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Your Ref: SSD-83899206

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Via Major Projects Portal

Dear Rosie

Advice on EIS – Mixed Use Development at Green Square Town Centre – Sites 7, 17 and 18 – SSD-83899206.

Thank you for your correspondence dated 20 February 2026 inviting the City of Sydney Council (the City) to comment on the State Significant Development Application and combined Rezoning Application (SSD-83899206) submitted through the Housing Delivery Authority pathway by Mirvac Green Square. This application is for a mixed-use development at Sites 7, 17 and 18 in the Green Square Town Centre, and proposes the construction of three mixed-use buildings with ground floor retail and 511 build-to-rent apartments, 60 of which are to be used for 'affordable housing'.

The City has reviewed the Environmental Impact Statement (EIS) and Rezoning Statement and all associated attachments and **strongly objects** to the application for the following reasons:

1. Rezoning

The Green Square Urban Renewal Area is one of the largest renewal areas in Australia. At completion it will have over 65,000 people, over 65% of whom already live there. These residents have purchased in the area on the understanding that the goods, services and facilities they (or their tenants) need for everyday living will be provided in the Green Square Town Centre.

The EIS incorporates a concurrent rezoning request to amend the Sydney Local Environmental Plan (Green Square Town Centre) 2013 (GSTC LEP) to facilitate:

- an increase in FSR
- an increase in maximum building height
- exclusion of affordable housing contribution requirements, and
- exclusion of active street frontage requirements

It is noted that this EIS relates only to Sites 7, 17 and 18 in the Green Square Town Centre, the rezoning proposal (as set out in Section 5 of the EIS) will also impact on the EIS assessment for State Significant Development Application SSD-84322496 being concurrently assessed by the Department for Green Square Town Centre Sites 8 and 19 located to the south of the Green Square Plaza.

These comments should therefore be considered in the context of both EIS proposals, acknowledging the wider implications of proposed changes to the GSTC LEP on the precinct.

2. Strategic merit

Elements of the rezoning proposal fail to demonstrate strategic merit.

Of particular concern is the loss of non-residential floor space from the precinct and its impact on the overall intent of providing a vibrant, mixed-use town centre at the heart of the urban renewal area. The loss of productive floor space actively undermines:

- the anticipated delivery of jobs and services in close proximity to residential populations and key transport routes – inconsistent with the Greater Sydney Region Plan;
- long term viability of the Town Centre as a vibrant, mixed use economic precinct, noting the residential focus of the proposed development provides no scope for future economic development, ability to grow investment, business opportunities and jobs – inconsistent with the Eastern City District Plan; and
- the strategic intent of the Town Centre as the economic centre for the large residential, worker and visitor population in the south of the City's LGA that is a meeting place for the community and where they can find goods and services to meet their daily needs – inconsistent with key priorities of the City's Local Strategic Planning Statement.

There is a current development consent for Sites 7, 17 and 18 approved by the Central Sydney Planning Committee on 9 May 2024 under Development Application D/2023/849. This consent included approximately 5,576 square metres of non-residential floor space, comprising commercial, business and ground floor retail uses.

The proposed development reduces the amount of non-residential floor space to 1,846 square metres. This proposal and the rezoning proposal for Sites 8 and 19 will make more significant reductions to non-residential floor space that has been long planned for the Green Square Town Centre, including changes to the planning controls to allow the planned commercial buildings on Sites 8A and 8B to be used for residential uses.

This loss of non-residential floor space directly undermines the City's strategic planning for the urban renewal area that has been consistently applied over the last 30 years – delivering world class urban renewal.

As far back as 1997, the Green Square Structural Masterplan emphasised a concentration of activity in the Town Centre to act as the heart of the Green Square Urban Renewal Area. This formed the basis for the original Green Square planning controls (South Sydney LEP 1998 (Amendment No.2) – Green Square) which zoned the area around the train station and to its east as a higher order mix of uses ('M3 – Up to 50% non-residential (commercial/retail)').

The Town Centre was later underpinned as a 'planned major centre' in the State Government's Metropolitan Strategy in 2005, the 2006 NSW State Plan and the Sydney City Sub Regional Strategy in 2008 – being expected to “evolve into a vibrant major centre with a mix of employment activity and residential development”.

The subject sites, which make up the 'core' of the Town Centre, were sold specifically to a consortium between Landcom, a State-owned corporation, and Mirvac and Leighton, who progressed a planning proposal in 2012 to allow significant increases in heights and FSR. This was supported on an understanding that critical strategic outcomes were to be secured, including significant contributions to the public domain and an increase in commercial floor space from 18,405sqm to 48,605sqm. 12,616sqm of retail floor space was to also be delivered.

For more than 20 years, the City has been focused on ensuring an adequate mix of uses is delivered in the Town Centre for the long-term viability and vibrancy of the centre and to serve the needs of the surrounding area. Substantial investment has also been committed from local and state governments to support this vision.

While the City acknowledges the importance of increasing housing supply in the short term, it cannot be at the expense of achieving the long planned economic and civic centre for the significant residential and worker population in the south of the City. A balance of residential and non-residential development must be achieved for the future needs of the community.

The City is concerned with the quality of the economic impact assessment provided with the application, including several misleading conclusions that it has reached. Overall, the assessment does not provide evidence for the long-term strategic merit of a reduced non-residential floor space offer in the Town Centre, rather focusing on the feasibility challenges of the current market. This is short sighted, undermines strategic planning and does not consider the needs of the future community.

The assessment argues that a number of other centres and precincts have developed over time to meet the retail needs of the growing community, thereby justifying the current proposal. The statement includes approved developments, such as Emerald City, in this assessment – ignoring that these have never been developed despite having approvals since 2012.

The assessment uses the recent changes to the City's planning controls, that identified an 'Expanded Retail Area' for the provision of more large format retail (i.e. supermarkets), as justification that the Town Centre no longer needing to deliver its planned retail offering. However, this was clearly not the intention of the City in making these changes. Rather the expanded retail area was simply to provide further opportunities for retail, noting the substantial increase in the expected residential population compared with when the Town Centre was first planned. The City's changes to the planning controls explicitly did not seek to diminish the Town Centre's core role as the primary centre for the southern area of the City and a place where substantial retail and commercial floor space should be located.

It is also noted the proponent's assessment relies on 2021 Retail Review modelling that predates the significant uplift in housing capacity delivered through the HDA process. Since 2023, almost 5,000 additional dwellings have been approved, well beyond the assumptions used in the modelling, meaning the actual retail need is now higher than this study anticipated.

The City agrees with and reiterates the recommendation of the Design Review Panel (DRP) in its advice to the Department, dated 11 November 2025 that the *'provision of non-residential uses should be increased to achieve the objectives of the Green Square Town Centre LEP 2013 to encourage the establishment of the Green Square Town Centre as the major commercial, retail, cultural and entertainment centre and to provide an appropriate mix of land use and generate employment in the Town Centre'*.

Key requested recommendations:

Further interrogation of the uses at the ground plane, basements and level 1 is encouraged, particularly in relation to the introduction of more non-retail supporting commercial uses where possible and prioritising active uses in key public areas over servicing infrastructure. The interface between level 1 uses and the plaza should be further developed, with consideration given to future adaptation to alternative non-residential uses. The DRP supported minimisation of car parking in favour of more active uses.

Any change to the GSTC LEP should retain the overall requirement in the current instrument for non-residential floor space, i.e., including the expectation that the buildings along Botany Road be retained as commercial buildings.

Any SSDA approval for Sites 7, 17 and 18 should seek to retain the non-residential floor space in the current DA approval for the site. It is preferred this amount is secured in any change being made to the GSTC LEP.

3. Affordable Housing

The City welcomes the delivery of more affordable housing in Green Square noting the significant shortage of housing for very-low, low- and moderate-income households in the local area. The City's own planning controls for the area, now sought to be varied, were developed to ensure that the renewal of Green Square provides the affordable housing needed to support the housing needs of the broader community. Long term income based affordable housing is proposed to be substituted with discount to market housing

The application offers just 60 affordable dwellings, located within buildings at Sites 7, 17 and 18. These affordable dwellings are intended to satisfy the HDA declaration requirement for the whole site. Now that the second SSDA for Sites 8 and 19 has been lodged, we know that over 1,600 dwellings are proposed – consistent with the SEARs request.

The 60 affordable dwellings proposed is significantly less than the estimated **129 affordable dwellings** that would otherwise be achieved under the City of Sydney Affordable Housing Program for all of the proposed dwellings, including:

- 58 affordable dwellings, pursuant to Clause 6.5 of GSTC LEP (i.e. a contribution of 3% residential Total Floor Area (TFA) and 1% of non-residential TFA)¹, plus
- 71 affordable dwellings, pursuant to Appendix B of the Program (based on, i.e., an additional contribution of 9% of the residential uplift resulting from a rezoning – based on the GFA for the 850 additional dwellings).

¹ TFA has been calculated based on a assumed multiplier of 115% of the GFA, noting the TFA definition in Clause 6.5 of the GSTC LEP includes additional floor area in comparison to the GFA definition in the standard instrument.

The sum of the above LEP requirements when applied to the SSD proposal, represents 7.7% of the proposed residential floor space across both SSD applications.

As TFA plans have not been provided, the above has been calculated based on the Gross Floor Area (GFA) and the assumed extrapolated TFA. The applicant must be required to provide Total Floor Area plans in accordance with the definition in subclause 6.5(6) of the GSTC so that the City and the Department, as consent authority, can understand the amount of truly affordable housing that will not be delivered under these proposals.

As calculated above, this equates to a reduced affordable housing offer in comparison to the City's Program and is contrary to the Minister for Planning's commitment in his second reading speech to Parliament on 15 October 2025 that:

*"In response to concerns from the member for Sydney, I will ask the department to further strengthen the affordable housing criteria and to explore a new criterion relating to master planned locations. These criteria are used to determine whether a proposal should be declared State significant development and eligible for State assessment. **When a council has adopted an affordable housing contribution scheme, that policy should still be applied.** Where no such policy exists, or where the contribution rate is minimal, the criteria can revert to affordable housing rates set out in the State housing SEPP. There will also be scope to refine other criteria—for example, where a recent master planning process has already taken place. This approach aligns with the existing HDA objective that proposals must demonstrate strategic merit and consistency with relevant strategic plans."*

The affordable housing offering is expressed as a number of dwellings rather than as a percentage of floor space. Whilst this is offered 'tenure blind', this floating approach is undefined and does not guarantee a percentage of floor space to be used as proposed. The City's concern is this will likely result in only smaller dwellings being used for affordable housing, representing an overall smaller contribution, and in practical sense, no medium or larger size apartments to cater for the mix of household typologies that may be in need of affordable housing within the area.

Additionally, it is also a smaller affordable housing contribution than would be achieved if the site was subject to the in-fill affordable housing provisions of the SEPP (Housing) 2021, which requires an affordable housing contribution in accordance with any local requirement (i.e. the City's Program requirement), plus 10-15% of residential floor space to be provided as affordable housing for a period of 15 years.

Of further concern is the ownership and ongoing management arrangements proposed for the affordable housing that are inconsistent with the City's Program, in particular:

- the proposed dwellings will be rented mostly at a discount to market rate. This is inconsistent with the income-based rents required by the Program that ensure the housing is actually affordable.
- The table below shows the stark difference between the two approaches in our local area for a single person earning the minimum wage.
- **The difference of \$325 per week between the two different approaches is especially meaningful for a low-income household.**
- The City's Program represents 35 per cent of the total income for that person.

- In order to pay a discounted market rent (as sought by the proponent in this application) in the City of Sydney, a minimum wage earner would need to pay **66 per cent of their income** in rent, putting them in severe housing stress:

Household income per week	Median market rent (1 Bed) March 2025	Income based rent (30%)	Discounted market rent (80%)	Discounted market rent (74.9%)
\$915.9	\$750	\$275	\$600	\$562

- the proposed dwellings will be rented mostly to moderate income households, with only a small proportion being allocated to low-income households, and none to very-low-income households
- the dwellings or monetary contribution, including those sites with existing redevelopment approvals by the City, **will now not be dedicated to a community housing provider (CHP)**, only managed by a CHP. This means the housing cannot be leveraged by the CHP sector to provide more affordable housing in future (estimated to reduce dwellings numbers by 20 per cent due to the taxation and other settings that not-for-profit community housing providers have).
- **“in perpetuity” is ensured only with a covenant, that ultimately can be removed by the prescribed authority at a future date upon request of the landowner.**
- the proposed eligibility criteria is unclear, and
- the proposed dwelling mix is unclear.

Key requested recommendations:

The City strongly objects to any change to Clause 6.5 of the GSTC LEP that would reduce the affordable housing contribution.

In addition, the Department must ensure that an additional affordable housing contribution is secured for the significant uplift sought under each SSDA. It is recommended that an affordable housing contribution of 7.7% be applied, commensurate with the increased development capacity resulting from the proposed rezoning. The new clause should require the affordable housing to be provided as a monetary contribution or dedicated to council (who will pass it to a tier 1 CHP), in accordance with the requirements of the City of Sydney Affordable Housing Program.

It is noted the Department have previously taken this approach in rezoning Blackwattle Bay, with the insertion of Clause 6.70 in the Sydney LEP to require such a contribution.

3.1. Affordable housing - SSD Approval

To realise the City's recommendation that the affordable housing contribution requirement be increased, and subject to a requirement that it should be satisfied in accordance with the City's Program (income-based rents and dedication of stock to CHP), it is recommended the City's standard condition be applied to the consent (see attached).

Should the application be approved generally in accordance with the proposed affordable housing approach set out in the EIS, the City recommends the following matters be conditioned and/or resolved through a planning agreement:

- the affordable housing must be managed by a registered not for profit community housing provider in accordance NSW Affordable Housing Ministerial Guidelines, noting the Guidelines establish eligibility criteria and rent setting parameters
- where affordable housing is held by the landowner, that is, it is not dedicated to a CHP, a covenant should be registered pursuant to s88E of the Conveyancing Act. It should:
 - not have an end date (be in perpetuity)
 - identify the Council of the City of Sydney as the prescribed authority with the power to release, vary or modify the covenant terms.

The City can share its template covenant with the Department on request.

4. Design Excellence

Clause 6.9 of the GSTC LEP states that development consent must not be granted to development unless the consent authority is satisfied that the proposed development exhibits design excellence.

The Department cannot be satisfied that the application exhibits design excellence as the proponent's own Design Review Panel (DRP) concluded that the design does not exhibit design excellence. The Panel concluded that a significant extent of change 'design refinement' was required due to the number and nature of issues.

The written responses provided to the DRP minutes infers that few changes have been made to the proposed development **and the City in its review of the lodged application also concurs that the proposed development does not exhibit design excellence.**

The DRP must review the as lodged design and provide further advice to confirm whether design excellence has been achieved. Failure to have the DRP review and endorse the scheme would further undermine GANSW Design Excellence Competitive Exemption Pathway which states that design excellence must be endorsed prior to lodgement.

The SSD applications including the early works SSD cannot be determined until the DRP confirms that design excellence has been achieved.

5. Voluntary Planning Agreement

The VPA requires the creation of two easements on the site:

- Easement 13 – for footpath widening 3m along Tweed Place (part of the Plaza)
- Easement 17 – for colonnade 5m wide along Barker Street

The site 18 building must be further setback at ground and first floor level to provide the whole 5m easement (to a height of 6m) on the eastern side of Barker Street. It is noted that whilst a reduced setback was approved by the CSPC for site 18 this was supported on the basis that the building provided a cantilever form which offered a superior civic outcome to Neilson Square within the Plaza. As this is no longer proposed and the

design of building 18 has removed the more generous civic form, the City maintains that the application must strictly comply with the terms of the VPA.

The easements must benefit Council for the purpose of public access to the satisfaction of Council and must be created before the Occupation Certificate for the adjacent buildings.

5.1. Public Domain – Fellmonger Place and Barker Street

The existing Voluntary Planning Agreement requires the developer to dedicate the land for Fellmonger Place and Barker Street as public road. These roads provide the fine grain road network through the Town Centre. The VPA provides an option for the developer to construct the public domain within the land dedication areas, but in doing so must be to the acceptance of the City.

The proposed design submitted for Fellmonger Place and Barker Street are inconsistent with the approved, construction ready, design and are inconsistent with the City's future asset ownership requirements.

Overall, **the proposed design both visually and spatially privatise the spaces.** Whilst the City is open to some design development, the design should remain generally consistent with the approved designs and meet the following operational and design requirements:

- shared paths with a 4m wide continuous path of travel are to be provided on both sides of the street
- pathways are to be wide enough and unencumbered to accommodate service and emergency vehicles, including waste trucks to empty public bins and for maintenance
- a central path should be provided to allow pedestrians
- paving materials for streets should be from the standard Street Code palette to differentiate from the adjoining Library and Plaza, and to ensure no additional maintenance costs are passed on to the City
- stormwater drainage should be aligned centrally and not require bends or kinks
- bike parking hoops including hooped areas specifically for shared bike parking
- the openings to the central circular landscaped areas align with the building entries and further alludes to the privatisation of these public spaces.
- the wind report indicates that these streets will be uncomfortable for sitting in which defeats the proposed purpose of the proposed additional landscaped sitting areas.
- limited seating as resting points – noting wind environment
- changes to tree lines must consider street lighting locations and requirements
- the design of the street should more closely align with its intended purpose as an active transport pathway rather than a passive recreation area or extension of the private development.

5.2. Proposed Street Trees

The proposed tree species are inconsistent with the City of Sydney Street Tree Masterplan species which specifies *Ulmus parviflora* Todd (Chinese Elm) for Fellmonger Place and *Elaeocarpus eumundii* (Eumundi Quandong) for Barker Street.

5.3. Recycled Rainwater

The VPA (Schedule 3 Table 4 Item 1) requires the buildings to provide a dual reticulation water system that supplies recycled water to all toilets, washing machines, car wash bays, cooling towers and irrigation. This requirement should be confirmed and detailed in the application.

5.4. Cooling

The VPA (Schedule 3 Table 4 Item 2) currently requires the buildings to meet certain environmental standards for air conditioning systems, and for the systems to be water-cooled. However, the City has recently approved a request by Mirvac to amend the VPA requirement to allow the use of air-cooled systems.

6. Building Typologies and Uses

The proposed development does not meet the GSTC DCP 4 Land uses Objective (a) *create a genuinely mixed use centre that is activated during the day and in the evenings* and is inconsistent with its nomination as a 'Planned Major Centre' in the NSW Government's *Metropolitan Plan for Sydney 2036*.

Extract from Metropolitan Plan for Sydney 2036 page 16:

The Major Centres will cater for—and grow in response to—the expanding and changing population, concentrating major shopping destinations, local jobs and services near homes within subregional catchments. They are the building blocks of the public transport network.

The proposed development significantly reduces the amount of non-residential floor space in comparison to the amount anticipated under the current controls and which was to be delivered under the current development consent. As outlined above, the loss of this commercial floor space undermines the status of the town centre but additionally is inconsistent with the block planning for the area, given this was defined by the intended land uses. Previously the City responded to requests from the applicant to make the commercial spaces more flexible.

Being a large renewal area, multiple former large landholdings were consolidated to create the smaller development blocks and public spaces that are now evident on the ground. Significant land ownership and staging challenges were overcome to create a well-planned and connected town centre.

The key location of the site towards the heart of the Town Centre lent itself to accommodating commercial uses and accordingly larger deeper development blocks were accommodated, primarily at the podiums of Sites 7 and 17.

The primarily residential typologies poorly utilise the planned building envelopes and consequently offer poorer amenity for the future residents as:

- **land use conflicts are created vertically with the plaza which is the principal community gathering space both during the daytime and evenings and is the heart of the Green Square Town Centre (inconsistent with Objective (c) of Section 4 of the GSTC DCP; and**
- **the ADG amenity requirements are not met – principally solar access and natural cross ventilation.**

The proposed retail provided, nearly entirely at ground floor, is inconsistent with Objective (c) of the Section 4 of the GSTC DCP to *provide retail uses and other services for the immediate community, and entertainment and regional retail opportunities for visitors to the Green Square Town Centre.*

Key requested recommendations:

The proposed development should be redesigned to better align with the intended planning outcome for these buildings and the broader town centre, with commercial and retail uses, not just retail, provided within the podiums of sites 7 and 17. Entertainment or commercial uses should be provided within the podium of site 7. At a minimum the podium of site 7 should be designed so that this floor space can be converted to a entertainment uses in the future.

7. Solar Access to Public Domain

The Green Square Town Centre has been carefully planned to accommodate the significant density whilst maintaining amenity to new key public open space areas. These public open spaces were planned, financed and constructed by the City. Approval of the proposed development must not undermine the City's commitment.

7.1. Drying Green

Section 3.1.1(k) of the GSTC DCP requires the Drying Green to achieve direct sunlight each hour between 11am and 2pm in mid-winter for at least 50% of this park. Whilst it is acknowledged that a development control plan is not required to be considered in the assessment of a SSD, the consent authority must consider the significant impacts of the development. The design requirements in GSTC DCP outline the established amenity criteria for public spaces within the Town Centre that are to be achieved for all developments. The DCP provides the only metric to assess the significant impacts of the development on public places.

The proposed development would cause additional overshadowing to the Drying Green and would cause more than 50% of the Drying Green to be in shadow between 1pm and 2pm in mid-winter.

The City fundamentally rejects the submitted justification that the non-compliant overshadowing is caused only by existing shade structures located within the Drying Green. These structures are entirely consistent with and necessarily for the intended use of the park, or in the case of the shade structure intentionally provides shade and are accounted for within the 50% of the park that is permitted to be in shadow. The proposed development must be redesigned to remove any non-compliant impact.

Additionally, the City is concerned that the application does not address the cumulative

impact of the concurrent Sites 8 and 19 SSD application. This application must not be determined until the cumulative impact of both applications demonstrates compliance with the GSTC DCP.

8. Street Trees

The public domain along Ebsworth Street, Tweed Place and Paul Street was constructed by the City in 2018 in accordance with the City's Street Design Code and street trees were planted and are now well established (trees 1-6, 11-12, 39-51 – appendix JJ). The City invested early to deliver the public domain and establish tree canopy within the Town Centre. The proposal seeks to remove all street trees, primarily for construction access.

The City strongly objects to the removal of these trees and conditions must be imposed requiring these street trees to be retained and protected throughout construction.

The application does not provide any reasonable justification for the removal of these trees. The design and location of site fencing, hoardings, site amenities and construction access must be further considered to ensure the retention of these trees.

Section 6.13.1 of the Green Square Town Centre DCP states that all development proposals must be designed to minimise impacts on street trees and trees on adjoining land. The City has a canopy coverage target of 70% for new streets to help mitigate urban heat island effects support community health. The unnecessary removal of existing street trees further diminishes the significant investment made towards achieving this target.

Key requested recommendations:

A revised arboricultural impact assessment is required to assess the potential impact of the development on trees required to be retained and make recommendations to ensure the viable protection of these trees during construction.

8.1. Apartment Design Guide

The City acknowledges that Section 75 of the Housing SEPP requires the consent authority to be flexible in the applying the design criteria in the ADG. However, the extent of the inconsistencies sought are above that anticipated and the design and quality of the communal amenities and open spaces are not sufficient to demonstrate that commensurate amenity is provided.

8.1.1. Solar Access

8.1.1.1. Buildings 7 and 17

The height increases proposed for sites 7 and 17 under this application should increase the solar performance of the buildings, however, solar access remains the same at around 61% for the two buildings. The approved development was impacted by overshadowing from neighbouring buildings, however some of this overshadowing was impacting commercial uses. **The proposal to change the commercial podiums to residential does not respond to the site context and negates any benefit that could be derived from the increased building heights in terms of solar access.**

8.1.1.2. Building 18

The approved development for building 18 was consistent with the ADG solar access design criteria. The proposed building results in worse amenity with only 56% of apartments achieving genuine solar access, significantly non-consistent with the ADG. A review of the shadow diagrams indicates that apartments 180302, 180402, 180304, 18040, 180305, 180405 do not achieve 2 hours solar access during the times indicated.

Additionally, 28% of apartments achieve no sun – a poor outcome for a relatively small floor plate tower.

8.1.2. Natural Cross Ventilation

The natural cross ventilation achieved by the development is substandard and is significantly less than the approved development. The application poorly represents the actual natural cross ventilation achieved by the development by relying on an alternate natural ventilation assessment (Appendix GG) that is poorly founded and specifies low performance criteria to supposedly achieve equivalence.

The following concerns are raised with the computation fluid dynamics assessment:

- The report testing demonstrates that the single-aspect apartments they claim as equivalent do not achieve similar air flow rates as dual-aspect apartments.
- The consultant has established its own criteria of 46 litres per second air flow as demonstrating NCV equivalence without any explanation or data from air flow rates tested from genuine NCV apartments to support this assertion.
- Inaccurate in part: The report relies upon inclusion of 2 single aspect apartments 70201 and 70701 in its “benchmark list” of ADG compliant apartments. This would skew any ventilation data findings.
- Concludes that single aspect apartments meet the consultant’s own criteria benchmark OR the requirements of AS 1668.4 Natural Ventilation of Buildings. It is noted that AS 1668.4 is referenced in the National Construction Code of Australia for natural ventilation in carparks. It is not referenced in the NCC for apartments and is not referenced in the ADG.
- AS 1668.4 relates to natural ventilation of buildings and specifically does not prescribe requirements associated with comfort, such as temperature, humidity, air movement or noise.

The 2021 exhibited draft amendments to the ADG did anticipate an alternative approach to demonstrate natural cross ventilation, however, this was not adopted. Regardless, the alternate assessment goes further than the draft amendments even considered.

The application does not numerically differentiate between those apartments that are naturally cross ventilated in accordance with the ADG definition and those that rely on proposed alternative criteria in the overall calculation. The actual natural cross ventilation achieved is estimated to be around 40% and is a significant variation.

Treatments to single aspect facades, including slots and recesses, do not provide adequate wind exposure to create a pressure differential to generate natural cross-ventilation

Should the Department be open to accepting an alternate assessment criteria for some apartments, then the application must clearly differentiate the actual ADG compliant

natural cross ventilation apartments, from those supposedly meeting the alternative criteria being assessed separately on their merits.

Apartments located within the podium levels achieve poor natural cross ventilation given the depth of the building at this point. This is a further consequence of the change from non-residential to residential uses within the podium.

The change from a dual core to a single core for the building on Site 7 results in a single double loaded corridor and significantly reduces the natural cross ventilation achieved.

8.1.3. Private Open Spaces

The majority of balconies are undersized. The proposed development does not provide any additional communal open space above what would otherwise be required by the ADG to offset these non-compliances.

Balcony sizes and dimensions should be reconsidered.

9. Facades – glazing and materiality

The facade design for sites 7 and 17 (above podium) and site 18 are plain and shallow with a high ratio of floor to ceiling glazing in contrast to solid wall. This will result in high heat gain as no other external solar protection has been provided.

The facades should be amended to increase the ratio of glazing to solid wall, and to provide external shading.

The facade design for the podiums of sites 7 and 17 include 'concrete look' elements. There are design and quality concerns with such ambiguous identifiers.

10. Views within Green Square and surrounding neighbourhoods

The building on Site 18 is a critical building in the Town Centre. It is viewed in the round and frames the corners of the Green Square Plaza and Ebsworth and Paul Streets. Critically, it terminates the views and vistas along Zetland Avenue from Gunyama Park and the Epsom Park neighbourhood.

The approved building was the subject of a rigorous Competitive Design Excellence process and subsequent Design Advisory Panel review process. This resulted in a high quality and sensitive design response that carved the tower form to create an additional sense of space at ground level.

The Visual Impact Assessment (Appendix EE1) most clearly **demonstrates the lack of design resolution, sensitivity, and refinement that is needed for such an important location within the Town Centre.**

11. Wind

The Wind Impact Assessment (Appendix FF) identify multiple points where wind safety criteria are exceeded (P22 and P79) – this should not be supported.

The comfort criteria for the points near building entries (P106, P78 and P79) should achieve a 'standing' criteria for no more than 292 hours between 6am and 10pm per year (i.e. 5% of the year) of no more than 6m/s.

Additional information is required to assess the future wind environment. Wind roses are to be provided for each failed wind safety point. The application should demonstrate the extent of changes required to pass safety thresholds, and where reasonable implement these changes. Where there is an existing exceedance, this must not be exacerbated. The design of the buildings should also be modified to achieve a 'standing' comfort level near building entrances (P106, P78 and P79).

12. Noise

The submitted Noise and Vibration Impact Assessment (Appendix NN) is provided in draft form. Noise monitoring locations M2 and M3 and attended noise monitoring locations are not considered to be representative of the actual background noise levels. It is noted that the background noise levels identified in the previous development application were notably lower and therefore the current location are likely unduly impacted by road noise.

The site is located adjacent to Green Square Plaza and Neilson Square. These important public open spaces are located in the heart of the Town Centre are design to as 24/7 civic spaces. Objective (d) of Section 4 of the GSTC DCP requires residential uses to be located away from high traffic impact and potential land use conflicts, both horizontally and vertically.

The removal of the substantial commercial components from the development results in a large number of apartments within the podium fronting the Plaza and being subject to potential noise impacts.

Key requested recommendations:

The proposed development must ensure that apartments appropriately located within the buildings and designed to mitigate any noise impacts caused by the activation of this important public space or the ground level retail uses within the proposed buildings or surrounding developments.

The assessment has not adequately addressed the potential internal noise impacts caused by plant and equipment as this equipment is unspecified. Further, no assessment has been provided for the:

- noise impacts from Green Square Library – noting the library is a licenced venue
- noise impacts from Green Square Plaza – noting the plaza is used for special events including amplified music events
- external communal open spaces located on the podium and rooftops
- loading dock and waste collection area
- music practice room

A revised acoustic assessment is required. The applicant and the Department must consider and prioritise the future living conditions of the residents in the vicinity of the town centre plaza – which is intended to be a late night trading area.

13. Stormwater and Flooding

The proposed development is inconsistent with the City's Interim Floodplain Management Plan. Building entries are located 150mm above the adjoining public

domain in Fellmonger Place and Barker Street. The Plan requires building entries to be 300mm above the adjoining land. The risk is especially heightened where internal areas have openings to the basement, as is the case.

The civil engineering plans prepared by ATL show drainage in Fellmonger Place and Barker Street connecting into private OSD drainage pipes, however, Fellmonger Place and Barker Street are to be dedicated to the City and therefore these pipes will become part of the City's drainage network. Public stormwater cannot re-enter private land without an easement in place. The civil plans must be amended to resolve this issue and to remove bends and have a minimum diameter of 375mm

The civil engineering plans show an existing pit with four existing openings, with an additional opening proposed. Additional information is required to demonstrate this can be accommodated or how the pit is proposed to be upgraded.

14. Landscaping

The practicality of the facade greening and perimeter planting in isolated areas that require aerial access should be further considered. The maintenance complexity likely outweighs the greening benefit and is likely to result in a poor outcome in the long-term. Planting associated with balcony areas, particularly communal terrace areas, are acceptable.

Opportunities to provide increased landscape coverage on green roofs should be considered instead. This will improve the environmental performance of the development and provide a better outlook for residents in the surrounding towers. The proposed ballast roof should be replaced with low profile shade tolerant plantings.

The proposed tree planting on landscape roofs do not appear to have been provided with sufficient soil depths and volumes. Additional information is required to ensure that the proposed plantings are viable.

The landscape plan should be amended to replace the two *Banksia serrata* (Old Man Banksia) with a more suitable species, as it is identified as unreliable in the City of Sydney Species List. Additional trees on level 20 of site 18 should also be incorporated to increase overall canopy cover for the site.

15. Transport

15.1. Car and Bicycle Parking

Ordinarily one accessible parking space is to be provided per adaptable unit. Where parking is provided at a reduced rate, as is the case, the amount of adaptable parking spaces may proportionally be reduced. Based on the 80 parking spaces provided, 20 accessible parking spaces should be provided.

On-site carshare is to be publicly accessible 24/7 by residents of the buildings and members of the public and meet the needs of a carshare operator to ensure take up.

Compliance with NCC J9 D4 for electric vehicle parking is to be demonstrated, as this may have impacts on the electrical infrastructure requirements for the site.

The layout of the staff end-of-trip facilities are to be detailed on the plans and must provide one shower and changing cubicle and one locker per staff bicycle parking space (noting only 3 staff spaces are required).

The number of residential bicycles parking spaces (1 per 3 apartments) is insufficient, and 1 space must be provided for each apartment with an additional 32 shared residential / retail visitor spaces provided. The submitted justification does not justify the non-compliances. Bicycle parking is to be provided to satisfy the medium-term demand, which Green Square is likely to exceed given it is one of Sydney's most cycle-accessible growth areas and is within riding distance of the CBD and major employment and education hubs. There is no evidence to suggest that tenants of a BTR have different cycling uptake or ownership rates.

15.2. Loading

The number of loading bays is insufficient for a development of this size. Transport for NSW last mile toolkit instructs users to use the Urban Freight Forecasting Model (UFFM) which suggests 9 loading bays are required, as follows:

- small (B99, Vans, Utes) – 5 bays
- medium (SRV, Small Trucks) – 3 bays
- large (MRV, HRV, Large Trucks) 1

Given this is a Build-to-Rent development, it is anticipated that removalists will be required more often. Four additional small loading bays (with 2.5m head height clearance) are to be provided to assist tenants moving.

Vertical clearance assessment along the access ramp and through each loading bay space is to be provided. Critically, the City's waste truck requires a head height of 4.0m.

Conditions of consent must be imposed requiring the loading dock management plan to be submitted to the City for review and approval prior to an Occupation Certificate. The submitted Loading Dock Management Plan includes several errors and assumptions that must be rectified to ensure that the loading and servicing requirements of the site are met, particularly given the number of loading bays are insufficient.

15.2.1. Waste Vehicle Collection

On-site integrated waste collection is to be provided for standard waste collection vehicle in accordance with Section A.3.6 of the City's Guidelines for Waste in New Developments (2018). As per Reference C of the guidelines, a turning-path analysis should also be undertaken to assess vehicle movements when exiting the loading dock and to confirm that adequate width is available for the vehicle's swept path and manoeuvring clearances.

The analysis must include the following, including three distinct swept-path lines:

- the wheel path
- the vehicle body path
- and the 0.6 m clearance path.

The plans show a 11.5m diameter turntable for use by the City's waste contractor, whereas a 12.5m diameter is required. In addition, the Waste Management Plan states the minimum 4m clearance is provided. Cross-sections are to be provided to demonstrate the design accommodates all required movements.

15.3. Vehicle Access

The proposed location and width of the residential vehicle driveway is acceptable, however the width of the basement loading dock driveway should be narrowed as the waste truck (largest vehicle) swept path only requires a 5.5m wide driveway. Narrowing of the driveway width can be accommodated with kerb extensions to maintain vehicle sightlines.

A 2m offset between the residential vehicle driveway and basement loading dock driveway is to be provided for pedestrian safety, i.e., to accommodate a person pushing a pram etc.

A security/roller door is provided for each driveway. These should be set in from the boundary to prevent vehicles queuing across the footpath. A 1:100 scale drawing is to be provided to ensure a high-quality streetscape outcome is achieved particularly the as vehicle access is located on a pedestrianised street and would be visible from the plaza.

Details are to be provided for the single lane ramp traffic light management system and must ensure that entry traffic movements are prioritised.

Conditions are to be imposed requiring each tandem parking spaces to be allocated to a single three-bedroom apartment.

16. Waste

The waste generation rates used to calculate the volume of waste to be managed and collected are less than the City's waste generation rates detailed in Appendix A of the City's Guidelines for Waste in New Developments (2018).

A maximum collection interval of one collection per week would be scheduled for a development of this location and scale. The City would only offer increased waste collection frequency on constrained sites were it has been demonstrated that weekly collection cannot be accommodated. This is not the case for the proposed development.

The waste generation for residential is to be increased from 112L as proposed to 120L as per Appendix A. This will marginally increase the number of waste bins required and consequently the waste storage and collection areas. Overutilisation of undersized storage and collection areas inhibits sorting and manoeuvrability and may delay City waste contractor collections. Waste generation rates are to be recalculated and accommodated on site.

A detailed dimensioned plan is to be provided of the waste storage room and collection areas, including clear-paths or travel, designed in accordance with Reference D.1.1-12 of the Guidelines and AS 1428.1 (Design for Access and Mobility).

Chute rooms and separate recycling bin cupboards at each level are to be designed in accordance with Section B.3.1-4.1 of the Guidelines. Additional capacity will need to be provided given typical floor layouts (Sites 7 and 17) exceed the ADG design criteria for the number of apartments per level. Chute discharge rooms are to be separated from residential waste rooms as a resident safety measure.

Protection of the Environment Legislation Amendment (FOGO Recycling) Act 2025 (Part 5A.2, Section 170E) mandates the provision of FOGO as a mandatory waste stream for multi-unit dwellings, in addition to standard general waste and recycling. As per Section B, subsection 3.2 and 3.6 of the Guideline, for waste streams not collected via a chute

system (in this case, FOGO), adequate space must be provided on each residential level for the storage and collection of those bins with the maximum 30m distance from the unit.

Conditions are to be imposed requiring construction level drawings to be in accordance with the City's Guidelines for Waste in New Developments (2018). A separate private contract/s is to be entered into for non-residential waste.

17. Land Contamination and Remediation

The proposed remediation strategy involves capping existing contaminated material below Fellmonger Place and Barker Street, land which is required to be dedicated to the City in accordance with the VPA.

The RAP specifies that no clean fill capping layer will be provided below some paved areas within Fellmonger Place and Barker Street and that only a 500-700mm capping layer will be provided within planted areas.

This is totally insufficient to meet the City's operational requirements as the future asset owner and would result in an unreasonably burdensome impact on the City. The City's policy for public land is to provide a minimum 1.5m clean fill capping layer above a marker layer.

It is noted that the existing development consent, obtained in 2012, for the construction of all public domain areas within GSTC included areas where a 700mm capping layer was required. However, the City notes the age of this consent and the evolution of the City's policies and requirements for contaminated land.

As the City will be responsible for the land, the remediation and dedication must not require any Long-Term Environmental Management Plan (LTEMP). This is achievable by providing a 1.5m capping layer.

Notwithstanding this strong objection, should the Department approve a remediation strategy that requires a LTEMP, then the LTEMP must be to the City's satisfaction to ensure that the management measures are not burdensome or put the City at risk. **Any draft Long-term Environmental Management Plan is to be provided to the City for review prior to determination of this application.**

Conditions are to be imposed requiring the final Long-Term Environmental Management Plan to be prepared in consultation with and approved by the City prior to the land being dedicated.

18. Subdivision

New buildings must not encroach public land (including land to be dedicated).

The subdivision plans are to be amended to exclude areas within Lot 10 (Fellmonger Place) and Lot 11 (Barker Street) that are not located above the proposed basement from the areas proposed to be dedicated in stratum. Dedication should be unlimited in depth/height outside of the basement areas. The land is to be dedicated unencumbered and must not be subject to a LTEMP.

Conditions must be imposed requiring Lots 10 and 11 to be dedicated to the City unencumbered, and that dedication occurs only once the works are completed to the satisfaction of the City but prior to any occupation certificate.

19. Public Art

The public art program should be curator led.

The purpose of the City's public art program is to incorporate art into the developments to create a connection between private development and the public domain. **The proposed public art locations within the public domain are inconsistent with this approach and are also not supported by the City as the future asset owners.**

Should the Department approve public art within public domain locations, **the City would not accept the inclusion of the public art within any monetary offset against the development contributions for works-in-kind** as is otherwise allowable under the VPA.

20. Construction Impacts

A general non-site-specific assessment of construction noise levels for has been provided however is unlikely to properly address the site-specific noise sources which are anticipated to exceed noise criteria.

A site-specific construction noise and vibration plan is required to be prepared and submitted to the City for endorsement either prior to determination or as a condition of consent. The plan should include community engagement, consultation and compliant managements resolution practises.

A draft construction traffic management plan has been provided but is preliminary in nature and is not informed by the design development and programming that will occur prior to works commencing. Conditions are to be imposed requiring a CTMP to be reviewed and approved by the City prior to construction commencing.

21. Contributions

Should consent be granted, appropriate conditions of consent must be imposed requiring the payment of Section 7.11 contributions in accordance with the City's Development Contributions Plan 2015. The City notes that certain works-in-kind are able to be offset against this contribution in accordance with the applicable VPA. Costings of any works-in-kind offsets must be agreed by the City and additional embellishment or privatisation of land to be dedicated will not be accepted in this calculation.

As outlined above, **the City objects to the proposed changes to the LEP to exempt the development from Clause 6.5 Affordable Housing of the LEP**. As previously mentioned, this is inconsistent with the Minister for Planning statement to Parliament. Affordable housing provided in accordance with the City's Affordable Housing Program, whether this is through a monetary contribution or dedication of dwellings, will provide a more meaningful impact to address housing affordability – particularly in view of the development increases being sought.

22. Conditions of Consent

In addition to the matters raised in this submission that require resolution or corresponding conditions, the City also provides the attached conditions for inclusion in any consent granted. In particular, condition to address matters that impact City owned land or infrastructure or affect the broader community must be imposed and be drafted to required review and approval by the City.

Conclusions:

In summary, the City **strongly objects** to the proposed development. Despite the additional uplift sought to be obtained by the developer, the affordable housing outcome is significantly worse than if the City's Affordable Housing Program was applied or the State's In-fill affordable housing provisions. The City has long understood the flaws in the discounted rental model and have put in place a robust affordable housing program that delivers affordable housing for the community that is truly affordable, i.e., income based. The Department in the assessment of both applications has no obligation to accept the affordable housing proposed, regardless of any commitments made by the developer in securing their HDA declaration.

The broader community have also identified the flaws in the discounted rent model and have expressed their concerns broadly that developments are gaining significant additional uplift, with little offers in return for the community.

The proposed land use changes undermine the strategic intent of the Green Square Town Centre. The intent in which tens of thousands of residents have already relied on when choosing to make Green Square Town Centre their homes. The assessment of the proposed development against the ADG reveals the underlying amenity implications. Simply, the deep podium building envelopes are not conducive to accommodating this scale of residential development.

The quality of the designs does not exhibit design excellence as required under Clause 6.9 of the GSTC LEP. Further design development and review by the DRP is required to ensure design excellence is achieved. The City highlights the number and nature design amendments required.

The City expects that the issues raised in this submission will be addressed, and that crucial matters such as the delivery of meaningful affordable housing, non-residential land use allocations and design excellence will be fundamentally reconsidered and resolved.

Should you wish to speak with a Council officer about the above, please contact Michael Stephens, Senior Planner, on 9265 9040 or at mjstephens@cityofsydney.nsw.gov.au

Yours sincerely,

A handwritten signature in black ink, appearing to read 'GJahn', with a stylized, flowing script.

Graham Jahn AM LFRAIA Hon FPIA
Chief Planner / Executive Director
City Planning | Development | Transport

ATTACHMENT A – Recommended Conditions of Consent

The City recommended that the conditions of consent below are imposed in addition to the conditions recommended by the Department. Additionally, the submission identifies various matters that require appropriate conditions of consent to be imposed. The City requests that matters directly related to or impacting City owned land or infrastructure or matters that would affect the broader GSTC community are addressed by conditions that are drafted to require review and approval by the City. The below are not exhaustive or reflect a complete assessment of the application.

AFFORDABLE HOUSING CONTRIBUTION - GREEN SQUARE - PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION - PRIOR TO CONSTRUCTION CERTIFICATE

All development must pay contribution prior to CC.

Amount of affordable housing floor space calculation is based on “total floor area” (TFA) rather than “gross floor area” - refer Cl. 6.5(6) of LEP.

In Green Square the contribution is calculated on *all* TFA to which the development application applies.

The amount for the monetary contribution is calculated by establishing 1% of the non-res TFA and 3% of the res TFA, multiplying both by “equivalent monetary contribution” (EMC) and adding them together. Equivalent monetary contribution is the approximate cost of delivery of affordable units and is indexed annually. Contribution = (1% of non-res TFA x EMC (\$)) + (3% of res TFA x EMC (\$)).]

- (a) In accordance with the City of Sydney Affordable Housing Program and prior to the issue of a Construction Certificate, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid to the City of Sydney Council in accordance with this condition.
- (b) The contribution is \$[insert amount] (indexed at [insert date]). This is calculated by establishing the sum of the equivalent monetary contribution \$[insert amount] multiplied by 1% of the total floor area for non-residential development ([insert area]sqm) and the equivalent monetary contribution \$[insert amount] multiplied by 3% of the total floor area for residential development ([insert area]sqm).
- (c) If the contribution is paid after the indexation period in which the consent is granted, being March [insert year] to March [insert year] [planner: insert year of annual range applicable at time of consent], the above contribution will be adjusted according to the Sydney LGA median strata dwelling price ('MDP') using the following formula.
- (d) Contribution payable at Time of Payment = $C \times MDP2 / MDP1$, where:
 - (i) C is the original total contribution amount payable to the City of Sydney as shown above;

- (ii) MDP2 is the Median Strata Dwelling Price in Sydney LGA applicable at the time of indexation of the equivalent monetary contribution rate, established by averaging the four most recently published NSW Government Rent and Sales Reports for the current period; and
- (iii) MDP1 is the Median Strata Dwelling Price in Sydney LGA taken from the NSW Government Rent and Sales Reports used to establish the currently applicable equivalent monetary contribution rate, being March [insert year] to March [insert year] [planner: insert year of annual range as in (c)].

Contact Council's Planning Assessment Unit at planningsystemsadmin@cityofsydney.nsw.gov.au for written confirmation of the amount payable, with indexation as necessary, prior to payment.

Reason

To ensure development contributions are paid to contribute to the provision of essential affordable rental housing infrastructure.

VOLUNTARY PLANNING AGREEMENT

The terms of the planning agreement between The Council of the City of Sydney and Mirvac Green Square Pty Ltd and Landcom for Green Square Town Centre Stage 3 dated 30 November 202 must be complied with.

Reason

To ensure compliance with VPA

PUBLIC DOMAIN CONCEPT PLAN

A public domain concept plan, showing all the site frontages and extending a minimum of 5m past the boundary and to the road centreline, must be prepared in accordance with the City's *Public Domain Manual* and *Sydney Streets Code*. It must be submitted to and approved by the City's Public Domain Unit prior to the issue of any Construction Certificate for the development other than for demolition or excavation.

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

Reason

To ensure public domain works comply with Council's requirements.

PUBLIC DOMAIN LEVELS AND GRADIENTS

Prior to the issue of any Construction Certificate, a Public Domain Levels and Gradients submission for the building and site frontages must be submitted to and approved by the City's Public Domain Unit. The submission must be prepared in accordance with the City's Public Domain Manual and submitted with a completed Application for Public Domain Levels and Gradients. Information on how to complete the submission can be downloaded from the City's website at

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

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

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

Reason

To ensure public domain levels and gradients comply with Council's requirements.

PUBLIC DOMAIN LIGHTING UPGRADE

Prior to issue of any Construction Certificate for excavation, civil construction, drainage or building work (whichever is earlier), a concept Public Domain Lighting Upgrade Plan for pedestrian and street lighting in the public domain must be submitted to and approved by City's Public Domain Unit. This plan must highlight the exact location of any electrical service pillars or other above ground electrical infrastructure. These should be positioned underground or in kerb side garden beds where possible.

The Lighting Plan must be prepared in accordance with the Sydney Streets Technical Specifications A5 and B8, Sydney Lights Design Code and Public Domain Manual. This information is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

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

Reason

To ensure pedestrian and street lighting in the public domain complies with Council's requirements.

STORMWATER DRAINAGE DESIGN

Prior to issue of any Construction Certificate a detailed stormwater management plan prepared by suitable qualified and experienced professionals must be submitted to and approved by the City's Public Domain Unit and must include:

- (i) Council's Sydney Streets Technical Specifications, Part A4 Drainage Design;
- (ii) Council's Sydney Streets Technical Specifications, Standard Drawings;
- (iii) Council's Sydney Streets Technical Specifications, Part B10: Stormwater Drainage Construction;
- (iv) Council's Stormwater Drainage Manual; and

- (v) All relevant Australian Standards.

This information is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

Note: A Deed of Agreement (Stormwater Deed) for all proposed connections to the City's drainage system, and a Positive Covenant for all OSD systems may be required prior to issue of any Occupation Certificate.

Reason

To ensure stormwater drainage design complies with Council's requirements.

STORMWATER ON-SITE DETENTION

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

Where an OSD is not required by Sydney Water one may still be required by the City.

Reason

To ensure the requirements of Sydney Water are complied with.

STORMWATER QUALITY ASSESSMENT

Prior to issue of any Construction Certificate a design certification report prepared by a suitably qualified practitioner engineer (NPER) demonstrating compliance with approved music link targets and parameters must be submitted to and approved by the City's Public Domain Unit.

The report must include a response to all stormwater quality improvement devices structural integrity, treatment train and their treatment properties demonstrating compliance with the approved MUSIC link reports.

Reason

To ensure appropriate stormwater quality on the site.

TEMPORARY DEWATERING DURING CONSTRUCTION

Prior to discharging any water collected during excavation and construction into the City's stormwater drainage system, approval must be sought from the City's Public Domain Unit. A dewatering management plan must be submitted with an *Application for Temporary Dewatering* available to download on the City's website.

Other options for dewatering include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

Reason

To ensure dewatering is managed appropriately.

FLOOD PLANNING LEVELS

The development must be constructed to comply with the recommended flood planning levels indicated in Table 2 of the report titled Flood Impact and Risk Assessment prepared by GRC Hydro dated 16 December 2025.

Details must be submitted to the Registered Certifier prior to the issue of any Construction Certificate demonstrating that the development will comply with the recommended flood planning levels.

Reason

To ensure the development complies with the recommended flood planning levels.

NEW ROAD DESIGN

Liaison with other authorities - Preparation of the detailed design and construction documentation for the proposed public road system must include all necessary liaison with, and requirements of, all relevant public utility authorities, Transport for NSW, the City of Sydney, and its nominated consultants in order to achieve design approvals and construction compliance. Written evidence of approval from relevant authorities must be submitted to the City with the road design submission. The proposal may require a submission to the Local Pedestrian, Cycling, Traffic Calming and Transport Forum (LPCTCTF) for advice.

Design package and accompanying documentation – A design package must be prepared based on the requirements outlined in Council's *Public Domain Manual*. A design report for the road works must be prepared by an appropriately qualified civil engineer certifying that the design complies with the City of Sydney's policies, standards and specifications and those of all other relevant authorities as applicable. All engineering plans and calculations must be checked, signed and certified by a suitably qualified practicing professional engineer and included in the report. The design package and report must be submitted to and approved by Council's Public Domain Manager prior to the construction of the road.

Reason

To ensure the new road design complies with Council's policies, standards and specifications and those of all other relevant authorities.

ASSOCIATED ROADWAY COSTS

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Sydney Streets Technical Specification" including amendments and "Sydney Streets Design Code".

Reason

To ensure all roadway works are designed and constructed in accordance with Council requirements.

SWINGING DOORS OVER PUBLIC WAY

Any access doors to enclosures housing building services and facilities, such as hydrant and sprinkler booster assemblies or the like, must not open over the footway/roadway.

Reason

To ensure no element of the development obstructs the use of the public way.

NO OBSTRUCTIONS

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

Reason

To ensure there are no obstructions on public footways and paths of travel.

DILAPIDATION REPORT - PUBLIC DOMAIN

Prior to an approval for demolition and preparatory works being granted or the issue of any Construction Certificate, whichever is earlier, a photographic recording of the public domain site frontages is to be prepared as described in the Public Domain Manual and submitted for approval by Council's Public Domain Unit. The City's *Public Domain Manual* is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/>

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

Reason

To establish and document the condition of the public domain for comparison as building work progresses and is completed.

PUBLIC DOMAIN WORK – CONSTRUCTION APPROVAL UNDER SECTION 138 ROADS ACT 1993

Prior to the construction of any public domain works, approval under Section 138 / 139 of the Roads Act 1993 must be issued by the City's Public Domain Unit.

Reason

To ensure relevant approvals for public domain work are obtained.

PUBLIC DOMAIN WORKS SECURITY BOND

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

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

The bond will be retained in full until all public domain works, including rectification of damage to the public domain, are completed to City's standards and approval and the required works-as-executed documentation are approved. On satisfying the above requirements, and the issue of the Public Domain Works Letter of Completion Operational Acceptance by the City, 90% of the bond will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

Reason

To ensure public domain works are completed and any damage to the public domain is rectified.

DRAINAGE AND SERVICE PIT LIDS

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

Reason

To ensure drainage and service pit lids within the public domain are appropriately designed and installed.

PUBLIC DOMAIN PLAN DETAILED DOCUMENTATION FOR CONSTRUCTION

A detailed public domain plan and all relevant documentation must be submitted to and approved by City's Public Domain Unit prior to the construction of any public domain works. This Plan must document all works required to ensure that the public domain upgrade work complies with the City's specifications and requirements, as outlined in documents such as City of Sydney's *Public Domain Manual*, *Sydney Streets Code*, *Sydney Street Tree Masterplan*, *Sydney Lights: Public Domain Design Code* and *Sydney Streets Technical Specification*. The documentation must be *checked, accurate, and comply with specified requirements*. Plans must be based on an accurate survey prepared, signed and dated by a registered surveyor, to scale and fully coordinated across all disciplines and submissions. The supplied documentation must be for Construction issue and will be approved under Section 138 of the Roads Act.

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

The Public Domain Plan documentation must be submitted with an Application for Public Domain Plan Assessment and include the approved Public Domain Levels and Gradients documentation. If the proposed detailed design of the public domain requires changes to any previously approved levels, details must be submitted for approval with the public domain plan and additional fees may apply.

Reason

To ensure the public domain complies with Council's requirements.

HOLD POINTS

Prior to an approval being issued for the construction of public domain and / or planning agreement works, including civil, drainage and subsurface works, a set of hold points will be provided by the City's Public Domain Unit in accordance with the City's Public Domain Manual and Sydney Streets Technical Specification. The list of hold point inspections will be included in the Public Domain works approval letter.

These hold point inspections must be adhered to during construction works. Prior to the issue of any Occupation Certificate, confirmation from the City's Public Domain Unit, that hold point inspections have been completed and works have been accepted by the City must be provided to the Principal Certifier.

Reason

To ensure hold points are adhered to during construction works.

STORMWATER DRAINAGE CONNECTION

For approval of a connection into the City of Sydney's drainage system an "*Application for Approval of Stormwater Drainage Connections*" must be submitted to the City, together with an application fee in accordance with the City of Sydney's adopted Schedule of Fees and Charges. This must be approved prior to approval being issued for the construction of public domain work.

Reason

To ensure approval of connection into the Council's drainage system is sought.

STORMWATER DRAINAGE CONNECTION

For approval of a connection into the City of Sydney's drainage system an "*Application for Approval of Stormwater Drainage Connections*" must be submitted to the City, together with an application fee in accordance with the City of Sydney's adopted Schedule of Fees and Charges. This must be approved prior to approval being issued for the construction of public domain work.

Reason

To ensure approval of connection into the Council's drainage system is sought.

PUBLIC DOMAIN LIGHTING RETICULATION

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

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

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

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

Reason

To ensure the public domain lighting documentation complies with Council requirements.

LAND DEDICATION – REMEDIATION CAPPING LAYER

Any contaminants remaining on land to be dedicated to Council must be covered by a marker layer and be capped by a minimum 1.5m of clean fill below the top most surface of the future road or park.

The Site Auditor is required to submit an interim report to Council for approval after the remediation has been completed and prior to the construction of the public domain works confirming the depth and the placement of the marker layer.

Reason

To ensure remediation has been satisfactorily completed.

PUBLIC DOMAIN WORKS COMPLETION

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

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

Reason

To ensure the public domain works are completed in accordance with the approved documents and Council's requirements.

PUBLIC DOMAIN COMPLETION – WORK AS EXECUTED DOCUMENTATION

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

Reason

To ensure Council receives works-as-executed documentation for public domain works.

STORMWATER COMPLETION DEED OF AGREEMENT AND POSITIVE COVENANT

Prior to the issue of any Occupation Certificate:

- (a) The Owner is required to enter into a Deed of Agreement (Stormwater Deed) with the City of Sydney and obtain registration of Title of a Positive Covenant for all proposed connections to the City's underground drainage system. The deed and positive covenant will contain terms reasonably required by the City and will be drafted by the City's Legal Services Unit at the cost of the applicant, in accordance with the City's Fees and Charges.
- (b) A Positive Covenant must be registered on the property title for all drainage systems involving On-Site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection. The positive covenant will contain terms reasonably required by the City and will be drafted by the City's solicitor at the cost of the applicant, in accordance with the City's Fees and Charges.

Reason

To protect underground drainage system.

LAND DEDICATION – NO LONG TERM ENVIRONMENTAL MANAGEMENT PLAN

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

Reason

To ensure land to be dedicated to the City is not encumbered by an environmental management plan.

Should a LTEMP be required, noting the City's objection, the following condition must be applied.

REGISTRATION OF COVENANT

Prior to the issue of any Occupation Certificate, a covenant must be registered on the title of the land and a copy of the title submitted to the Council's Area Planning Manager and the Principal Certifier.

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

A copy of the revised certificate of land title recording the covenant must be submitted to Council's Area Planning Manager and the Principal Certifier prior to the issue of any Occupation Certificate.

Reason

To ensure that contamination is appropriately managed.

POSITIVE COVENANT

A positive covenant must be created pursuant to Section 88B of the Conveyancing Act, 1919 burdening Lot 9 and benefiting the Council of the City of Sydney, in terms to the satisfaction of council, as follows:

The registered proprietors of Lot 9 or any future Owners must indemnify Council against any damage, loss or liability relating to the overhanging awning, or encroaching components of the buildings

The registered proprietors of Lot 9 or a future Owners must effect and maintain public liability insurance in respect of third party personal injury or damage to third party property where the injury arises from or is caused by the overhanging awning or encroaching components of the buildings. The policy must be in the amount of \$20,000,000 for any one occurrence and be indexed to CPI.

Reason

To ensure any future claims relating to building components beyond the site boundaries can be adequately dealt with by appropriate insurances.

SECTION 88B INSTRUMENT

The terms within any Section 88B must ensure that easements prevail over any future building management statement.

Reason

To ensure easements have certainty.

BASEMENTS UNDER COUNCIL ROAD (DEDICATIONS)

Where a road to be dedicated to Council is above a basement structure, a minimum of 1.5m clearance is required from the lowest point of the road reserve, usually the gutter invert. The roof of the basement connection structure must be designed to comply with AS5100 – Bridge Design, and the City's Technical Specification A3 – Roads and Structures Design Section 3.9 - Bridge and Structures, to accommodate the required traffic loads on Alpha Street.

Note: additional tolerance should be allowed for to accommodate land level changes and installation of services.

Reason

To meet operational and technical design requirements for land to be dedicated to Council.

DEDICATION FOR ROAD

The owner must dedicate for road purposes, proposed lots 10 and 11. The dedication is to be detailed in a plan of subdivision of the land. This plan is to be registered at NSW Land Registry Services prior to any Occupation Certificate being issued. The area to be dedicated must be shown as a separate lot or lots and numbered as such.

Prior to the issue of any type of Occupation Certificate, land must be dedicated in accordance with the registered Voluntary Planning Agreement as follows:

- Lot 10 must be dedicated as Public Road;
- Lot 11 must be dedicated as Public Road;

Land must be dedicated unencumbered. All leases, restrictions, covenants, easements and planning agreements must be extinguished prior to, or in conjunction with the dedication of the above lots.

Public Domain works within the dedication areas must be sufficiently complete to the satisfaction of Council's Area Planning Manager or Public Domain Unit prior to issue of the subdivision certificate and dedication.

Reason

To ensure road widening is dedicated for road purposes.

EASEMENT FOR PUBLIC ACCESS – THROUGH SITE LINK

Prior to the issue of an Occupation Certificate for the development, a documentary Easement for Public Access, limited in stratum if so desired, is to be created and registered on the Title of the development site. The Easement is to be defined over a strip of land, shown as (C) on the proposed subdivision plan for the site, extending from along the Tweed Place frontage. The Easement is to be created appurtenant to Council in terms granting unrestricted rights for public pedestrian access, without vehicles, exclusive of wheelchairs for the disabled, to Council's satisfaction,

The terms within any Section 88B must ensure that easements prevail over any future building management statement.

The plan for the easement for public access must show surveyed offsets to structures located within a metre of the easement, in accordance with the requirements of NSW Land Registry Services.

Prior to the issue of an Occupation Certificate for the development, a documentary Positive Covenant is to be created and registered on the Title of the development site, appurtenant to Council. The Positive Covenant is to be created in terms indemnifying Council against any claims and damages arising from the use of the Easement for Public Access and is to require the maintenance of a \$20,000,000 public indemnity insurance policy and is to require the maintenance, upkeep, lighting and repair of the Easement for Public Access in accordance with Council's requirements and to the satisfaction of Council.

Reason

To create an appropriate through site link.

LAND DEDICATION AND LAND TRANSFER – IN CONJUNCTION WITH SUBDIVISION CERTIFICATE

- (a) Land dedicated as road widening or public through-site link must be dedicated in compliance with the registered Planning Agreement(s) for the site and must not be encumbered by any Long-Term Environmental Management Plan.
- (b) Public domain works within the land to be dedicated must be sufficiently complete to the satisfaction of Council's Public Domain unit prior to the issue of the subdivision certificate.
- (c) Where there is a dedication in stratum, the lower limit of the dedication shall be 0.05 metres above the upper surface of the waterproofing membrane for the concrete roof of the basement structure below.
- (d) Land must be dedicated unencumbered. All leases, restrictions, covenants, easements and planning agreements must be extinguished prior to, or with the dedication of land, other than those designated as permitted encumbrances in the registered VPA for the site.

Reason

To ensure land to be dedicated to the City is not encumbered.

RESTRICTION ON THE USE OF LAND - RESIDENTIAL DEVELOPMENT

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the building must be used as permanent residential accommodation only and not for the purpose of a boarding house or hostel, hotel or motel accommodation, serviced apartments, tourist and visitor accommodation or the like, other than in accordance with the Sydney Local Environmental Plan 2012.
- (b) A restriction on the use of land is to be registered on the title of the development site in the above terms and restricting any change of use of

those levels from residential accommodation as defined in the Sydney Local Environmental Plan 2012. The restriction is to be registered on title prior to any Occupation Certificate being issued or the use commencing, whichever is earlier. The restriction must contain terms reasonably required by Council and will be drafted by Council's solicitor, at the cost of the applicant, in accordance with the City's Fees and Charges.

- (c) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.
- (d) No person can advertise or organise the use of residential apartments approved under this consent for short term accommodation or share accommodation.

Reason

To ensure the residential accommodation portion of the site is used for permanent residential purposes.

RESTRICTION ON USE OF CAR SPACES – RESIDENTIAL

A documentary restriction on the use of land must be created over the basement carparking area and include the following terms:

- (a) The on-site car parking and storage spaces (exclusive of service and visitor car spaces) are not to be used other than by a resident or tenant of the subject building for parking of vehicles related to a tenancy with which the space is associated, or community space including parking spaces.
- (b) The restriction is to be created pursuant to Section 88B of the Conveyancing Act 1919, so burdening the basement carparking area, with the Council being the authority to release, vary or modify the restriction. The Building Plan of Management must not prevail over any easement, restriction on the use of land, or positive covenant that benefits Council.

Reason

To ensure the on-site car parking and storage spaces are not to be used other than by a resident of the building.