li> <li>(f) The proposal encourages cycling by providing ample bicycle parking, provides car share parking spaces and a condition of consent has been recommended to require the preparation of a Green Travel Plan to further promote a modal shift away from travel by private cars;</li> <li>(g) No retail uses are proposed and as such the proposal will not impact on the viability of the Green Square Town Centre;</li> </ul> |

44. The variations to the height of buildings development standard are supported.

#### Height, Scale and Bulk

45. As discussed above, the proposal is considered to be of an appropriate height and scale having regard to the conditions of the site and surrounding area.

46. In order to comply with the requirements of the City's Interim Floodplain Management Plan, the finished ground floor level of the East Block was raised by 300mm. This resulted in a minor increase to the overall height of the East Block. The applicant has submitted detailed solar access diagrams illustrating that this minor increase in building height would result in less than 1% increase to overshadowing of the communal open space of the adjoining Emerald Park development.
47. The bulk of the buildings is considered to be appropriately modulated through the use of varied materials and setbacks.
48. The proposal does not result in significant additional overshadowing of the public domain, or of adjoining development, including private and communal open spaces.

#### **Public Domain – Dedication of Land**

49. A public benefit offer has been submitted to Council in relation to the proposed development which provides for the dedication of the following community infrastructure to Council:
  - (a) a new road extending south from Bourke Street to the eastern boundary of the site adjoining 888 Bourke Street, including associated civil works and landscaping;
  - (b) a new park with an area of 2,561m<sup>2</sup>;
  - (c) a Green through-site link connecting the new park to McPherson Lane and associated landscaping;
  - (d) footpath widening along McPherson Lane; and
  - (e) footpath widening along Bourke Street.
50. The public benefit offer includes a total land dedication of 5,923m<sup>2</sup> and would provide substantial improvements to the public domain including increased accessibility and recreation opportunities.
51. Concept plans for the new park and Green through-site link have been prepared by City Design and endorsed by the Design Advisory Panel.
52. The proposal has been amended to remove the lift originally proposed to address the level change from McPherson Lane to the Green through-site link, to be replaced with a combined stair and ramp access (refer to Figure 18). A condition of consent has been recommended requiring detailed design of the Green through-site link to form part of the Alignment Levels and Public Domain Plan submission.

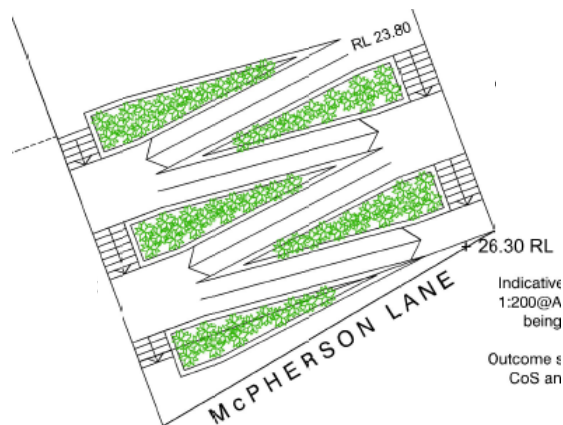


Figure 18: Diagram of the proposed combined stair and ramp access to the southern end of the Green through-site Link

53. A condition of consent has also been recommended to ensure that all 3 lift lobbies adjacent to the Green through-site link are provided with direct access to the through-site link. This is capable of being achieved without significant design amendments and will result in improved accessibility and amenity.
54. In accordance with Clause 93F of the *Environmental Planning and Assessment Act 1979* a planning agreement between Council and JQZ is currently being prepared based on the public benefit offer described above. Prior to finalisation, the planning agreement is required to be publicly exhibited in accordance with Clause 25D of the *Environmental Planning and Assessment Regulation 2000* and any submissions considered.

### Natural Cross-Ventilation

55. The ADG requires that 70% of dwellings in the first 9 storeys achieve natural cross-ventilation.
56. The proposal provides 146 apartments or 46% of dwellings with natural cross-ventilation in the first 9 storeys. This is a shortfall of 14% or 48 apartments.
57. Given the constraints of the approved building envelopes, a reasonable outcome is considered to be 50% of dwellings in the first 9 storeys, which could be achieved subject to relatively minor modifications and reconfigurations. These modifications include the provision of skylights to a number of terraces and apartments in the West Block and the creation of 10 additional through or cross-over apartments in the West Block.
58. The provision of 10 additional through or cross-over apartments can be achieved without affecting the number of lift cores or resulting in a reduction in the total dwelling yield or a significant change to the dwelling mix.
59. These modifications and reconfigurations are included in recommended conditions of consent.

**Solar Access**

60. Under the ADG the proposal is required to provide 70% of living rooms and private open spaces with a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter. No more than 15% of apartments are permitted to receive no direct sunlight between 9am and 3pm at mid-winter.
61. The proposal achieves 61% of living rooms and 57% of private open space with the minimum 2 hours of direct sunlight required.
62. A total of 20% of dwellings within the proposed development would achieve no direct sunlight between 9am and 3pm at mid-winter.
63. The proposal is considered to achieve acceptable solar access having regard to the constraints of the approved building envelopes and orientation of the site. Furthermore, the proposal is considered to achieve good amenity by providing high quality private and common open spaces with well integrated landscape design.
64. Shadow diagrams submitted demonstrate that the proposal does not result in living room windows or private open space of adjoining development receiving less than the required 2 hours solar access in mid-winter.
65. The proposal also maintains 2 hours of solar access to the swimming pool in the adjacent Emerald Park development in mid-winter.

**Privacy**

66. The Apartment Design Guide requires the following minimum separation between habitable rooms and balconies:

|                                   |     |
|-----------------------------------|-----|
| Up to four storeys (12m)          | 6m  |
| Five to Eight stories (25m)       | 9m  |
| Nine stories and above (over 25m) | 12m |
67. The proposal achieves adequate separation from adjoining development, and minimises opportunities for direct viewing between habitable rooms.
68. Within the proposed development there are areas where separation requirements under the Apartment Design Guide are not met. These areas are typically within inner corners of the East and West Blocks, where approximately 6m separation is achieved between balconies and habitable rooms, and at the interface between the terraces and the West Block (Refer to Figures 19 to 22).



Figure 19: Level 02 (3<sup>rd</sup> storey) showing areas within the development up to four stories that achieve less than the required 6m building separation circled



Figure 20: Level 05 (6<sup>th</sup> storey) showing areas within the development between five and eight stories that achieve less than the required 9m building separation circled

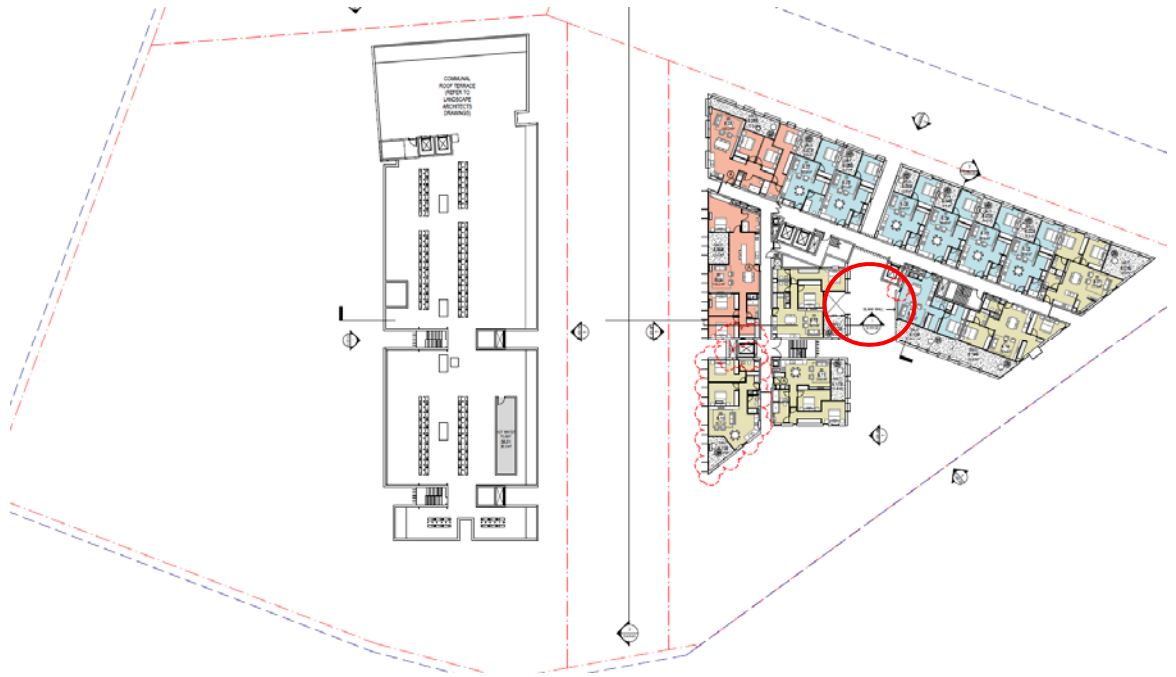


Figure 21: Level 08 (9<sup>th</sup> storey) showing areas within the development that achieve less than the required 12m building separation from nine stories and above circled

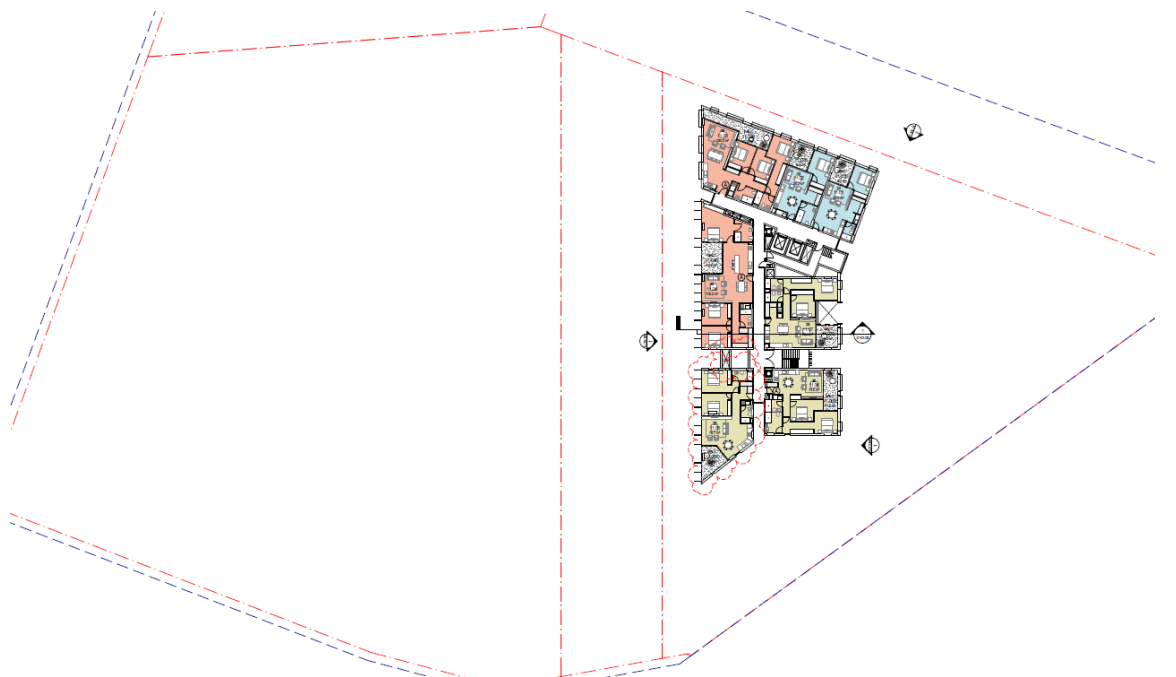


Figure 22: From Level 10 (11<sup>th</sup> storey) the East Block achieves the required 12m building separation for nine stories and above

69. The areas of building separation non-compliance within the development are generally considered acceptable as they provide for visual and acoustic privacy through the placement of windows, balconies and solid walls.

70. Some windows have been identified as having the potential to enable direct viewing between bedrooms. A condition of consent has been recommended to require that these windows be offset or be provided with privacy treatments.
71. Conditions of consent have also been recommended to ensure visual and acoustic privacy for ground floor apartments through the use of window placement, privacy treatments to windows and plantings.

### **Transport and parking**

72. Traffic generation associated with the proposed development is anticipated as follows:
  - (a) 65 vehicle trips per hour (13 in, 52 out) during the AM peak
  - (b) 51 vehicle trips per hour (41 in, 10 out) during the PM peak
73. Intersection performance testing undertaken demonstrates that the proposal will not impact on the local road network in the vicinity of the site, including the intersection of the proposed new road and Bourke Street.
74. Feedback was sought from the RMS regarding the new road intersecting with Bourke Street, which is classified as a Regional Road. The RMS have confirmed that Bourke Street is a Council controlled road and therefore subject to the new road being built to Council specifications and not impacting on the operation of traffic signals on Bourke Street, no objection is raised.
75. In accordance with advice from Council staff the intersection of the new road and Bourke Street is proposed to restrict right hand movements onto Bourke Street. It is noted however that the current carriageway width of Bourke Street is unable to accommodate a median (of any width) along the length of Bourke Street.
76. An alternative would be to provide a channelised median island treatment within New Street at its intersection with Bourke Street to restrict turning movements to left-in / left-out only. This would however result in a much wider access (approximately 15 metres including a central median) and would contradict Council's preferred arrangement which is to reduce the width of the access to 6.0 metres. Accordingly, turning restrictions are proposed to be enforced through the provision of line-marking and signposting to ensure that the width of the access can be minimised.
77. Approval is required under Section 138 the Roads Act 1993 for the construction of the new road. An appropriate condition of consent has been recommended.
78. Based on Journey to Work data from NSW Bureau of Transport Statistics, a high proportion of residents utilising private cars to travel to work is anticipated. As such, a condition of consent has been recommended to require the preparation of a Green Travel Plan and Transport Access Guide in order to encourage a modal shift away from private cars.
79. The proposed driveway width of 10.3m is required to enable the turning of emergency vehicles accessing the site via the proposed new road. This arrangement is only required until such time as the adjoining site is developed and the new road is extended to connect to O'Dea Avenue. An appropriate condition of consent has been recommended to require that the driveway width be reduced at this time.

80. The proposal provides a total of 267 car parking spaces within two basement levels, as well as 4 service vehicle spaces, and parking for 22 motorcycles and 164 bicycles.
81. The proposal is required to provide a minimum of 35 Class 3 bicycle parking spaces for visitors in accordance with the requirements of Sydney DCP 2012. Visitor bicycle parking has not been provided. A condition of consent has been recommended to ensure that this is provided at ground level adjacent to building entries.

### **Tree Management**

82. Inspection of the site and a review of the applicants Arborist Report has revealed that 57 trees are likely to be affected by the proposal. The trees range in health, condition, age, size, landscape value and retention value.
83. The proposal involves the removal of 56 trees, including a number of trees which are identified as having moderate to high retention value.
84. The site includes a large mature Moreton Bay Fig trees near the western boundary of the site (can be viewed from McPherson Lane). This tree is listed on the City's Register of Significant Trees, and is nominated for retention in the proposed plans and in the applicants Arborist Report.
85. Given the extent of remediation required, it is not considered feasible to retain the trees within the site, with the exception of the Moreton Bay Fig which is proposed to be retained.
86. The City's Tree Management Unit has recommended appropriate conditions of consent regarding the protection of the tree to be retained, and new street tree planting and maintenance requirements.

### **Access**

87. Access for disabled persons can be provided to the premises. An appropriate condition is recommended

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

88. The proposed development is capable of complying with the BCA.
89. 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**

90. 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**

91. On 19 April 2016 the proposal was considered by the Design Advisory Panel. The panel noted concerns regarding natural cross-ventilation and privacy (building separation) and recommended a reduction in gross floor area to address these issues. The panel also recommended that further design consideration of the Green through-site link address concerns regarding privacy to balconies, egress from fire stairs, the width of the stair and ramp zone, and potential conflicts with underground structures such as the basement.
92. The proposal was subsequently amended to reduce the amount of gross floor area and address cross-ventilation and privacy concerns. The detailed design of the Green through-site link will require a separate development application following further detailed design resolution.
93. The conditions of other sections of Council have been included in the proposed conditions.
94. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Safe City; Surveyors; Transport and Access; Tree Management; Waste Management who advised that the proposal is acceptable subject to the recommended conditions.

**EXTERNAL REFERRALS****Prescribed Airspace – Controlled Activity**

95. The height of the proposed development exceeds the Obstacle Limitations Surface (OLS) thereby intruding into prescribed airspace for Sydney Airport. As such the proposed development is a controlled activity under the *Airports Act 1996*.
96. In accordance with the Airports (Protection of Airspace) Regulations 1996 and Clause 7.16 of Sydney Local Environmental Plan 2012 the application was referred to the Commonwealth Department of Infrastructure and Regional Development.
97. On 26 February 2016 approval was granted for a maximum building height of 72.7m AHD by the Commonwealth Department of Infrastructure and Regional Development, subject to conditions. These conditions have been included in the recommended conditions of consent.

**NSW Department of Primary Industries - Water**

98. The proposed development involves excavation that is likely to intercept or extract groundwater which constitutes an Aquifer Interference Activity requiring approval under the *Water Management Act 2000*. The application is therefore Integrated Development.
99. General Terms of Approval were provided by NSW Department of Primary Industry – Water (DPI) on 20 January 2016 and have been included in the recommended conditions of consent.

**Roads and Maritime Services**

100. On 18 April 2016, RMS provided written advice stating that no objections were raised subject to works being constructed in accordance with the City's requirements, and the existing traffic signals and signposting not being affected by the development.
101. A condition of consent has been recommended requiring the applicant to seek approval for the construction of the new road in accordance with Section 138 of the *Roads Act 1993*.

**Sydney Water**

102. The application as referred to Sydney Water for comment. On 19 January 2016, Sydney Water confirmed that no objections are raised.

**Ausgrid**

103. The application as referred to Ausgrid for comment. On 24 December 2015, Ausgrid confirmed that no objections were raised, and that formal submission to Ausgrid will be required for the assessment of impacts on its infrastructure and to determine electrical load requirements.

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

104. The application constitutes integrated development and as such the application was notified and advertised for 30 days in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. Due to the notification and advertising period falling during the Christmas holiday period, notification was extended to a period of 38 days between 19 December 2015 and 26 January 2016.
105. As a result of this notification there were 2 submissions received from members of the public. Issues raised in submissions are summarised below.
  - (a) The height of the East Block should be reduced given its proximity to the Emerald Park development and potential overshadowing and privacy impacts.

**Response** – The proposal achieves varied separation distances from the south-eastern boundary of the site adjoining Emerald Park, with some areas of non-compliance with ADG requirements at levels 4 to 8. It is noted that the Emerald Park development provides significantly less than the minimum building separation distances required under the ADG. Despite localised non-compliances with building separation requirements, the proposal is not considered to adversely impact on privacy for residents of Emerald Park as all balconies or windows are at oblique angles and there is no direct lines of site between bedrooms and living rooms.

The proposal does not result in significant overshadowing of the Emerald Park development, with the majority of shadows cast affecting ground floor communal open space between 1pm and 3pm. It is noted however that the ground floor communal open space still receives 2 hours of direct sunlight in mid-winter which is considered acceptable.

- (b) The proposal provides excessive parking and will create traffic congestion on Bourke Street.

**Response** – The proposal complies with the maximum amount of parking permitted and is not considered to have a detrimental impact on the surrounding road network. Refer to the discussion under the heading Issues.

- (c) The development has the potential to increase the amount of local crime such as trespassing at Emerald Park

**Response** – Council staff have considered crime and safety risks associated with the proposal and appropriate conditions of consent have been recommended. Issues of trespassing experienced on other sites are not a matter for consideration under the current development application.

## PUBLIC INTEREST

106. 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

### Affordable Housing Contributions – Green Square

107. The proposed development is subject to an Affordable Housing Contribution in accordance with Clause 7.13 of Sydney LEP 2012.
108. A contribution of \$ is \$7,233,212.91 based on the in lieu monetary contribution rate for residential development at \$206.06 per square metre of total residential floor area 35,102.46m<sup>2</sup>.

### Section 94 Contributions

109. The development is subject to a Section 94 Contribution of \$6,042,719.47 calculated as follows:

|                        |    |              |
|------------------------|----|--------------|
| Community Facilities   | \$ | 780,781.70   |
| Public Domain          | \$ | 480,916.50   |
| New Open Space         | \$ | 3,747,190.56 |
| New Roads              | \$ | 951,680.70   |
| Accessibility          | \$ | 39,471.84    |
| Management             | \$ | 42,678.17    |
| Net Total Contribution | \$ | 6,042,719.47 |

110. In accordance with the City of Sydney Development Contributions Plan 2006, the above calculation includes a credit for an existing working population of 117 and is based on the dwelling mix below, which would result from compliance with the recommended conditions of consent:

|           |   |                       |
|-----------|---|-----------------------|
| Studios   |   | 1% or 2 apartments    |
| 1 Bedroom | - | 34% or 115 apartments |
| 2 Bedroom | - | 55% or 189 apartments |
| 3 Bedroom | - | 11% or 37 apartments  |

### RELEVANT LEGISLATION

111. The Environmental Planning and Assessment Act 1979
112. The Roads Act 1993.
113. Airports Act 1996
114. Water Management Act 2000

### CONCLUSION

115. The proposal is consistent with the winning scheme from the Competitive Design Process conducted in 2015, and displays a high quality of architectural design and materials. The proposal complies with the maximum permissible FSR of 1.925:1 and is generally consistent with the approved building heights for the site, with some minor variations. These variations relate to lift overruns providing access to communal roof terraces and are supported, in accordance with Clause 4.6 of Sydney LEP 2012.
116. The proposal is considered to display Design Excellence in accordance with the requirements of Clause 6.21 of *Sydney Local Environmental Plan 2012*, and is eligible for a 10% FSR bonus.
117. The proposal is consistent with the design quality principles of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development*, however does not strictly comply with solar access and natural cross-ventilation requirements contained in the Apartment Design Guide. This is considered to be largely the result of the approved building envelopes and orientation of the site, and is considered acceptable.
118. Conditions of consent have been recommended to achieve natural cross-ventilation to 50% of apartments and to improve privacy, resulting in a minor change to the dwelling mix but maintaining the dwelling yield of 343 apartments.
119. A public benefit offer has been made in relation to the proposal which would result in significant public domain improvements. A planning agreement is currently being prepared, which will be publicly notified in accordance Clause 25D of the *Environmental Planning and Assessment Regulation 2000*.

120. It is recommended that the CSPC consider the merits of the application and delegate the authority to determine the application to the CEO upon the completion of the planning agreement exhibition process, and consideration of all submissions received during this process.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Rebecca Thompson, Senior Planner)