

File Ref: DA201500584

Synopsis

This report concerns an application to construct a 6 part 9 storey residential flat building comprising 98 dwellings, over 3 levels of basement car parking for a total of 102 car spaces and the creation of a new private access across Hawthorne Canal with associated on-street parking, road works and landscaping. The application was notified in accordance with Council's notification policy and 4 submissions were received.

The development has a capital investment value (CIV) of \$48,360,914. Applications with a CIV of more than \$20 million must be referred to the Joint Regional Planning Panel (JRPP) to exercise its consent authority functions under Schedule 4A of Environmental Planning and Assessment Act 1979.

This application proposes the development of Stage 4 (DA 1) of the Concept Plan (MP10_0155 – originally approved on 7 December 2012 and modified on 10 March 2015 and 16 May 2016) for the former Allied Mills flour mill site located at 2-32 Smith Street, Summer Hill.

The proposal is generally consistent with the Concept Plan and the terms of that approval. The development application is suitable for the issue of a deferred commencement consent subject to the applicant satisfying the requirements set out by Sydney Trains.

PART A - PARTICULARS

Location: Southern side of Longport Street before it meets Smith Street.



Image 1: Location Map

D/A No:	201500584
Application Date:	16 October 2015
Proposal:	To construct a 6 part 9 storey residential flat building comprising 98 dwellings, over 3 levels of basement car parking for a total of 102 car spaces and the creation of a new private access across Hawthorne Canal with associated on-street parking, road works and landscaping.
Estimated Cost:	\$48,360,914
Applicant:	EG Property
Zoning:	IN2 – Light Industrial

PART B - THE SITE AND ITS ENVIRONMENT

Improvements:	Nil in the part of the site to where the proposed development relates.
Current Use:	Site contains landscaping throughout and is not accessible.
Prior Determinations:	Nil (refer to Background and Development Application History discussion within this report).
Environment:	Stages 1 and 2 of the Concept Approval are currently under construction on site.

PART C - REQUIREMENTS

1 Zoning		
<i>Is the proposal permissible under zoning provisions?</i>		No*
		* Permissibility has been established by the Concept Plan approval
2 Development Standards (Statutory Requirements):		
N/A		
3 Departures from Development Control Plan:		
N/A		
4 Community Consultation:		
Required:	Yes (newspaper advertisement, on site notice and resident notification)	
Submissions:	4 submissions	
5 Other Requirements:		
ANEF 2033 Affectation:		<20ANEF
Marrickville Section 94/94A Contributions Plan 2014		\$1,928,294.96
State Environmental Planning Policy (Major Development) 2005		
State Environmental Planning Policy (Infrastructure) 2007		
State Environmental Planning Policy No.55 – Remediation of Land		

State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development
 State Environmental Planning Policy (BASIX) 2004
 State Environmental Planning Policy (State and Regional Development) 2011
 Water Management Act 2000

PART D - ASSESSMENT

1. The Site and Surrounds

The site subject to the Concept Plan approval (MP10_0155) is known as 2-32 Smith Street, Summer Hill and comprises 18 separate parcels. The site is bounded by Smith and Longport Streets to the north, Edward Street to the west, the Inner West Light Rail line to the east and Old Canterbury Road to the south.

The land that is the subject of this development application occupies the northern tip of the overall redevelopment site. Stage 4 (DA 1) relates to land described legally as Lot 1 in DP 900501. The site is bounded on the eastern side by the Inner West Light Rail line. To the west, the site is bounded by the Hawthorne Canal. It has a small frontage (but no access) to Longport Street at the northern end. Vehicle access is proposed from Smith Street via a new private road and pedestrian access via a new pedestrian bridge over the Hawthorne Canal. This pedestrian bridge provides access to the ground floor entry of the building.

2. Background and Development Application History

A description of applications submitted for the subject site includes:

Application No.	Determination Date	Proposal	Determination
MP10_0155	07.12.2012	Concept Plan Approval: Mixed use residential and commercial development. This consent forms the basis for the assessment of the subject application.	Approved
MP10_0180	11.07.2013	Stage 1: Mixed use residential and commercial development	Approved
MP10_0180 Modification 1	11.07.2013	Stage 1 Modification to Condition C4 – s.94 contributions	Approved
10.2014.154	11.09.2014	Some internal and external works to the <i>Mungo Scott</i> Building and the attached administration annex and the temporary use as a marketing/sales office	Approved
10.2014/70	25.09.2014	Stage 2: Demolition of buildings; additions to Building 5A (silos) and construction of new buildings as a mixed use residential and commercial development. Construction of a new access road from Edward Street	Approved
MP10_0155 Modification 1	10.03.2015	Modifications to the Concept Plan Approval to allow (within the Ashfield LGA): <ul style="list-style-type: none"> • Adaptive re-use of the existing Mungo Scott Building, silo structures and 3 other buildings and 12 new building envelopes • Staged construction over 4 stages • Up to 360 dwellings (and up to 33,500m² GFA) • Up to 4,000m² of commercial floor space • Up to 2,500m² of retail floor space • a floor space ratio of 1.4 - 1.6:1 • Up to two levels of basement car parking and 35 on-street car parking spaces • 4,806m² of public open space to be dedicated to 	Approved

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		<p>Council and an additional 5,287m² of publicly accessible open space</p> <ul style="list-style-type: none"> • New local streets serving the development • Road works including a roundabout at Edward and Smith Streets as part of Stage 1 and a signalised intersection at Old Canterbury Road as part of Stage 3 • Off-site pedestrian upgrade works in the surrounding area and to Summer Hill Village 	
MP10_0155 Modification 2	16.05.2015	<p>Proposed Modification to the approved Concept Plan seeking to retain open space and internal roads in private ownership by deleting reference to dedication in the Development Description and in the Future Environmental Assessment Requirements.</p> <p>This modification application is consistent with the decision of the Council at its meeting on 9 February 2016. This application has no bearing on the subject development application.</p>	Approved
10.2015.201	To be determined by Inner West Council (Ashfield Service Centre)	<p>Part Stage 4 (DA2): Construction of a vehicle access and pedestrian bridge from Smith Street to connect to Building 1A proposed under Stage 4 (DA1).</p> <p>Building 1A involves new residential development and is the subject of this report.</p>	Pending
10.2015.202	To be determined by JRPP	<p>Part Stage 3 (DA 1):</p> <ul style="list-style-type: none"> • Excavation for and construction of two (2) levels of basement car parking, plus waste storage and plant facilities (to interface with Stage 2 basement already approved) • Construction of a new nine (9) storey residential flat building comprising of 52 dwellings, (with one ground floor commercial tenancy having a floor area of 66 m²) referred to on the DA plans as Building 3A & 3B • Adaptation, refurbishment and conversion of an existing grain silo building, comprising four silos to a 14 storey residential flat building comprising of 56 dwellings, referred to on the DA plans as Building 3C • Construction of a new nine (9) storey residential flat building comprising 27 dwellings, referred to on the DA plans as Building 3D • Construction of a new (private) roadway and footpath (as an extension of the roadway approved for construction under Stage 2) • Provide approximately 75m of private roadway incorporating 11 on-street car parking spaces. The roadway, car parking and communal open space pertaining to this DA will all remain in private ownership on completion of the development. 	Pending
10.2015.203	26.04.2016	<p>Part Stage 3 (DA 2) adaptive re-use of the existing 6 storey <i>Mungo Scott</i> building and attached 2 storey administration building.</p>	Approved

3. The Proposal

This application proposes the development of part of Stage 4 (DA 1) of the Concept Plan (MP10_0155 – originally approved on 7 December 2012 and modified on 10 March 2015 and 16 May 2016) for the former Allied Mills flour mill site.

The approved Concept Plan is for a mixed use residential, retail and commercial development over 4 stages incorporating:

- Residential, retail and commercial floor space;
- Basement car parking;
- Publicly dedicated and accessible open space and communal open space;
- New local streets and road works at the intersection of Old Canterbury Road and Edward Street; and Edward Street and Smith Street; and
- Off-site pedestrian upgrades.

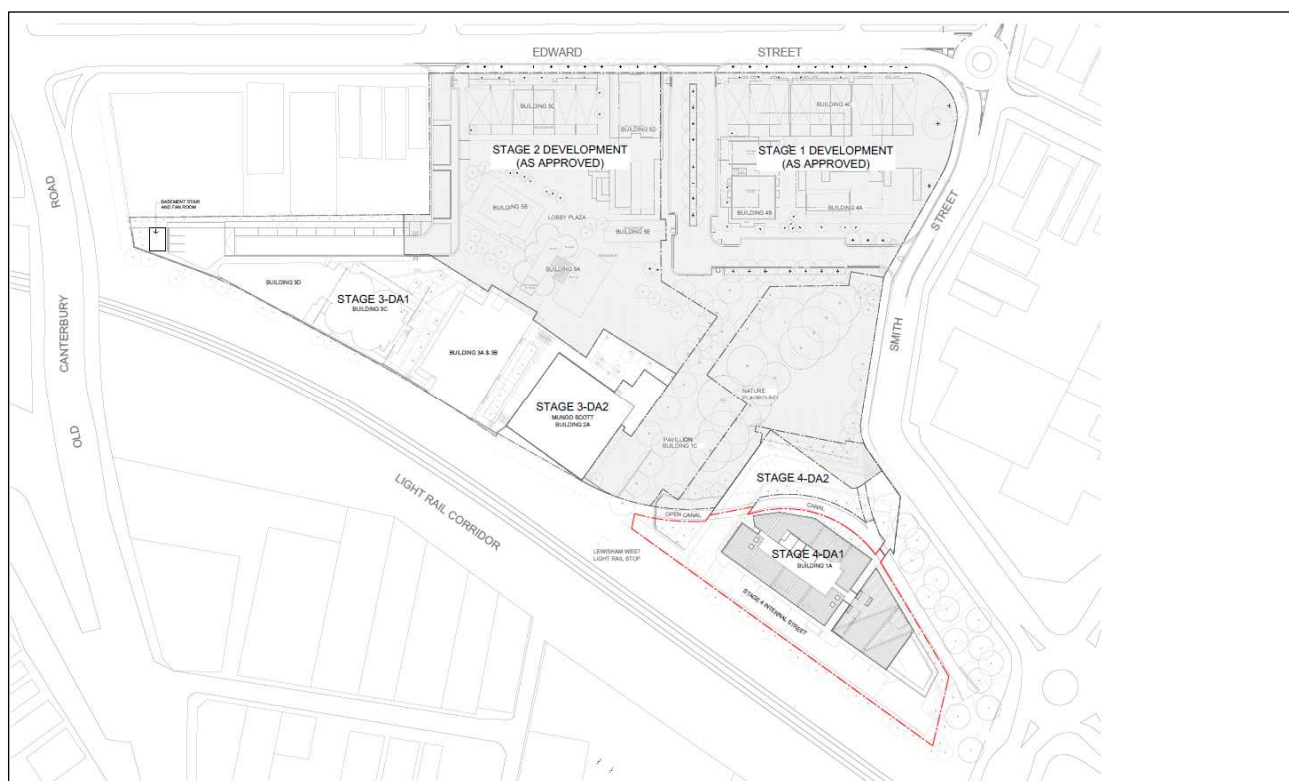


Image 2: Subject application area shown circled in red

The proposed scope of works includes:

- Excavation for and construction of 3 levels of basement car parking, plus waste storage, stormwater and plant facilities;
- Construction of a new 6 part 9 storey residential flat building; and
- Construction of a new access roadway and separate pedestrian access (as an extension of the road and pedestrian access approved for construction under Stage 4 DA 2).

The development will provide a total of 98 dwellings, and approximately 90 metres of roadway incorporating 8 on-street car parking spaces. The roadway and (street level) car parking pertaining to this DA will all remain in private ownership, but will be publicly accessible on completion of the development.

The application proposes:

- 5 x 1 bedroom dwellings
- 74 x 2 bedroom dwellings; and
- 19 x 3 bedroom dwellings.

This accommodation includes 2 x 1 bedroom and 2 x 2 bedroom dwellings that are to be dedicated to Council as affordable housing. The building comprises a total gross floor area (GFA) of approximately 9,037m².

All car parking for the proposed dwellings is provided within a 3 level basement, to be accessed via a new internal access road which connects to Smith Street. The Stage 4 (DA 2) application for the new access road from Smith Street and a portion of the pedestrian bridge over Hawthorne Canal is awaiting determination by Inner West Council (Ashfield Service Centre) at the time of writing this report.

The Stage 4 basement provides parking for a total of 102 vehicles.

Consistent with the Concept Plan approval, land use in the subject building will be exclusively residential.

A copy of the photomontage, site plan, floor plans, elevations and section of the development submitted with the application are reproduced below:



Image 3: Photomontage of the proposed development

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Image 4: Ground Floor Plan

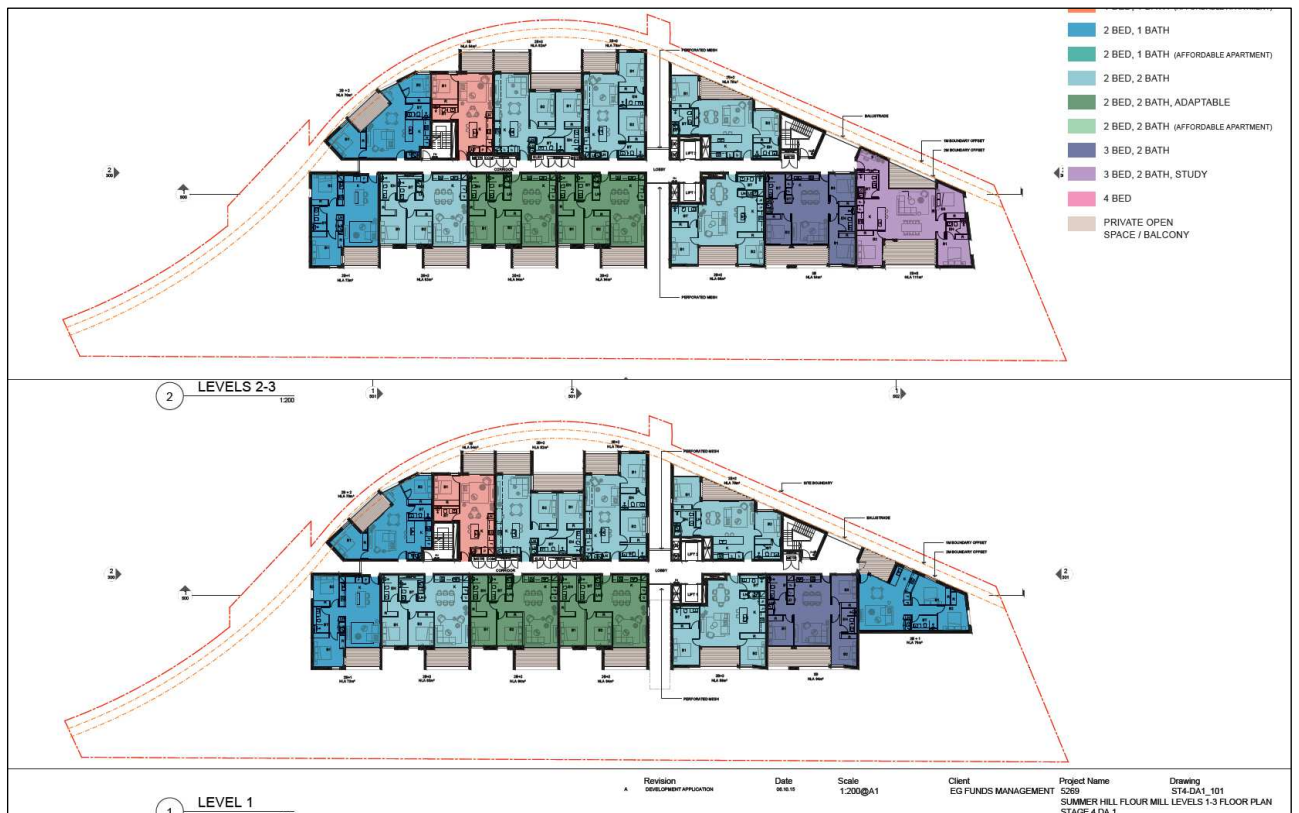


Image 5: Levels 1 -3

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Image 6: Levels 4 -6

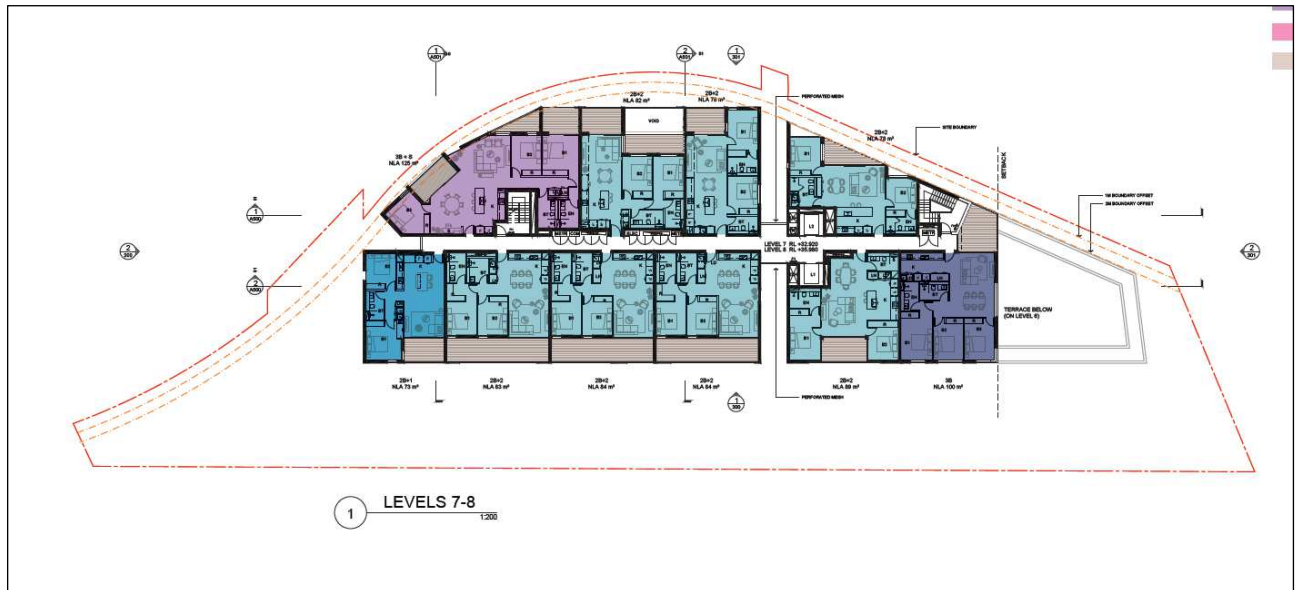


Image 7: Levels 7 & 8

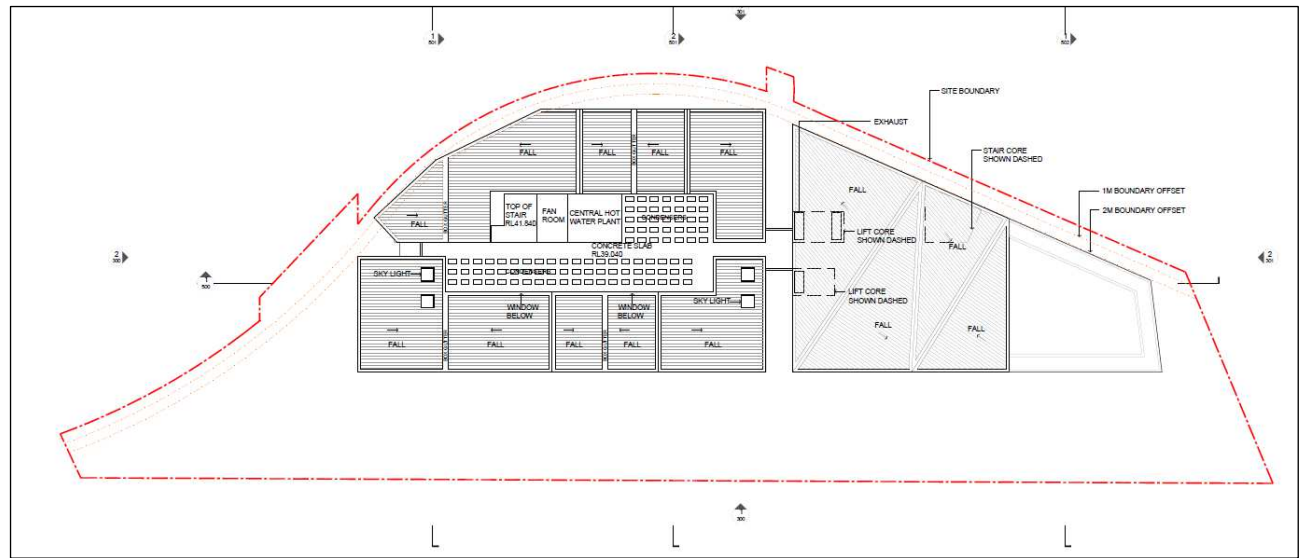


Image 8: Roof Plan

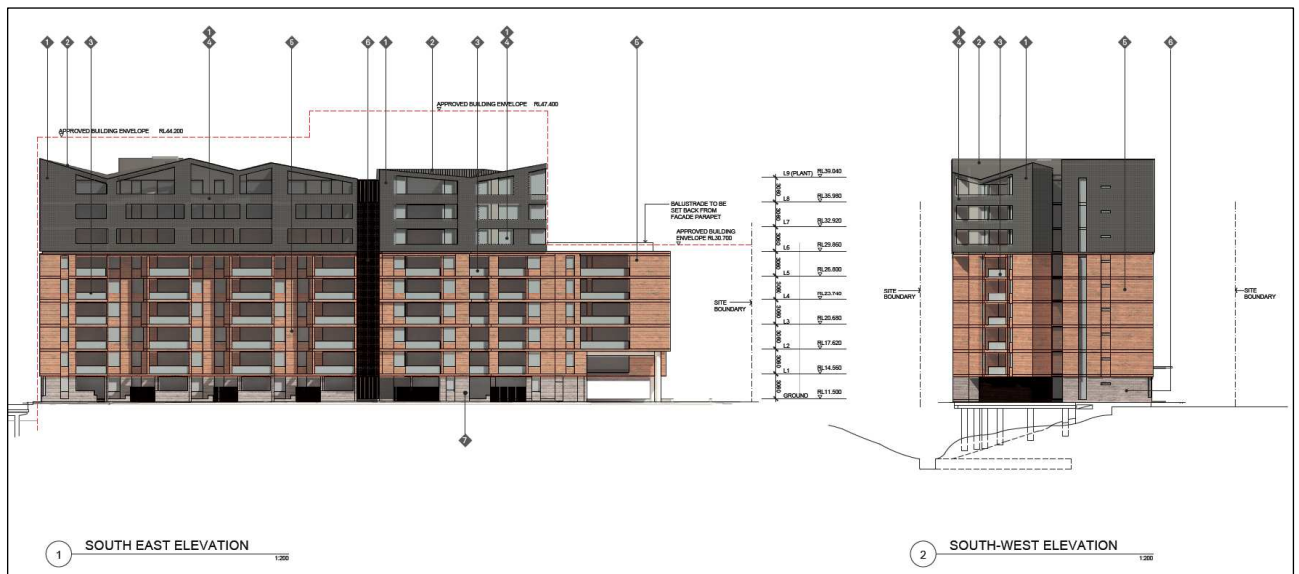


Image 9: South East and South West Elevations

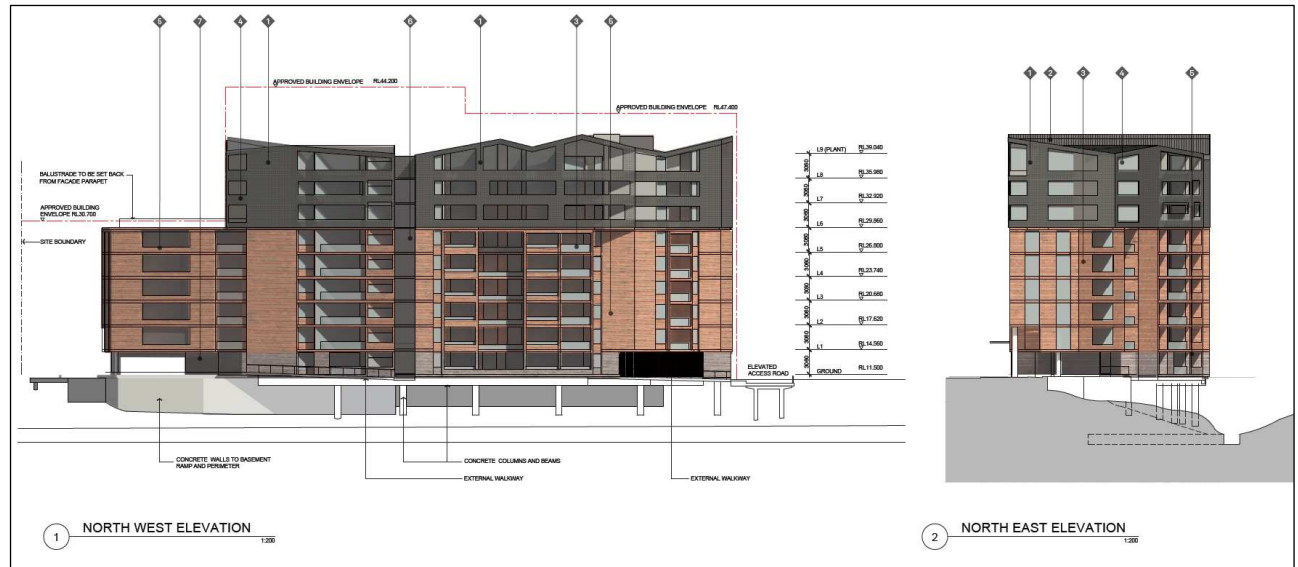


Image 10: North West and North East Elevations

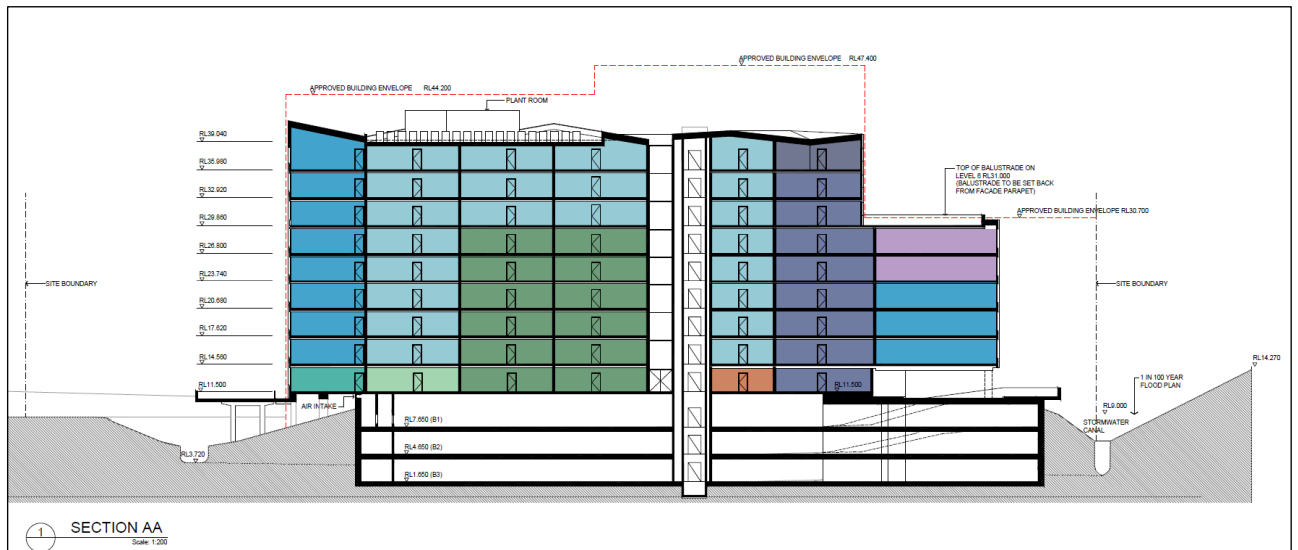


Image 11: Section AA

4. NSW Primary Industries – Lands

The development includes building works over Crown Land (Hawthorne Canal). The applicant has obtained landowner's consent from the NSW Department of Primary Industries – Lands (Crown Property Services). In addition, the NSW Department of Primary Industries – Lands were publicly notified of the development and did not make any submission to Council.

5. Integrated Development

The application includes works that will be carried out on 'waterfront land' as defined under the Water Management Act 2000, and therefore constitute a controlled activity. An activity approval is required in accordance with Section 91 of the Water Management Act 2000.

The application was referred to the NSW Office of Water who have provided their General Terms of Approval which have been incorporated into the recommendation.

6. Sydney Water

The application was referred to Sydney Water who raised no objection to the proposed development subject to the imposition of conditions of consent. Those conditions have been incorporated into the recommendation.

7. State Environmental Planning Policy (State and Regional Development) 2011

The development has a capital investment value of \$48,360,914.

Clause 3 in Schedule 4A of the Environmental Planning & Assessment Act 1979 (EP&A Act 1979) provides that general development with a capital investment value of more than \$20 million must be determined by the relevant Joint Regional Planning Panel, pursuant to the provisions of Section 23G (4) and Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011.

8. State Environmental Planning Policy No. 55 - Remediation of Land

The approved Concept Plan was the subject of an Environmental Site Assessment (ESA). The ESA specified that a Remediation Action Plan (RAP) be prepared for the entire site for areas of potential contamination. The subject site was not identified as being contaminated. The requirement of SEPP 55 has been satisfied for this application.

The application was referred to Council's Environmental Services who raised no concerns with the development on contamination grounds subject to the imposition of conditions that have been incorporated into the recommendation.

9. State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment

The development is subject to the requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65).

A statement from a qualified Architect was submitted with the application verifying that they designed, or directed the design of, the development. The statement also provides an explanation that verifies how the design quality principles are achieved within the development and demonstrates, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved.

The development is generally acceptable having regard to the 9 design quality principles.

Apartment Design Guide

The ADG contains objectives, design criteria and design guidelines for residential apartment development.

The residential development maintains a design that meets SEPP 65 and ADG requirements through:

- Provision of a mix of apartment sizes responding to different household requirements;
- Buildings comply with the separation requirements;
- Apartment sizes achieve the minimum areas set out in the ADG;
- Apartment layouts which ensure access to daylight, natural ventilation and privacy; and

- All units meet the minimum private open space area requirements with all units provided with balconies.

The proposal is considered acceptable having regard to compliance with the ADG requirements.

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

A BASIX Certificate was submitted with the application indicating that the proposal achieves full compliance with the BASIX requirements. Appropriate conditions are included in the recommendation to ensure the BASIX Certificate commitments are implemented into the development.

11. State Environmental Planning Policy (Infrastructure) 2007

Clause 86 – Excavation in, above or adjacent to rail corridors

The site is located immediately adjacent to a rail corridor. Clauses 85 and 86 of SEPP (Infrastructure) 2007 provide guidelines for development immediately adjacent to rail corridors including excavation in, above or adjacent to rail corridors.

The development involves the penetration of ground to a depth of at least 2 metres below ground level (existing) on land that is within 25 metres of a rail corridor.

The application was referred to Sydney Trains who provided their concurrence in accordance with the SEPP (Infrastructure) 2007 requirements. This concurrence is subject to conditions set out by Sydney Trains which have been incorporated into the recommendation.

Clause 87 – Impact of rail noise or vibration on non-rail development

Clause 87 of the SEPP (Infrastructure) 2007 relates to the impact of rail noise or vibration on non-rail development, and for a development for the purpose of a building for residential use, requires appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

The applicant has submitted an Acoustic Report to demonstrate that the development is capable of compliance with the LAeq levels set out in Clause 87(3) of SEPP (Infrastructure) 2007. A condition is included in the recommendation requiring the development to be constructed in accordance with the recommendations of the acoustic report.

Clause 104 – Traffic-generating development

The development proposes access from Smith Street. Access to this road connects to a classified road (within 90 metres of that connection) and more than 75 dwellings are proposed. Therefore, the application is classified as a traffic generating development in accordance with Clause 104 of SEPP (Infrastructure) 2007.

A referral was sent to Roads and Maritime Services (RMS) in accordance with the requirements of the SEPP. A response from RMS was received noting the following:

- *Please provide appropriate modelling in relation to the proposed phasing arrangements to see the impacts on Old Canterbury Road.*
- *Provide an appropriate length right turn bay on Old Canterbury Road onto Edward Street, as right turning vehicles will reduce the westbound approach on Old Canterbury Road to one through lane which will in turn increase delays for the westbound approach on Old Canterbury Road.*

- a. *Due to the high traffic volumes on the opposing through moment on Old Canterbury Road, right turning vehicles may not get the opportunity to turn right into Edward Street.*
 - b. *Therefore this may cause queue back over the rail bridge and may increase the likely hood of rear ends crashes. Furthermore due to the crest over the rail bridge on the approach to the proposed signals while waiting to turn right, motorists travelling west on Old Canterbury Rd will have reduced visibility and may increase the likely hood of rear end crashes.*
- *The concept layout shows a short separate left turn lane from Old Canterbury Road in to Weston Street. Investigations should be carried out to providing a short right turn lane with the centre lane being a through lane and the proposed widening to provide a shared left/through lane.*

A subsequent meeting was held between RMS and Council Officers to discuss the traffic related impacts of the development where it was confirmed that the above comments relate to the Stage 3 DA triggers associated with conditions 18 and 19 of Schedule 3 of the Concept Plan which includes a requirement to provide “*the concept design for the proposed traffic signals at the intersection of Old Canterbury Road and Edward Street in accordance with the Roads and Maritime Services letter dated 30 August 2012*”.

There are no specific off site road infrastructure upgrade works that are required to be resolved as part of the subject Stage 4 development application.

A condition of consent has been incorporated into the recommendation to confirm that an Occupation Certificate must not be issued for Building 1A, the subject of this Stage 4 (DA1) application, until such time that the road infrastructure upgrades associated with Stage 3 are finished to Roads and Maritime Services’ satisfaction.

12. State Environmental Planning Policy (Major Development) 2005

The application has been prepared under the provisions of SEPP (Major Development) 2005 and the approved Concept Plan for the site No: MP10_0155.

Schedules 2 and 3 of Concept Approval MP10_0155 (as modified) identify the key development parameters and the Future Environmental Assessment Requirements required to be addressed in the subsequent Project and Development Applications. The relevant matters raised are addressed below:

State Environmental Planning Policy (Major Development) 2005 Summary Compliance Table				
Clause No.	Clause	Standard	Proposed	Complies
2A(1)	Application of Policy— transitional Part 3A projects	On the repeal of Part 3A of the Act, this Policy is subject to Schedule 6A to the Act.		Yes
Schedule 6A	Environmental Planning and Assessment Act 1979			

2(1)(b)	Schedule 6A Transitional arrangements—repeal of Part 3A	The following are, subject to this Schedule, <i>transitional Part 3A projects</i> : (b) a project that is the subject of an approved concept plan (whether approved before or after the repeal of Part 3A),	The project is the subject of an approved Concept Plan under Part 3A. This is thus considered to be a Transitional Part 3A Project.	Yes
3B(2)	After the repeal of Part 3A, the following provisions apply (despite anything to the contrary in section 75P (2)) if approval to carry out any development to which this clause applies is subject to Part 4 or 5 of the Act:			
3B(2)(c)		Any development standard that is within the terms of the approval of the concept plan has effect,		Noted
3B(2)(d)		A consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan, see assessment table below.	It is considered that the development is generally in accordance with the terms of the concept plan approval.	Yes
3B(2)(f)		The provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan.	The concept plan displays multiple inconsistencies with provisions of Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011. However, under the provisions of this clause, those provisions have no effect and the approved concept plan prevails.	Noted
5	Relationship to other environmental planning instruments	Subject to section 74 (1) of the Act, in the event of an inconsistency between this Policy and another environmental planning instrument whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.	Noted	Noted

State Environmental Planning Policy (Major Development) 2005

Assessment under cl. 3B(2)(d)

a consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan

Concept Plan Approval MP10_0155:

Schedule 2: Part A – Terms of Approval

Clause No.	Clause	Standard	Proposed	Complies
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A2	Plans & Documentation	The Environmental Assessment dated 6 May 2011 prepared by SJB Planning, except where amended by the Preferred Project Report dated 26 March 2012 and additional information submitted on 20 June 2012 and 20 July 2012 and including all associated documents and reports.	Generally consistent except as noted in the body of this report. Where not consistent, compliance is conditioned.	Yes
		The Statement of Commitments prepared by SJB Planning	See assessment below.	
		The approved Plans:	Generally consistent.	
A3	Inconsistencies Between Documentation	In the event of any inconsistency between modifications of the Concept Plan approval identified in this approval and the drawings/documents including Statement of Commitments referred to above, the modifications of the Concept Plan shall prevail.	The meaning of the word “consistent” has been considered by the Courts in the context of planning law. In essence, a development is consistent with the Concept Approval if it is not antipathetic to it and in the present case, the proposed development is not considered to be opposed to the Concept Plan.	Noted
A4	Building Envelopes	Building footprints and setbacks are to be generally consistent with the Concept Plan building envelope parameter diagrams except where amended by the Modifications in Part B of this approval.	The proposed building is within the approved building envelope as detailed on the submitted architectural plans.	Yes
A5	Maximum Gross Floor Area	The maximum GFA for the development shall not exceed 40,000m ² comprising of: - Up to 33,500m ² residential GFA; - Up to 4,000m ² commercial GFA; and - Up to 2,500m ² retail GFA	The GFA proposed at this stage is on target to be within the maximum GFA of 40,000m ² and is generally consistent with the residential, commercial and retail splits outlined within the Concept Approval.	Yes
A6	Maximum Number of Residential Units	The maximum number of residential dwellings shall not exceed 360 units.	This application proposes 98 residential dwellings. When added to the cumulative dwelling count to all DA’s lodged and/or approved to date, the maximum number of dwellings is on target to be within the maximum.	Yes
A7	Lapsing of Approval	Approval of the Concept Plan shall lapse 5 years after the determination date shown on this Instrument of Approval, unless an application is submitted to carry out a project or development for which concept approval has been given.	Development Consent granted for Stage 1 works on 11 June 2013.	Yes

Schedule 2: Part B – Modifications				
Clause No.	Clause	Standard	Proposed	Complies
B1	Building Height	The plans shall be modified to provide a maximum height of RL 57.5 to Building 3C inclusive of plant, lift overrun structures and the like.	Not applicable to this application.	N/A
B2	Building Height	The plans shall be modified to provide a maximum height of RL 45.4 to Building 5A excluding the existing lift and blower structure. Plant, lift overrun structures and the like may exceed this height if wholly accommodated within the envelope of the existing lift and blower structure.	Not applicable to this application.	N/A
B3	Building Separation	<p>The plans described above in Part A – Terms of Approval shall be modified to provide:</p> <ul style="list-style-type: none"> (a) A maximum building height of RL 47.4 for Building 1A; and (b) Notwithstanding (a) above, the southern portion of Building 1A (for a minimum of 34.00 metres from the southern elevation) is limited to a maximum building height of RL 44.2. <p>Amended plans, demonstrating compliance with the above shall be submitted to, and approved by, the Secretary.</p>	Complies	Yes
Schedule 3: Future Environmental Assessment Requirements				
Clause No.	Clause	Standard	Proposed	Complies
1	Residential Amenity	Compliance with SEPP 65 except where modified by Concept Plan approval.	A Design Verification Statement and detailed assessment of the performance of the proposal against the Apartment Design Guide was submitted with the application to confirm that the development generally complies with the requirements of SEPP 65.	Yes
		70% of apartments across the concept plan to receive a minimum of three (3) hours solar access in mid-winter.	<p>69.72% or 251 of 360 apartments receive three hours of solar access, rounded up achieves the required 70% solar access.</p> <p>It is noted that this is for the provision of 3 hours of solar access not the 2 hours that would now be the guide under the ADG.</p>	Yes

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		Minimum of 60% of apartments across the concept plan are to be natural cross ventilated.	61% of apartments in Stage 4 are provided with means for natural ventilation 69.5% of apartments across the Concept Plan Site are cross ventilated.	Yes
2	ESD	Applications to demonstrate incorporation of ESD principles.	The ESD statement prepared by ARUP demonstrates compliance.	Yes
3	Car Parking	Studio/1 bed dwellings – 0.25 space/dwelling 2/3 bed dwellings - 1 space/dwelling 4+ bed dwellings – 1.5 spaces/dwelling Visitors – 1 space per 10 apartments	Complies	Yes
4	On Street Parking	A minimum of 35 on-street car parking spaces are to be provided.	Stage 4 (DA 1) provides 8 on-street parking spaces achieving a cumulative total across the development of 36 spaces.	Yes
5	Bicycle Parking	59 spaces required.	A minimum of 59 bicycle spaces is required at the rate of 1 space per two dwelling and 1 visitor space per ten dwellings. 59 bicycle spaces are provided consistent with the requirements.	Yes
6	Car Share	2 dedicated car share spaces to be provided in future applications.	Not applicable to this application – however, it is noted that the two (2) required on-street car share spaces were provided in Stage 1.	N/A
7	Retail Tenancies	No single retail tenancy shall exceed 500m ² .	Stage 4 does not include any retail tenancies.	N/A
8	Heritage	A CMP shall be prepared for stage 3.	Not applicable to this application.	N/A
9	Heritage	Future applications for adaptive re-use and modification of Buildings 2A and 5E shall be accompanied by measured drawings and photographic record for archival purposes.	Not applicable to this application.	N/A
10	Heritage	Applications for demolition of	Not applicable to this	N/A

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		structures shall include a photographic record of the structures to be demolished and details of salvaging building materials and objects identified as having heritage significance. Where reuse is not practicable, details shall be provided of how these materials/objects are being interpreted off the site.	application.	
11	Local Street Design	Provide for design of two new local streets in the western portion including road, carriageway, footpath and tree planting) to the satisfaction of Council in accordance with Council's engineering guidelines/standard designs for local roads. The design shall provide for traffic calming and pedestrian safety measures where appropriate to provide a slow speed safe environment for pedestrians.	Not applicable to this application.	N/A
12	Local Street	The new local street servicing Building 1A of the development shall be designed and constructed in accordance with Sydney Water and Council requirements and maintained in private ownership with on-going maintenance the responsibility of the future body corporate.	<p>The application was referred to Sydney Water who raised no in-principle objection but has requested the imposition of various conditions of consent, including the requirement for construction drawings to be submitted to Sydney Water for approval prior to the issue of a Construction Certificate.</p> <p>Council's Development Engineer has reviewed the application and included conditions of consent to ensure that all infrastructure in this regard will be designed and constructed to the appropriate standard.</p>	Condition
13	Edward Street Footpath	Upgrade of the footpath in Edward Street (at the relevant Stage) including the provision of street tree planting for the full frontage of the site to Edward Street.	Not applicable to this application.	N/A
14	Service vehicle access	Application shall provide details of all servicing, including waste collection, removalist vehicles, and all loading/unloading operations and appropriate design of those locations.	All waste collection will be by a private contractor given that access to the site is via a private road.	Condition
15 - 18	Road Infrastructure Upgrades	Applies to Stage 1 and Stage 3 only.	Not applicable to this application.	N/A
19	RMS Requirements	Applies to Stage 3 only.	Not applicable to this application.	N/A

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20	Workplace Travel Plan	Applies to Stage 3 only.	Not applicable to this application.	N/A
21 - 22	Landscaping	Future applications shall identify and include measures to ensure the retention of the existing interwar and other plantings including brushbox, <i>ficus hillii</i> , palms, moreton bay figs and the chinese weeping elms on the site. Future applications for landscape works shall include indigenous plant species endemic to the area and take account of bio-links and diversity.	The landscaping treatment includes appropriate indigenous species as detailed in the submitted Landscape Plan.	Yes
23 - 24	Open Space/Public Access	A detailed maintenance program, outlining the ongoing scheduled maintenance of the publicly accessible open space and roads, shall be submitted to and approved by Council prior to the commencement of occupation/use of the development. Future applications shall provide for the embellishment of a minimum of 10,093m ² of publicly accessible open space to be maintained in private ownership by the future body corporate.	This application includes a publicly accessible road. As such, a condition of consent has been incorporated into the recommendation to comply with the Concept Plan requirements. This application does not contribute to the development's overall provision of publicly accessible open space.	Condition N/A
25	Public Access	Future applications for each relevant stage shall clearly set out the mechanism (in favour of Council) for creating rights of public access with the relevant instruments to be executed prior to the commencement of the occupation/use of the development.	To be conditioned.	Condition
26	Light Rail Access	Stage 1 shall provide for pedestrian/cycle access through the site to the Lewisham West light rail stop.	Addressed in Stage 1.	N/A
27	Flora and Fauna	Future applications shall incorporate specified measures to protect potential long-nosed bandicoot population within the local area.	The application was reviewed by Council's Environmental Services – Biodiversity who have recommended conditions of consent to ensure the bandicoot population is protected during the construction phase. Those conditions have been incorporated into the recommendation.	Condition
28	S94 Contributions	The amount of contributions will be in accordance with Council's Section 94 Plan.	A condition requiring Section 94 contributions has been incorporated into the recommendation.	Condition
29	Noise and Vibration	Future applications, where	The application is	Yes

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		applicable, shall provide an acoustic assessment which demonstrates that the internal residential amenity of the proposed apartments is not unduly affected by the noise and vibration impacts from the Western Suburbs Railway, Old Canterbury Road, and Longport Street.	supported by an Acoustic Report which demonstrates that the proposed residential building is capable of complying with the relevant internal noise criteria.	
30	Adaptable Housing	A minimum of 10% of apartments (excluding townhouses) shall be provided as adaptable housing as per AS 4229-1995.	A total of 98 apartments are proposed, 10 of which are adaptable dwellings, therefore complying with this requirement.	Yes
31 - 33	Flooding	Future applications shall clearly document flood levels, associated flood hazards and management measures within each stage and will be based upon detailed reviews, and where necessary, updates of flood study results that account for works approved or undertaken in the adjoining light rail corridor, the McGill Street Precinct and/or the subject site and the Hawthorne Canal.	Council's Development Engineer has reviewed the proposed development and has recommended appropriate conditions.	Condition
35	Stormwater	The future application for Stage 4 shall ensure an allowance within the foundation space of Building 1A (as referred to in AWP Drainage/Water Management Flooding/Utilities report dated March 2011 submitted with the EA) for a box culvert or equivalent to accommodate a possible stormwater drainage connection from the light rail corridor to the Hawthorne Canal. Evidence of consultation with Sydney Water (and consideration of Sydney Water's requirements) in this regard is to be provided with the application for Stage 4.	The application has been reviewed by Sydney Water who have raised no objection to the development subject to the imposition of conditions of consent. Those conditions have been incorporated into the recommendation.	Conditions
36	Consultation with Transport NSW	Future applications shall provide documentary evidence of consultation with Transport NSW in regards to flood mitigation works including any specific amendments to the project design to accommodate TNSW comments regarding light rail, including consideration of any flood impacts resulting from the design of the light rail station.	Completed with Stage 1 and this application was referred to Sydney Trains under <i>State Environmental Planning Policy (Infrastructure) 2007</i> .	Yes
37	Flood Impacts – Building 2A (Mungo Scott building)	No wall shall be approved on the rail corridor boundary adjacent to Building 2A (as	The wall was approved as part of Stage 2.	N/A

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		referred to in APP Drainage/Water Management Flooding/Utilities report dated March 2011 submitted with the EA) unless a flood study demonstrates that the wall does not have any unacceptable impact in terms of flood levels and flow velocities within the light rail corridor or neighbouring property.		
38	Consultation with Sydney Water	Future applications shall provide documentary evidence of consultation with Sydney Water in regard to any measures that might affect the entry of floodwater into the Hawthorne Canal and measures, such as fencing, to protect the public against exposure to areas of high flood hazard.	The application was been reviewed by Sydney Water who raised no objection to the development subject to the imposition of conditions. Those conditions have been incorporated into the recommendation.	Conditions
39 - 40	Sydney Water Requirements	Future applications shall address Sydney Water's requirements in relation to various matters.	The report prepared by Richard Taylor and Associates submitted with this application supports the Water Sensitive Urban Design Strategy (WSUD) and that pollution and nutrient loads will be reduced as per the requirements of Sydney Water.	Yes
41	Groundwater	Future applications shall provide for the treatment of ground water, including the need for licenses in relation to taking or interfering with ground water and dewatering.	A Groundwater Assessment was submitted with the application. The application was referred to the NSW Office of Water who provided their General Terms of Approval. Those Terms have been incorporated into the recommendation.	Conditions
42	Contamination	Future applications shall include details of the remedial/management strategy for the site and the proposed Remedial Action Plan to remediate parts of the site which have been identified as contaminated/potentially contaminated with the Aargus Environmental Site Assessment dated June 2008.	Contamination has been addressed in the Detailed Environmental Site Assessment report prepared by Aargus. Additional standard conditions have been incorporated into the recommendation.	Yes Condition
43	Railcorp Requirements	Future applications shall address RailCorp's requirements in relation to: corridor protection, derailment protection, drainage, balconies, reflective material, fencing and landscaping, contamination and Sydney Light Rail Inner West	The application was reviewed by Sydney Trains who issued their concurrence subject to conditions of consent that have been incorporated into the recommendation.	Conditions

		Extension Interface.			
Schedule 4: Statement of Commitments (SJB: 27.11.2012)					
No.	Item	Commitment	Timing	Proposed	Complies
1	Construction Management	The proponent will ensure that a Construction Management Plan is prepared including, but not limited to the methods of soil and sedimentation protection, restriction of public access, vegetation protection, construction, traffic management, crane height and location details and the like.	A Construction Management Plan will be prepared prior to the issue of any Construction Certificate for work on the site.	To be conditioned.	Condition
2	BCA Compliance	All buildings will be designed in accordance with the Building Code of Australia.	BCA compliance will be documented at the Development Application stage of the project	BCA Report has been provided confirming that BCA compliance is possible at CC stage.	Condition
3	Augmentation of Utilities	The approval for connection to existing utility service will be obtained, and any required augmentation works will be undertaken.	Any required augmentation of utility services will be detailed at the Project Application or Development Application stage of the proposal.	The application is identified as capable of being serviced.	Condition
4	Section 94	Section 94 Contributions relevant to the proposal will be made in accordance with the Section 94 Contribution Plans for Inner West Council as applicable, consistent with the rates detailed in the Environmental Assessment.	Any required Section 94 Contributions will be paid prior to the issue of any Construction Certificates for the erection or conversion of buildings that generate a demand for services.	Section 94 contributions apply to this development.	Condition
5	Public Domain	Public Domain: Public access will be provided through the site providing access over and through the open space from Smith Street affording access to the Lewisham West light rail stop. The access will include the use and enjoyment of the open landscaped areas off Smith Street and the proposed urban plazas around the reused buildings that are to provide ground floor active uses.	The treatment of these public domain areas consistent with the Landscape Open Space and landscape Concept themes in the Concept Plan will be documented at the Project Application or Development Application stage of the proposal and will be implemented prior to occupation of the relevant stage.	Not applicable to this application.	N/A

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6	Remediation of Land	If necessary a Remedial Action Plan will be prepared and audited upon implementation for each relevant stage.	If required, details of remediation of the site will be detailed at the Project Application or Development Application stage of the proposal.	A Remedial Action Plan has been prepared for the entire site following the approval of Stage 1.	Yes
7	Transport Management	The relevant intersection and traffic management upgrades identified in the Traffic and Transport assessment prepared by ARUP (Attachment 4 to the PPR) attributable to the development will be implemented as required by detailed staging assessment	Traffic management and upgrade measures will be implemented and be documented at the Project Application or Development Application stage of the proposal. Each stage will determine the staging of the implementation of the traffic management measures to be undertaken. Specifically the new internal street connecting Edward and Smith Streets and associated left in left out traffic measures and the new roundabout at Edward and Smith Street will be provided as part of stage 1. The Pedestrian upgrades in the surrounding area will also be provided as part of stage 1 facilitating access to the new light rail stop. Prior to the lodgement of any Development Application for Stage 3, a TMP will be prepared addressing the proposed design and installation of the traffic lights and intersection upgrades for the Edward Street and Old Canterbury Road intersection. Prior to the occupation of stage 3 the new lights to the Edward Street and Old Canterbury Road intersection will be provided.	Not applicable to this application. Stage 3 commitments in this regard form part of the evaluation of DA 10.2015.202 (Stage 3 – DA 1).	N/A

8	Car Share	At least two parking spaces will be made available for use by car share scheme vehicles.	Any car share space will be identified in the Project Application or Development Application drawings for Stage 1 and will be noted on the title.	Applies to Stage 1 only.	N/A
9	Bicycle Facilities	Bicycle facilities and storage in accordance with Council's standards will be provided on-site.	Bicycle facilities will be documented at the Project Application or Development Application stage of the proposal.	Bicycle parking has been provided as required.	Yes
10	Ecologically Sustainable Development (ESD)	ESD principles and strategies will be implemented for the project consistent with the ESD Strategy prepared by ARUP (Attachment 10 of EA).	ESD principles and measures will be documented at the Project Application or Development Application stage of the proposal.	The application is supported by an ESD Statement and BASIX Certificate.	Yes
11	Water Sensitive Urban Design (WSUD)	WSUD measures will be implemented in accordance within the Drainage/Water Management/Flooding/Utilities report prepared by APP (Attachment 6 of the EA and Attachment 6 of the PPR).	WSUD measures will be documented within each Development Application for each stage of the proposal.	WSD principles are detailed with the Flooding, Stormwater and Utilities report. These will be conditioned in any consent.	Yes & Condition
12	Flood Management	The flood management measures will be implemented in accordance with the Drainage/Water Management/Flooding/Utilities report prepared by APP (Attachment 6 EA). The flood management measures will be based upon reviews of, and where necessary, updates of flood study results that account for works approved or undertaken in the adjoining light rail corridor, on the McGill street Masterplan site and within the subject site. All residential buildings will be provided with floor levels above the 100 year ARI level with appropriate allowances for climate change, blockages and freeboard, identified in the required flood study/ies. Any non-residential buildings and open spaces that include floor levels or ground levels below the 100 year ARI level will be subject to an emergency response plan to appropriately manage the risk to personal safety	Flood management measures will be documented within each Development Application for each stage of the proposal.	Flooding addressed above and by conditions.	Yes

		<p>during severe flood events. Any non-residential building with floor levels below the 100 year ARI level will be flood proofed up to the 100 year ARI level plus 0.5m freeboard to minimise potential flood damage and be provided with appropriate evacuation connections. The objective of all proposed measures and strategies will be to manage and where possible minimise the potential flood hazard posed by flood waters from the Sydney Water culvert that traverses beneath the adjoining light rail corridor. The detailed design of Building 1A foundation space will incorporate allowance for the inclusion of a 3.0m wide x 1.5m high box culvert or equivalent to be concrete encased (no maintenance or replacement required) from the southern boundary of the site to the Sydney Water Corporation channel at the eastern end of the building. The wall height on the rail corridor boundary to the west of Building 2A will be adjusted at the detailed design stage to prevent the potential inflow of floodwaters from the rail corridor into the site. During detailed design stage of the proposed development, liaison with Transport NSW will be undertaken to ensure that the proposed site design complements the design aspects of the light rail project which will address and manage flooding issues form within the light rail corridor.</p>			
13	Noise Mitigation	Noise and vibration mitigation measures will be implemented in accordance with the Noise and Vibration Assessment undertaken by Atkins Acoustics (Attachment 9 of the EA)	Noise and vibration mitigation measures will be detailed at the Project Application or Development Application stage of the proposal.	Noise attenuation requirements have been detailed within the submitted Acoustic Assessment and BCA compliance report.	Yes
14	Aboriginal Archaeology	The recommendations and requirements of the Aboriginal Archaeology assessment undertaken by AHMS (Attachment 14 of	Any required permits or approvals relating to Aboriginal Archaeology will be	As per the timing of this commitment, any necessary permits will be obtained prior to	Yes

		the EA) will be implemented.	obtained prior to the commencement of work on the site that requires the issue of a Construction Certificate.	the issue of a Construction Certificate.	
15	Affordable rental housing	The provision of ten (10) 1 or 2 bedroom dwellings as affordable rental accommodation for a period of ten years for each dwelling, from the date of relevant occupation certificate.	To be provided.	4 dwellings comprising 2 x 1 bedroom and 2 x 2 bedroom are dedicated to Council for affordable rental housing.	Yes & condition

13. Marrickville Local Environmental Plan 2011

(i) Land Use Table and Zone Objectives (Clause 2.3)

The site is zoned IN2 – Light Industrial under the provisions of MLEP 2011. The development is not permissible under the zoning provisions applying to the land.

Although the proposed land use is prohibited on the site under MLEP 2011, it is permissible by virtue of the operation Concept Approval MP10_0155 under the provisions of State Environmental Planning Policy (Major Development) 2005.

(ii) Height (Clause 4.3) and Floor Space Ratio (Clause 4.4)

There is no maximum building height or floor space ratio that applies to the land under MLEP 2011. However, the Concept Plan establishes an allowable building footprint and authorises a total gross floor area of 40,000m².

This application proposes 33,513m² of residential GFA. When added to the cumulative dwelling count to all DA's lodged and/or approved to date, the maximum allowable GFA is on target to be within the maximum.

(iii) Preservation of Trees or Vegetation (Clause 5.9)

Clause 5.9 of MLEP 2011 concerns the protection of trees identified under Marrickville Development Control Plan 2011. The application was reviewed by Council's Tree Management Officer who raised concerns with the extent of tree removal.

The development results in the removal of numerous trees throughout the site that are within the building footprint approved under the Concept Plan. The Landscape Plan submitted with the application identifies various replacement species around the perimeter of the proposed building. It is considered that new landscaping opportunities have been maximised where possible.

(iv) Heritage Conservation (Clause 5.10)

The site is not listed as a heritage item under MLEP 2011, is not located within the vicinity of a heritage item and is not located within a Heritage Conservation Area under MLEP 2011. However, a Statement of Heritage Impact has been submitted to demonstrate that the proposed works would not have any adverse heritage impact upon the nearby *Mungo Scott* building which is listed in the Ashfield Local Environmental Plan 2013 as Database Number 619 where it is designated as being of local significance. No further concerns are raised in this regard.

(v) Earthworks (Clause 6.2)

The development includes excavation works to create the basement car parking levels. The application is supported by a detailed Geotechnical Investigation Report and is considered to be acceptable subject to on-going compliance with the recommendations made in this report and compliance with the conditions imposed by Sydney Trains and the General Terms of Approval imposed by the NSW Office of Water.

(vi) Flood Planning (Clause 6.3)

The land is identified as land that is shown as “Flood planning area” on the MLEP 2011 Flood Planning Area Map. The application was reviewed by Council’s Development Engineer who supports the application and provided the following comments:

The site is subject to flooding during a 1 in 100 year storm event (ref-Hawthorne Canal Flood Study by WMA Water – April 2013). The development site is also highly sensitive to blockages due to the obstruction of the natural overland flow path by the adjacent Longport Street Bridge. As noted in Table 26 of the Hawthorne Canal Flood Study by WMA Water a 20% blockage at this location (H06) leads to a 1.32m increase in flood height while a 50% blockage leads to a 2.5m change in flood height during a 1 in 100 year storm event.

WMA Water has confirmed that the 1 in 100 year flood level with 50% blockage is RL 10.77m AHD. Due to the sites sensitivity to blockages of the Hawthorne Canal the Flood Planning Level for the site has been set at RL 11.27m HD providing 500mm freeboard. The minimum residential floor levels for the development are set at RL 11.5m (above the Flood Planning Level) and are therefore satisfactory. However, protection to the basement carpark will need to be lifted to RL 11.27m AHD (approximately 170mm) to achieve the required 500mm freeboard protection.

(vii) Terrestrial Biodiversity (Clause 6.4)

The land is identified as “Biodiversity” on the MLEP 2011 Natural Resource - Biodiversity Map. Suitable conditions of consent have been incorporated into the recommendation in this regard.

14. Marrickville Development Control Plan 2011

An assessment of the development having regard to the relevant provisions of Marrickville Development Control Plan 2011 (MDCP 2011) is provided below.

PART 2 – GENERIC PROVISIONS

(i) Urban Design (Part 2.1)

The development is acceptable having regard to the relevant aspects of the 12 urban design principles.

(ii) Site and Context Analysis (Part 2.3)

A site and context analysis was submitted with the application and is acceptable.

(iii) Equity of Access and Mobility (Part 2.5)

Condition 30 of the Concept Plan approval requires a minimum of 10% of apartments to be provided as adaptable housing. The development provides 10 such apartments, therefore complying with this requirement which supersedes the MDCP 2011 requirements.

(iv) Acoustic and Visual Privacy (Part 2.6)

The development maintains a high level of acoustic and visual privacy for the surrounding residential properties and would ensure a high level of acoustic and visual privacy for future occupants of the development itself. No further concerns are raised in this regard.

(v) Solar Access and Overshadowing (Part 2.7)

Overshadowing

The overshadowing impacts of the development would not cause any unreasonable loss of amenity for surrounding land uses.

Solar Access

Solar access to apartments is consistent with Concept Plan and SEPP 65 requirements.

(vi) Community Safety (Part 2.9)

The development satisfies the planning objectives and controls relating to community safety as the development has a clearly identifiable building entry and would create casual surveillance opportunities throughout the surrounding area, including the adjoining light rail station.

(vii) Parking (Part 2.10)

The car, bicycle and motorcycle parking rates under MDCP 2011 are superseded by the Concept Approval requirements.

(viii) Water Sensitive Urban Design (Part 2.17)

This matter has been addressed within the Statement of Commitments which form part of the Concept Plan Approval requirements.

(ix) Site Facilities and Waste Management (Part 2.21)

2.21.2 *Clothes drying facilities*

A condition is included in the recommendation requiring the submission of details indicating the provision of clothes drying facilities for all dwellings to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

2.21.3 *Public utilities*

The design and provision of public utilities will be required to conform with the requirements of the relevant servicing authority in accordance with the conditions included in the recommendation.

2.21.4 *Mail boxes*

A condition is included in the recommendation requiring the submission of such details to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

2.21.5 *Building identification numbers*

A condition is included in the recommendation requiring appropriate numbering to be placed on the site and the application for street numbering be approved by Council before the issue of an Occupation Certificate.

2.21.7 *Recycling and Waste Management Plan*

A Recycling and Waste Management Plan (RWMP) in accordance with Council's requirements was submitted with the application and is considered to be adequate.

2.21.11 *Residential Waste*

A detailed Waste Management Plan was submitted with the application. The residential waste collection is the subject of an arrangement with a private contractor given that collection will be via a private road. The proposed waste management practices are similar to that of Stages 1 and 2 to ensure consistency across the entire Concept Plan area. No further concerns are raised in this regard.

Part 4 - RESIDENTIAL DEVELOPMENT

Part 4.2 – Multi Dwelling Housing and Residential Flat Buildings

Part 4.2 of MDCP 2011 provides controls relating to Multi Dwelling Housing and Residential Flat Buildings provisions including building form, building detail and desired future character guidelines and controls for specific centres. An assessment of the development having regard to the relevant provisions of Part 4.2 of MDCP 2011 is provided below.

(i) General Controls (Part 4.2.3)

Part 4.2.3 of MDCP 2011 prescribes the following unit mix requirements for residential flat buildings containing 6 or more dwellings:

“C1 *New developments with six or more dwellings must provide the following mix of dwelling types:*

- | | | |
|------|---------------------|----------------|
| i. | Studio | 5% - 20%; |
| ii. | 1 bedroom | 10% -40%; |
| iii. | 2 bedroom | 40% - 75%; and |
| iv. | 3 bedroom or bigger | 10% - 45%.” |

The development includes 5 x 1 bedroom dwellings (5 % of the development), 74 x 2 bedroom dwellings (75 % of the development) and 19 x 3 bedroom dwellings (19% of the development) which does not comply with the abovementioned unit mix requirements. However, other DA's within the Concept Plan approval provide residential accommodation for varying spreads of dwelling types. It is considered that across the entire site there is a suitable unit mix which achieves the intent of the control.

(ii) Built Form and Character (Part 4.2.4)

4.2.4.1 *Floor space ratio and site coverage*

4.2.4.2 *Building heights*

4.2.4.3 *Building setbacks*

Density, building heights and building setbacks have been established by the Concept Plan. The proposed development conforms to these requirements as discussed throughout this report.

(iii) Streetscape, General Appearance and Materials (Part 4.2.5)

4.2.5.1 *Façade and streetscape design*

4.2.5.2 *Bulk and scale relationship*

4.2.5.3 *Materials, finishes, textures and colours*

The external appearance of the building is considered to exhibit design excellence. The masonry brick base containing the lower 6 storeys of the building relates to the scale and the overall proportions of the *Mungo Scott* Building adjacent to the site. The top 3 storeys of the building adopt a light-weight construction technique and appear more sculpted and layered with visual references to the existing and former structures on the site. The proposed external finishes and materials are considered to be high quality.

PART 9 – STRATEGIC CONTEXT

The land is located in the McGill Street Planning Precinct (Precinct 45) under Marrickville Development Control Plan 2011. There are no site specific planning controls within this part of MDCP 2011 that apply to the site. Nevertheless, the proposed development is considered promote the desired future character of the Planning Precinct *to ensure a diversity of uses, housing types (affordability, configuration and style), building and architecture, and landscape and open space.*

15. Other matters

Traffic Committee

The application was referred to the former Marrickville Council Pedestrian, Cyclist and Traffic Calming Committee on 3 February 2016. At this meeting, the Committee recommended that:

1. *The applicant be requested to review the parking provision for on-site parking for the proposed multi-storey residential flat building at 2-32 Smith Street, Summer Hill to meet the requirements of Marrickville Council's DCP 2011 in relation to the provision of residential car parking and motorcycle parking; and*
2. *The applicant be requested to review the location of the parking provision for a waste collection bay on the proposed private road.*

Comments

In response to the first point, it is noted that in accordance with Schedule 6A, Clause 3B(2)(f) of the *Environmental Planning & Assessment Act 1979* the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the Concept Plan. In this case, the car/motorcycle parking rates within MDCP 2011 and the terms of the approval within the Concept Plan differ and the applicant is not required to provide car/motorcycle parking at the rates prescribed by MDCP 2011.

The proposed waste area, collection area and waste truck turning bay is shown below:

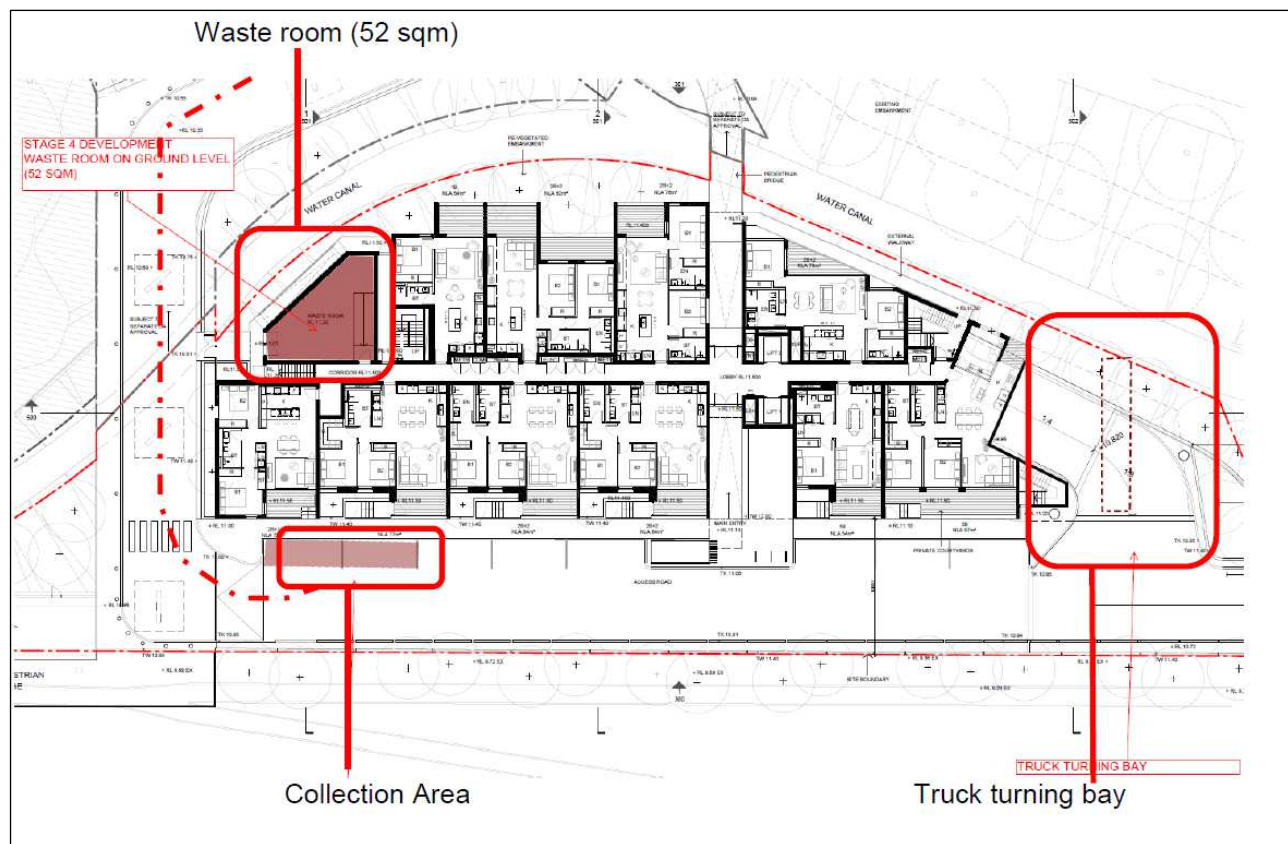


Image 12: Plan extract from submitted Waste Management Plan

This matter was discussed with the applicant and it was confirmed that the two on-street car parking spaces where waste collection is proposed to occur, would be appropriately time regulated (through signage etc.) to ensure that these spaces are vacant during collection periods. A condition of consent has been incorporated into the recommendation in this regard.

GreenWay

The GreenWay is an off-road shared path that is intended to connect the Cooks River Cycleway from Earlwood to the Iron Cove Bay Run at Haberfield. At present, a total of approximately 2.6km (45%) of the GreenWay is in place. The proposed development would provide for a critical link within the GreenWay project in that elevated shared path in the southern corner of the site connects to the shared street (private but publicly accessible road) providing access back onto Smith Street. The proposal is therefore considered to offer public benefit by creating this recreational opportunity.

16. Marrickville Section 94/94A Contributions Plan 2014

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$1,928,294.96 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

17. Community Consultation

The application was advertised, an on-site notice displayed on the property and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's policy. 4 submissions were received raising the following concerns which are discussed under the respective headings below:

- (i) Excessive number of storeys

Comment:

The proposed development complies with the maximum building envelope requirements set out in the Concept Plan approval.

- (ii) Traffic impacts. Council should put additional public transport infrastructure in place.

Comment:

The terms of the Concept Plan require various road infrastructure upgrades as part of the Stage 3 component to better manage the likely off site traffic impacts.

Council is not the authority responsible for the provision of additional public transport infrastructure.

- (iii) The development should be cancelled until such time as WestConnex is cancelled.

Comment:

The status of the NSW government's WestConnex project is unable to be considered as part of the assessment of the subject development application.

- (iv) Additional health services should be required

Comment:

This is not a matter of consideration under Section 79C.

All relevant matters raised in the submissions able to be considered under the provisions of Section 79C of the Environmental Planning and Assessment Act have been discussed in the report.

18. Conclusion

This application seeks development consent to construct a 6 part 9 storey residential flat building comprising 98 dwellings, over 3 levels of basement car parking for a total of 102 car spaces and the creation of a new private access across Hawthorne Canal with associated on-street parking, road works and landscaping.

This application proposes the development of Stage 4 (DA 1) of the Concept Plan (MP10_0155 – originally approved on 7 December 2012 and modified on 10 March 2015 and 16 May 2016) for the former Allied Mills flour mill site located at 2-32 Smith Street, Summer Hill.

The heads of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, as are of relevance to the application, have been taken into consideration in the assessment of this application.

The application is suitable for the issue of a deferred commencement consent subject to the imposition of appropriate terms and conditions set out by Sydney Trains.

- A. THAT** the development application to construct a 6 part 9 storey residential flat building comprising 98 dwellings, over 3 levels of basement car parking for a total of 102 car spaces and the creation of a new private access across Hawthorne Canal with associated on-street parking, road works and landscaping be **APPROVED** and a **DEFERRED COMMENCEMENT CONSENT** be issued subject to the following terms and conditions:

PART A - DEFERRED COMMENCEMENT CONSENT

This consent is not to operate until the Applicant satisfies the Council, within 2 years of the date of this consent, that it has obtained approval/certification from Sydney Trains as to the following matters and the approval/certification has been forwarded to the Council:

The Applicant shall prepare and provide to Sydney Trains for approval/certification the following items:

1. An FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor. The analysis is required to predict ground movements associated with the proposed shoring system.

Any conditions issued as part of Sydney Trains approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

Evidence of the above matters must be produced to the Council or its delegate within 2 years of the date of this Determination otherwise the Consent will lapse.

PART B - CONDITIONS OF CONSENT

Once operative the consent is subject to the following conditions:

GENERAL

1. The development must be carried out in accordance with plans and details listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
ST4-DA1_011	Site Plan	06.10.15	Hassell	16.10.15
ST4-DA1_050	Demolition Plan	06.10.15	Hassell	16.10.15
ST4-DA1_094	Basement 03 Plan	06.10.15	Hassell	16.10.15
ST4-DA1_095	Basement 02 Plan	06.10.15	Hassell	16.10.15
ST4-DA1_096	Basement 01 Plan	06.10.15	Hassell	16.10.15
ST4-DA1_100	Ground Floor Plan	06.10.15	Hassell	16.10.15
ST4-DA1_101	Levels 1-3 Floor Plans	06.10.15	Hassell	16.10.15
ST4-DA1_102	Levels 4-6 Floor Plans	06.10.15	Hassell	16.10.15
ST4-DA1_103	Levels 7-8 Floor Plans	06.10.15	Hassell	16.10.15
ST4-DA1_104	Roof Plan	06.10.15	Hassell	16.10.15
ST4-DA1_120	Adaptable apartments	06.10.15	Hassell	16.10.15

ST4-DA1_300	Elevations Sheet 01	06.10.15	Hassell	16.10.15
ST4-DA1_301	Elevations Sheet 02	06.10.15	Hassell	16.10.15
ST4-DA1_500	Sections Sheet 01	06.10.15	Hassell	16.10.15
ST4-DA1_501	Sections Sheet 02	06.10.15	Hassell	16.10.15
ST4-DA1_600	Material Board	06.10.15	Hassell	16.10.15
ST4-DA1_L001	Landscape Plan: Cover Sheet and Material Palette	06.10.15	Hassell	16.10.15
ST4-DA1_L111	Landscape Site Plan	06.10.15	Hassell	16.10.15
ST4-DA1_L112	Tree Removal Plan	06.10.15	Hassell	16.10.15
ST4-DA1_L201, Issue B.	Landscape Plan	28.04.16	Hassell	29.04.16
ST4-DA1_L202	Canal Embankment Plan	06.10.15	Hassell	16.10.15
ST4-DA1_L501, Issue B.	Planting Plan	28.04.16	Hassell	29.04.16
ST4-DA1_L601	Landscape Sections	06.10.15	Hassell	16.10.15
ST4-DA1_L602	Landscape Sections	06.10.15	Hassell	16.10.15
ST4-DA1_L603, Issue B.	Landscape Sections	28.04.16	Hassell	29.04.16
ST4-DA1_L604	Landscape Sections	06.10.15	Hassell	16.10.15
ST4-DA1_L605	Landscape Sections	06.10.15	Hassell	16.10.15
ST4-DA1_L701	Typical Details	06.10.15	Hassell	16.10.15
Document reference: 20150701.1/0610A /R3/MF	Summer Hill Flour Mills Stages 3 and 4. Noise Impact Assessment.	06.10.15	Acoustic Logic	16.10.15
Report No: SE07146-A	Geotechnical Investigation Report	17.02.11	Aargus Australia	16.10.15
Certificate number: 675986M	BASIX Certificate	11.08.16	Arup Pty Ltd	11.08.16

and details submitted to Council on 16 October 2015, 27 January 2016, 29 April 2016 and 11 August 2016 with the application for development consent and as amended by the matters referred to in Part A of this Determination and the following conditions.

Reason: To confirm the details of the application submitted by the applicant.

- All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents, as amended by Part A and condition 3 of this Determination:

- Geotechnical Investigation prepared by Douglas Partners (Ref:85097.02) dated January 2016.
- Stage 4 Cover Sheet - Drawing No. C.400 Revision C, dated 17/05/2016, prepared by James Taylor & Associates.
- Stage 4 Excavation Plan - Drawing No. C.403 Revision E, dated 03/06/2016, prepared by James Taylor & Associates.
- Stage 4 Piling Elevation Sheet 1 - Drawing No. C.404 Revision C, dated 17/05/2016, prepared by James Taylor & Associates.
- Stage 4 Capping Beam Reinforcement Plans - Drawing No. C.405 Revision C, dated 17/05/2016, prepared by James Taylor & Associates.
- Piling Elevation Section P3 - Drawing No. C.407 Revision C, dated 17/05/2016, prepared by James Taylor & Associates.
- Stage 4 Piling Sections Sheet 1 - Drawing No. C.408 Revision C, dated 17/05/2016, prepared by James Taylor & Associates.
- Stage 4 Piling Sections Sheet 2 - Drawing No. C.409 Revision C, dated 17/05/2016, prepared by James Taylor & Associates.
- Stage 4 Excavation Sections Sheet 1 - Drawing No. C.410 Revision D, dated 03/06/2016, prepared by James Taylor & Associates.
- Stage 4 Excavation Sections Sheet 2 - Drawing No. C.411 Revision A, dated 03/06/2016, prepared by James Taylor & Associates.
- Stage 4 Excavation Sections Sheet 3 - Drawing No. C.412 Revision A, dated 03/06/2016, prepared by James Taylor & Associates.
- Flood Wall Details Sheet 2 - Drawing No. C.511 Revision A, dated 17/05/2016, prepared by James Taylor & Associates.

The Principal Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming that the documentation listed in this condition has not been superseded with the approval/certification of documentation in compliance with the deferred commencement condition and/or condition 3 below. Should Sydney Trains advise that any of the documentation listed in this condition have not been superseded, then the measures detailed in those specific documents are to be incorporated into the construction drawings and specifications prior to the issuing of a Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.
Reason: To ensure compliance with Sydney Trains concurrence terms.

3. The Applicant shall prepare and provide to Sydney Trains for approval/certification the following items:
 - (i) Ground movement monitoring plan
 - (ii) The shoring supporting the rail corridor shall be designed for "at rest" pressures. A surcharge loading should also be nominated.
 - (iii) A Structural Report containing (as a minimum) an outline of the site constraints, the design approach, assumed design criteria, structural analysis (summary at least) and design outcomes (summary at least).
 - (iv) Revised Drawing No. C.400 that includes minimum required curing times for concrete elements under the construction sequence.
 - (v) Revised Drawing No. C.408 that:
 - a) Indicates how N12-600 galvanised bars are connected to piles (Section 3).
 - b) Includes details of anchors currently shown as "TBA".
 - c) Indicates of distances/dimension between rail the boundary and nearest building/shoring element.
 - d) Provides surface and subsurface drainage details.
 - (vi) Revised Drawing No. C.409 that:
 - a) Includes details of anchors currently shown as "TBA".

- b) Indicates distances/dimension between rail the boundary and nearest building/shoring element.
- c) Provides surface and subsurface drainage details.
- (vii) Revised Drawing No. C.410 that:
 - a) Indicates distances/dimension between rail the boundary and nearest building/shoring element.
 - b) Provides surface and subsurface drainage details.
- (viii) Revised Drawing No. C.411 that:
 - a) Indicates distances/dimension between rail the boundary and nearest building/shoring element.
 - b) Provides surface and subsurface drainage details.
- (ix) Revised Drawing No. C.412 that:
 - a) Indicates distances/dimension between rail the boundary and nearest building/shoring element.
 - b) Provides surface and subsurface drainage details.
 - c) Revised Drawing No. C.500 that does not include the proposed Hawthorne Canal site access crossing over RailCorp land (unless agreed to by Sydney Trains).
- (x) Provision of notes sheet indicating concrete grade, cover to reinforcing and bar lap lengths for all concrete shoring elements.
- (xi) Provision of additional detail on all structural drawings as follows:
 - a) all primary structural elements are clearly dimensioned and detailed for review purposes (including but not limited to footings, piles, bridge elements, columns, walls, connection details, plate and bolt sizes and details, etc.).
- (xii) Provision of more details in the vicinity of the existing retaining walls and light rail platform. The documentation needs to demonstrate that the stability and integrity of all assets within the Sydney Trains corridor will be maintained at all times.
- (xiii) Demonstration that there will be no change in the direction or quantity of surface water flows within the rail corridor.
- (xiv) Revised construction methodology addressing the following items:
 - a) As the development is more or less at grade with the corridor and immediately adjacent to corridor land, Section 2.1.11 does not contain enough detail when addressing environmental concerns such as spoil and spillage into the corridor.
 - b) In relation to Section 2.1.13 the light rail operator requires input as to the location of the monitors as well as receiving a copy of the results periodically.
 - c) Section 2.1.19 is to amend "Trans Dev" to Transdev and that they are the "light rail operator" and not the "light rail authority".
 - d) Construction methodology to mandate that there will be no access to the rail corridor. If required then this will be via Transdev approval.

Any conditions issued as part of Sydney Trains approval/certification of any of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

The Principal Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming which of the documentation listed in this condition are to now apply and supersede the documentation in the deferred commencement condition and/or condition 2. The measures detailed in the documents approved/certified by Sydney Trains under this Condition are to be incorporated into the construction drawings and specifications prior to the issue of a Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

Reason: To ensure compliance with Sydney Trains concurrence terms.

4. Where any plans and/or information forming part of a Construction Certificate issued in relation to this consent are inconsistent with:

- a) the plans and/or information approved under this consent; or
- b) any relevant requirements of this consent,

the plans, information and/or requirements of this consent (as the case may be) shall prevail to the extent of the inconsistency.

All development approved under this consent shall be carried out in accordance with the plans, information and/or requirements of this consent taken to prevail by virtue of this condition.

Reason: To ensure the development is carried out in accordance with this Determination.

5. The materials and finishes of the building constructed pursuant to this consent must be strictly in accordance with the materials and finishes identified in Drawing No. ST4-DA1_600 dated 06.1015, prepared by Hassell. No changes may be made to these drawings except by way of an application under section 96 of the *Environmental Planning and Assessment Act 1979*.

Reason: To ensure the final built development has an appearance that accords with the approved materials and finishes.

6. Where units or dwellings are provided with separate individual hot water systems, these must be located within the internal area of the unit/dwelling and not on any balcony or terrace.

Reason: To ensure the aesthetics of the building and architecture are maintained.

7. The premises must be used exclusively as a residential flat building and not be adapted for use as a backpackers' accommodation, serviced apartments or a boarding house and must not be used for any industrial or commercial purpose.

Reason: To ensure that the premises are used exclusively as a residential flat building.

8. 102 off-street car parking spaces must be provided and line marked according to the relevant Australian Standard

Reason: To ensure that practical off street car parking is available for the proposed development.

9. 10 visitor car parking spaces required as part of the total parking required under this Determination must be provided and marked as visitor car parking spaces according to the relevant Australian Standard.

Reason: To ensure that visitor car parking spaces are provided and marked accordingly.

10. 10 car parking spaces, for persons with a disability, required as part of the total parking required under this Determination must be provided and marked as disabled car parking spaces according to the relevant Australian Standard.

Reason: To ensure that disabled car parking spaces are provided and marked accordingly and that disabled persons are advised and directed to such parking.

11. A minimum of 10 adaptable dwellings must be provided in accordance with condition 30 of the Concept Plan approval.

Reason: To make reasonable provision in the development to provide residential accommodation suitable for people with a disability.

12. The use of any plant and equipment must not give rise to:
- a) transmission of unacceptable vibration to any place of different occupancy;
 - b) a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).

Reason: To prevent loss of amenity to the area.

13. Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises must not give rise to "offensive noise" as defined by The Protection of the Environment Operations Act 1997 (NSW). In this regard the roller door to the car parking entry is to be selected, installed and maintained to ensure its operation does not adversely impact on the amenity of the surrounding neighbourhood.

Reason: To protect the amenity of the surrounding neighbourhood.

14. It may be necessary for the installation of a suitable electrical sub-station for the distribution of electrical power in this area to be located on the land, and that an area of land suitable for Ausgrid to provide such an installation be set aside for this purpose. Before proceeding with your development further, you are directed to contact the General Manager of Ausgrid, George Street, Sydney, with respect to the possible need for such an installation immediately or in the future.

Reason: To provide for the existing and potential electrical power distribution for this development and for the area.

15. The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.

Reason: To ensure that the development is adequately serviced.

16. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

Reason: To ensure the work is carried out to an acceptable standard and in accordance with the National Construction Code (Building Code of Australia).

17. The residential waste shall be collected by a private contractor in accordance with the *Waste Management Plan* prepared by *Elephants Foot*, dated 28/09/2015 and submitted to Council on 16/10/15. The on-street car parking spaces relied upon for waste collection shall be time restricted (and appropriately sign posted) to ensure that these spaces are vacant during waste collection times.

Reason: To confirm the proposed waste collection plan.

18. Compliance with the Schedule 4: Revised Statement of Commitments (as of relevance to Stage 4 DA 1) in accordance with Concept Approval requirements.

Reason: To ensure the requirements of the Concept Approval are complied with.

19. Copies of any certificates, drawings or approvals given to or issued by Sydney Trains, Transport for NSW or the light rail operator must be submitted to Council for its records.

Reason: To ensure compliance with Sydney Trains concurrence terms.

20. Where a condition of consent requires Sydney Trains, Transport for NSW and light rail operator endorsement the Principal Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with.
Reason: To ensure compliance with Sydney Trains concurrence terms.
21. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.
22. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.
23. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
- (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
 - (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - (c) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.
24. 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.
Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.
25. DPI Water requires documentation (referred to as ‘report’) comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: Prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.
Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

26. Prior to excavation the following shall be included in the initial report:

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

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

27. The person acting on this consent shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

28. Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

29. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

30. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

31. A copy of a valid consent for the development shall be provided in the initial report.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

32. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called “tailwater”) must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

33. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

34. During excavation engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

35. During excavation piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

36. Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

37. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority’s approval and/or owner’s consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

38. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

39. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

40. Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

41. Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:

- (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
- (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
- (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

Reason: To comply with NSW Department of Primary Industries – Water General Terms of Approval.

42. Owners and occupants of the proposed building shall not be eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person acting on this consent shall advise any purchaser or prospective tenant of this condition. In addition the by-laws of any future residential strata plans created for the property shall reflect this restriction.

Reason: To ensure the development does not reduce the amount of "on street" parking currently available.

43. All stormwater drainage being designed in accordance with the provisions of the Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2003 'Stormwater Drainage' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems shall be designed to cater for the twenty (20) year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the twenty (20) year A.R.I. storm in the case of high density residential development and commercial and/or industrial developments and the fifty (50) year A.R.I. storm in the case of heavy industry. In all cases the major event surface flow paths shall be designed to cater for the one hundred (100) year A.R.I. storm.

Reason: To provide for adequate site drainage.

44. Should the proposed development require the provision of an electrical substation, such associated infrastructure shall be incorporated wholly within the development site. Before proceeding with your development further, you are directed to contact Ausgrid directly with regard to the possible provision of such an installation on the property.

Reason: To provide for the existing and potential electrical power distribution for this development and for the area.

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

For the purpose of interpreting this consent, a Principal Certifying Authority (PCA) means a principal certifying authority appointed under Section 109E(1) of the Environmental Planning and Assessment Act 1979. Pursuant to Section 109E(3) of the Act, the PCA is principally responsible for ensuring that the works are carried out in accordance with the approved plans, conditions of consent and the provisions of the National Construction Code (Building Code of Australia).

45. Prior to the commencement of works, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from the light rail operator Transdev and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

Reason: To ensure compliance with Sydney Trains concurrence terms.

46. Prior to the commencement of works appropriate fencing is to be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Trains and the light rail operator prior to the fencing work being undertaken.

Reason: To ensure compliance with Sydney Trains concurrence terms.

47. Prior to the commencement of works a project arborist with a minimum AQF level 5 qualification in arboriculture and who does not remove or prune trees in the Inner West local government area shall be engaged for the duration of site preparation, construction and landscaping.

Reason: To ensure any trees that are retained are adequately and appropriately protected and that the tree protection specification and tree protection plan are implemented and complied with for the duration of the project.

48. Prior to the commencement of works, if any trees are identified as potentially retainable, the project arborist shall first undertake an Arboricultural Impact Assessment (AIA) on those trees to determine if their retention is viable and if so, to prepare a tree protection specification and tree protection plan to be submitted to and approved by council.

Reason: To retain trees that warrant retention and that are situated so that retention is feasible.

49. No work must commence until:

- a) A PCA has been appointed. Where an Accredited Certifier is the appointed, Council shall be notified within 2 days of the appointment; and
- b) A minimum of 2 days written notice given to Council of the intention to commence work.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

50. A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

51. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet before work commences.

Facilities must be located so that they will not cause a nuisance.

Reason: To ensure that sufficient and appropriate sanitary facilities are provided on the site.

52. All demolition work must:

- a) Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Occupational Health and Safety Act and Regulations; and
- b) Where asbestos is to be removed it shall be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.

Reason: To ensure that the demolition work is carried out safely.

53. Where any loading, unloading or construction is to occur from a public place, Council must be contacted to determine if any permits or traffic management plans are required to be obtained from Council before work commences.

Reason: To protect the amenity of the area.

54. A waste management plan must be prepared in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and submitted to and accepted by the PCA before work commences.

Reason: To ensure the appropriate disposal and reuse of waste generated on the site.

55. The site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property, before work commences.

Reason: To secure the area of the site works maintaining public safety.

56. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign must be maintained at all times until all work has been completed. The sign is to include:

- a) The name, address and telephone number of the PCA;
- b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
- c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.

Reason: To maintain the safety of the public and to ensure compliance with the Environmental Planning and Assessment Regulations.

57. A Soil and Water Management Plan must be prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater (Particular reference is made to Chapter 9, "Urban Construction Sites") and submitted to and accepted by the PCA. A copy

of this document must be submitted to and accepted by PCA before work commences. The plan shall indicate:

- a) Where the builder's materials and waste are to be stored;
- b) Where the sediment fences are to be installed on the site;
- c) What facilities are to be provided to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way; and
- d) How access to the site will be provided.

All devices must be constructed and maintained on site while work is carried out.

Reason: To prevent soil erosion and sedimentation of the stormwater network.

58. Before commencing works the person acting on this consent must provide a contact number for a designated person to be available during the demolition and construction for residents to contact regarding breaches of consent or problems relating to the construction.

Reason: To provide a person that residents can contact.

59. The person acting on this Determination must ensure that all workers on the site, including subcontractors, as part of their site induction, are made aware of the potential presence of Long-nosed Bandicoots (including what they look like) and measures to avoid physical harm to bandicoots before commencing any works on site including site preparation works.

Reason: To ensure all workers on the site are made aware of the potential presence of Long Nosed bandicoots on the development site.

60. If new street numbers or a change to street numbers are required, a separate application must be made to and approved by Council prior to those street numbers being displayed.

Reason: To ensure that the building is easily identifiable.

61. The person acting on this consent shall apply as required for all necessary permits including crane permits, road opening permits, hoarding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.

Reason: To ensure all necessary approvals have been applied for.

62. Where it is proposed to carry out works in public roads or Council controlled lands, a road opening permit shall be obtained from Council before the carrying out of any works in public roads or Council controlled lands. Restorations shall be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit for any such works will incur an additional charge for unauthorised works as noted in Council's adopted fees and charges.

Reason: To ensure that all restoration works are in accordance with Council's Code.

63. The person acting on this consent shall provide details of the means to secure the site and to protect the public from the construction works. Where the means of securing the site involves the erection of fencing or a hoarding on Council's footpath or road reserve the person acting on this consent shall submit a hoarding application and pay all relevant fees before commencement of works.

Reason: To secure the site and to maintain public safety

64. A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council before commencement of works. Details shall include proposed truck parking areas, construction zones, crane usage, truck routes etc.

Reason: To ensure construction traffic does not unduly interfere with vehicular or pedestrian traffic, or the amenity of the area.

65. The person acting on this consent shall submit a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before commencement of works.
Reason: To ensure the existing condition of Council's infrastructure is clearly documented.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

For the purpose of interpreting this consent the Certifying Authority (Council or an Accredited Certifier) is that person appointed to issue a Construction Certificate.

66. The following conditions are imposed by Sydney Water and must be complied with at all times:
- a) Construction drawings are to be submitted to Sydney Water for approval before the issue of a Construction Certificate.
 - b) All building and elements are to be a minimum of 1 metre set back from the existing Sydney Water stormwater channels. No building overhang above the channel is permitted.
 - c) All bridge piers are to be a minimum of 1 metre setback from the existing Sydney Water stormwater channels. Pier locations and alignments and bridge deck flood freeboard are to be approved by Sydney Water before the issue of a Construction Certificate.
 - d) All structural support elements are to resilient to severe erosion incidents that may be associated with the failure of the channel. Piers are to extend at least 1 metre below the channel invert, preferably to sound rock unless otherwise approved.

Reason: To ensure compliance with Sydney Water requirements.

67. A final Electrolysis Report based on the final approved development is to be prepared before the issue of a Construction Certificate. The Applicant must incorporate in the development all the measures recommended in the report to control that risk.

Reason: To ensure compliance with Sydney Trains concurrence terms.

68. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of the light rail operator.

Written confirmation must be received from the light rail operator confirming that this condition has been satisfied before the issue of a Construction Certificate.

Reason: To ensure compliance with Sydney Trains concurrence terms.

69. There is a need to ensure that the roots and foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor. The development landscaping and planting plan should be submitted to the light rail operator for review and endorsement before the issue of a Construction Certificate.

Reason: To ensure compliance with Sydney Trains concurrence terms.

70. Before the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains and the light rail operator for review and comment on the impacts on rail corridor.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains and the light rail operator confirming that this condition has been satisfied.

Reason: To ensure compliance with Sydney Trains concurrence terms.

71. The following items are to be submitted to Sydney Trains for review and endorsement before the issuing of a Construction Certificate:

- Machinery to be used during excavation/construction.

The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

Reason: To ensure compliance with Sydney Trains concurrence terms.

72. Before the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains and the light rail operator a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains and light rail operator requirements.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains and the light rail operator confirming that this condition has been satisfied.

Reason: To ensure compliance with Sydney Trains concurrence terms.

73. Before the issue of a Construction Certificate the Applicant is to submit to Sydney Trains the demolition, excavation and construction methodology and staging for review and endorsement. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

Reason: To ensure compliance with Sydney Trains concurrence terms.

74. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains the light rail operator. This insurance shall not contain any exclusion in relation to works on or near the rail corridor and rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group and the light rail operator to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains and light rail operator written advice to the Applicant on the level of insurance required.

Reason: To ensure compliance with Sydney Trains concurrence terms.

75. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant is to contact Sydney Trains Rail Corridor Management Group and the light rail operator to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the entire works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains and the light rail operator. Prior to the issuing of the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains and the light rail operator confirming the lodgement of this Bond/Bank Guarantee.

Reason: To ensure compliance with Sydney Trains concurrence terms.

76. No work (including the installation of sedimentation control) is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains, Transport for NSW and the light rail operator. Where the Applicant proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from those entities confirming that its approval has been granted.

Reason: To ensure compliance with Sydney Trains concurrence terms.

Section 94 Contribution

77. a) This condition is imposed in accordance with Section 94 of the Environmental Planning and Assessment Act 1979.
- b) Before the issue of a Construction Certificate, the Council must be paid a monetary contribution of \$1,928,294.96 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 4 August 2016.

***NB** Contribution rates under Marrickville Section 94/94A Contributions Plan 2014 are indexed quarterly (for the method of indexation refer to Section 2.15 of the Plan).

The indexation of the contribution rates occurs in the first week of the months of February, May, August and November each year, following the release of data from the Australian Bureau of Statistics.

(CONTRIBUTION PAYMENT REFERENCE NO. DC001549)

- c) The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:

Community Facilities	\$215,068.86
Plan Administration	\$37,809.79
Recreation Facilities	\$1,652,902.22
Traffic Facilities	\$22,514.09

- d) A copy of the CP can be inspected at Council's offices at 2-14 Fisher Street, Petersham or online at <http://www.marrickville.nsw.gov.au>.
- e) The contribution must be paid either in **cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card***.

***NB** A 1% credit card transaction fee applies to all credit card transactions.

Reason: To ensure provision is made for the increase in demand for public amenities and services required as a consequence of the development being carried out.

78. A Construction management plan in accordance with the Schedule 4: Revised Statement of Commitments must be prepared and submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure the requirements of the Concept Approval are complied with.

79. The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site www.sydneywater.com.au for:

- Quick Check agents details - see Plumbing, building and developing then Quick Check agents and
 - Guidelines for Building Over/Adjacent to Sydney Water Assets – see Plumbing, building and developing then Plan submissions
- or telephone 13 20 92.

The stamped plans must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure compliance with Sydney Water requirements.

80. A statement from a qualified Architect, verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To comply with the requirements under State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

81. All plumbing and ductwork including stormwater downpipes must be concealed within the outer walls of the building so they are not visible. Plans and elevations detailing the method of concealment must be submitted to and approved by Council before the issue of a Construction Certificate. Any variation to this requirement requires Council approval.

Reason: To ensure the aesthetics of the building and architecture are maintained.

82. Letterboxes and mail collection facilities must be provided and adequately protected in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure adequate mail collection facilities are provided.

83. Adequate outdoor clothes drying areas must be provided for the development in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure adequate outdoor clothes drying facilities are provided.

84. Lighting details of the pedestrian areas, parking areas and all entrances must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure appropriate lighting is provided to create a safe living environment.

85. Plans fully reflecting the selected commitments listed in BASIX Certificate submitted with the application for development consent must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Note: The application for the Construction Certificate must be accompanied by either the BASIX Certificate upon which development consent was granted or a revised BASIX Certificate (Refer to Clause 6A of Schedule 1 to the Regulation).

Reason: To ensure that the BASIX commitments are incorporated into the development.

86. Reticulated gas infrastructure, with a separate meter for each dwelling must be provided to each dwelling in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To provide the potential to reduce greenhouse emissions.

87. Noise attenuation measures must be incorporated into the development complying with State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines" in relation to interior design sound levels and in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines".

Reason: To reduce noise levels within the development from rail noise.

88. Evidence of payment of the building and construction industry Long Service Leave Scheme, must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. (The required payment can be made at the Council Offices).

NB: The required payment is based on the estimated cost of building and construction works and the long service levy rate, set by the Long Service Payments Corporation. The rate set by the Long Service Payments Corporation is currently of 0.35% of the cost of the building and construction work.

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.

http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm

Reason: To ensure that the required levy is paid in accordance with the Building and Construction Industry Long Service Payments Act.

89. Payment to Council of inspection fees (Section 138 Roads Act) in the amount \$418.00 before the issue of a Construction Certificate to ensure the proper completion of the footpath and/or vehicular crossing works required as a result of this development.

Reason: To provide security for the proper completion of the footpath and/or vehicular crossing works.

90. Payment of a Bond, in the sum of \$58,000.00 for the proper performance of Road and Footpath works prior to the release of the stamped approved building plans. The security may be provided in one of the following methods:-

- i) in full in the form of a cash bond; or
- ii) by provision of a Bank Guarantee (with no expiry date) by an Australian Bank in the following terms:

- (a) the bank must unconditionally pay the guaranteed sum to the Council if the Council so demands in writing.
- (b) the bank must pay the guaranteed sum within seven (7) days of demand without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to consent or the carrying out of development in accordance with the consent;
- (c) the bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when the Council notifies the bank in writing that the guarantee is no longer required.

Reason: To ensure all Road and Footpath works are completed within a reasonable time.

91. In order to provide satisfactory vehicular and pedestrian access, drainage, landscaping and aesthetic improvements to the public domain adjacent to the site, the following works shall be undertaken at no cost to Council:

- i. The public domain along all frontages of the site (along Smith and Longport Streets) inclusive of footpath paving, kerb, street trees, landscaping, street furniture, etc shall be reconstructed and upgraded in accordance with the Street Tree Masterplan, the Draft Marrickville Public Domain Code and Draft Technical Manual (for Lewisham West);
- ii. The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site; and
- iii. New kerb and gutter along the frontage of the site. The kerb type (concrete or stone) shall be consistent with the majority of kerb type at this location.

Full detailed construction plans and specifications shall be submitted to Council for approval under Section 138 of the Roads Act 1993 before the issue of a Construction Certificate with all works completed prior to the issue of an Occupation Certificate.

Reason: To provide for essential improvement works to the public domain consistent with Council's desired future character for the area

92. Full detailed construction plans and specification (including lighting) for the site through link (ie the shared street and elevated shared path as shown on Landscape Plan ST4-DA1_L201 Rev B) must be submitted to and approved by Council before the issue of a Construction Certificate. Details shall include a long section along the centre line of the shared street from the bridge over the canal to the elevated shared path, cross-sections at 10 metre intervals and details of stormwater drainage. The shared street shall be extended to the beginning of the first parking space (Bay 1).

Reason: To provide for satisfactory site through link to the light railway station.

93. As identified in the Hawthorne Canal Flood Study the site is subject to flooding during a 1 in 100 year storm event. The Flood Planning Level for the site has been determined to be of RL 11.27m AHD. The following additional information/flood protection measures shall be undertaken as follows:

- a) All habitable floor levels and protection to the underground carpark shall be set at a min height of RL 11.27m AHD;
- b) All structures below RL 11.27m AHD shall be constructed from flood compatible materials;
- c) All penetrations into the underground carpark including stairs, shutters and louvers etc shall be set above RL 11.27m AHD;
- d) The applicant shall also demonstrate that the building will be able to withstand the forces of flood water, debris and buoyancy to the PMF flood level; and
- e) All electrical equipment and wiring shall be waterproofed or installed above RL 11.27m AHD.

Detailed plans and specifications of the above requirements shall be submitted to and approved by Council before the issue of a Construction Certificate.

Reason: To protect the site and occupants from rising flood waters during a 1 in 100 year storm event.

94. The person acting on this consent shall comply with all of the requirements of Sydney Water including the following;

- i) Complying with all clearances for building over and adjacent to Sydney Water assets;
- ii) All building and building elements are to be a minimum of 1m set back from the existing Sydney Water stormwater channels. No building overhang above the channel is permitted;
- iii) All bridge piers are to be a minimum of 1m set back from the existing Sydney Water stormwater channels. Pier locations and alignments and bridge deck flood freeboard are to be approved by Sydney Water; and
- iv) All structural support elements are to be resilient to severe erosion incidents that may be associated with the failure of the channel. Piers are to extend at least 1m below the channel invert, preferably to sound rock unless otherwise approved.

A Copy of Sydney Water's requirements and approval must be submitted to Council before the issue of a Construction Certificate.

Reason: To ensure compliance with all of Sydney Water's requirements.

95. Detailed construction plans for the on-site drainage, water re-use and water quality measures generally in accordance with the Civil Engineering Report (Dated September 2015 Rev A) and Stormwater Concept Plans SW.07 and SW.10 (Rev A) by James Taylor & Associates shall be submitted to and approved by Council before the issue of a Construction Certificate: The plans shall include the following amendments/additional information;

- a) Submission of a WSUD Report in accordance with Part 2.17 (WSUD) of Marrickville Development Control Plan 2011 and Council's WSUD Reference Guideline. This shall include submission of the MUSIC model and File (.sqz file) for assessment;
- b) Treatment measures as outlined in the Civil Engineering Report by James Taylor & Associates;

- c) A water balance model justifying the quantity of proposed water re-use for irrigation. Details of all proposed irrigation points shall be noted on the plan; and
- d) A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections and maintenance works to be undertaken.

Reason: To provide for adequate site drainage and to ensure that the quality of stormwater discharged off site is improved.

SITE WORKS

- 96. All excavation works with 25 metres of the rail corridor are to be supervised by a geotechnical engineer experience with such excavation projects.

Reason: To ensure compliance with Sydney Trains concurrence terms.

- 97. No rock anchors/bolts are to be installed into Sydney Trains property.

Reason: To ensure compliance with Sydney Trains concurrence terms.

- 98. Sydney Trains and Transport for NSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.

Reason: To ensure compliance with Sydney Trains concurrence terms.

- 99. No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor.

Reason: To ensure compliance with Sydney Trains concurrence terms.

- 100. Prior to the installation of any wall/fencing along the rail corridor boundary the Applicant shall obtain Sydney Trains and light rail operator agreement as to the need for any crash barrier to prevent any vehicles from the proposed road coming into the rail corridor. The Applicant shall comply with any requirements issued by Sydney Trains or the light rail operator prior to those specific works being undertaken.

Reason: To ensure compliance with Sydney Trains concurrence terms.

- 101. No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from the light rail operator. To obtain approval the proponent will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by the light rail operator in writing, scaffolding shall not be erected without isolation and protection panels.

Reason: To ensure compliance with Sydney Trains concurrence terms.

- 102. Drainage from the development must be adequately disposed of/managed and not allowed to be discharged or to overflow into the corridor unless prior approval has been obtained from Sydney Trains.

Reason: To ensure compliance with Sydney Trains concurrence terms.

- 103. If any trees are retained, tree protection measures detailed in the approved tree protection specification and tree protection plan, and in the Section 4 of Australian Standard *Protection of trees on development sites* AS 4970—2009 shall be implemented and complied with for the duration of works including demolition, excavation, construction and landscaping (except

where conditions permit otherwise). All reasonable directions by the project arborist in relation to tree protection shall be complied with.

Reason: To ensure trees being retained are effectively protected and managed and their stability and ongoing viability are not compromised.

104. All soil is to be classified as per the *NSW EPA Waste Classification Guidelines: Part 1 – Classifying waste* (EPA 2014) and disposed of to a licensed waste facility.

Reason: To provide for correct disposal of wastes.

105. The disposal of contaminated soil must be carried out in accordance with the requirements of the New South Wales Department of Environment, Climate Change and Water.

Reason: To provide for correct disposal of wastes.

106. If during site works there are significant odours or evidence of contamination (including asbestos) or other unexpected occurrence; site works should immediately cease. Council must be immediately informed and an environmental consultant should be engaged to assess the site and determine if additional remediation is required in accordance with the *NSW EPA's (2011) Guidelines for Consultants: Reporting on Contaminated Sites*.

If it is determined there is a need for additional remediation works, a NSW EPA Accredited Site Auditor is to be engaged to review the proposed remediation plans. Once remediation is complete the Accredited Site Auditor is to submit a Site Audit Statement to Council with any Validation and Monitoring requirements in accordance with the *NSW EPA's (2011) Guidelines for Consultants Reporting on Contaminated Sites*.

Reason: To ensure that the remediated site complies with the objectives of the RAP and that the land is suitable for its proposed use and poses no risk to the environment and human health.

107. Any water (including water from excavations) shall be discharged to sewer, appropriate licence to be obtained; or disposed off-site to a suitably licensed facility. Any water to be discharged to Council's stormwater system shall comply with the ANZECC Guidelines for Marine and Freshwater Quality for Protection of Aquatic Ecosystems (95% protection level for freshwater ecosystems). Details of the adopted groundwater management plan and any monitoring data is to be provided to Council.

Reason: To prevent the pollution of waterways with contaminated groundwater.

108. All demolition, construction and associated work necessary for the carrying out of the development must be restricted to between the hours of 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above, no work is to be carried out on any Saturday that falls adjacent to a Public Holiday.

All trucks and vehicles associated with the construction, including those delivering to or removing material from the site, must only have access to the site during the hours referred to in this condition. No waste collection skips, spoil, excavation or demolition material from the site or building materials associated with the construction of the development being deposited on the public road, footpath, public place or Council owned property without Council's approval, having first been obtained. The developer must ensure that all contractors associated with the development are fully aware of these requirements.

Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.

109. Notwithstanding the above condition, all remediation works must be restricted to between the hours of 7.00am and 6.00pm Mondays to Fridays and 8.00am to 1.00pm Saturdays with no works being carried out on Sundays and Public Holidays or any Saturday that falls adjacent to a Public Holiday.

Reason: To ensure that the remediation works are only carried out during the hours of operation permitted under Part 2.24 of Marrickville Development Control Plan 2011 – Contaminated Land.

110. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.

Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.

111. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy – 'Placement of Waste Storage Containers in a Public Place'.

Reason: To ensure the public ways are not obstructed and the placement of waste storage containers in a public place are not dangerous to the public.

112. All demolition work must be carried out in accordance with the following:

- a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
- b) all works involving the demolition, removal, transport and disposal of asbestos cement must be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
- c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
- d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
- e) the generation of dust and noise on the site must be controlled;
- f) the site must be secured to prohibit unauthorised entry;
- g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
- h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only have access to the site during work hours nominated by Council and all loads must be covered;
- i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
- j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
- k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.

Reason: To ensure that the demolition work is carried out safely and impacts on the surrounding area are minimised.

113. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:

- a) At the commencement of the building work;
- b) For Class 2, 3 and 4 buildings, prior to covering waterproofing in any wet areas (a minimum of 10% of wet areas within a building);

- c) Prior to covering any stormwater drainage connections, and after the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
- d) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

You are advised to liaise with your PCA to establish if any additional inspections are required.

Reason: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations and the Building Code of Australia.

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

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

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

Reason: To ensure that imported fill is of an acceptable standard.

115. If the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage. Where the proposed underpinning works are not "exempt development", all required consents must be obtained prior to the required works commencing; and
- c) at least 7 days' notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice must include complete details of the work.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report must be submitted to and accepted by the PCA before works continue on site, if the consent of the adjoining property owner can be obtained.

Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received must be forwarded to the PCA before work commences.

Reason: To ensure that adjoining buildings are preserved, supported and the condition of the buildings on the adjoining property catalogued for future reference in the event that any damage is caused during work on site.

116. All vehicles carrying materials to, or from the site, must have their loads covered with tarpaulins or similar covers.

Reason: To ensure dust and other particles are not blown from vehicles associated with the use.

117. Satisfactory methods and/or devices must be employed on the site to prevent the tracking of mud/dirt onto the surrounding streets from vehicles leaving the site.

Reason: To prevent soil particles from being tracked and deposited onto the streets surrounding the site.

118. A certificate of survey from a registered land surveyor must be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.

Reason: To ensure all works are contained within the boundaries of the allotment.

119. During construction, all holes (eg created for footings etc.), machinery and construction material stockpiles must be inspected daily prior to commencing work to ensure no Long-nosed Bandicoots are sheltering in these areas. In the event that a bandicoot is found, no work must proceed until the bandicoot has been safely vacated from the works area.

Reason: To protect Long-nosed Bandicoots.

120. All roof and surface stormwater from the site and any catchment external to the site that presently drains to it, shall be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code.

Reason: To provide for adequate site drainage.

121. The applicant shall, within fourteen (14) days of notification by Council execute any and all maintenance works required by Council in relation to Council's assets. In the event that the applicant fails to undertake such work, Council may undertake the required maintenance works, utilising part or all of the maintenance security and Council may recover any costs in excess of the security from the applicant.

Reason: To ensure all public domain works are maintained within a reasonable time limit during a 12 month maintenance period.

BEFORE OCCUPATION OF THE BUILDING

122. 2 x 1 bedroom apartments and 2 x 2 bedroom apartments being dedicated to Council as affordable housing in accordance with the Schedule 4: Statement of Commitments attached to the Concept Approval MP10_0155.

Reason: To ensure compliance with the terms of the Concept Approval.

123. The new trees shall be planted in accordance with the following criteria before the issue of an Occupation Certificate.

- a) The new trees shall be located in accordance with the submitted landscape plan.
- b) The number and species of trees and planting stock size shall be as detailed in the submitted landscape plan.
- c) The planting stock shall comply with Australian Standard *Tree stock for landscape use* AS 2303—2015.
- d) The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3.
- e) Each new tree shall be maintained in a healthy and vigorous condition until it attains a height of 5 metres, from which time it is protected by Council's Development Control Plan (DCP).

- f) If any tree dies or needs to be removed before that time it shall be replaced with a similar tree in accordance with these conditions at the expense of the applicant.

Reason: To ensure that the new trees are high quality and properly planted, to maximise the potential for well-established trees that survive for the long term.

124. The road infrastructure upgrades and Roads and Maritime Services requirements required by conditions 18 and 19 within the Concept Approval MP10_0155 (as modified) must be completed to Roads and Maritime Services satisfaction before the issue of any Occupation Certificate (whether it be an Interim or Final Occupation Certificate).

Reason: To ensure that the road infrastructure upgrades required as part of Stage 3 are completed.

125. Before the issue of an Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from the light rail operator Transdev and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

Reason: To ensure compliance with Sydney Trains concurrence terms.

126. The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Before the issue of an Occupation Certificate the Applicant shall liaise with Sydney Trains and the light rail operator regarding the type of new fencing to be installed. The method of erection is to be to the satisfaction of Sydney Trains and the light rail operator prior to the fencing work being undertaken. It should be noted that unless agreed to by Sydney Trains and the light rail operator any wall or fencing along the rail corridor boundary shall not include any spaces to accommodate stormwater overflow.

Reason: To ensure compliance with Sydney Trains concurrence terms.

127. The developer must provide a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The maintenance plan is to be submitted to Sydney Trains and the light rail operator before the issue of an Occupation Certificate. The Principal Certifying Authority is not to issue an Occupation Certificate until written confirmation has been received from Sydney Trains and the light rail operator advising that the maintenance plan has been prepared to its satisfaction.

Reason: To ensure compliance with Sydney Trains concurrence terms.

128. Before the issue of an Occupation Certificate the Applicant is to submit the as-built drawings to Sydney Trains and Council. The as-built drawings shall indicate that there has been no encroachment into the rail corridor. The Principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

Reason: To ensure compliance with Sydney Trains concurrence terms.

129. You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:

- a) A copy of the determination;
- b) Copies of any documents that were lodged with the Occupation Certificate application;
- c) A copy of Occupation Certificate, if it was issued;
- d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;

- e) A copy of any missed inspections; and
- f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.

Reason: To comply with the provisions of the Environmental Planning and Assessment Regulations.

130. Occupation of the building must not be permitted until such time as:

- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
- b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
- c) An Occupation Certificate has been issued.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

131. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner shall obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Reason: To ensure compliance with the relevant provisions of the Environmental Planning and Assessment Regulations and Building Legislation Amendment (Quality of Construction) Act.

132. The Section 73 Certificate must be submitted to the Principal Certifying Authority before the issue of an Occupation Certificate.

- a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
- b) Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.

Reason: To ensure compliance with Sydney Water requirements.

133. A Section 73 Compliance Certificate from Sydney Water must be submitted to Council before occupation of the premises.

Reason: To comply with the requirements of that Act.

134. A statement from a qualified Architect, verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development must be submitted to the Certifying Authority's satisfaction before the issue of an Occupation Certificate.

Reason: To comply with the requirements under State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

135. The landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved details and must be maintained at all times to Council's satisfaction.

Reason: To ensure adequate landscaping is maintained.

136. a) Upon completion of the required noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination and before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), a report must be prepared and submitted to the Certifying Authority's satisfaction by an accredited Acoustics Consultant, certifying that the final construction meets State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines" as set down in the subject condition of this consent. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development; and

- b) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate must be prepared and submitted to Council in accordance with the requirements as set down in Part a) of this condition.

Reason: To reduce noise levels within the development from rail noise and to ensure that the noise attenuation measures incorporated into the development satisfactorily comply with State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines".

137. The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).

Reason: To ensure that all of the BASIX commitments have been fulfilled and to comply with the requirements under Section 154B of the Environmental Planning and Assessment Regulations 2000.

138. The Certifying Authority must apply to the Director-General for a BASIX Completion Receipt within 2 days of the issue of a final Occupation Certificate. Completion Receipts can be applied for at www.basix.nsw.gov.au.

Reason: To ensure compliance with the requirements under Section 154C of the Environmental Planning and Assessment Regulations 2000.

139. Before the issue of an Occupation Certificate, a street number and identifier of separate occupancies (if applicable) must be clearly displayed in a readily visible location (numbers having a height of not less than 75mm). If any new street numbers or change to street numbers (this includes unit and shop numbers) are required they must have the prior approval of Council before being displayed.

Reason: To ensure that the building is easily identifiable.

140. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of the Occupation Certificate. Works shall be in accordance with Council's

Standard crossing and footpath specifications and AUS-SPEC#2-“Roadworks Specifications”.

Reason: To ensure person acting on this consent completes all required work.

141. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

Reason: To ensure all costs for the adjustment/augmentation of services arising as a result of the redevelopment are at no cost to Council

142. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-“Roadworks Specifications” shall be constructed at the vehicular access locations before the issue of the Occupation Certificate and at no cost to Council.

Reason: To allow vehicular access across the footpath and/or improve the existing vehicular access.

143. All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-“Roadworks Specifications” before the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.

Reason: To eliminate redundant crossings and to reinstate the footpath to its normal condition.

144. Before occupation of the site written verification from a suitably qualified professional civil engineer, stating that all stormwater drainage and related and quality measures have been and constructed in accordance with the approved plans being submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, shall be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.

Reason: To ensure drainage works are constructed in accordance with approved plans.

145. With the regard to the Stormwater Treatment Facilities a Positive Covenant shall be placed on the Title in favour of Council before issue of the Occupation Certificate. The Positive Covenant shall include the following:

- a) The proprietor of the property shall be responsible for maintaining the stormwater treatment facility as outlined in the approved WSUD Strategy Report;
- b) The Proprietor shall have the stormwater quality treatment facilities inspected annually by a competent person and must provide the WSUD maintenance plan approved under this Consent to competent person to record the annual inspections.
- c) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all elements of the stormwater quality treatment facilities to ensure that the water quality targets provided in the design of the system are achieved; and recover the costs of any such works from the proprietor.

Reason: To ensure that the integrity of the stormwater quality treatment facilities is maintained.

146. A public right-of-way must be created over the full length and width of the site through link (ie the shared street and elevated shared path as shown on Landscape Plan ST4-DA1_L201 Rev B). The right-of-way must be registered at the NSW Land & Property Information Office before the issue of an Occupation Certificate. Please note that the right-of-way must be extended to the beginning of the first parking space (Bay 1).
Reason: To provide legal public vehicular and pedestrian access over the site through link.
147. A Positive Covenant requiring the Owner(s) and/or Body Corporate to maintain the site through link must be placed on the Title in favour of Council before the issue of the Occupation Certificate.
Reason: To ensure that the site through link is maintained in satisfactory condition.
148. All instruments under Section 88B of the Conveyancy Act used to create positive covenants, easements or right-of-ways shall include the condition that such easements or right-of-ways may not be varied, modified or released without the prior approval of Marrickville Council.
Reason: To ensure Council's interests are protected.
149. The applicant shall provide security, in a manner satisfactory to Council for the proper maintenance of the Public Domain works in an amount of \$6,000.00 for a period of twelve (12) months from the date of completion of the works as surety for the proper maintenance of the Public Domain works.
Reason: To provide security for the maintenance of the Public Domain works for a 12 month maintenance period.
150. A Flood Emergency Response Plan for the site in accordance with Part 2.22 of Marrickville Development Control Plan 2011 – Flood Management must be submitted to Council's satisfaction before the issue of an Occupation Certificate.
Reason: To protect the occupants of the site during extreme flood events.
151. Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath and Civil Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.
Reason: To ensure that all Road, Footpath and Civil Works required to be undertaken as a result of this development have been completed satisfactorily.

ADVISORY NOTES

- The Disability Discrimination Act 1992 (Commonwealth) and the Anti-Discrimination Act 1977 (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.
- A complete assessment of the application under the provisions of the Building Code of Australia has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit these plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

- Buildings built or painted before the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned before occupation of the room or building.

- Contact "Dial Before You Dig" before commencing any building activity on the site.

Useful Contacts

BASIX Information	☎ 1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	☎ 13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Before You Dig	☎ 1100 www.dialbeforeyoudig.com.au
Landcom	☎ 9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	☎ 131441 www.lspc.nsw.gov.au
NSW Food Authority	☎ 1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	☎ 131 555 www.environment.nsw.gov.au
Sydney Water	☎ 13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	☎ 1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	☎ 13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

- B. THAT** those persons who lodged submissions in respect to the proposal be advised of the Council's determination of the application.