

19 March 2026

Our Ref: R/2026/7
File No: 2026/130196
Your Ref: SSD-84322496

Rosie Turner
Senior Planning Officer
Housing Delivery Assessments
Department of Planning, Housing and Infrastructure

Via Major Projects Portal

Dear Rosie,

Advice on EIS – Mixed Use Development at Green Square Town Centre – Sites 8 and 19 – SSD-84322496.

Thank you for your correspondence dated 3 March 2026 inviting the City of Sydney Council (the City) to comment on the State Significant Development Application and combined Rezoning Application (SSD-84322496) submitted through the Housing Delivery Authority pathway by Mirvac Green Square.

This application is for development of Sites 8A, 8B, 8C and 8D, and 19A and 19B in the Green Square Town Centre. The application proposes the construction of five mixed-use buildings with ground floor retail and 800 apartments and a student housing building with 514 rooms. A separate SSD application for the northern sites 7, 17 & 18 totals 511 build-to-rent dwellings inclusive of affordable housing to which the City has also made a submission.

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 house over 63,000-65,000 people (or more due to the further intervention of state planning reforms), 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 specified uses GFA for Area 1 sites
- exclusion of affordable housing contribution requirements, and
- exclusion of active street frontage requirements.

It is noted that this EIS relates only to Sites 8 and 19 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 SSD Application SSD- 83899206 being concurrently assessed by the Department for Green Square Town Centre Sites 7, 17 and 18 located to the north 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

Key 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.

In recognising the importance of supporting non-residential uses to the long-term success of the Town Centre and the proximity of the subject sites to strategic transport links, **Clause 4.4A of the GSTC LEP specifically requires 44,400sqm of specified non-residential floor space to be delivered on sites 8A and 8B, with limited retail floor space.**

Sites 8A and 8B are the only sites within the Town Centre that have been specifically planned and intended for a purely work place office use (save for a minimal FSR of 0.3:1 which can be utilised for any other use permissible in a mixed-use area). Almost one third of the employment that has been projected in the Town Centre is to be achieved on these sites, with a potential to deliver around 2,050 jobs. These sites are critical to support the employment function of the Town Centre.

The EIS proposes just 3,149sqm of non-residential floor space. Even when combined with the 1,846sqm proposed in the concurrent rezoning proposal for Sites 7, 17 and 18, this is still a significant deficit shortfall in non-residential uses.

If progressed, the loss of non-residential uses will radically undermine the strategic intent for the Town Centre and strategic planning for the wider Green Square Urban Renewal Area (GSURA), which has been consistently evolved over the last 30 years.

In 1997, the Green Square Structural Masterplan emphasised a concentration of activity in the Town Centre to act as the heart of the GSURA. 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 NSW 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 consisting of Landcom (State-owned corporation), 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 the NSW Government 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 offering in the Town Centre, rather focusing on the short term 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 Mirvac's 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 Recommendations

Further interrogation of the uses at the ground plane, the basements and level 1 are essential. In particular, the introduction of more non-retail supporting commercial uses and prioritising active uses in key public areas over servicing infrastructure is needed. 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 project-specific 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, 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 requires 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 via Mirvac 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 – a fundamental change to a long-standing program.

The application proposes that **60 affordable dwellings** discounted to market, located within buildings at Sites 7, 17 and 18 in a different SSD application is suffice for this application. These affordable dwellings are claimed to satisfy the HDA declaration

requirement for the combined applications of 1,311 apartments (511 north and 800 south of the plaza) and 514 student housing rooms. No further affordable housing offer has been made for the substantial uplift sought on Sites 8 and 19 or the rezoning from commercial to residential uses.

The 60 affordable dwellings proposed is significantly less than the approximate floorspace required by the program. The floor space if the City's program were applied converted to around **129 affordable dwellings for both applications** that would otherwise be achieved under the City of Sydney Affordable Housing Program referenced in the Sydney LEP 2012 for the combined applications, including:

- **Rezoning uplift GFA:** 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); plus
- **DA approval GFA:** 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

The LEP requirements of around 129 affordable dwellings when applied to the SSD proposal, represents 7.7% of the proposed residential floor space across both SSD applications. **Given that 60 AH dwellings have been proposed in SSD for sites 7, 17 & 18, the subject application should be required to provide 69 AH dwellings.**

As TFA plans have not been provided, the above has been approximately 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

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.

being used for affordable housing, representing an overall smaller contribution in AH floor space, 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 lesser 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 clearly 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 be managed by a CHP t.
- 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 Recommendations

The City strongly objects to any change to Clause 6.5 of the GSTC LEP that would reduce the longstanding 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 to the total, 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), 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 NSW 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 (not dedicated to a CHP), the use should be registered on title 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 for registration on title 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 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 after changes 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.

The Department should note the outcome of the competitive design process undertaken in 2021 for the commercial buildings on Sites 8A and 8B. The winning scheme demonstrates the design excellence outcome achieved through a competitive process and highlights the substandard architectural outcome for Building 8A in particular. As described later in this submission, the change in building uses results in additional site constraints to be considered, for which the design is poorly resolved, namely road noise and solar heat gain.

5. Voluntary Planning Agreement (VPA)

The VPA requires the creation of three easements on the sites:

- Easement 14 – for footpath widening 1.5m at ground floor level to all setbacks to Woolpack Street, Barker Street and Paul Street (Site 19A only)
- Easement 15 – for public access 5m wide and clear to the sky
- Easement 17 – for colonnade 5m wide along Barker Street

Additionally, the proposed plan of subdivision (Appendix F1) omits the required 1.4m road widening to Botany Road (Areas 6 and 7) and minimum 1.5m stratum depth required where basements are located below land to be dedicated (Areas 4A and 4B), measured to the upper extent of the basement including the waterproofing membrane.

All easements must benefit Council for the purpose of public access to the satisfaction of Council and must be created before the Occupation Certificate for corresponding buildings as identified in the VPAs.

5.1. Public Domain – Fellmonger Place, Barker Street, Woolpack Street and Hinchcliff Street

The existing Voluntary Planning Agreements require the developer to dedicate the land for Fellmonger Place, Barker Street, Woolpack Street and Hinchcliffe Street as public roads. These roads provide the fine grain road network through the Town Centre. The VPAs provide 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 the future public roads are inconsistent with the approved, construction ready, design and are inconsistent with the City's future asset ownership requirements.

All new roads will be required to be approved by the Transport Forum (formerly Local Pedestrian, Cycling, Traffic Calming Committee).

5.1.1. Staging

The proposed staging is unclear. Further clarification is required to confirm the timing of the land dedications and the extent of embellishment delivered. The City expects this to be in accordance with the VPAs, and that safe access is provided to each building by a public road prior to any occupation. The City would not access temporary access arrangements.

5.1.2. Fellmonger Place and Barker Street

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 previously approved design principles (i.e., more public in nature) 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 streets
- pathways are to be wide enough and unencumbered to accommodate service and emergency vehicles, including waste trucks to empty public bins and for maintenance
- 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
- provide further definition through the choice of materials and location of planting beds and furniture to define the boundary between public and private land
- 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.
- limited seating as resting points
- 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.

The connection at the southern end of Barker Street to Geddes Avenue should be further considered to align pedestrian and cycling access from the south.

The design of the southern portion of Fellmonger Place between Woolpack Street and the through-site link between Sites 8A and 8B is devoid of street trees and planting and is a poor urban outcome for the fine grain network of streets and pedestrianised laneways. Street trees proposed to be planted in around this location are hard against buildings and would be crowded and likely compromised. Additionally, only smaller trees are proposed.

The proponent has indicated that the design is to accommodate maintenance access to the bank of substations at the southern edge of Site 8A. Any required access would be infrequent, and alternate arrangements should be developed. Whilst the City does not agree that such a wide accessway is required, given the outcome, either the access to or the substations themselves must be relocated so that Fellmonger Place can be designed consistent with the City approved public domain plan with trees its full length.

5.1.3. Woolpack Street

The City welcomes the retention of Woolpack Street as a two-way road however further design development is required to resolve vehicle access arrangements and improve street tree canopy within the street.

The kerb ramp on the southern side of the street in front of Building 8D should be deleted. Insufficient width is provided to locate any accessible parking spaces within this bank of parking spaces and therefore the kerb ramp is redundant and would encourage people to cross the street in conflict with the loading dock located opposite. The design of parking spaces adjacent to the Building 8C loading dock access would not be supported from a safety perspective. On street parking and vehicle access locations are to be rationalised to maximise opportunities for in road street tree planting.

The depth of the basement is to be reviewed to ensure that a minimum of 1.5m cover is provided over the length of the road noting changes in land levels and need to achieve falls for drainage lines.

5.1.4. Hinchcliffe Street

The proposed widening of Hinchcliffe Street to accommodate truck swept paths into each loading dock compromises the design of the street as a place for people walking. In particular, the swept path into the Site 8D loading dock appears to be the cause for the need for additional road width. The width of the road is excessive for a one-way street.

The resulting footpath widths once street trees, lighting and furniture is proposed, would be inconsistent with the City's Streets Code and would be unsafe. **If the Department intends to approve the wider road width, then additional building setbacks would be required to accommodate the required footpaths.**

As discussed below regarding waste management, on street waste collection is still proposed for Site 8D despite providing a ground level loading dock. The resulting impact of the loading dock on the design and space allocation in Hinchcliffe Street is heavily disproportioned to the benefit of providing a ground level loading dock, particularly given an alternate could be accommodated through a consolidated basement.

Key Recommendations

The width of the roadway in Hinchcliffe Street is proposed to be narrowed to ensure that the design of the street complies with the City's Streets Code, in particular with regard to safe footpaths. If narrowing cannot be achieved whilst retaining the loading dock, then building must be amended to increase setbacks to accommodate wider footpaths or relocate servicing through a shared basement, including waste collection.

5.2. Through-site link

The through-site link provided between Buildings 8A and 8B generally complies with the DCP and VPA requirements, however, includes stairs and would be inaccessible. The inclusion of a ramp within the northern setback of Building 8B needs to be more refined with the accessible path of travel located within through-site link itself to ensure it is covered by a right of access.

5.3. Proposed Street Trees

All street tree planting is to be in accordance with the City of Sydney Street Tree Master Plan planting specifications and detailed within amended Landscape Plans. Where street tree planting is located over basement, soil volumes and depths must be indicated including detailed planting specifications. Updated plans must indicate these details.

5.4. 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.

5.5. 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 agreed to a request by Mirvac to amend this VPA requirement to allow the use of air-cooled systems.

6. Building Typologies and Uses

The proposed development does not meet Clause 1.2 *Aims of the Plan* (2)(aa), (a), (b)(i)-(iii), (c), & (f) of the GSTC LEP or GSTC DCP 4 Land uses Objective (a) *create a genuinely mixed use centre that is activated during the day and in the evenings*. It is also 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 rezoning completely removes the planned commercial buildings as currently enabled by Clause 4.4A *Specified use floor area* – Area 1 which allowed for up to 44,400sqm for a variety of non-residential uses with only a small proportion being retail. 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.

The location of the planned commercial buildings along Botany Road addressed the need to provide significant commercial floor space within the Town Centre, primarily close to Green Square Train Station and the Botany Road corridor, whilst also addressing the constraints that make residential uses unsuitable along Botany Road. As has been demonstrated by the proposed development, **Sites 8A and 8B are unduly impacted by road noise and significant solar heat loading to the western elevation.**

Whilst mitigation measures could be provided to minimise the impact of these site constraints, this clearly demonstrates the obvious consequences of the decision to change these sites from commercial to residential. Should the Department approve the proposed rezoning of these sites, then at a minimum carefully designed and

architecturally integrated sound and summer sun mitigation measures must be incorporated into the facade to manage road noise whilst maintain natural ventilation and adequately shade the exposed glazing from the harsh westerly sun.

The proposed retail provided 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*. Consistent with DRP 2.4 advice, additional retail, commercial or entertainment uses should be incorporated within ground floor and first floor level areas in the podiums of mixed-use buildings.

Provision (1) of Section 4.2 of the GSTC DCP states *to anchor the major retail centre, a minimum of two supermarkets are to be provided in the Green Square Town Centre consisting of... (b) a second supermarket with a minimum gross floor area of 1,500sqm.*

The City strongly recommends such a supermarket be provided within Site 8C to provide for the day-to-day needs of the community and activate the Plaza and would also benefit the co-located smaller retail premises.

Key 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. A supermarket should be provided within the podium of Site 8C. At a minimum mitigation measures are to be incorporated to Sites 8A and 8B to address the unfavourable western aspect and proximity to Botany Road.

The podium of Building 8C includes a high single storey blank facade to the west facing Fellmonger Place and south facing Woolpack Street. Each of these frontages are identified as active frontages in the GSTC DCP. This outcome presents as a low-quality built form and poorly frames the public domain at street level. Ground plan replanning is required to better achieve active frontages within the fine grain street network. The City does not support the proposed rezoning to exclude the development from certain active frontage provisions.

7. Student Housing

The size of the student housing rooms results in poor amenity for the future residents. The design to accommodate private ensuites and kitchens is supported, however, in such small rooms limits the functionality and amenity of the dwellings. Double rooms further compound this issue.

The size and amenity of internal and external communal spaces and amenities should be further increased to support the number of residents.

8. Removal of Street Trees

The City maintains a detailed objection to the early works application (SSD-82328958) regarding the removal of all street trees in the vicinity of the site. The City reiterates this objection and maintains that the unnecessary and irresponsible removal of these street trees would undermine the City's early investment into the public domain within the Town Centre and progress towards achieving more ambitious tree canopy targets within street and parks.

An additional 29 trees located within the Plaza have been assessed under this application. 26 of these trees are *Corymbia citriodora* Lemon Scented Gums and have been identified as High Retention value. The proposed development seeks to remove 13 of these high retention value trees located in the public domain.

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.

Overall, the proposed development if allowed unamended will result in a reduction in tree canopy with at least **70 trees proposed to be removed** altogether either via this application or the early works application. This must be addressed.

Key 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

8.1.1. Solar Access

The City is concerned that the actual solar access achieved by the proposal is less than that claimed by the application.

The sun's eye-views (page 185 of the Design Report) used to demonstrate ADG solar access to east facing apartments do not align with the overshadowing diagrams in later in the report (page 260). When compared with the original concept development application documentation, it appears that the eastern facades would receive less than 2 hours solar access between 9am and 3pm in mid-winter although have been included in the applicants calculation. Further clarification and recalculation is required.

8.1.2. Overshadowing

The overshadowing assessment is incomplete and relies on an erroneous reproduction of the ADG Objective 4A-1.

The shadow diagrams provided crop the southernmost extent of the shadows cast by the now taller towers. It is not possible to fully understand the likely impacts of the proposed development based on the information provided.

The overshadowing assessments lists solar access to the living room and / or private open space of each apartment. The ADG clearly requires solar access to be achieved to **both** the living room and private open space in order for the dwelling to be deemed to achieve solar access.

It is likely that the proposed development would further reduce solar access to surrounding residential buildings. **A more complete and fulsome solar assessment is required.**

8.1.3. Natural Cross Ventilation

The natural cross ventilation is substandard with only 38% of apartments being naturally cross ventilated in accordance with the ADG. The application poorly

represents the actual natural cross ventilation achieved by the development by relying on an alternate natural ventilation assessment (Appendix KK) 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 their 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.
- 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 38% 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 accept 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 some buildings results in a single double loaded corridor and significantly reduces the natural cross ventilation achieved. This is substandard compared with other developments.

9. Facades – glazing and materiality

The proposed towers share a similar character, defined by the expansiveness of exposed glazing.

The solid to glass/void ratio decreases up the building where inversely the glazing would be more exposed to solar heat gain. **The proposed tower forms comprise large areas of full floor to ceiling glazing without external passive shading.** The proposed design lacks the solidity and depth required to address solar heat gain and to visually identify the built forms as residential towers.

Failing to shade exposed glazing because the relevant BASIX commitments are otherwise met through alternative inputs reduces opportunities to improve the environmental performance in the future and means occupant remain reliant on expensive artificial cooling and window blinds - interfering with outlook.

The designs provide no depth or texture, particularly above the podium. The DRP comments in relation to these elements are supported by the City.

On the other hand, the proposed student housing building better balances the solid to glass ratio with the external grid like facade providing a degree of depth and solar shading. The architectural expression of this grid is varied and provides visual interest, however, still carries a lightness, potentially due to the choice of material that could be further developed.

The facade design for the sites 8C and 19A include unconvincing 'concrete look' elements. There are design and quality concerns with such ambiguous identifiers.

10. Wind

The Wind Impact Assessment (Appendix X) identify multiple points where wind safety criteria are exceeded (P16, P47, P63, P64, and P94) – which is unacceptable.

If Sites 8 and 19 were developed before Sites 7, 17 and 18 the proposal presents several unsafe situations. Interim measures may be required to ensure a safe environment is maintained.

The following proposed wind mitigation measures are not supportable. There can be no reliance on:

- landscaping to mitigate wind impacts
- vertical porous screens in the public domain to mitigate wind impacts

Significant changes may be required to achieve safety criteria, such as increased setbacks, or reshaping of the built form at corners for example.

Additional information is required to assess the future wind environment. Wind roses are to be provided for each unsatisfactory 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 report identifies that the Site 19A Level 11 rooftop communal open space is only suitable for 'walking' or 'standing'. A 'sitting' wind comfort criteria must be achieved for communal open space areas. This is unacceptable.

11. Noise

The architectural design of Building 8A does not address the likely road noise impacts from Botany Road. It is unclear why only certain levels have been identified for additional mitigation measures when this is inconsistent with the predicted noise mapping results.

The conclusions and recommendations of the acoustic report on this issue are inconsistent with the City's experience with comparable developments along Botany Road.

Should the Department support residential in this Botany Road location then significant internal replanning, and façade redesigns would be required. These changes need to minimise the number of apartments facing the road and provide physical measures to mitigate road noise whilst also maintaining natural ventilation. The City does not accept this to be a non-issue on the basis that apartments will be air-conditioned.

The City of Sydney's Alternative Natural Ventilation of Apartments in Noisy Environments (draft) guideline should be applied. This provides a clear methodology for the use of plenums, with vertical plenums strongly preferred.

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 and are designed to be 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 above ground retail or commercial development within the podiums results in a large number of apartments within the fronting the Town Centre Plaza and being subject to potential noise impacts.

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:

- 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 events including amplified music events with extended hours
- external communal open spaces located on the podium and rooftops
- loading dock and waste collection area

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 consistent with the NSW Government's vibrancy reforms.

Key Recommendations

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

12. Stormwater and Flooding

The proposed development is inconsistent with the City's Interim Floodplain Management Plan. The Site is affected by PMF, contrary to statements in Appendix A.

The Flood Assessment Report identifies that location E5 is below the PMF. The flood planning level should be corrected and plans amended to prevent water ingress into the basement. The substations are also located below the PMF. As these are considered critical infrastructure the flood planning level must be the PMF.

It is unclear how the FPLs for the retail premise were calculated. The gutter invert level should be included in Table 2 of the report and missing data in the table provided.

The final civil design plans are to be approved via a condition of consent requiring review and approval by the City – refer to recommended conditions in Attachment A. All stormwater pipes within the public domain are to have a diameter of 375mm.

13. Landscaping

It is noted that the proposed landscape design shown in the architectural package varies. All public domain documentation is to be revised to be consistent with the earlier design principles. Plans are to clearly document RLs, planter top of wall levels, and balustrade heights and locations to demonstrate compliance with NCC balustrade requirements along all terrace perimeter edges.

Furniture shown on Site 8D Level 8 and Site 8C Level 10 is located adjacent to perimeter planters. The rooftop layout is to be amended to ensure that seating and furniture elements are set back a minimum of 1m from the parapet inside face or planter lip to meet climbability and safety requirements.

Provide sections and a soil volume diagram to demonstrate compliance with the Sydney Landscape Code Volume 2 for planting on structure, including soil depths and soil volumes for trees and shrubs.

Outline maintenance strategy for facade planters to Sites 8B and 8D from Level 2 to Level 8, including confirmation of access arrangements and whether maintenance is proposed via abseiling or an alternative safe access method.

Site 8C and Sites 19A and 19B do not demonstrate compliance with the 25% communal open space requirement. The design is to be revised to increase usable communal open space, including consideration of replacement of the ballast area at Site 8C Level 2 to occupiable space, providing integrated planter seating at Site 19A Level 4, and increasing communal open space provision at Site 19B.

The size of proposed canopy trees should be drawn according to the mature dimension listed on the City of Sydney Tree Species List, and the tree should be spaced to reduce overlapping canopies.

A number of trees proposed on Site 8B ground floor, Level 2 and Site 8C ground floor, Level 3, Site 8C Level 10, Site 19A Level 11 do not have sufficient soil volume in accordance with the Sydney Landscape Volume 2, the proposed small tree planting on structure should have 9sqm of soil volume per tree.

Planter beds where trees are proposed should have a minimum internal width of 2m to improve growing conditions. Planter on Site 8B Level 2, Site 8C Level 10, Site 8B Level 3 and Site 19A Level 11 are as narrow as 1m.

Street trees proposed at Site 8B and Site 8C ground floor conflict with the building awnings and are to be resolved.

The submitted wind report (Appendix X) identifies the need for impermeable overhead awnings and impermeable screening to be installed to the rooftop communal areas of Site 8B. The extensive nature of this screening is a poor outcome and should be incorporated into the plans to enable an assessment of any likely impacts.

14. Transport

14.1. Car and Bicycle Parking

Private parking must not be located below public domain areas to be dedicated to the City in accordance with the provisions of the GSTC DCP Section 10.3(4)(e). Any basement areas located directly beneath the public domain shall be redefined and reallocated as areas of common space (such as circulation, service space and the like).

As a public authority, this is to address operational and liability issues that may arise should the City need to gain access to the basement for maintenance access. If required, the City should not be required to manage access arrangements with separate owners and instead should be able to manage this directly with the building owner / strata committee.

The proposed basement layout includes a significant number of spaces labelled parking / storage. It is evident that these have been designed as tandem parking spaces but at not declared in the parking yield summary. There are several instances where a storage cage is provided at the rear of these spaces further demonstrating the intent to use the marked 'storage' area as a tandem parking space. The application must be amended to clearly identify these as tandem parking spaces.

Any approved tandem parking space must be allocated to a single apartment entitlement, and the total number of tandem parking spaces must not exceed the number of three-bedroom dwellings to ensure the parking rate development standards in Clause 6.8 of the GSTC LEP are complied with.

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 518 parking spaces provided, 150 accessible parking spaces should be provided.

The number of car share spaces must be increased from 4 to 10 – all located on-site. 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 number of student housing bicycles parking spaces provided must be increased to 103 to comply with the draft DCP rate of 0.2 spaces per room (less onerous than current DCP rate). The submitted justification for the non-compliances is not supported. 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. In room bicycle parking cannot be accommodated given the size of the rooms proposed.

Visitor bicycle parking should be located on-site and not rely on public domain areas.

14.2. Loading and Servicing

Loading arrangements are generally acceptable except for Site 8B and the waste arrangements for Site 8D (refer below). The student housing building must provide two loading bays – one 10.6m bay and one B99 courier bay to comply with the draft DCP (less onerous than current DCP and TfNSW Urban Freight Forecasting Model).

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.

14.2.1. 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.

14.3. 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 to 6m.

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.

15. 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). The following are to be addressed:

- 1.5m wide aisle for bin manoeuvring
- 10cm gap between all bins
- Bins stored no more than two deep
- A minimum doorways width of 1800mm
- Maximum traveling distance of 10m from the storage room to collection point
- 2m clear space at the rear of the waste truck

The City's current waste collection fleet is not equipped to service residential compaction units or specialised compacted containers. As per Reference B of the Guidelines, residential waste must be presented in standard Mobile Garbage Bins (MGBs) that are compatible with the City's side or rear loading collection vehicles.

The submitted Waste Management Plan calculates residential bin requirements based on compacted volumes. Because compaction is not supported, this will need to be recalculated and will likely significantly increase the physical footprint required to house the necessary number of standard MGBs.

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. 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.

15.1. Waste Collection – Site 8B

Student accommodation is defined as 'residential accommodation' and therefore Council's standard domestic waste service is to be provided in accordance with Section 496 of the Local Government Act 1993.

Integrated onsite waste collection to be provided for standard waste collection vehicle in accordance with section A.3.6 of the Sydney Guidelines for Waste Management in New Developments (Guidelines). To demonstrate unobstructed access, a supporting swept path analysis with sufficient clearances to be provided to demonstrate compliance with the Australian Standard (AS2890.2) provisions for the standard council's collection vehicle (MRV).

It is noted that the proposed collection method for Site 8B is onsite via a 8.8m MRV by a private contractor. **As noted above, the proposed student accommodation is classified as a residential use, and the City of Sydney will not accept waste collection by a private contractor. The proposed loading dock must be amended to accommodate waste collection via Council's 10.6m waste truck fleet.**

Key requested recommendations:

Provide loading facilities and access for the City's standard 10.6m waste truck on site as student housing is required to be serviced by council under the Local Government Act.

15.2. Waste Collection – Site 8D

The proposed waste arrangements for Site 8D are unsatisfactory. The City does not support on street waste collection for this building. Consistent with the design of Site 19B, a basement connection should be provided to the consolidated basement and loading facilities in Site 8C to facilitate on site collection.

The additional ground level loading dock and associated waste rooms and service areas dominate the ground plane, without allowing on site collection, and result in poor street activation. This must be considered in the cumulative noting this building is located opposite to the ground level loading areas for Sites 8B and 8C. The streetscape through the western end of Woolpack Street and Hinchcliffe Street are entirely made up of vehicle access and service spaces.

Key Recommendations

Provide a basement level connection to the consolidated basement and waste collection facilities in Site 8C, similar to Site 19B to facilitate on site waste collection as the proposed on street collection is not able to be accommodated by the City.

16. Land Contamination and Remediation

The proposed remediation strategy involves capping existing contaminated material below Fellmonger Place, Barker Street and Woolpack 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.

The RAP 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 standard policy for public land from new development 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.

17. Subdivision

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

The proposed subdivision plan is to be amended to include the following elements required by the VPAs:

- The 1.4m wide footpath widening to Botany Road (Areas 6 & 7) and
- The stratum depth where new roads are located above a basement, measured to the upper extent of the basement including the waterproof membrane

The land is to be dedicated unencumbered and must not be subject to a LTEMP.

Conditions must be imposed requiring Lots 7, 12, 13 and 14 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.

18. 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 as monetary offset against the development contributions for works-in-kind** as is otherwise allowable under the VPA.

19. 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.

20. 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.

For this to happen, 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 previously, **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 LEP referenced 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.

21. 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, conditions 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.

Conclusion

In summary, the City **strongly objects** to the proposed development as submitted. On many measures it is substandard. 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 departures 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.

The quality of the designs do 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 general approach to building facades is dominated by extensive areas of exposed glazing and is a poorly resolved design approach for residential development, in particular the exposed facades of the towers.

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 'G Jahn', 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 4 and Green Square Town Centre – Stage 5 dated 30 November 2022. 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 Flood Impact and Risk Assessment is not acceptable at this stage. A revised report is to be submitted and once approved to be referenced in the condition below.

The development must be constructed to comply with the recommended flood planning levels indicated in **[insert]** of the report titled **[insert]** prepared by **[insert]** dated **[insert]**.

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.

FLOOD EMERGENCY RESPONSE PLAN

- (a) A Flood Emergency Response Plan is to be prepared by a suitably qualified flood engineer. The Flood Emergency Response Plan is to be implemented and operated by the building owner and/or Owners Corporation at all times.
- (b) The Flood Emergency Response Plan must include all measures required to be implemented to ensure the ongoing management of flooding risk in relation to the building, including (but not limited to) the following:
 - (i) Describe the flood conditions in the vicinity of the site.
 - (ii) If appropriate, direct persons on the site to seek refuge above the Probable Maximum Flood level for all levels of the building that are flood affected. Shelters in place for flood affected parts of the building is not permissible.
 - (iii) Include a map directing residents and visitors to a refuge via a flood free pathway within the building.
 - (iv) Describe the audible and visual alarm system for the basement area, including the linkage of this system to the building management system, details of failsafe operations and alternate power arrangements.
 - (v) Provide details (as an appendix) of all proposed flood sensors, their purpose, operation and maintenance (including the frequency of maintenance).
 - (vi) Provide details of lift design and operation in the event of a flood and specify how the lift will be deactivated in the event of a flood.
 - (vii) Provide details of access to flood free areas for disabled persons.

- (viii) Provide details of all flood protection design features of the building (flood doors and the like) and describe their operation, maintenance, repair and replacement arrangements. Repairs are to be completed to ensure that the flood doors/gates/barriers remain operational and effective at all times.
 - (ix) A pumping option needs to be shown, along with the location of pumps (in case mechanical failures of flood barriers occur). The pumps must be designed to pump out the full range of flood volumes within 6 hours after floodwaters have receded.
 - (x) Details of the operations and maintenance of the pumps are to be included. Any pumping equipment used to disperse flood waters should have the same maintenance schedule as the flood doors; and
 - (xi) Make provision for three monthly testing by the building owner and/or Owners Corporation.
- (c) The building owner and/or Owners' Corporation must enter into a service arrangement by which all identified faults or defects to all flood designed features of the building must be repaired within 24 hours.
 - (d) No toxic or other hazardous materials are to be stored below the Flood Planning Level or in the basement levels.
 - (e) Prior to the issue of any Stage 1 Construction Certificate for the basement, the Flood Emergency Response Plan (FERP) is to be submitted to and approved by Principal Certifying Authority (PCA).

Reason

To ensure flood risk management measures are complied with.

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 DAMAGE BOND

- (a) A Public Domain Damage Deposit calculated on the basis of 114 square metres of asphalt and 382.1 square metres of unit paved site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The bond must be provided as security for repairing any damage to the public domain in the vicinity of the site.
- (b) 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 for demolition being granted or any Construction Certificate being issued, whichever is earlier.
- (c) The bond in this condition will be released in full when the final Occupation Certificate has been issued and any rectification works to the footway and Public Domain are completed to Council's satisfaction. If rectification works are required the City will release 90% of the total Bond, with the remaining 10% balance to be held for the duration of a 6 months Defect Liability Period.

Reason

To allow for the appropriate management and rectification of damage to the public domain.

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.