

## **Attachment D**

**Notice of Determination – D/2020/93/A**

19 July, 2021

TOPLACE PTY LTD

Dear Sir/Madam

**SECTION 4.55 MODIFICATION APPROVAL FOR 888 BOURKE STREET, ZETLAND  
NSW 2017  
APPLICATION NO: D/2020/93/A**

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I refer to your application dated 19 April 2021 to amend current consent D/2020/93.

You are advised that your application for modification to amend the timing of condition to stage the issue of Construction Certificates has been **partly approved** under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979. A copy of the Notice of Determination of the original development application is attached with the amendments resulting from the modification shown in ***bold italics***.

This approval is limited to only those amendments requested in your Section 4.55 application dated 19 April 2021. Approval is not granted for any other items which may have been amended on the submitted drawings and for which approval has not been specifically sought.

The Council officer dealing with this application is **Charise Chumroonridhi ph. 02 9265 9760, email CChumroonridhi@cityofsydney.nsw.gov.au.**

Yours faithfully



**BILL MACKAY**  
Manager Planning Assessments

**Notes:**

Modification of development consent in accordance with Section 4.55 of the Act shall not be construed as the granting of development consent, but reference to a development consent, is a reference to the development consent so modified.

Section 8.9 of the Act confers on an applicant who is dissatisfied with this determination a right of appeal to the Land and Environment Court and the Court may determine the appeal.

For the reasons for imposing conditions, refer to the Notice of Determination for the original development consent.

Modification of a development consent does not remove the need to obtain any other statutory consent necessary under the Environmental Planning and Assessment Act 1979, or any other Act.

The conditions of consent of the development application have been modified with the consent of the applicant.

**NOTICE OF DETERMINATION - APPROVAL** issued under Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979

<b>Development Application No.</b>	D/2020/93/A
<b>Applicant</b>	TOPLACE PTY LTD
<b>Land to be developed</b>	888 Bourke Street , ZETLAND NSW 2017 Lot 1 DP 851451
<b>Approved development</b>	Site remediation, excavation and construction of two 7 storey buildings containing serviced apartments, retail (Building A) and residential apartments (Building B) with associated basement parking, as well as construction, dedication and subdivision of a new road, footpath widening, and associated public domain works.
<b>Cost of development</b>	\$60,648,790
<b>Determination</b>	The application was determined by Central Sydney Planning Committee and was granted consent <b>subject to the conditions</b> in Schedules 1 and 2 and the Terms of Approval in Schedule 3.  This Section 4.55 modification application was determined under delegation of Council and was granted approval <b>subject to the attached conditions</b> .
<b>Section 7.11 Contribution</b>	A Section 7.11 Contribution (under the City of Sydney Development Contributions Plan 2015) applies to this development.
<b>Other Approvals</b>	Before commencing <i>building work</i> or <i>subdivision work</i> , a relevant Construction Certificate must be obtained from Council or an Accredited Certifier. Council must be appointed the Principal Certifier for any <i>subdivision work</i> under the Act.  <b>Schedule 3 – Terms of Approval Water NSW</b>
<b>Consent is to operate from</b>	10 December 2020
<b>Consent will lapse on</b>	10 December 2025
<b>Date of Section 4.55(1A) Modification</b>	<b>19 July 2021</b>

**Reasons for conditions**

Unrestricted consent may affect the environmental amenity of the area and would not be in the public interest.

**Reasons for Approval**

1. The development, as modified is considered to be substantially the same as that originally approved; and
2. Appropriate conditions of consent have been imposed to ensure that the development will not result in detrimental environmental impacts.

**Community Consultation**

As a Section 4.55(1A) modification, the application was not notified as by way of scale, character and operation the proposal is likely to have minimal or acceptable impacts.

**Right of Appeal**

If you are dissatisfied with this decision, Section 8.9 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environmental Court within 6 months of the date of this notification.

Alternatively, you may request a review under Division 8.2 of the Act within 28 days of the date of this notice (NB Division 8.2 is not applicable to integrated or designated development).



per

**GRAHAM JAHN AM**

Director - City Planning, Development & Transport

**CONDITIONS OF CONSENT****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/2020/93 dated 4 February 2020 and the following drawings prepared by PTW:

Drawing Number	Drawing Name	Date
DA-00-0000 Rev. E	Cover Sheet & Drawing List	12 November 2020
DA-10-0080 Rev. C	Basement Level 02 Plan	12 November 2020
DA-10-0090 Rev. C	Basement Level 01 Plan	12 November 2020
DA-10-1000 Rev. D	Ground Floor Plan (Level 00)	12 November 2020
DA-10-1100 Rev. C	Level 01 Floor Plan	12 November 2020
DA-10-1200 Rev. C	Level 02 Floor Plan	12 November 2020
DA-10-1300 Rev. C	Level 03 Floor Plan	12 November 2020
DA-10-1400 Rev. C	Level 04 Floor Plan	12 November 2020
DA-10-1500 Rev. C	Level 05 Floor Plan	12 November 2020
DA-10-1600 Rev. C	Level 06 Floor Plan	12 November 2020
DA-10-1700 Rev. C	Level 07 Floor Plan	12 November 2020
DA-10-1800 Rev. C	Roof Plan	12 November 2020
DA-20-0100 Rev. B	North and West Street Elevations	8 July 2020
DA-20-0200 Rev. B	Kingsborough Way Street Elevations	8 July 2020
DA-20-0300 Rev. B	Building A Elevations	8 July 2020
DA-20-0400 Rev. B	Building B Elevations	8 July 2020
DA-30-0100 Rev. B	Building A Sections	8 July 2020

Drawing Number	Drawing Name	Date
DA-30-0101 Rev. B	Building B Sections	8 July 2020
DA-30-0400 Rev. B	Landscape Sections – Sheet 1	8 July 2020
DA-30-0401 Rev. B	Landscape Sections – Sheet 2	8 July 2020
DA-30-0402 Rev. B	Landscape Sections – Sheet 3	8 July 2020
DA-30-0403 Rev. B	Landscape Sections – Sheet 4	8 July 2020
DA-30-0404 Rev. A	Landscape Sections – Sheet 5	8 July 2020
DA-30-0405 Rev. A	Carpark Ramp Sections 6.0	8 July 2020
DA-50-0100 Rev. A	Typical Apartment Layout	20 December 2019
DA-50-0200 Rev. A	Accessible Apartment Plans Building A	20 December 2019
DA-50-0210 Rev. B	Accessible Apartment Plans Building B Sheet 1	8 July 2020
DA-50-0220 Rev. A	Accessible Apartment Plans Building B Sheet 2	8 July 2020
DA-70-0100 Rev. B	External Material and Finishes Board	N/A
DA-70-0200 Rev. B	External Material and Finishes – BLDG A	N/A
DA-70-0300 Rev. B	External Material and Finishes – BLDG B	N/A
DA-70-0400 Rev. B	External Material and Finishes – Lobby	N/A

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) PLENUM DESIGN**

A suitably qualified ventilation expert must prepare a Ventilation Assessment in accordance with the City of Sydney's Draft Alternative Natural Ventilation Of Apartments In Noisy Environments: Performance Pathway Guideline. The Ventilation Assessment shall:

- (a) Consider the recommendations contained within the Acoustic Report (Report No. 6898-1.1R prepared by Day Design Pty Ltd and dated 16 July 2020) and any subsequent Acoustic Report/s.
- (b) The design of the buildings must be modified to provide acoustically treated, natural ventilation plenums or alternative facade treatments (i.e. wintergardens) to all residential apartment bedrooms and living rooms that

are affected by noise from Bourke Street and O'Dea Avenue, with the following details:

- (i) No mechanical assistance is to be provided to the plenums and/or alternative facade treatments.
- (ii) The plenums and/or alternative facade treatments are to be designed to integrate with the building design. 1:20 detailed elevations, plans and sections are to be provided.
- (iii) The design detail is to be accompanied by advice from an acoustic consultant confirming that the acoustic treatment to the plenums and/or alternative treatments ensures compliance with noise criteria contained within approved Acoustic Report/s including that the repeatable maximum LAeq (1 hour) does not exceed 35dB between 10pm and 7am within bedrooms, and does not exceed 40dB 24 hours within main living rooms.

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

**(3) BUILDING A APPROVED AS SERVICED APARTMENTS (TOURIST AND VISITOR ACCOMMODATION) AND BUILDING B APPROVED AS RESIDENTIAL FLAT BUILDING**

- (a) Building A is approved for use as Serviced Apartments (Tourist and Visitor Accommodation); and
- (b) Building B is approved for use as Residential Flat Building.

**(4) COMMUNAL OPEN SPACE**

The design of the rooftop communal open space to Buildings A and B must be modified to reduce the extent of useable communal open area as follows:

- (a) Building A communal open space is to be setback in line with the south-west lift overrun/hot water plant and fire stair structure. All area beyond this point to the edge of the rooftop is to be replaced with appropriate landscape treatment to provide a visual privacy buffer 890-898 Bourke Street.
- (b) Building B communal open space is to be setback from the south-east, south and south-west and replaced with appropriate landscape treatment to provide a visual privacy buffer to 15 and 17 Joynton Avenue as follows:
  - (i) To the south and south west (facing 15 Joynton Avenue): a setback of 4.6m from the inner edge of the parapet; and
  - (ii) To the south-east (facing 17 Joynton Avenue): a setback of 6.8m from the inner edge of the parapet.



- (c) The landscape treatment referred to in parts (a) and (b) above are to be incorporated into the landscape detail required by Condition 10 and 12 of this consent.

The modifications are to be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager prior to the issue of any Construction Certificate for above ground works.

**(5) DESIGN MODIFICATIONS**

The design of the development must be modified as follows:

- (a) Where sliding doors are the only source of ventilation for residential apartments or serviced apartments (and are not noise affected), a fanlight window is to be provided above the doors for ventilation, safety and security.
- (b) 27 adaptable dwellings are to be provided across the development, with a residential accessible car space allocated to each adaptable dwelling.
- (c) All windows to all ground floor habitable rooms are to have a sill height of at least 1 metre.
- (d) The study contained within apartment AG11 is to either be provided with a highlight window (at least 1.8m above finished floor level) or deleted from the floor plan.
- (e) All entry doors to ground level apartments are to be detailed as a solid swing door with a fanlight above.
- (f) Side walls separating the private open space and entries to all ground floor apartments are to have a height no higher than 1.8m.
- (g) The feature shrubs along the northern boundary of the private open space to apartment BG10 are to be replaced with screen planting to mitigate privacy.
- (h) External operable privacy screens are to be applied to the north facing living room glazing of apartment BG10 to mitigate privacy impacts.
- (i) External operable privacy screens are to be applied to the south facing bedroom glazing of apartments BG03 & G04.
- (j) All wind amelioration measures outlined in the Pedestrian Wind Environment Statement (WD884-02F02(REV0)- WS Report prepared by WINDTECH Consultants and dated 18 December 2019 are to be incorporated into the development. Landscape measures are also to be detailed as part of Condition 11 of this consent.

The modifications are to be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager prior to the issue of any Construction Certificate for above ground works.

**(6) VENTILATION SECURITY AND WEATHER PROTECTION**

- (a) All habitable rooms must have a combination of openable sashes and/or louvres that ensure a minimum Effective Openable Area (EOA) for ventilation purposes as required by the NCC and the Apartment Design Guide (ADG) when opened to the maximum dimension permitted under the NCC provisions for Protection of Openable Windows.
- (b) The sashes and/or louvres must provide the minimum EOA under most wet weather conditions and must also be securable to prevent unauthorised entry when open. The minimum EOA must be provided in addition to any external doors as these cannot be adequately weather-protected or secured when left partially open. A reduction for fly screens must be taken into consideration to account for any future installation.
- (c) The method of measurement must be in accordance with the definition of EOA as defined by the Apartment Design Guide, which is:

‘the minimum area of clear opening of a window that can take part in providing natural ventilation. The effective openable area of a sliding or hung sash window can be measured in elevation. Hinged windows such as casement, awning and hopper windows may measure the diagonal plane from the sash to the jamb and add the triangles at either end up to a total area of the window opening in the wall. Obstruction within 2m of a window reduce the effective openable area as measured in elevation. Fly screens and security screen will reduce the effective openable area by half’.
- (d) Prior to the issue of **any** Construction Certificate **for above ground works**, the following details of the proposed fenestration must be submitted to, and approved by Council’s Area Coordinator Planning Assessments / Area Planning Manager:
  - (i) Detailed elevation drawings and a window schedule which show the size, type and location of all openable sashes / louvres in relation to the floor area served by those sashes;
  - (ii) Details of any proposed insect screens or other barriers to free air flow;
- (e) Evidence that all fenestration details shown in the approved drawings described above have been completed is to be provided to the Principal Certifier prior to any Occupation Certificate being issued.

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**(7) CURVED GLAZING**

Curved glazing is to be provided to the curved corners of Building A and B (Bourke Street, O’Dea Avenue and Kingsborough Way corners) and must not be replaced with faceted flat glazing.

**(8) MATERIALS AND FINISHES**

The external material and finishes schedule is to be amended to remove reference to any generic materials or finishes, including reference to ‘or similar’ or ‘to match’.

Details of the external material and finishes, and the following at 1:20 are to be submitted to and approved by Council’s ~~Area Coordinator Planning Assessments~~/Area Planning Manager prior to the issue of any Construction Certificate for above ground works:

- (a) Folded perforated aluminium frameless panel fixed screen to building A including perforation size and regularity
- (b) Carpark entry including door operability, material and finish. The door is to have high quality material finish, equal in standard with the rest of the facade.
- (c) Ground level services. These are to be finished with a high quality material equal in standard to the rest of the facade.
- (d) Impermeable end-screens along Kingsborough Way in plan and section. Drawings are to demonstrate consistency with the recommendations provided in the Wind Report.
- (e) Awnings above the three ground level units addressing the through-site link between the subject site and 890 Bourke Street, to mitigate wind impacts. Typical detail requested.
- (f) Porous screening addressing both through-site links, and Kingsborough Way at the south of the site to mitigate wind impacts, (refer Wind Report).
- (g) Perimeter landscaped planter to the rooftop communal open space on buildings A and B. Details are to demonstrate that this edge condition is viable and accessible for maintenance.
- (h) South and eastern external walls of the driveway. These external walls are to have a visually interesting patterning or texture to create visual interest and mitigate the visual impact of a large blank wall.

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**(9) PUBLIC ART**

A detailed public art plan must be submitted to and approved by Council’s Area Coordinator Planning Assessments/Area Planning Manager prior to the issue of any Construction Certificate for above ground works.

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

The terms of the planning agreement between the City of Sydney and 888 Place Pty Ltd dated 12 March 2019 must be complied with.

In accordance with the Planning Agreement, the completion of the developer's works and transfer of land are required prior to the issue of the first Occupation Certificate.

**(11) 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 Coordinator Planning Assessments~~ Area Planning Manager prior to the issue of any Construction Certificate. The plan must include:
  - (i) A revised design for the ground level communal open space to Building A, ensuring equitable access connections to the through site link that do not compromise the quality and amenity of the space, nor the deep soil or canopy tree planting;
  - (ii) Increased fixed seating in all communal spaces (ground and rooftop), including at least four bench seats in each communal courtyard;
  - (iii) A revised planting design to ensure all privacy planting is fit for purpose, and all planting has sufficient soil volume. This includes the privacy planting required at rooftop level to the communal open space of Buildings A and B, as required by Condition 3 of this consent;
  - (iv) Detailed spot levels including top of wall, finished floor, and structural slab levels;
  - (v) 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, furniture, shade structures, lighting and other features;
  - (vi) Details of earthworks and soil depths including finished levels and any mounding. The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers, excluding mulch and drainage layers;
  - (vii) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity;
  - (viii) Landscape maintenance plan. This plan is to be complied with during occupation of the property.
  - (ix) Details of drainage, waterproofing and watering systems; and
  - (x) Details of wind amelioration measures with regard to landscape elements as per the Pedestrian Wind Environment Statement (WD884-02F02(REV0))- WS Report prepared by WINDTECH Consultants and dated 18 December 2019.

- (b) All landscaping in the approved plan is to be completed prior to **any** Occupation Certificate being issued.

***Amended 19 July 2021 – D/2020/93/A***

**(12) LANDSCAPED (GREEN) ROOFS**

- (a) A detailed plan of the green roof, drawn to scale, by a qualified landscape architect, must be submitted to and approved by Council's ***Area Coordinator Planning Assessments*** /Area Planning Manager prior to the issue of **any** Construction Certificate **for above ground works**. The plan must include:
  - (i) A statement that includes details of proposed use of the green roof, general accessibility, as well as any noise and privacy treatments.
  - (ii) A range of spaces that are flexible and diverse in scale and use, with a proportional amount of fixed amenities including seats, tables, BBQs, shade, and gardens available for communal use. Garden beds should, wherever possible, be positioned inside the balustrade to be easily and safely accessible for maintenance.
  - (iii) Additional shade structures to ensure all-weather function of the roof terrace. Shade structures must not create any additional view loss or overshadowing impacts.
  - (iv) Location and details of existing and proposed services, walls, balustrades, hard surfaces, furniture, screens and shade structures, fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components, and all relevant spot levels.
  - (v) Engineers report confirming structural capacity of building for proposed roof terrace loads.
  - (vi) Details of planter build-up, including soil types, volume and depth including any mounding.
  - (vii) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer.
  - (viii) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.
  - (ix) Green roof maintenance plan. This plan is to be complied with during occupation of the property, and must include a methodology for safe working at height detailing access requirements, location of any anchor points, gates, and transport of materials such as green waste removal.
- (b) Prior to the issue of **any** Construction Certificate **for above ground works**, structural and waterproofing certifications for the green roof are to be submitted to and approved by the Principal Certifying Authority.

- (c) All landscaping in the approved plan must be complete prior to the issue of an Occupation Certificate.
- (d) Inaccessible green roofs must remain inaccessible for the lifetime of the property.

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**(13) LANDSCAPED ROOF TERRACES**

- (a) A detailed package for the roof terraces, including plans and details drawn to scale, and technical specification, by a registered landscape architect or qualified landscape designer, must be submitted to and approved by Council's Area Planning Manager prior to the issue of **any** Construction Certificate for above ground building works. The plan must include:
  - (i) A statement that includes details of proposed use of the roof terraces, general accessibility, as well as noise and privacy treatments.
  - (ii) Location and details of existing and proposed services, walls, balustrades, hard surfaces, furniture, privacy screens and shade structures, fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components.
  - (iii) Engineer's report confirming structural capacity of building for proposed roof terrace loads.
  - (iv) Wind study (if applicable) confirming suitability of the roof for intended use.
  - (v) Details of soil types and depth including any mounding. The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers, excluding mulch and drainage layers. All soil depths and volumes for trees on slab to comply with the Sydney Landscape Code.
  - (vi) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer.
  - (vii) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.
  - (viii) Green roof maintenance plan. This plan is to be complied with during occupation of the property.
  - (ix) Maintenance methodology for all terrace planters on upper levels, to confirm safe working at height including access requirements, location of any anchor points, gates, and transport of materials such as green waste removal.

- (b) Prior to the issue of **any** Construction Certificate **for above ground works**, structural and waterproofing certifications for the green roof are to be submitted to and approved by the Principal Certifying Authority.
- (c) All landscaping in the approved plan must be complete prior to the issue of **any** Occupation Certificate.
- (d) Inaccessible green roofs must remain inaccessible for the lifetime of the property.

**Amended 19 July 2021 – D/2020/93/A**

**(14) VISITOR AND TOURIST ACCOMMODATION - PLANS OF MANAGEMENT**

The Plan of Management accompanying this development application has not been approved.

A revised Plan of Management must be submitted and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager prior to any Occupation Certificate being issued.

The Plan of Management must be prepared to address all operational and management procedures to be employed and to ensure that the serviced apartment use can operate without disturbance to the surrounding locality. The Plan of Management must address the whole of the operations of the subject premises (including interaction with the permanent residential apartments) and reflect the minimum criteria as stipulated in Council's *Sydney Development Control Plan 2012 – 4.4.8.1 and 4.4.8.5*.

The plan must also include but not be restricted to: compliance with all other conditions of this consent; hours of operation of the communal open space; noise; security management; maximum occupancy; and handling complaints.

**(15) PLAN OF MANAGEMENT**

The use of the serviced apartments must always be operated / managed in accordance with the Plan of Management approved by Council as referred to in Condition 14 above. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

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

In accordance with Clause 7.13 of *Sydney Local Environmental Plan 2012* and prior to a Construction Certificate being issued, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid at the office of the Department of Planning, Industry and Environment or a bank guarantee in favour of the Department of Planning, Industry and Environment to the value of the required contribution has been lodged. The contribution is \$2,884,001.39 based on the in lieu monetary contribution rate for non-residential development at \$71.36 per square metre of total non-residential floor area (9,913sqm), and for residential development at

\$214.17 per square metre of total residential floor area (10,163sqm). Contributions will be indexed in accordance with the formula set out below.

Prior to any 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 2020 to 28 February 2021, 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 and Major Projects team, Strategic Planning and Urban Design unit at the City of Sydney on [GSPT@cityofsydney.nsw.gov.au](mailto:GSPT@cityofsydney.nsw.gov.au) and then must be lodged with a bank cheque with the NSW Department of Planning, Industry and Environment.

Option 2 is lodgement of a bank guarantee using "Form A - Receipt to Release Certificate of Construction after lodgement of Bank Guarantee". Form A must be obtained from the Green Square and Major Projects team, Strategic Planning and Urban Design unit at the City of Sydney on [GSPT@cityofsydney.nsw.gov.au](mailto:GSPT@cityofsydney.nsw.gov.au) and then must be lodged with a Bank Guarantee with the NSW Department of Planning, Industry and Environment.

Where Form A has been used, any occupation certificate must 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 and Major Projects team, Strategic Planning and Urban Design unit at the City of Sydney on [GSPT@cityofsydney.nsw.gov.au](mailto:GSPT@cityofsydney.nsw.gov.au) and then must be lodged with a bank cheque with the NSW Department of Planning, Industry and Environment.

- (b) Applicants are made aware that the contribution amount quoted in this condition may not be final and that a correct indexed affordable housing contribution amount can be obtained from the relevant Form A, B or C at time of payment.
- (c) Forms A, B or C for payment of the affordable housing contribution can only be obtained from the City of Sydney's Green Square and Major Projects team, Strategic Planning and Urban Design unit. 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, Industry and Environment.
- (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 2020 to 28 February 2021.

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

**(17) SECTION 7.11 CONTRIBUTIONS PAYABLE - CONTRIBUTION TOWARDS PUBLIC AMENITIES – CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2015 – SOUTH PRECINCT**

Council has identified the development will increase demand for public amenities and facilities. Pursuant to Section 7.11 of the Environmental Planning and Assessment Act, 1979 (as amended), and the City of Sydney Development Contributions Plan 2015 the following monetary contributions are required towards the cost of public amenities.

<u>Contribution Category</u>	<u>Amount</u>
Open Space	\$968,802.69
Community Facilities	\$198,194.55
Traffic and Transport	\$122,344.23
Stormwater Drainage	\$48,395.41
Total	\$1,337,736.88

The City of Sydney will index the above contribution for inflation at the time of payment using the following formula.

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

$C_{\text{payment}}$  = Is the contribution at time of payment;

$C_{\text{consent}}$  = Is the contribution at the time of consent, as shown above;

$CPI_{\text{payment}}$  = Is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment; and

$CPI1_{\text{consent}}$  = Is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being – 116.8 for the September 2020 CPI quarter.

The contribution must be paid prior to the issue of any Construction Certificate in relation to this development.

Please contact Council's Planning Administration staff at [planningsystemsadmin@cityofsydney.nsw.gov.au](mailto:planningsystemsadmin@cityofsydney.nsw.gov.au) to request a letter confirming the indexed contribution amount payable.

Once the letter confirming the indexed contribution is obtained, payment may be made at any of the City's Neighbourhood Service Centres or the One Stop Shop at Town Hall House. Acceptable payment methods are EFTPOS (debit card only), cash (up to 10K only), Credit Card (up to 50K only) or a bank cheque made payable to the City of Sydney. Personal or company cheques will not be accepted.

**(18) BUILDING HEIGHT**

- (a) The height of Building A must not exceed RL 49.10 (AHD) to the top of the building (26.74m) and RL 45.75 (AHD) to the parapet of the building (22.64m).
- (b) The height of Building B must not exceed RL 48.6 (AHD) to the top of the building (26.93m) and RL 45.25 (AHD) to the parapet of the building (22.79m).
- (c) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) and (b) above, to the satisfaction of the Principal Certifier.

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

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the mixed use must not exceed 2.2:1 calculated in accordance with the Sydney Local Environmental Plan 2012. For the purposes of the calculation of FSR, the Gross Floor Area is 15,541sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under the Sydney Local Environmental Plan 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifier.

**(20) DESIGN QUALITY EXCELLENCE**

- (a) As the proposal has been awarded bonus floor space or height for achieving design excellence and in order to ensure the design quality excellence of the development is retained to completion:
  - (i) The design architect comprising PTW is to have direct involvement in the design documentation, contract documentation and construction stages of the project including signing off any required certifications at DA, S4.55 applications, Construction Certificate and Occupation Certificate stages;

- (ii) The design architect is to have full access to the site and is/are to be authorised by the applicant to respond directly to Council where information or clarification is required in resolving design issues throughout the life of the project;
  - (iii) Evidence of the design architect's commission must be provided to the Council prior to release of the Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of the Council's Director Planning, Development and Transport.

The Accredited Certifier and Principle Certifier must be satisfied that the above matters are complied with prior to the issue of a relevant Construction and Occupation Certificates, in accordance with written confirmation from Council.

**(21) USE - SEPARATE APPROVAL REQUIRED**

No consent is granted or implied for the fit-out or specific use of the commercial tenancy.

A development consent or Complying Development Certificate (as appropriate) is required to be obtained for the fit-out and use of the tenancy prior to that fit-out or use commencing.

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

The roof top terrace and ground level communal open space for Building B must be available for the use all residents of the buildings and must be designated as common property on any strata subdivision of the site, with no exclusive use rights.

**(23) USE OF COMMON AREAS AND FACILITIES – BUILDING A SERVICED APARTMENTS**

Access to the rooftop communal open space allocated to Building A for use by occupants of serviced apartments is to be restricted to between 8am and 10pm, 7 days.

**(24) COMMON PROPERTY MUSIC PRACTICE ROOM - ACOUSTIC REQUIREMENTS**

The Music Practice Room (music room) must remain common property and be provided and maintained for the use of all residents and achieve the following acoustic requirements:

- (a) Any walls that adjoin a dwelling must have an airborne sound insulation rating equal to or greater than  $RW + Ctr$  of 58.
- (b) The ceiling must have an airborne sound insulation rating equal to or greater than  $RW + Ctr$  of 58. In this instance, to prevent flanking paths for noise, the walls and ceiling must meet the deemed to satisfy provisions

F5.5 (e) and F5.5 (f) of the Volume One (Class 2-9) of the National Construction Code.

- (c) Music Room door systems (door, frame & seal) must achieve an airborne sound insulation rating of  $R_w$  45, and windows (combined glass frame and seal) must achieve an  $R_w$  40. Windows to the façade of a building must be of minimum necessary dimensions, per the requirements of the Building Code of Australia. Access doors must be to common property accessible by all building occupants.
- (d) The floor is to be carpeted.

**(25) 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.

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

- (a) All works conducted on site which form part of this development must be carried out in accordance with the submitted Demolition, Excavation and Construction Management Plan once approved by Condition 25.
- (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.

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

- (a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report (Report No. 6898-1.1R prepared by Day Design Pty Ltd and dated 16 July 2020) must be implemented in the development prior to the commencement of its use, with the exception of reliance on mechanical assistance to achieve ventilation within residential apartments. Plenum design and natural ventilation are to be addressed as part of Condition 2 of this consent.
- (b) Prior to the issue of any relevant Construction Certificate, the final construction drawings and final construction methodology must be assessed and reported to be in accordance with the requirements of the DA Acoustic Report in (a) above, with reference to relevant documentation. This must be done by a Suitably Qualified Acoustic Consultant\* (see definition below). This work will be to the satisfaction of the accredited certifier.

- (c) Prior to the issue of any Occupation Certificate, a Suitably Qualified Acoustic Consultant\* is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier 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.

- (d) All physical aspects of the building's structure installed in order to meet performance parameters in accordance with this condition must be maintained at all times.

## **(28) NOISE – COMMERCIAL PLANT / INDUSTRIAL DEVELOPMENT**

- (a) Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA [Noise Policy for Industry 2017 \(NPfI\)](#) unless agreed to by the City's Area Planning Manager. Further:
  - (i) Background noise monitoring must be carried out in accordance with the long-term methodology in [Fact Sheet B](#) of the NPfI unless otherwise agreed by the City's Area Planning Manager.
  - (ii) Commercial plant is limited to heating, ventilation, air conditioning, refrigeration and energy generation equipment.
- (b) An  $L_{Aeq,15 \text{ minute}}$  (noise level) emitted from the development must not exceed the  $L_{A90, 15 \text{ minute}}$  (background noise level) by more than 3dB when assessed inside any habitable room of any affected residence or noise sensitive commercial premises at any time. Further:
  - (i) The noise level and the background noise level shall both be measured with all external doors and windows of the affected residence closed.
  - (ii) Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected premise.
- (c) Corrections in [Fact Sheet C](#) of the NPfI are applicable to relevant noise from the development measured in accordance with this condition, however duration corrections are excluded from commercial noise.

## **(29) NOISE – USAGE**

- (a) Noise from the usage of this premises must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA Noise Policy for Industry 2017 (NPfI) unless agreed to by the City's Area Planning Manager. Further:

- (i) Background noise monitoring must be carried out in accordance with the long-term methodology in Fact Sheet B of the NPfl unless otherwise agreed by the City's Area Planning Manager.

**for internal residential and commercial amenity only**

- (b) An LAeq,15 minute (noise level) emitted from the development must not exceed the LA90, 15 minute (background noise level) by more than 3dB when assessed inside any habitable room of any affected residence or noise sensitive commercial premises at any time. Further:
  - (i) The noise level and the background noise level shall both be measured with all external doors and windows of the affected residence closed.
  - (ii) Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected premise.
- (c) Corrections in Fact Sheet C of the NPfl are applicable to relevant noise from the development measured in accordance with this condition, however duration corrections are excluded from commercial noise.

**(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) 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 any occupation certificate or the use commencing, whichever is earlier. All signs must be maintained in good order at all times.

**(32) 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.

**(33) 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 Accredited Certifier prior to the issue of *any* Construction Certificate **for below ground works, other than for demolition,**

**excavation, site remediation works and construction of basement with no fitout.**

Car Parking Type	Number
Residential spaces	44
Accessible residential spaces	15
Residential visitor spaces	6
Accessible residential visitor spaces	4
Retail parking	2
Serviced apartment	33
Car share parking	3
Motorcycle parking	10
Car wash bay	2
Service vehicle spaces	2
Small Rigid Vehicle loading dock(s)	2
Medium Rigid Vehicle loading dock(s) – can also accommodate a Council Waste Vehicle	1
<b>Total</b>	

- (a) Number of motorcycle spaces refers to dimensions of 1.2m x 2.5m per Australian Standards. Alternatively the proponent may provide standard car spaces marked as motorcycle spaces (dimensions of 2.4m x 5.4m per Australian Standards). In this case a maximum of 3 spaces would be required.
- (b) The waste collection area must meet the requirements of DCP12 Section 3.11.13 (3), namely that vehicle access for collection and loading will include (but is not limited to) the following:
  - (i) a **9.25m Council garbage truck** and a small rigid delivery vehicle;
  - (ii) minimum vertical clearance of **4.0 metres** for residential development or else 3.8m clear of all ducts, pipes and other services, depending on the gradient of the access and the type of collection vehicle;
  - (iii) collection vehicles to be able to enter and exit the premises in a forward direction. Where a vehicle turntable is necessary to meet this requirement, it is to have a **capacity of 30 tonnes**;
  - (iv) a minimum driveway width of **3.6m**; and
  - (v) a minimum turning circle radius of **10.5m**.
- (c) The proposed loading dock is to be co-used by the residential, retail, and serviced apartments of the site (including Building A and B) and is to accommodate the delivery needs of each usage.
- (d) Accessible Parking spaces to meet the Australian Standards AS/NZS 2890.6 including having the shared area located adjacent to the space.

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**(34) ACCESS RAMP**

Prior to the issue of any construction certificate, a suitably qualified traffic consultant must verify that the ramp gradient and vertical clearance as proposed can accommodate a 9.25m long Council Waste truck to the satisfaction of the Certifier.

**(35) 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".

**(36) 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	181	Spaces must be a class 2 bicycle facilities
Residential visitor	18	Spaces must be Class 3 bicycle facilities
Non-residential staff	2	Spaces must be Class 2 bicycle facilities
Non-residential visitor	2	Spaces must be Class 3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	1	
Personal lockers	2	

Notes:

- (i) If a basement storage area on title that is large enough to store a bike and is no smaller than a class 1 bike locker this can be counted as a space.
- (b) 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 Accredited Certifier confirming compliance prior to ***the any*** Construction Certificate ***for below ground works, other than for demolition, excavation, site remediation works and construction of basement with no fitout*** being issued.

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**(37) CAR SHARE SPACES**

- (a) 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.
- (b) The spaces must be made available to car share operators without a fee or charge.
- (c) The spaces must be sign posted for use only by car share vehicles and well lit.
- (d) The spaces must be accessible to members of the car share scheme at all times.
- (e) The car share spaces are to be available at the same time that the car park commences operation.

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

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

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

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

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

**(39) COST OF SIGNPOSTING**

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

**(40) INTERCOM FOR VISITORS**

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

**(41) ON SITE LOADING AREAS AND OPERATION**

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

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

**(42) PARKING DESIGN**

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Accredited Certifier prior to **any** Construction Certificate **for below ground works, other than for demolition, excavation, site remediation works and construction of basement with no fitout** being issued.

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

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

**(44) 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.

**(45) SIGNS AT EGRESS**

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

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

**(46) 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.

**(47) RESTRICTION ON RESIDENTIAL DEVELOPMENT**

The following restriction applies to Building B approved for residential use:

- (a) The accommodation portion of the development (Building B) 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 any 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.

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

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

**(49) RESTRICTION ON SERVICED APARTMENTS**

The following restriction applies to Building A approved for serviced apartment use:

- (a) The accommodation portion of the development (Building A) must be used as serviced apartment accommodation only and not for permanent residential purposes or any other use.
- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from serviced apartment as defined in *Sydney Local Environmental Plan 2012*. The covenant is to be registered on title prior to any 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.

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

The following conditions apply to car parking:

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

**(51) 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.

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

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

**(53) NO SPRUICKING NOISE**

No persons (such as those commonly known as spruikers) or recordings or other devices which have the effect of spruicking are to be located on Council owned property. Furthermore, the sound level of any spruicking generated within privately owned land must not be audible on any adjacent property with a shared boundary.

**(54) SURVEILLANCE CAMERAS**

- (a) CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the premises with particular coverage to:

- (i) principal entrance/s and exits;
  - (ii) all areas within the premise occupied by the public (excluding toilets);
  - (iii) staircases in multilevel premises; and
  - (iv) the area within a 10m radius external to the public entrance(s) to the premise.
- (b) Suitable and clearly visible signage shall be displayed at the principal entrance(s) to the premise and in a prominent position on each floor accessible to the public, 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 establishing the population and identification of patrons, 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.
- (e) All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly. The Licensee shall record this daily checking activity in the security/incident register book that meets the standards required by the Licensing Police and Council. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable. Where the system will not be functioning in full operating order for a period of longer than 24 hours the manager/licensee is to notify the relevant Local Area Commander of the NSW Police.
- (f) All CCTV recording devices and cameras shall be operated at all times when the premises are open to the public and, where premises do not operate 24 hours a day, continuously for at least 1 hour prior to opening and closing times of the premises.
- (g) The CCTV recording device shall be secured within the premises and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage. When the premises is operating there must be at least one staff member present at the premises who is authorised to access the CCTV system and able to immediately review recordings and produce copies.
- (h) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

**(55) AIR CONDITIONERS GENERALLY**

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

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

**(56) 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.

**(57) REFLECTIVITY**

Prior to issue of ~~the~~ **any** Construction Certificate **for above ground works** the Accredited Certifier must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20%.

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

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

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

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

## SCHEDULE 1B

### PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING

#### (60) 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.

#### (61) ASBESTOS REMOVAL WORKS

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Safework NSW, holding either a Friable (Class A) or a Non-Friable (Class B) Asbestos Removal Licence which ever applies.

A copy of the relevant licence shall be made available to any authorised Council officer on request within 24 hours.

- (b) Five days prior to the commencement of licensed asbestos removal, Safework NSW 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 must identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.
- (c) All work must be carried out in accordance with the *Work Health and Safety Regulation 2017* and the NSW Government and SafeWork NSW document entitled *How to manage and control asbestos in the work place: Code of Practice (Safework NSW) December 2011* and the *City of Sydney Managing Asbestos Policy dated 21 October 2013 and associated guidelines*.
- (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 must 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 must be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs must be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs must be in accordance with AS 1319 -1994 *Safety*



*Signs for the Occupational Environment* for size, illumination, location and maintenance.

- (f) Asbestos waste must only be transported and disposed of at an EPA licensed waste facility.
- (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 written 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.

## **(62) EXTERNAL WALLS AND CLADDING FLAMMABILITY**

The external walls of the building including attachments must comply with the relevant requirements of the Building Code of Australia (BCA). Prior to the issue of **any** Construction Certificate **for above ground works** and Occupation Certificate the Accredited Certifier and the Principal Certifier must:

- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the BCA; and
- (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the BCA as proposed and as built.

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## **(63) SYDNEY WATER CERTIFICATE**

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

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

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

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

**(64) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control is to be submitted to, and approved by Council prior to the issue of a Construction Certificate.

**(65) ADAPTABLE HOUSING**

Prior to **any** Construction Certificate **for above ground works** being issued, information from an appropriately qualified access consultant is to be submitted to the Accredited Certifier:

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

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

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

**IMPORTANT NOTE:**

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

**(67) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION**

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 5 O’Dea Avenue, 15 Joynton and 17 Joynton Avenue are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying

photographs must be given to the above property owners, and a copy lodged with the Accredited Certifier and the Council prior to the issue of a Construction Certificate.

**UPON COMPLETION OF EXCAVATION/DEMOLITION**

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

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

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

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

The Soil and Water Management Plan accompanying this Development Application has not been approved by this consent.

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

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

**(69) ROAD OPENING PERMIT**

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

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

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

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

**(71) PHYSICAL MODELS**

- (a) Prior to the issue of any Occupation Certificate an accurate 1:500 scale model of the development as constructed must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager for the City Model in Town Hall House.

Note:

- (i) The models must be constructed in accordance with the Model Specifications available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements> Council's modellers must be consulted prior to construction of the model.
- (ii) The models are to comply with all of the conditions of the Development Consent.
- (iii) The models must be amended to reflect any further modifications to the approval (under Section 4.55 of the *Environmental Planning and Assessment Act*) that affect the external appearance of the building.

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

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

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

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

**(73) FLOOR TO CEILING HEIGHT**

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

**(74) NUMBER OF ADULTS PER ROOM**

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

**(75) 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) Where a hoarding and/or scaffolding (temporary structures) are proposed to be installed on or above a road reservation (footway and/or roadway), 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 for such structures.
- (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, artwork or historic images are provided and fully maintained to the City's requirements (Clauses 3.4, 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/wind vanes 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 2017*).

**(76) TEMPORARY STRUCTURES (HOARDINGS, SCAFFOLDING AND OTHER STRUCTURES) INSTALLED ON PUBLIC ROADS THAT REQUIRE DEVELOPMENT CONSENT**

The following forms of temporary structures (hoardings, scaffolding and other structures) proposed for installation on or above public roads and in connection with the construction of the approved development require Council approval (development consent):

- (a) Type B hoardings that span over roads such as laneways;
- (b) Type B hoardings that propose more than a single storey of site sheds installed on a hoarding deck;
- (c) Type A and Type B hoardings with or without scaffolding that project beyond the side boundaries of adjoining properties;
- (d) fenced work compounds at roadway/footway level;
- (e) hoardings/scaffolding associated with works on heritage-listed buildings; or
- (f) any other large and/or potentially high environmental impact temporary structures, as determined by Council.

A separate development application must be submitted and approved by Council prior to the installation of any temporary structure listed above.

**(77) WORKS REQUIRING USE OF A PUBLIC PLACE**

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

**(78) 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 **any** Construction Certificate **for below ground works, other than for demolition, excavation, site remediation works and construction of basement with no fitout** being issued ~~or the commencement of the use, whichever is earlier.~~

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**(79) HYDRANT BOOSTER ASSEMBLY, SPRINKLER BOOSTER ASSEMBLY**

Fire equipment is to be integrated into the building design and screened from public view within purposely designed housing. Detailed drawings (plans and elevations) of the hydrant booster assembly at 1:20 scale demonstrating integration with the materials and finishes to the approved building are to be submitted to and approved by Council's Area ~~Coordinator~~ **Planning Assessments** /Area Planning Manager prior to the issue of **any** Construction Certificate **for below ground works, other than for demolition, excavation, site remediation works and construction of basement with no fitout**. The location is to be certified by a suitably qualified professional and submitted with the design details. No fire assemblies are permitted in the public domain.

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**(80) TELECOMMUNICATIONS PROVISIONS**

- (a) Appropriate space and access for ducting and cabling is to be provided within the plant area and to each apartment within the building within for a minimum of three telecommunication carriers or other providers of broadband access by ground or satellite delivery. The details must be submitted for the approval of the Accredited Certifier prior to **any** Construction Certificate **for below ground works, other than for demolition, excavation, site remediation works and construction of basement with no fitout** being issued.
- (b) A separate DA must be submitted prior to the installation of any external telecommunication apparatus, or the like.

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**(81) 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.

**(82) WASTE AND RECYCLING COLLECTION CONTRACT**

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

**(83) WASTE AND RECYCLING MANAGEMENT – COMMERCIAL (INCLUDING SERVICED APARTMENTS)**

- (a) The Waste and Recycling Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste and Recycling Management Plan is to be approved by the Accredited Certifier prior to a Construction Certificate being issued. The plan must comply with the Council's *Guidelines for Waste Management in New Developments 2018*. All requirements of the approved Building Waste and Recycling Management Plan must be implemented during construction of the development.

**UPON COMPLETION OF THE DEVELOPMENT**

- (c) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must ensure that waste handling works have been completed in accordance with: the Waste and Recycling Management Plan; other relevant development consent conditions; and Council's *Guidelines for Waste Management in New Developments 2018*.

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

The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018* which requires facilities to minimise and manage waste and recycling generated by the proposal.



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

- (a) The Waste and Recycling Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste and Recycling Management Plan is to be submitted to and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager prior to a Construction Certificate being issued. The plan must comply with the Council's *Guidelines for Waste Management in New Developments 2018* and provide appropriate acoustic verification should any chutes be located next to habitable rooms.

All requirements of the approved Waste and Recycling Management Plan must be implemented during construction of the development.

- (c) The building must incorporate designated areas or separate garbage rooms constructed in accordance with Council's *Guidelines for Waste Management in New Developments 2018*, to facilitate the separation of commercial waste and recycling from residential waste and recycling.

**UPON COMPLETION OF THE DEVELOPMENT**

- (d) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier 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.

**(86) WASTE/RECYCLING COLLECTION**

- (a) The collection of waste and recycling must only occur during the designated zone collection times as outlined in the City's Waste Policy – Local Approvals Policy for Managing Waste in Public Places 2017.
- (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.

**(87) SECTION 138 ROADS ACT APPROVAL**

Approval under Section 138 of the *Roads Act 1993* must be obtained from Council prior to the commencement of any excavation in or disturbance of a public way for the construction of approved public domain works.

**(88) STREET TREE PROTECTION**

All existing street trees on Bourke Street and Kingsborough Way adjoining the site must be protected in accordance with the Australian Standard 4970 Protection of Trees on Development Sites. All street trees must be protected during the construction works as follows:

- (a) Tree trunk and major limb protection must be undertaken prior to or during the installation of any hoarding or scaffoldings. The protection must be installed by a qualified Arborist (AFQ 2 or 3) and must include:
  - (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunk at all times;
  - (ii) Tree trunk/s and/or major branches, located within 500mm of any hoarding or scaffolding structure, must be protected by wrapped hessian or similar material to limit damage, and
  - (iii) Timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion,
  - (iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project.
- (b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.
- (c) Materials or goods, including site sheds, must not be stored or placed:
  - (i) around or under the tree canopy; or
  - (ii) within two (2) metres of tree trunks or branches of any street trees.
- (d) Protective fencing (1.8 metre chain wire mesh fencing) must be erected on top of the hoarding [Tree Management Team to insert location of hoarding and affected trees] to protect branches during the construction works.
- (e) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9333, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

#### **(89) STREET TREE PRUNING AND REMOVAL**

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

- (c) The removal of any street tree approved by Council must include complete stump removal and the temporary reinstatement of levels so that no trip or fall hazards exist until suitable replanting occurs. These works must be completed immediately following the trees removal.

**(90) STRATA SUBDIVISION**

Any proposal for strata subdivision of the site will require development consent and therefore the lodgment of a separate development application or complying development application, and subsequent approval from Council, or an accredited certifier, of the Strata Plan and issue of a Strata Certificate under the *Strata Schemes Development Act 2015*.

**(91) SUBDIVISION PLAN**

- a) Prior to the issue of any construction certificate, the initial boundary definition survey work necessary for the preparation of a subdivision plan to dedicate the road widening and consolidate the site shall be carried out by a surveyor registered under the Surveying and Spatial Information Act, 2002. The registered surveyor shall provide a letter to the Principal Certifier, certifying that the initial survey work and calculations to define the subject boundaries has been completed, prior to the issue of the Construction Certificate.
- b) A plan or CAD file showing the redefined boundaries shall be provided to the project architect, who shall certify in writing that the proposed building as designed will fit within the redefined boundaries, without causing any encroachment. This written confirmation shall be provided to the Principal Certifier prior to the issue of any Construction Certificate. It is recommended that the side walls of the building are set back at least 0.02 metres from each side boundary to allow for construction tolerances and avoid encroachment.

Prior to the issue of any Interim or Final Occupation Certificate, the subdivision plan shall be completed and lodged with the office of NSW Land Registry Services, showing the new building, and creating any other easements as necessary. Evidence of lodgment of the subdivision plan shall be supplied to the Principal Certifier prior to the issue of the Occupation Certificate.

**(92) REDEFINITION PLAN**

- (a) Prior to the issue of any Construction Certificate, the initial boundary definition survey work necessary for the preparation of a redefinition plan redefining the boundaries of the subject site shall be carried out by a surveyor registered under the Surveying and Spatial Information Act, 2002. The registered surveyor shall provide a letter to the Principal Certifier certifying that the initial survey work and calculations to define the subject boundaries has been completed, prior to the issue of the Construction Certificate.
- (b) Prior to the issue of any Occupation Certificate, the redefinition plan shall be registered with the Office of NSW Land Registry Services, showing the new components of the building and creating any easements as

necessary. Evidence of lodgement of the redefinition plan shall be supplied to the Principal Certifier prior to the issue of the Occupation Certificate. It should be noted that, due to the age of the base plan, a redefinition plan will be required by NSW Land Registry Services to be lodged in conjunction with, or prior to, any strata plan for the site. Redefinition of the boundaries prior to construction will minimise the risk of problems with encroachment and consequent significant delays and expense. A plan of subdivision dedicating roads in association with the development shall satisfy this condition.

**(93) 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 6.15 of the *Environmental Planning and Assessment Act 1979*.

**(94) DEDICATION OF ROADS**

- (a) Prior to the issue of any Occupation Certificate, or any equivalent certificate that is not final, with respect to the final building in the development, a plan of subdivision prepared by a registered surveyor must be lodged with the office of NSW Land Registry Services, dedicating the following as public road:
  - (i) A road 12 metres wide, located north-east to south-west between Buildings A and B, linking to the existing section of Kingsborough Way. The land shall be dedicated unencumbered, including all leases, easements, restrictions, positive covenants and planning agreements.

**(95) WAY FINDING PLAN**

A way finding parking plan must be submitted showing all the signage to/from the bicycle facilities, loading dock, service bay, car share, and any retail customer parking provided. The plan must also show directions to lifts where appropriate. This might include illuminated signage where appropriate. These plans must be submitted to and approved by Council's Area Coordinator / Area Planning Manager prior to any Occupation Certificate being issued.

**(96) DRIVEWAY WIDTH**

Further swept path analysis must be submitted to and approved by Council's Area Coordinator / Area Planning Manager for the largest vehicle entering the site, and the driveway width adjusted accordingly, prior to any Construction Certificate for ***below ground works, other than for demolition, excavation, site remediation works and construction of basement with no fitout the site*** being granted.

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**(97) LOADING DOCK MANAGEMENT PLAN**

A Loading Management Plan, must be submitted to and approved by Council's Area Coordinator / Area Planning Manager prior to an Occupation Certificate being issued.

The plan should identify how the loading area will be managed and used by all building tenants including retail and residential use such as for removal vehicles, bulky good deliveries and similar.

The plan must include, but is not limited to, management of deliveries to ensure there is no requirement for any service vehicles to wait on public streets to enter the site.

The plan shall be managed either by a schedule showing all tenants when they can use the area, or by a register managed on site to allow tenants to reserve a time period for their deliveries. Once approved, this management plan will need to be provided to all tenants and external users of the loading area.

**(98) 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.

#### (99) SURVEY INFRASTRUCTURE – IDENTIFICATION AND RECOVERY

Under Section 24 of the Surveying and Spatial Information Act 2002, it is an offence to remove, damage, destroy, displace, obliterate or deface any [survey mark](#) unless authorised to do so by the [Surveyor-General](#). Accordingly, the applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or replace marks.

Prior to the issue of any Construction Certificate, documentary evidence must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include either:

- (a) A copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report); or
- (b) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site and that no survey infrastructure will be affected by the proposal.

Council's Principal Surveyor may request further information and/or add conditions to any Surveyor-General's Approval at their discretion.

#### (100) PUBLIC DOMAIN CONCEPT PLAN

The Public Domain plan submitted to satisfy this condition has not been approved. An updated public domain plan, showing all the site frontages and extending a minimum of 5m past the boundary and to the middle of the road, must be prepared in accordance with the Public Domain Manual and the City's Sydney Street Code. It must be submitted to and approved by Council's ***Public Domain Unit Area Planning Manager*** prior to the issue of any Construction Certificate for the development other than for demolition, ~~or~~ excavation, ***site remediation works and construction of basement with no fitout***. Detail Design of Kingsborough Way must also form part of this public domain plan, depicting a continuous footpath treatment with left in, left out vehicular arrangement to the intersection with O'Dea Avenue and the provision of a raised pedestrian crossing midpoint between Buildings A and B, subject to approval by the Local Pedestrian, Cycling and Traffic Calming Committee. The plan must include (where relevant) all existing and proposed paving materials, locations of street trees, site furniture, light poles, signage and other public domain elements.

Note: A detailed Public Domain Plan will be required prior to construction (refer to Public Domain Plan Detailed documentation for construction).

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**(101) PUBLIC DOMAIN LEVELS AND GRADIENTS**

Prior to the issue of any Construction Certificate, a Public Domain Levels and Gradients submission for the building and site frontages must be submitted to and approved by the City's Public Domain Unit. The submission, must be prepared in accordance with the City's Public Domain Manual and submitted with a completed Application for Public Domain Levels and Gradients. Information on how to complete the submission can be downloaded from the City's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

Any requirements to comply with Disability Discrimination Act at the entrance to a building or publicly accessible space must be resolved inside the site boundary.

Note: Public Domain Levels and Gradients plans are to be included with Public Domain Plan – Detailed Documentation for Construction Condition submission.

**(102) STORMWATER DRAINAGE DESIGN**

Prior to issue of any Construction Certificate a detailed stormwater management plan prepared by suitable qualified and experienced professionals demonstrating compliance with the requirements of Section 3.7.2 - Drainage and Stormwater Management, Section 3.7.3 – Stormwater Quality, 3.7.4 – Additional provisions for Commercial and Industrial Properties of the Sydney Development Control Plan 2012 must be submitted to and approved by the City's Public Domain Unit.

The submission must include the following;

- (a) A stormwater infrastructure design certification, stating that the proposed design complies with:
  - (i) Council's *Sydney Streets Technical Specifications*, Part A4 *Stormwater Drainage Design*;
  - (ii) Council's *Sydney Streets Technical Specifications*, Standard Drawings;
  - (iii) Council's *Sydney Streets Technical Specifications*, Part B10: *Stormwater Drainage Construction*; and
  - (iv) All relevant Australian Standards.
- (b) Structural certification of the hydraulic and structural design of all elements, excluding standard details from Council's *Sydney Streets Technical Specifications*.

The above certification shall accompany information that address the requirements of Section 4.5 Data Requirements, Part A4 Stormwater Drainage Design of Council's Sydney Streets Technical Specifications. This information is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

The requirements of Sydney Water with regard to the on-site detention (OSD) of stormwater must be ascertained and complied with. Evidence of the approval must be submitted to Council prior to any Construction Certificate other than demolition.

- i. Note: A Deed of Agreement for all proposed connections to the City's drainage system, and a Positive Covenant for all OSD systems may be required prior to issue of any Occupation Certificate.
- ii. Note: The total discharge per site from kerb outlets must not exceed 25Litres/sec. If site discharge is greater, a connection must be made to a Council kerb inlet pit. If no kerb inlet pit exists, an extension of the Council storm water pipe system is required with a minimum 375mm diameter RCP.

### **(103) STORMWATER QUALITY**

Prior to issue of any Construction Certificate a design certification report prepared by a suitably qualified practicing engineer (NER) must be submitted to and approved by the City's Public Domain Unit. The report must include a response to all stormwater quality improvement devices structural integrity, treatment train and their treatment properties demonstrating compliance with the approved MUSIC e-link reports.

### **(104) FLOOD PLANNING LEVELS**

The development shall be constructed to comply with the recommended flood planning levels indicated in the letter titled 888 Bourke Street, Zetland-Flood Assessment of Design-prepared by Cardno dated 20 January 2020 and 13 November 2020.

Details shall be submitted to the Certifying Authority for approval demonstrating that the development will comply with the recommended flood planning levels prior to issue of a construction certificate.

A certification report prepared by a qualified Civil Engineer shall be submitted to the Principal Certifying Authority prior to issue of any Occupation certificate stating that the development has been constructed in accordance with the recommendations of the letter titled 888 Bourke Street, Zetland -Flood Assessment of Design-prepared by Cardno dated 20 January 2020 and 13 November 2020.



**(105) PUBLIC DOMAIN LIGHTING UPGRADE**

Prior to issue of any Construction Certificate for ~~excavation, civil construction, drainage or building work (whichever is earlier)~~ **above ground works**, a concept Public Domain Lighting Upgrade Plan for pedestrian and street lighting in the public domain and the proposed road extension in stratum must be submitted to and approved by City's Public Domain Unit. The Lighting Plan must be prepared in accordance with the Sydney Streets Technical Specifications A5 and B8, Sydney Lights Design Code and Public Domain Manual. This information is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

The lighting upgrade plan must cover all adjacent Bourke Street and O'Dea Avenue street frontages.

Advice on site specific lighting requirements must be obtained from the City's Public Domain Unit before proceeding with the preparation of any final lighting design proposals.

**Amended 19 July 2021 – D/2020/93/A**

**(106) ROAD NETWORK AND GEOMETRIC ROAD DESIGN**

- (a) Civil Engineering Plans submitted to satisfy this condition has not been approved. Preparation of the detailed design and coordinated construction documentation for the proposed Kingsborough Way extension in stratum and connection of the 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 **any** Construction Certificate **for above ground works**, ~~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;
  - iv. 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.

***Amended 19 July 2021 – D/2020/93/A***

#### **(107) DEWATERING**

Prior approval must be sought from the City's Public Domain Unit 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.

#### **(108) PUBLIC DOMAIN PLAN DETAILED DOCUMENTATION FOR CONSTRUCTION**

A detailed public domain plan and all relevant documentation must be submitted to and approved by the City's Public Domain Unit prior to the construction of any public domain works. This Plan must document all works required to ensure that the public domain complies with the City of Sydney's Public Domain Manual, Sydney Streets Code, Sydney Street Tree Masterplan, Sydney Lights Design Code, Sydney Streets Technical Specification and Sydney's Parks Code. The plan must consider 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. Details of Kingsborough Way must be provided with the public domain plan, depicting a continuous footpath treatment with left in, left out arrangements to the intersection with O'Dea Avenue and the provision of a pedestrian crossing midpoint between Buildings A and B, subject to approval by the Local Pedestrian, Cycling and Traffic Calming Committee. The documentation must be checked, accurate, and comply with specified requirements. Plans must be based on an accurate survey, to scale and fully coordinated across all disciplines and submissions. The supplied documentation must be to construction standard and will be approved under Section 138 of the Roads Act.

The Public Domain Manual and all other relevant documents are available for download from Council's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

The Public Domain Plan documentation must be submitted with an Application for Public Domain Plan Assessment and include the approved Public Domain

Levels and Gradients documentation. If the proposed detailed design of the public domain requires changes to any previously approved levels, an Application for Public Domain Levels and Gradients must be submitted to and approved by the Public Domain Unit to reflect these changes prior to an approval being issued for the construction of public domain work.

Note: Stamped plans will be issued for construction and approved under Section 138 of the Roads Act.

**(109) HOLD POINTS**

Prior to an approval being issued for the construction of 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 provided by the City's Public Domain Unit in accordance with the City's Public Domain Manual and Sydney Streets Technical Specification (an approved list of hold points will be included in the Public Domain works Approval letter). These hold points must be adhered to during construction works.

**(110) DRAINAGE CONNECTION**

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. This must be approved prior to the issue of a Construction Certificate for the public domain.

**(111) LIGHTING RETICULATION**

Prior to the issue of any relevant approval for the construction of public domain works, a detailed Public Domain Lighting Plan for pedestrian and street lighting in the public domain must be submitted to and approved by the City's Public Domain Unit in accordance with the City of Sydney's Sydney Lights Design Code, Sydney Streets Code, Sydney Streets Technical Specification and Public Domain Manual.

The Public Domain Manual and all other relevant documents are available for download from Council's website at

<https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

If applicable, this public domain lighting documentation shall include pole footing locations and structural details, location and details of underground electrical reticulation including connections and conduits, pit cabling and certifications as described in the City's Public Domain Manual. The public domain lighting is to be superimposed on the public domain plan to show any conflicts between lighting and the proposed landscape design.

**(112) PUBLIC DOMAIN WORKS BOND**

A Public Domain Works Bond will be required as security for the public domain works and for repairing damage that may be caused to the public domain in the vicinity of the site, in accordance with the City of Sydney's adopted fees and

charges and the Public Domain Manual. The Public Domain Works Bond must be submitted as cash, an unconditional bank guarantee or insurance bond as per the Council's Performance Bond Policy in favour of the City as security for completion of the obligations under this consent (Guarantee).

The City's Public Domain Unit must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with the City prior to an approval being issued for the Public Domain Plan.

The Guarantee will be retained in full until all Public Domain works, including rectification of damage to the public domain, are completed to City of Sydney standards and approval and the required certifications, warranties and works-as-executed documentation are submitted and approved by the City in writing. On satisfying the above requirements, 90% of the security will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

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

All works to the City's public domain, including rectification of identified defects, are subject to a 6 month defects liability period from the date of final completion. The date of final completion will be nominated by Council on the Certificate of Practical Completion for public domain works.

**(114) APPOINTMENT OF ACCREDITED CERTIFIER FOR PUBLIC DOMAIN WORKS**

Prior to issue of a Road Opening Permit for works in the public domain, the developer must give the City's Public Domain Unit written notification of the appointment of either:

- (a) A Chartered Civil Engineer, with National Professional Engineering Registration 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.

This certifier for the Public Domain works will act as the nominated engineering works supervisor, the responsibility of whom shall be to ensure compliance with all relevant statutory requirements, all relevant conditions of development consent, construction requirements detailed in drawings and specifications, and the requirements of all legislation relating to environmental protection and occupational health and safety.

**(115) NO OBSTRUCTIONS**

All public footways and paths of travel must be free from obstructions. If services are required to be relocated to clear paths of travel then this must be undertaken at the developer's expense. All obstructions are to be removed prior to the issue of any Occupation Certificate.

**(116) ENCROACHMENTS – PUBLIC WAY**

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

**(117) PUBLIC DOMAIN WORKS COMPLETION**

The Public Domain works are to be constructed in accordance with the Public Domain Works Approval, approved stamped plans for Gradients and Levels, Stormwater, Public Domain Lighting, the City of Sydney's *Public Domain Manual*, *Stormwater Drainage Manual*, *Sydney Lights Design Code* and *Sydney Streets Technical Specification*.

The public domain work must be inspected and a Certificate of Practical Completion must be issued by Council's Public Domain Officer prior to the issue of any Occupation Certificate or before the commencement of use, whichever is earlier.

**(118) PUBLIC DOMAIN COMPLETION - WORK AS EXECUTED DOCUMENTATION**

Prior to a Certificate of Practical Completion being issued for public domain works, works-as-executed (As-Built) plans and documentation, must be submitted to and accepted by the City of Sydney for all public domain works, including where required Stormwater, Public Domain Lighting and Road construction. These works must be certified by a suitably qualified, independent professional. Details of the documentation required for approval will be advised by the City's Public Domain Unit.

**(119) STORMWATER COMPLETION DEED OF AGREEMENT AND POSITIVE COVENANT**

Prior to the issue of any Occupation Certificate:

- (a) The Owner is required to enter into a Deed of Agreement with the City of Sydney and obtain registration of Title of a Positive Covenant for all proposed connections to the City's underground drainage system. The deed and positive covenant will contain terms reasonably required by the City and will be drafted by the City's Legal Services Unit at the cost of the applicant, in accordance with the City's Fees and Charges.
- (b) 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. The positive covenant will contain terms reasonably required by the City and will be drafted by the City's solicitor at the cost of the applicant, in accordance with the City's Fees and Charges.

**(120) SURVEY INFRASTRUCTURE – PRE-SUBDIVISION CERTIFICATE WORKS**

- (a) Pursuant to Section 38 of the Surveying and Spatial Information Act 2002, if it is likely that any new survey mark will be disturbed by associated

works (for example, footpath or kerb and gutter construction), a surveyor may defer the placement of those marks.

- (b) Prior to any the issue of any Subdivision Certificate, documentary evidence in accordance with Section B11 – *Survey Infrastructure of the Technical Specification* must be prepared by a Registered Surveyor and submitted to and approved by the City. This evidence must include:
  - (i) A copy of any Surveyor-General's Approval for Deferment of Survey Marks granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the draft deposited plan) or
  - (ii) A certificate of Practical Completion obtained from the City's Public Domain team, together with a letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all survey marks shown on their Deposited Plan remain at the date of practical completion.

#### **(121) SURVEY INFRASTRUCTURE – RESTORATION**

- (a) Prior to any Occupation Certificate being issued for the development, documentary evidence of restoration must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include:
  - (i) Certification that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal or by the City's Principal Surveyor under condition "Survey Infrastructure – Identification and Recovery" have been complied with;
  - (ii) Certification that all requirements requested under any Surveyor-General's Approval for Deferment of Survey Marks from condition "Survey Infrastructure – Pre Subdivision Certificate works" have been complied with and;
  - (iii) Time-stamped photographic records of all new survey infrastructure relating to the site clearly showing the mark itself and sufficient context to aid in identifying the mark on site.

#### **(122) LAND DEDICATION – NO LONG TERM ENVIRONMENTAL MANAGEMENT PLAN**

Any land that is to be dedicated to the City as part of the associated Voluntary Planning Agreement must not be encumbered by an Environmental Management Plan or Long Term Environmental Management Plan.

#### **(123) FLOOD RISK MANAGEMENT**

Prior to the issue of any Occupation Certificate, a certification report prepared by a suitably qualified practicing engineer (NER), for flood risk management measures including flood planning level/s demonstrating compliance with the

approved construction plans must be submitted to and be approved by the Principal Certifier. A copy of the report shall be provided to Council for record keeping purposes.

**(124) PUBLIC DOMAIN DAMAGE BOND**

- (a) A Public Domain Damage Bond calculated on the basis 539.76 square metres of concrete site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Public Domain Damage Bond must be submitted as an unconditional bank guarantee or insurance bond as per the Council's Performance Bond Policy in favour of Council as security for repairing any damage to the public domain in the vicinity of the site (Guarantee).
- (b) The Guarantee must be lodged with Council prior to an approval for demolition being granted or any Construction Certificate being issued, whichever is earlier.
- (c) The Guarantee in this condition will be retained in full until the Public Domain Works Deposit Guarantee is lodged with Council. Upon lodgement of the Public Domain Works Deposit Guarantee, the Guarantee in this condition will be released.

**(125) DRAINAGE AND SERVICE PIT LIDS**

All existing or proposed drainage and service pit lids throughout the public domain shall be to City of Sydney specifications and heel / bicycle safe, slip resistant, infill with material to match surrounding surface, finished flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Infill pit lids are to be detailed where specified by the Council's Public Domain Officer. Private pits are not permitted within the public domain. All details of pit lids must be shown on the public domain plan and must be approved by the City's Public Domain Unit prior to the issue of an approval for public domain works.

**(126) 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.

**(127) 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".

**(128) HAZARDOUS MATERIALS SURVEY REQUIRED**

A Hazardous Materials Survey Report must be prepared by a certified Occupational Hygienist (Australia Institute of Occupational Hygienists) and



submitted to the satisfaction of Council's Area Coordinator Planning Assessments / Area Planning Manager prior to any demolition / refurbishment work commencing at the site. The report must identify and record the type, location and extent of any hazardous materials on the site and make recommendations as to their safe management and/or removal to ensure the site is made safe for demolition, construction and future use/occupation.

**(129) COMPLIANCE WITH HAZARDOUS MATERIALS SURVEY REPORT**

All of the recommendations for management and/or removal of hazardous materials on the site, as outlined in the Hazardous Materials Survey Report (once approved by Condition 129) must be complied with.

Prior to the issue of any Occupation Certificate, certification must be submitted to the Principal Certifier from a certified Occupational Hygienist (Australia Institute of Occupational Hygienists) confirming that all hazardous materials identified have been contained, managed or removed in accordance with the recommendations given in the approved Hazardous Materials Survey Report and that the site is safe for future occupation in accordance with the approved use.

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

The site is to be remediated and validated in accordance with the Remedial Action Plan Version 4, prepared by Trace Environmental dated 29 October 2020 reference 1.14.01 (2020/495318) and the Part B Site Audit Statement, Kylie Lloyd Zoic dated 30 October 2020 ref KJL 251 (2020/495318).

All remediation work carried out shall be conducted in accordance with the guidelines in force from time to time 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's Area Planning Manager, the Site Auditor and the Principal Certifier.

Any variations to the approved Remediation Action Plan shall be approved in writing by the Site Auditor and Council's Area Coordinator Planning Assessments / Area Planning Manager prior to the commencement of such work.

**(131) SITE AUDIT STATEMENT**

Prior to the issue of a construction certificate associated with the built form of the development (excluding building work directly related to remediation), a Section A Site Audit Statement must be obtained from a NSW Environment Protection Authority accredited Site Auditor and must be submitted to, and approved by the Council's Area Planning Manager at email address:-

hbapplications@cityofsydney.nsw.gov.au

The Site Audit Statement must confirm that the site has been remediated in accordance with the approved Remedial Action Plan and clearly state that site is suitable for the proposed use.

- (a) In circumstances where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council, these must be reviewed and must be approved by the Council's Health and Building Unit in writing through the Area Planning Manager before the Site Audit Statement is issued.
- (b) In circumstances where the Site Audit Statement conditions (if applicable) are not consistent with the consent, the development must not proceed until the inconsistency has been resolved to the satisfaction of Council (such as via a S4.55 modification of the consent pursuant to the provisions of the Environmental Planning & Assessment Act 1979).
- (c) No Occupation Certificate is to be issued by the Principal Certifier unless a Site Audit Statement has been submitted to and approved by Council in accordance with this condition.

#### **(132) ACID SULPHATE SOIL MANAGEMENT PLAN**

An Acid Sulphate Soil Management Plan must be prepared by a suitably qualified person in accordance with the Acid Sulphate Soil Assessment Guidelines (Acid Sulfate Soils Management Advisory Committee August 1998). The Management Plan must be submitted to and approved in writing by the City's Area Planning Manager prior to the issue of a Construction Certificate

#### **(133) 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 must 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.

#### **(134) 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.

**(135) DISCHARGE OF CONTAMINATED GROUNDWATER**

Contaminated groundwater shall not be discharged into the City's stormwater drainage system.

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.

**(136) 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 Council'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.

**(137) 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 Team.
- (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

**(138) 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.

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

Prior to the issue of *any* Construction Certificate *for below ground works, other than for demolition, excavation, site remediation works and construction of basement with no fitout*, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above roof level and must be designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for all commercial tenancies proposed with the potential to become a food premises in future. Systems must be designed in accordance with AS1668.2 – The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings, and AS1668.1 – The Use of Ventilation and Air-conditioning in Buildings – Fire and Smoke Control in Buildings.

***Amended 19 July 2021 – D/2020/93/A***

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

The installation, operation and maintenance of water-cooling or warm water systems installed on the premises must comply with the following:

- (a) AS/NZS 3666:1:2011 - Air-handling and water systems of buildings-Microbial Control Part 1: Design, installation and commissioning.
- (b) AS/NZS 3666:2:2011 - Air-handling and water systems of building-Microbial Control Part 2: Operation and maintenance.
- (c) AS/NZS 3666:3:2011 - Air-handling and water systems of buildings-Microbial Control Part 3: Performance based maintenance of cooling water systems.
- (d) AS/NZS 3666:4:2011 – Air-handling and water stems of buildings-Microbial Control Part 4: Performance – based maintenance of air – handling systems (ducts and components).

Note: The occupier of premises at which a water-cooling system is installed, must notify the council in writing on the prescribed form, of the installation of all water-cooling tower systems within the premises - Public Health Act 2010. Warm water systems other than hospitals (which also includes nursing homes, declared mental health facilities, private health facilities) are exempt from notifying Council.

Notification forms are available on Council's website  
[www.cityofsydney.nsw.gov.au](http://www.cityofsydney.nsw.gov.au)

**SCHEDULE 1C**

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

**(141) OCCUPATION CERTIFICATE TO BE SUBMITTED**

An Occupation Certificate must be obtained from the Principal Certifier 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.

**(142) 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.
- (c) Notwithstanding the above, the use of a crane 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 outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

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 4.55 of the *Environmental Planning and Assessment Act 1979*.

**(143) ENCROACHMENTS – PUBLIC WAY**

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

**(144) SURVEY**

All footings, walls and floor slabs adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report, prepared by a Registered Surveyor, must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment. Any encroachments by the subject building over adjoining boundaries or roads must be removed prior to continuation of building construction work.

**(145) SURVEY CERTIFICATE AT COMPLETION**

A Survey Certificate prepared by a Registered Surveyor must be submitted to the Principal Certifier at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment.

**(146) 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.

**(147) EROSION AND SEDIMENT CONTROL**

The Soil and Water Management Plan (SWMP) or Erosion and Sediment Control Plan (ESCP) which has been approved by the Principal Certifier must be implemented in full during the construction period.

During the construction period:-

- (a) erosion and sediment controls must be regularly inspected, repaired and maintained in working order sufficient for a 10 year Average Recurrence Interval (ARI) rainfall event;
- (b) erosion and sediment control signage available from Council must be completed and attached to the most prominent structure visible at all times when entering the site for the duration of construction; and
- (c) building operations and stockpiles must not be located on the public footway or any other locations which could lead to the discharge of materials into the stormwater system.

**(148) 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 2017.*

**(149) 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 Certifier 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, and the estimated date of completion of the project 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.
- (f) All notices and signs must be displayed in locations as specified in the City's Guidelines for Hoardings and Scaffolding.

**(150) LIGHTING OF SITE OUTSIDE OF STANDARD CONSTRUCTION HOURS**

Lighting of the site while any work is undertaken outside of Council's standard hours of construction must ensure that at no time must the intensity, hours of illumination or location of the lighting cause objectionable glare or injury to the amenity of the neighbourhood or Obtrusive Light in accordance with the definition in Australian Standard AS4282-1997 Control of the obtrusive effects of outdoor lighting. If in the opinion of Council, injury is likely to be caused, the intensity, hours of illumination and location of the lighting must be varied so that it does not cause injury to nearby residents.

**(151) 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.

**(152) 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.

**(153) STREET NUMBERING – MAJOR DEVELOPMENT**

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

**(154) SYDNEY WATER CERTIFICATE**

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

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

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

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

**(155) 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.

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

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site, where possible.
- (b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.



**(157) 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.

**(158) 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) The use of a crane 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 outside of approved hours of construction can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

**(159) 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 9.30am to 1pm and 2pm to 4.30pm Mondays to Fridays and 9.30am to 1.30pm Saturdays.
- (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*.

**(160) PRODUCTS BANNED UNDER THE BUILDING PRODUCTS (SAFETY) ACT 2017**

- (a) No building products that are banned, or products that are subject to a ban if used in a particular way, under the Building Products (Safety) Act 2017 are to be used in the construction of the development approved in this development consent.

- (b) Prior to the issue of any Occupation Certificate, the principal certifier is to confirm that none of the building products used on the building are subject to a building product use ban under the Building Products (Safety) Act 2017 or, if a product is only subject to a ban if used in a particular way that it is not used in any way contrary to the Building Products (Safety) Act 2017.

**(161) BASIX**

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

**(162) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

**AUSGRID CONDITIONS**

**(163) OVERHEAD POWERLINES**

There are existing overhead electricity network assets in O'Dea Ave and Bourke St. Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au)

The proposed development may encroach the statutory clearances of nearby powerlines as per the requirements set out in AS7000 and Ausgrid Standard NS220. The developer is required to either:

- (a) Engage an Accredited Service Provider Level 3 (ASP3) to confirm that the development does maintain the statutory clearances to the powerlines (this must include wind impacts). If the ASP3 determines that the proposed structure does encroach the statutory clearances, suitable arrangements must be made to ensure that the structure will not encroach the powerline statutory clearance either by redesign of the encroaching structure or relocation of the powerlines away from the proposed structure.
- (b) Make suitable arrangements to have powerlines relocated prior to the commencement of construction so that statutory clearances are not encroached.

Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

**(164) UNDERGROUND CABLES**

There are existing underground electricity network assets in O'Dea Ave and Bourke.

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable. Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

**(165) SUBSTATION**

There are existing electricity substation assets 5 O'Dea Ave.

The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.

Any portion of a building other than a BCA class 10a structure constructed from non combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120. Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a non-ignitable blast resisting barrier.

The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1 HZ – 100 kHz) (ICNIRP 2010).

For further details on fire segregation requirements refer to Ausgrid's Network Standard 141.

Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid.

For further details refer to Ausgrid's Network Standard 143.

**TRANSPORT FOR NEW SOUTH WALES CONDITIONS**

- (166) All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Bourke Street boundary.
- (167) Sight distances from the proposed vehicular crossings to vehicles on Kingsborough Way are to be in accordance with the Austroads Guide to Road Design: Part 4A: Unsignalised and Signalised Intersections (Section 3 – Sight Distance) and AS 2890. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists. All works and signposting associated with the subject development shall be at no cost to TfNSW.
- (168) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.
- (169) The proposed development should be designed such that road traffic noise from Bourke Street and Botany Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007. As such, prior to the issuing of the Construction Certificate, the developer must demonstrate to Council that road traffic noise from Bourke Street and Botany Road has been mitigated to comply with the above and has regard for the applicable requirements in the NSW Government's Development Near Rail Corridors and Busy Roads – Interim Guideline, 2008 with applicable requirements being details on the Construction Certificate plans.
- (170) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on Bourke Street and Botany Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.
- (171) Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever is the earlier, the applicant shall:
- (a) Prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with the Sydney Coordination Office within TfNSW and City of Sydney Council for approval prior to the issue of any

Construction Certificate. The CPTMP needs to specify, but not limited to, the following:

- (i) A description of the development;
  - (ii) Location of any proposed work zone(s);
  - (iii) Location of any crane(s);
  - (iv) Haulage routes;
  - (v) A detailed plan identifying all construction vehicle access arrangements;
  - (vi) Estimated number of construction vehicle movements, including measures to reduce the number of movements during the AM and PM peak periods;
  - (vii) Measures to avoid construction worker vehicle movements;
  - (viii) Construction program;
  - (ix) Proposed construction hours;
  - (x) Consultation strategy for liaison with surrounding stakeholders, including other developments;
  - (xi) Any potential impacts to general traffic, cyclists, pedestrians and bus and light rail services within the vicinity of the site from the construction of the development;
  - (xii) Cumulative construction impacts of the development and other surrounding developments. Existing CPTMPs for developments within or around the development site should be referenced in the CPTMP to ensure that coordination of work activities are managed to minimise impacts on the road network; and
  - (xiii) Proposed mitigation measures. Should any impacts be identified, the duration of the impacts and measures proposed to mitigate any associated general traffic, public transport, pedestrian and cyclist impacts should be clearly identified and included in the CPTMP.
- (b) Submit a copy of the final CPTMP plan to the Coordinator General, Transport Coordination for endorsement.

**(172)** In addition to the above, TfNSW notes that the development proposes a new pedestrian crossing on Kingsborough. TfNSW advises that the provision of any new pedestrian crossing will need to meet the Warrants and approval and require the approval of the traffic committee.

## **SYDNEY WATER CONDITIONS**

### **(173) WATER SERVICING**

Water servicing should be available via a 200mm watermain in Kingsborough Way.

Amplifications or extensions to the potable water network will be required complying with the Water Services Association of Australia (WSAA) code – Sydney Water edition.

### **(174) WASTEWATER SERVICING**

The trunk wastewater network should have adequate capacity to service the proposal.

Amplifications or extensions to the wastewater network will be required complying with the Water Services Association of Australia (WSAA) code – Sydney Water edition.

This advice is not formal approval of our servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided once the development is referred to Sydney Water for a Section 73 application. More information about the Section 73 application process is available on our web page in the Land Development Manual.

### **(175) SYDNEY WATER SERVICING**

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

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

### **(176) BUILDING PLAN APPROVAL**

The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of 30 November 2015.

The Tap in™ service provides 24/7 access to a range of services, including:

- building plan approvals

- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

**SCHEDULE 2**  
**PRESCRIBED CONDITIONS**

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

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

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



### SCHEDULE 3

#### TERMS OF APPROVAL

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

##### Dewatering

- (177) Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application.
- (178) An authorisation under the relevant water legislation, such as a Water Access Licence (WAL), shall be obtained for the take of groundwater as part of the activity. For avoidance of doubt, these terms do not represent any authorisation for the take of groundwater, nor do they constitute the grant, or the indication of an intention to grant, any required WAL.
- (179) An authorisation under the relevant water legislation, such as an Approval, is also required for the works involved in extracting the groundwater. For avoidance of doubt, these terms do not represent any authorisation for the construction or installation of such works.
- (180) The relevant works must not be carried out, installed or operated until a specialist hydrogeological assessment has been completed by the Department of Planning Industry and Environment, which concludes that adequate arrangements are in force to ensure that no more than minimal harm will be done to any water source, or its dependent ecosystems, as a consequence of the construction or use of the proposed water management work.
- (181) 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 fully 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.
- (182) 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 part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- (183) 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.

- (184)** The Applicant is bound by the above terms and any other terms and conditions of the subsequent authorisation(s) required for the extraction of groundwater and the associated works under the relevant water legislation.
- (185)** Measurement and monitoring arrangements to the satisfaction of WaterNSW 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.
- (186)** Following cessation of the dewatering operations and prior to the surrender of any associated authorisation, the applicant shall submit to WaterNSW 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) The location and construction of groundwater extraction works that are decommissioned
  - (c) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
  - (d) 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.

### IMPORTANT ADDITIONAL INFORMATION

#### Advisory notes:

1. It is advised that the City of Sydney Neighbourhood Parking Policy may apply to this development. Eligibility for parking permits for residents or users of the development will be determined by the terms of this policy or subsequent future policies.
2. The State Government has commenced planning for the construction of the CBD South East Light Rail (CSELR). You may need to consider the potential impacts of this project in programming your development. The CSELR route includes Alfred St, George St, Rawson Place, Eddy Ave, Chalmers St, and Devonshire St. For construction and programming information contact the Transport for NSW Infoline on 1800 684 490 or [www.transport.nsw.gov.au/projects](http://www.transport.nsw.gov.au/projects).

#### The Environmental Planning and Assessment Act 1979 requires you to:

1. Obtain a **Construction Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the Construction Certificate.
2. **Note: it is compulsory to lodge digital copies of applications, including plans and documentation if lodging an application with Council. Please refer to the link below for any further information about digital requirements and electronic files.**  
**<http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/digital-requirements>.**
3. Nominate a **Principal Certifier** which may be either Council or an accredited certifier and notify Council of that appointment. You **cannot lawfully** commence works without complying with this requirement.
4. Give Council at least two days notice of your intention to commence the erection of a building **before** commencing construction works. You cannot lawfully commence works without complying with this requirement.
5. Obtain an **Occupation Certificate** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

#### You may also need to:

6. Obtain approval through the lodgement of an application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* for an activity which is proposed to be undertaken in, on or above a road reservation (including footways). Such activities include:
  - (a) installation of hoardings/scaffolding;
  - (b) installation and/or alterations to advertising/business signs and street awnings;
  - (c) crane operation and other hoisting activities;
  - (d) temporary works (e.g.: barricading, road openings, mobile hoisting devices);
  - (e) works zone (for loading and unloading from the roadway); and
  - (f) temporary ground anchoring and shoring to support a roadway when excavating.Application forms are available on the City's website.
7. Lodge an **Application for Subdivision** to obtain a **Subdivision Certificate** if a land (including stratum) subdivision is proposed and an Application for Subdivision to obtain **Strata Title Subdivision** under the relevant Strata Titles Act, if strata title of the development is proposed.
8. Comply with the Food Act 2003, the Australia New Zealand Food Standards Code, Australian Standard 4674 – 2004, and register the business with Council if the premises is used for the manufacture, preparation, packing, storing, conveying or delivering of food or beverage for sale.
9. Contact Sydney Water regarding the water and sewerage services to this development. For further information go to [www.sydneywater.com.au](http://www.sydneywater.com.au).
10. Carry out critical stage inspections in accordance with Section 6.5 of the EP&A Act 1979 and clauses 162A, 162B and 163 of the EP&A Regulation 2000.

#### Applications and submissions referred to in this consent may be lodged at:

**CBD** Level 2, Town Hall House, 456 Kent St, Sydney.

**KINGS CROSS** 50-52 Darlinghurst Rd, Kings Cross.

**GLEBE** Customer Service Centre, 186 Glebe Point Rd, Glebe. **If you have any enquiries on any aspect of this consent, contact Jessica Symons ph. 02 9246 7729, email [jsymons@cityofsydney.nsw.gov.au](mailto:jsymons@cityofsydney.nsw.gov.au).**